

Report for Congress

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Amtrak Issues in the 108th Congress

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Summary

Amtrak does not earn enough revenue, or receive enough assistance, to cover its costs. As a result, Amtrak is regularly on the verge of insolvency. During the period of its last authorization (FY1998-FY2002), Amtrak increased its passenger revenues significantly, but its costs increased more than its revenues. Amtrak's authorization expired in September 2002. The 107th Congress failed to agree on reauthorization legislation, so Amtrak reauthorization is still pending.

Amtrak estimated that it needed a minimum of \$1.2 billion in FY2003; its president, David Gunn, said that if its appropriation was much less than that, the corporation would have to shut down before the fiscal year ends. Congress provided \$1.05 billion (minus a 0.65% across the board cut) plus a \$105 million loan repayment extension (H.J.Res. 2, the FY2003 Omnibus Appropriations bill), which Amtrak said should be sufficient. In a change of policy, Congress did not provide the money directly to Amtrak, but to the Secretary of Transportation, who will allocate the money to Amtrak quarterly through the grant-making process. Amtrak has also said that it needs at least \$2 billion annually for the next 5 years; the Administration requested \$900 million for FY2004.

Amtrak issues facing the 108th Congress include the following: how much funding should Amtrak receive; should federal support be conditioned on Amtrak being restructured; should Amtrak be restructured, and if so, how; should Amtrak eliminate some or all of its long-distance trains; should Congress support development of high-speed rail; should states play a larger role in funding Amtrak; should Amtrak be privatized; and should Amtrak be liquidated.

The Administration has presented a set of principles for Amtrak restructuring, and has said it would not support significant funding for Amtrak unless it was restructured in accordance with those principles. They include elimination of federal operating support, separating ownership of the Northeast Corridor infrastructure from train operations, introducing competition for certain routes, and sharing responsibility for passenger rail capital financing between the Federal government and the states.

Senator Hollings, ranking member on Amtrak's Senate authorizing committee, has introduced S. 104, the National Defense Rail Act. It would authorize \$2.7 billion annually for Amtrak in its current form; it also proposes \$1.55 billion annually for grants to states for high-speed rail planning and implementation.

Senator McCain, chairman of Amtrak's Senate authorizing committee, introduced S. 1958 in the 107th Congress. While this bill is no longer active, it contained several ideas that may reappear in Amtrak's reauthorization debate. These include: separating Amtrak's operations, maintenance and infrastructure; phasing out federal operating support for Amtrak; privatizing Amtrak; franchising rail passenger service routes; federal-state matching funding for rail capital improvements; and allowing states to use Highway Trust Funds for rail passenger service. This report will be updated as warranted by events.

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Amtrak Issues in the 108th Congress

Amtrak does not earn enough revenue, or receive enough assistance, to cover its operating costs and capital needs. As a result, Amtrak is regularly on the verge of insolvency. Congress will likely confront a number of issues connected with Amtrak in the 108th Congress as it considers various funding proposals as well as reauthorization of the passenger rail system. These include the appropriate level of federal funding for passenger rail, and how that funding, if any, should be provided and to whom; the advisability of developing the federally-designated high-speed rail corridors, and how to fund them; and whether Amtrak should be restructured and if so, how.

FY2003 Funding

Amtrak estimated that it needed a minimum of \$1.2 billion in federal assistance for FY2003 to maintain its existing level of service.¹ Congress provided \$1.05 billion² in funding and postponed Amtrak's repayment of a \$105 million loan (H.J.

¹ Amtrak says that amount will just cover basic capital investments (those required by law or for safety and reliability), \$840 million; the net operating loss from long-distance trains, \$200 million; and the cost of excess railroad retirement taxes paid into the Railroad Retirement System, \$160 million.

² Congress provided \$522 million for operating expenses, \$295 million for Northeast Corridor capital expenses, and \$233 million for general capital improvements. Congress also included a 0.65% across-the-board cut in H.J. Res. 2; that should reduce Amtrak's
(continued...)

Res. 2). However, in a change of policy, Congress did not provide the money directly to Amtrak; rather, the money is provided to the Secretary of Transportation, who is to allocate the money to Amtrak quarterly through the grant making process. Congress also provided for tighter control over Amtrak's activities by requiring Amtrak to submit capital and operating plans to Congress and the Secretary that will serve as the basis of Amtrak's operations. Amtrak may not spend money on projects not in the plans, and must submit changes to the plans to Congress, with justifications for the changes. Amtrak will also have to follow DOT guidelines for reprogramming funding (except for amounts under \$10 million, and for transferring capital funds to eligible operating expenses). Before the Secretary can release any money to Amtrak, Amtrak must agree to continue to abide by provisions of the loan agreement of June 28, 2002, including financial reporting requirements and the identification of \$100 million in cost saving options for 2003. The Secretary will have to vouch for the accuracy of financial information Amtrak reports to Congress.

Congress also required Amtrak to develop a more uniform state cost-sharing methodology for its short-distance trains. For its long-distance trains, each route must seek funding through a grant application to the Secretary. Amtrak shall report to the House and Senate Committees on Appropriations by April 1, 2003 on cost-savings measures for long-distance trains; this report should include specific estimates of savings in 2003 and over a 5-year period.

Amtrak's Financial Status

Amtrak's \$1.2 billion budget request for FY2003 did not include any work on its backlog of capital needs, estimated at \$5.8 billion (\$3.8 billion for infrastructure, \$1.1 billion for fleet, and \$900 million for stations and facilities).³ To begin to address those needs, Amtrak has estimated that it needs \$2 billion in assistance annually over the next 5 years.⁴ Over the last 5 years, Amtrak received an average of \$1.1 billion in federal assistance annually; it also increased its total debt by \$3.1 billion, an average of \$620 million annually. In total, Amtrak spent an average of \$1.7 billion a year more than it received in revenue during its last authorization period, yet it still had to defer maintenance for lack of funding.

The goal of Amtrak's last authorization bill was to produce an organization that could function without federal operating subsidies. As Table 1 on page 2 shows, Amtrak made no progress toward that goal over the last authorization period.

Since 1997, Amtrak's performance improved by some measures: ridership grew by 11% and passenger revenue increased by 26% (as of the end of 2001).⁵ Amtrak

² (...continued)
appropriation to approximately \$1.043 billion.

³ Amtrak, *FY02-03 Business Plan/FY03 Legislative and Grant Request*, February 15, 2002.

⁴ "Amtrak Needs \$10 Billion Through FY '08 to Fund Operations, NE Work, Gunn Says," *Daily Report for Executives*, Bureau of National Affairs, 15: January 23, 2003, A-13.

⁵ Office of the Inspector General, United States Department of Transportation, *Amtrak's* (continued...)

introduced a new fast train, the Acela, on its Northeast Corridor (NEC, the line between Washington, DC and Boston) which has increased Amtrak's share of the air-rail market between Washington DC and New York City from 38% to 62%.⁶ On the other hand, Amtrak's costs rose faster than its revenues, resulting in increasing, not decreasing, financial losses. Nevertheless, Amtrak repeatedly told Congress that it was on course to achieve the goal of operational self-sufficiency by December 2002.⁷

That pretense could not be maintained after the economic downturn and the events of September 11, 2001 reduced travel in general. Amtrak admitted that it would not meet the self-sufficiency requirement, and in fact needed additional federal operating support just to survive FY2002. Congress provided the additional support (\$205 million) as part of an emergency supplemental appropriation (P.L. 107-206, July 24, 2002), but could not agree on Amtrak reauthorization during the 107th Congress.

⁵ (...continued)

Performance, Budget, and Passenger Rail Service Issues, CC-2002-122, March 14, 2002.

⁶ This change was also due in part to the impact of September 11, 2001 on air transportation.

⁷ For example, George Warrington, Amtrak President, Testimony before House Committee on Appropriations, Department of Transportation and Related Agencies Appropriations for 2001, Part 5, p.2.

Table 1: Amtrak's Recent Financial Performance
(\$ millions)

	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002
Amtrak Revenues	\$1,674	\$1,708	\$1,834	\$2,040	\$2,203	\$2,225
Amtrak Expenses	\$2,470	\$2,566	\$2,743	\$2,983	\$3,277	\$3,258
Operating Loss	\$797	\$860	\$916	\$944	\$1,072	\$1,033
Amtrak Total Debt and Capital Lease Obligations	\$1,737	\$2,157	\$2,449	\$3,577	\$4,628	\$4,833
Government Assistance						
Annual Federal Appropriation	\$843	\$594	\$609	\$571	\$521	\$831
Total Federal Spending*	\$1,006	\$1,564	\$1,081	\$1,339	\$573	\$1,118
State Operating Assistance	\$70	\$83	\$100	\$112	\$122	\$126
<p>*Total federal spending includes Taxpayer Relief Act funds received by Amtrak, as well as supplemental appropriations. Source: Amtrak Revenue, Expenses, Operating Loss and Debt, DOT Inspector General, <i>2001 Assessment of Amtrak's Financial Performance and Requirements</i>, CR-2002-075, January 24, 2002, except FY2002 Debt, DOT Inspector General, <i>Top DOT Management Challenges</i>, January 21, 2003, PT-2003-012, and FY2002 Revenues, Expenses and Operating Loss, <i>Amtrak Monthly Performance Report to Congress, September 2002, YTD September 2002 Result</i> (unaudited); Federal Appropriation and Spending, <i>Senate Report 107-224, Appropriations Committee Report on FY2003 DOT Appropriations Bill, 103-104</i>; State assistance, Amtrak communication.</p>						

Amtrak's Structure

When Congress created Amtrak in 1970 to preserve passenger rail service, it created a corporation to provide passenger rail service over a route system chosen by the Department of Transportation (DOT). Amtrak maintains and operates passenger trains, but operates those trains over tracks that are mostly owned and maintained by other companies—Amtrak owns only about 3% of its network (but that section, the Northeast Corridor from Washington D.C. through New York City to Boston, has the heaviest passenger traffic in the country). Amtrak operates both short-distance (corridor) routes and long-distance routes; it operates both conventional and high-speed trains, although the high-speed trains are available on only one route in the country (the NEC). Amtrak operates some routes at no cost to the states they serve while charging other states a portion of the cost of the trains that serve those states. Amtrak loses money every year, and receives assistance from the federal government to help make up those losses. Amtrak is required by statute to operate a national network of passenger service.

Amtrak's Previous Reauthorization: The Amtrak Reform and Accountability Act of 1997 (P.L. 107-134)

Amtrak was facing financial difficulties in the period leading up to its previous reauthorization act, the Amtrak Reform and Accountability Act of 1997 (P.L. 107-134). Amtrak's authorization had expired in 1995. As an aid to the reauthorization debate, the General Accounting Office (GAO) produced a comprehensive report in 1995, *Financial and Operating Conditions Threaten Amtrak's Long-Term Viability*.⁸ GAO noted that Amtrak's financial and operating conditions had declined steadily since 1990, due in part to a slowing economy and increased competition from airline fare sales. They concluded that it was unlikely that Amtrak could continue to operate its current system without significant increases in funding from its current level (FY1995 funding was \$972 million). GAO noted that eliminating subsidies for Amtrak and privatizing the railroad would reduce federal expenditures, but considered it unlikely that any private firm would be willing to offer passenger rail service, since none of Amtrak's routes earned enough passenger revenue to cover all its costs.

Congress was unable to agree on an Amtrak reauthorization bill in 1995 or 1996. In 1997 the House Committee on Transportation and Infrastructure created a bipartisan Working Group on Intercity Rail; this group published a report, *A New Vision for America's Passenger Rail*, June 1997. The working group set 2 goals for a restructured passenger rail system:

1. provide safe, reliable, comfortable, convenient, and financially sound passenger rail service in all densely populated corridors of the United States that show declining air quality and presently, or potentially, traffic congestion problems; and
2. encourage public/private development of attractive overnight passenger rail service, on a periodic basis, throughout regions of the nation with significant cultural, historical, and scenic character (for example, a kind of "rolling national park").

These goals did not require that Amtrak provide passenger service across the nation, which is how some people interpret the statutory requirement that Amtrak operate a national passenger rail system. The report recommended placing passenger rail on a financial basis similar to other transportation modes, with the federal government contributing to infrastructure funding and other entities covering operating costs. To facilitate that change, the report recommended dividing Amtrak's infrastructure responsibilities from its operating responsibilities; the infrastructure and capital investment would be handled by a new federally-owned corporation (AmRail), while Amtrak would provide passenger services. AmRail would be provided with a dedicated funding source, though the report did not specify the source. Also, the report recommended that over a period of time provision would be made by AmRail for other operators to compete with Amtrak on particular routes or in particular regions.

⁸ GAO/RCED-95-71, February 1995.

Amtrak's 1997 reauthorization act, which was signed into law on December 2, 1997, did not incorporate any of the major recommendations of the Working Group. Congress left Amtrak intact, while making changes to enable Amtrak to operate more efficiently, and providing Amtrak with more funding.⁹ Congress also required Amtrak to operate without federal operating assistance by December 2002. Amtrak was not able to achieve that goal, as was predicted by the GAO and the DOT's Office of the Inspector General soon after passage of the Act.¹⁰

In the Act, Congress initiated two sets of reports on Amtrak's performance, one by the Office of the Inspector General (OIG) of the DOT and one by the Amtrak Reform Council, an organization created by the Act to review Amtrak management and make recommendations for improvement. Since 1997, the OIG has issued four annual reports assessing Amtrak's financial performance and future financial requirements. In the most recent of these reports,¹¹ the OIG noted that Amtrak's operational performance had improved in several respects since 1997, but that its financial performance had not; its costs had risen faster than its revenues, and its operating loss and long-term debt increased significantly as a result. The OIG also noted that Amtrak's capital needs are estimated at \$1-\$1.5 billion annually, and those needs are inherent in the passenger rail infrastructure, regardless of whether Amtrak or some other entity or entities is providing passenger rail service.

In addition to requiring annual reports from the Amtrak Reform Council, the Act also directed the Council to prepare "an action plan for a restructured and rationalized national intercity rail passenger system" if it determined that Amtrak would still require federal operating grants after FY2002.¹² The Council published two annual reports on Amtrak, in 2000 and 2001, and its restructuring plan in February 2002.¹³

The Council's plan proposed dividing Amtrak's infrastructure responsibilities from its passenger operations. The Council proposed three passenger rail entities:

⁹ The Act authorized \$5.2 billion for Amtrak over FY1998-FY2002 (of which Amtrak was appropriated \$3.0 billion); it also enabled Amtrak to receive another \$2.2 billion which had been provided to Amtrak, contingent on passage of an Amtrak reform bill, through the Taxpayer Relief Act of 1997 (P.L. 105-34).

¹⁰ "As currently structured, Amtrak will continue to require federal capital and operating support in fiscal year 2002 and well into the future." General Accounting Office, *Prospects for Amtrak's Financial Viability*, GAO/RCED-98-211R, June 5, 1998, 4; "The bottom line is that [Amtrak's March 1998 Strategic Business Plan] would not achieve Amtrak's mandated goal of operating self-sufficiency by 2003." Office of the Inspector General, U.S. Department of Transportation, *Summary Report on the Independent Assessment of Amtrak's Financial Needs through Fiscal Year 2002*, #TR-1999-027, November 23, 1998, xii.

¹¹ Office of the Inspector General, United States Department of Transportation, *2001 Assessment of Amtrak's Financial Performance and Requirements*, CR-2002-075, January 24, 2002.

¹² P.L. 105-134, Sections 203 and 204.

¹³ Amtrak Reform Council, *An Action Plan for the Restructuring and Rationalization of the National Intercity Rail Passenger System*, February 7, 2002. This and the other Council reports are available at [www.amtrakreformcouncil.gov].

an infrastructure organization, with dedicated federal funding, to manage the Northeast Corridor; a passenger operations organization; and a federal passenger rail policy and administrative organization which would contract with the other two entities for services. The Council's report recommended that, after a transition period, the federal agency put some passenger operations up for competitive bid. The report also recommended that rail passenger operations and infrastructure receive stable and adequate funding, through a combination of federal and state sources.

Reauthorization Proposals

Amtrak's 1997 authorization act expired in 2002. During its second session, the 107th Congress was not able to agree on reauthorization legislation. Two reauthorization bills were introduced: the National Defense Rail Act (S. 1991) by Senator Hollings, then-Chairman of the Senate Commerce Committee; and the Rail Passenger Service Improvement Act (S. 1958) by Senator McCain, Chairman of the Senate Commerce Committee in the 108th Congress. In addition, the Bush Administration proposed a set of principles for restructuring Amtrak.¹⁴ Senator Hollings introduced a new National Defense Rail Act bill in the 108th Congress. While Senator McCain has not introduced an Amtrak reauthorization bill in the 108th Congress, his Rail Passenger Service Improvement Act reflected some of the elements of the Amtrak Reform Council's restructuring plan, so it will be discussed here. No bill has been introduced reflecting the Bush Administration's principles, but since the Administration is insisting on a restructuring of Amtrak, they will be discussed here also.

The Bush Administration's principles for restructuring Amtrak include eliminating Federal operating support, separating ownership of the Northeast Corridor infrastructure from train operations, introducing competition for certain routes, and sharing responsibility for passenger rail capital financing between the Federal government and the states. Some of these principles have been part of other Amtrak reform proposals, and so will presumably be represented in Congress' Amtrak reauthorization debate.

The Administration proposal supports an ongoing federal role in capital funding, but suggests that the need for operating assistance can be eliminated by dropping unprofitable routes and contracting out services to private bidders. However, the history of passenger rail in this country and the experience of other countries provide little evidence to suggest that a national system of passenger rail service in the United States can survive without government assistance with operating costs.¹⁵

¹⁴ *Statement of the Hon. Norman Y. Mineta, Secretary, U.S. Department of Transportation, On the Future of Intercity Passenger Rail*, June 20, 2002. Available at [www.fra.dot.gov/public/speech/sp_mineta_intercityrail.htm].

¹⁵ General Accounting Office, *Financial and Operating Conditions Threaten Amtrak's Long-Term Viability*, February 1995, GAO/RCED-95-71, p. 10; Office of the Inspector General, United States Department of Transportation, *2001 Assessment of Amtrak's Financial Performance and Requirements*, January 24, 2002, CR-2002-075, p. iii.

Senator Hollings reintroduced the National Defense Rail Act (S. 104), which would reauthorize Amtrak in its current configuration, authorizing \$2.2 billion annually in capital funding, \$550 million annually in operating assistance, and \$1.55 billion annually to the DOT for high-speed rail planning and implementation grants to states. This bill does not address the structural difficulties Amtrak faces, and while its authorization levels might provide enough money to surmount those difficulties, appropriations at those levels would represent a significant increase in funding in a period of tight budgets.

Senator McCain introduced the Rail Passenger Service Improvement Act (S. 1958) during the 107th Congress. Its provisions incorporated elements of the of the Amtrak Reform Council's proposal, as well as other ideas: creation of a federal agency to franchise rail service and manage capital improvements to the Northeast Corridor; separation of Amtrak's operations and infrastructure; elimination of routes with net losses unless the losses are covered by states; appointment of an Amtrak Control Board to enforce budget discipline; transfer of the Northeast Corridor to the DOT; state contributions to the cost of Northeast Corridor improvements; privatization of Amtrak; and flexibility for states to use Highway Trust Fund funds for intercity rail passenger service (but not for the state match for a federally-assisted project). S. 1958 authorized \$500 million annually for Northeast Corridor capital improvements, \$400 million annually for capital grants for rail passenger service improvement projects, and a reduction of operating support for Amtrak, from \$400 million to \$100 million, for a 4-year authorization period. While some NEC service might survive, since the bill provides federal funding for NEC capital improvements, and some state service might survive, since the bill allows states to use their Highway Trust Fund apportionments for passenger rail, much of Amtrak's current service could disappear under this bill. The idea of letting states use Highway Trust Fund monies for passenger rail faces opposition.¹⁶

Reauthorization Issues and Options

Key issues include (1) whether a federally-supported passenger rail system should continue and if so, how to fund it in an equitable manner; (2) whether passenger rail services should be improved by investing (through Amtrak or some other means) in developing the federally-designated high-speed rail corridors; (3) whether federal funding for Amtrak should continue, and if so, at what level; (4) if federal funding is provided, whether it should include operating support or be limited to capital improvements; and (5) whether Amtrak should be restructured and if so, how. Numerous options for addressing these issues have been debated in various forums; restructuring options include reducing Amtrak to a system of time-competitive (i.e., short) routes where passenger demand is relatively high, splitting Amtrak into two or more functional parts by separating its infrastructure from its operations, privatizing some of Amtrak's functions, or liquidating Amtrak. Some of these options are capable of being combined.

Status Quo. Reauthorizing Amtrak in its current configuration would continue its existing problems; reauthorizing its current configuration at status quo

¹⁶ *Washington Letter on Transportation*, 21:7, February 19, 2002.

funding levels will also quickly lead to insolvency, according to Amtrak. Average annual federal support for Amtrak during its last authorization period was around \$1.1 billion.¹⁷ At that level, Amtrak was able to introduce a new train, the Acela, but only by increasing its long-term debt and postponing capital maintenance as well as life-safety improvements.¹⁸ For FY2003 Amtrak says it needs at least \$1.2 billion just to continue current operations and perform critical infrastructure work (Congress provided \$1.15 billion, H.J. Res. 2), and \$2 billion annually over the 5 years after that. The Amtrak Reform Council and the DOT Inspector General have estimated that Amtrak, as now structured, requires around \$1.5 billion annually to maintain its current level of services: around \$500 million in operating support and \$1 billion in capital support.¹⁹ Even if \$1.5 or \$2 billion is provided annually, the problems of the current policy structure would remain: the annual conflicts over Amtrak funding levels and uncertainty about its funding through the annual appropriations process, and the lack of federal incentives for states to invest in passenger rail, among others.

Eliminate Amtrak's Long-Distance Service. One of Amtrak's few options for immediate reductions in costs is suspending its long-distance train service. Amtrak estimates it could save \$160-\$210 million in the first year, and eventually as much as \$460 million annually, by discontinuing its 18 non-state-supported long-distance routes.²⁰ Amtrak estimates that up to 6,700 employees could be laid off as a result of closing those routes (out of a total workforce of around 22,300).²¹

As Table 2 shows, most of Amtrak's ridership is on a handful of its 40+ routes. Its 18 long-distance routes carry fewer than 21% of its annual passengers²²; in 2001, they carried on average a passenger load less than 1/10th their capacity. Because the ridership of those trains is so low, the deficit per passenger is very high—on some routes, Amtrak loses over \$200 for every passenger. Traversing long distances at average speeds less than 60 miles per hour, those trains are not time-competitive with other modes. These considerations have led many observers (for example, Ronald

¹⁷ Including Taxpayer Relief Act funds as well as annual appropriations.

¹⁸ "Life-safety improvements" refers to improvements to Amtrak-owned tunnels in the Northeast Corridor, including improved emergency access, ventilation and communication systems.

¹⁹ Office of the Inspector General, Department of Transportation, *Amtrak's Performance, Budget and Passenger Rail Service Issues*, March 14, 2002.

²⁰ The cost savings in the first year would be partially offset by labor protection obligations of \$250-\$300 million to employees adversely affected by route closures.

²¹ Amtrak, *FY02-03 Business Plan/FY03 Legislative & Grant Request*, February 15, 2002, 26-27.

²² Long-distance trains are included in "Intercity Total Ridership," which also include short-distance trains in the Midwest, so the percentage of Amtrak's total ridership on all long-distance trains was less than the 21% of Intercity ridership, since that ridership included all Amtrak's long-distance trains and some short-distance trains.

Utt of the Heritage Foundation,²³ and Joseph Vranich and Edward Hudgins of the Cato Institute²⁴) to propose that Amtrak eliminate its long-distance train service.

Table 2: Distribution of Amtrak Ridership, FY2002

Train(s) ²⁵	FY2002 Ridership (000s)	Percentage of Total Amtrak National Ridership
NEC Total Ridership, all trains	13,834	59%
West Total Ridership, all trains	4,610	20%
Intercity Total Ridership, all trains	4,963	21%
Amtrak Total Ridership, all trains	23,407	100%
Source: Amtrak, <i>Monthly Performance Report to Congress</i> , September 2002, untitled table showing FY2002 ridership by train, p. 5.		

Defenders of Amtrak's long-distance services (for example, the National Association of Rail Passengers) note that current federal passenger rail policy requires the operation of a national system.²⁶ They also argue that the long-distance trains are important because they serve regions of the country that otherwise are little served by public transportation (for example, air travel), and then at high cost and inconvenience (although intercity buses serve more communities than does intercity rail). Some say that the long-distance trains are symbolically important to the communities they serve, especially to small towns that have lost jobs and residents; for these communities, Amtrak looms large because it represents a connection to the rest of the country, and they do not want to lose that connection—even if it is little used. Whatever their reasons, many communities value Amtrak service and press Congress to get Amtrak service or keep their Amtrak service.

Some Members of Congress have said proposals to eliminate long-distance trains would upset the political balance required for support of Amtrak. Most of Amtrak's capital spending goes to the Northeast Corridor, which also receives the highest level of service; without the long-distance trains providing service to much of the rest of the country, there would be little reason for other states to support federal spending on Amtrak.²⁷ And indeed several Members of Congress have

²³ Ronald D. Utt, "Opportunities to Improve Passenger Rail Service," Testimony before the Senate Committee on Appropriations Transportation Subcommittee, March 7, 2002.

²⁴ Joseph Vranich and Edward L. Hudgins, *Help Passenger Rail by Privatizing Amtrak*, Cato Institute, Policy Analysis #419, November 1, 2000.

²⁵ Through FY2002, Amtrak divided its trains into three categories: NEC and West (short-distance, or corridor trains), and Intercity (long-distance trains, plus corridor trains in Midwest).

²⁶ 49 U.S.C. 24701.

²⁷ U.S. Congress, House of Representatives, Committee on Transportation and Infrastructure, Working Group on Intercity Passenger Rail, *A New Vision for America's Passenger Rail*, "Minority Statement," June 1997.

intimated that if the Amtrak trains through their districts were eliminated, they would no longer support Amtrak funding.²⁸

Some observers suggest the issue of political considerations in Amtrak's business decisions is Amtrak's fundamental problem: with the single corporation providing passenger rail service dependent on Congressional support for its survival, it is (they say) necessarily managed more for political than economic success. To address this, they advocate measures to insulate Amtrak from political interference: for example, creating the equivalent of the federal military base-closing commission to select Amtrak routes to discontinue. But as long as Amtrak is dependent on federal funding, it cannot be insulated from political considerations.²⁹

The Administration has not proposed eliminating long-distance routes per se, but eliminating federal operating support for those routes. They would leave it to the states to fund the operations of long-distance trains, if the states valued that service. One difficulty with this proposal is that it would require currently cash-strapped states to cooperate in funding trains that traverse many states, with no mechanism to encourage all relevant states to cooperate.³⁰

Implement High-Speed Rail. There is debate over the merits of high-speed rail service in the United States, with its large area and relatively low population densities. But even if a decision was made to develop high-speed—or even just higher-speed—rail service, that long-term project would not address the basic problem of Amtrak's current physical or financial situation: it does not earn enough revenue, or receive enough assistance, to cover the operating costs and capital needs of its existing system. Of course, developing higher-speed rail infrastructure could be done independently of Amtrak, and when that infrastructure was in place the service could conceivably be provided by some entity other than Amtrak. But that would imply a restructuring of the current federal passenger rail policy, which returns to the issues around Amtrak reauthorization; some way of addressing those issues would seem necessary before introducing an entirely new dimension of expense into passenger rail policy. Finally, Congress would have to authorize additional billions to make high-speed rail—or even higher-speed rail—a reality.

Separate Amtrak's Infrastructure From Operations. Many, including the House Transportation and Infrastructure Committee's Working Group on Intercity Passenger Rail, the Amtrak Reform Council, and the Bush Administration, have proposed separating passenger rail operations from rail infrastructure

²⁸ For example, Senator Kay Bailey Hutchison, in Machalaba, Daniel, "The Texas Eagle Fan Club—This Amtrak Route Loses \$1.70 for Every \$1 in Revenue But It Has Powerful Friends," *Wall Street Journal* (Eastern Edition), January 16, 2003, B1.

²⁹ Joseph H. Boardman, Commissioner of New York State Department of Transportation, *Successes and Failures of Amtrak and the Amtrak Reform and Accountability Act of 1997*, Testimony before the House Transportation and Infrastructure Committee, Subcommittee on Railroads, March 6, 2002, p. 3.

³⁰ The Interstate Highway Program, which faced a similar problem in getting states to cooperate in funding multi-state transportation projects, provided a 90% federal match to induce states to cooperate in funding the Interstate Highway system.

investment and maintenance. They argue that this change would more closely align passenger rail policy with other federal transportation mode policies; also that it would support passenger rail by freeing Amtrak from the financial burden of maintaining the Northeast Corridor. Also, since Amtrak often postpones maintenance expenditures in order to cover operating losses, proponents argue that this separation would promote proper maintenance of the Northeast Corridor infrastructure—assuming that sufficient funding was provided. Estimates are that properly maintaining the Northeast Corridor will cost a billion dollars or more a year, in part to make up a multi-billion dollar backlog of deferred maintenance.³¹ Another argument is that having the Northeast Corridor infrastructure under the control of some other organization would protect the interests of other users of the Northeast Corridor in the event of an Amtrak shutdown.

The issue of separating infrastructure from operations affects only a fraction of Amtrak's route network. On 97% of it, the infrastructure is already separated from (passenger) operations, since the vast majority of the infrastructure over which Amtrak operates is owned by freight railroad companies; Amtrak owns only about 740 of the 22,000 miles or so of track that it operates over. The primary infrastructure Amtrak owns is the Northeast Corridor; it was given to Amtrak in 1976 out of the bankruptcy of northeastern railroads on the principle that the primary user of the corridor should own it. Due to chronic financial problems, Amtrak has underinvested in this corridor and in recent years has deferred even routine maintenance. The Amtrak Reform Council argues that Amtrak is not even the primary user of the Northeast Corridor; commuter agencies are responsible for more than 90% of all train movements on the Corridor.³² However, Amtrak is the primary user of the Corridor as a whole, and Amtrak requires higher maintenance standards on the Corridor—because of its high-speed train service—than any of its other users.

The separation of Amtrak's rail infrastructure from its operations would not, by itself, save the Federal government any money; it would simply divide the current expense of supporting passenger rail among two organizations, one for infrastructure and one for operations. The Office of the Inspector General of the DOT notes that the \$1+ billion annual capital needs of the passenger rail infrastructure are inherent, regardless of who is running the trains, and that the debate over how the infrastructure should be administered is irrelevant without an assurance that adequate capital funding is available for it.³³ The Inspector General also notes a fundamental conflict of interest between infrastructure maintenance and train operations—an infrastructure company's interest is to economize on track maintenance and improvement costs, while an operating company's interest is to have the track

³¹ Department of Transportation Inspector General, *2001 Assessment of Amtrak's Financial Performance and Requirements*, CR-2002-075, January 24, 2002, p. iii.

³² Amtrak, *FY02-03 Business Plan/FY03 Legislative & Grant Request*, February 15, 2002, p. 22, note 16.

³³ Office of the Inspector General, United States Department of Transportation, *Amtrak's Performance, Budget and Passenger Rail Service Issues*, March 14, 2002, p. 5-6.

maintained at a level that permits maximum operational performance.³⁴ Some of the most successful rail companies in the world—for example, the freight railroad companies of the U.S. and the large passenger railroad companies of Japan—combine responsibility for infrastructure and operations in the same firm, and Amtrak’s best on-time performance comes on the routes whose infrastructure it owns. Conversely, in 2002 Amtrak experienced several significant train derailments, all of which occurred on track owned and maintained by other companies. Some critics of separation—for example, Charles Money Penny, the labor representative on the Amtrak Reform Council³⁵—have charged that the real purpose of separation is to make it easier to privatize Amtrak; Vranich and Hudgins, of the Cato Institute, note that separation should make privatization, which they support, easier.³⁶

Privatize Amtrak. While Amtrak’s revenues increased during the last few years, its costs increased even more. Its trains are slow, often late, and often not in good condition. The Bush Administration, among many others, points to Amtrak’s need for operating assistance as evidence of its inefficiency. They say that companies competing for contracts to offer rail service would operate more efficiently. Suggestions by privatization advocates, such as the Amtrak Reform Council, range from requiring Amtrak to contract out some of its support functions, to requiring Amtrak to contract out the operation of some of its routes to other providers, to requiring Amtrak to contract with some federal agency to provide passenger services (as it does with local governments to operate commuter services), to abolishing Amtrak and letting private providers bid for the operation of all routes.³⁷ Having Amtrak contract out the operation and maintenance of its trains would be a return to its roots; in its early years, Amtrak contracted with other railroad companies to staff, operate and maintain its trains.

Privatization advocates—for example, Robert Poole of the Reason Foundation—note that other countries have seen improvements after privatizing their passenger rail services³⁸: in Britain, after privatization in the mid-1990s, the private companies acquired new train cars and made other efforts to upgrade the standards

³⁴ Ibid, p. 6.

³⁵ Charles Money Penny, “Dissenting Opinion”, in Amtrak Reform Council, *An Action Plan for the Restructuring and Rationalization of the National Intercity Rail Passenger System*, February 7, 2002, p. 75.

³⁶ Vranich and Hudgins, op. cit., p. 31.

³⁷ At present, any would-be competitor would be at a disadvantage to Amtrak, because of Amtrak’s statutory right to operate trains over the tracks of freight railroads at minimum cost. To make competition for routes possible, Congress would either have to eliminate that right (which would lead to higher costs for Amtrak over most of its routes), or extend that right to other passenger rail service providers (an idea which is opposed by the freight railroad companies—and which may pose questions of taking of property rights from the freight railroad companies).

³⁸ Robert W. Poole, Jr., *Replacing Amtrak*, Testimony before the Senate Committee on Appropriations Subcommittee on Transportation, March 24, 1998.

of service, and ridership in Britain increased by 25%³⁹; Japan privatized its rail service in the late 1980s, and now its private rail companies operate at a profit (according to some privatization advocates); and Mexico has also been cited as a country whose rail privatization has been successful.⁴⁰

On closer examination, the lessons provided by these examples are more complex. In Britain privatization of train operations seems to have produced improvements in service, but not necessarily in financial performance. After privatization, the British government had to provide subsidies to the private companies operating trains, because they were not able to operate at a profit. The plan was that the private train operating companies would become more efficient with experience, so that the subsidies could be reduced over time. But the operating companies have instead asked for an increase in their subsidies.⁴¹ According to a report in the *Financial Times* newspaper, the private rail infrastructure company, RailTrack, experienced cost overruns on track improvement projects that exceeded any seen under British Rail before privatization.⁴²

There is disagreement over the degree of government support for Japan's now privatized rail system, but more centrally, there is the question of comparability. Japan is uniquely suited, geographically, for passenger rail—the main island is long and narrow, with 100 million people living in a 900-mile corridor—and government policies encourage rail ridership (owning a car in Japan is expensive; the rate of car ownership is much lower than in the U.S.; and gasoline costs several dollars a gallon there). As for the example of Mexico, the success of Mexico's rail privatization has been entirely in the realm of freight service; passenger rail services have been sharply cut back.⁴³ This suggests that for rail services that are potentially profitable—i.e., freight—privatization can help achieve that potential, but for rail services that may have no profit potential—i.e., passenger service—privatization may not offer the expected benefits.

Critics of privatization, including the National Association of Rail Passengers, note that Amtrak exists because private rail companies could not make a profit on passenger rail service, and wanted out of the money-losing business. Considering that passenger rail service in the United States has run a deficit for over 50 years, under both private and quasi-governmental management, they say Amtrak's perpetual need for operating assistance may have more to do with the fundamental economics

³⁹ The Railway Forum, Factsheet #1: *Britain's Growing Railways*, 13 January 2001. Available at [www.railwayforum.com]

⁴⁰William Rennie, Vice-President, Mercer Management Consulting, Testimony before the House Committee on Transportation and Infrastructure, Subcommittee on Railroads, April 11, 2002.

⁴¹ “Making a Big Number Out of an Upgrade: France's TGV High-Speed Line Costs Half the Price of Britain's Not Substantially Enhanced West Coast Line,” *Financial Times*, July 29, 2002, p. 4.

⁴² *Ibid.*

⁴³“The Great Railway Sale,” *Magazine of the NAFTA Marketplace*, [www.mexicobusiness.com/archives/nov97/railroad.html].

of nationwide passenger rail service than with any failings of Amtrak.⁴⁴ There is undoubtedly room for improvement in Amtrak's operations, but the best management in the world would probably lose money operating Amtrak as it is currently structured. The prospect of private interests funding the multi-billion improvements, as well as ongoing maintenance, of the Northeast Corridor seems remote, unless they were provided with financial assistance⁴⁵—which would replicate the current system, simply replacing Amtrak with another organization as the recipient of government assistance for capital improvements. Railtrack, the company which bought Britain's rail infrastructure, went bankrupt because it was unable to attract enough private capital to make the needed improvements to the tracks, and the British government replaced it with a not-for-profit organization.

Privatizing Amtrak may or may not offer possibilities for reducing the costs of passenger rail service in the long run, but it is not a solution to the immediate financial difficulties of passenger rail. The Amtrak Reform Council, an advocate of restructuring Amtrak, notes that other rail privatizations—for example, Conrail in the U.S. and the national systems of Japan and Britain—took many years. They recommend that in the meantime Amtrak receive enough funding to keep it intact, so that any restructuring can take place in an orderly fashion.

Liquidate Amtrak. Some critics advocate liquidating Amtrak. They note that Amtrak requires a billion dollars or more of federal funding annually for a service that provides less than 1% of all passenger trips annually. The costs of an Amtrak liquidation may be high, they say, but at least the nation could stop throwing good money after bad.⁴⁶

The GAO estimated that, as of December 2001, Amtrak had \$44 billion in outstanding liabilities, mostly owed to the U.S. government, against an uncertain amount of assets, since the market value of Amtrak's primary asset, the Northeast Corridor, is unclear.⁴⁷ But it is likely that Amtrak's assets would not cover all the claims even of secured creditors, leaving the claims of unsecured creditors—chiefly, about \$3.5 billion in labor protection payments due for job loss, and unpaid wages, vacation pay, and sick leave, owed to Amtrak employees—likely to be unsatisfied. GAO's judgement is that the federal government would not be liable for those debts.⁴⁸

⁴⁴For example, James Coston of the Amtrak Reform Council in his Concurring Opinion on its *Action Plan for the Restructuring and Rationalizing of the National Intercity Passenger System* (Appendix I:A).

⁴⁵ Office of the Inspector General, United States Department of Transportation, *Amtrak's Performance, Budget, and Passenger Rail Service Issues*, CC-2002-122, March 14, 2002, p. 6.

⁴⁶ For example, Robert Samuelson, "Subsidized Nostalgia," *Washington Post*, June 26, 2002, A25.

⁴⁷ General Accounting Office, *Potential Financial Issues in the Event that Amtrak Undergoes Liquidation*, GAO-02-871, September 2002.

⁴⁸ *Ibid*, p. 20.

In addition, an Amtrak liquidation would impose costs on the Railroad Retirement and Unemployment System. It would lose the \$428 million annually paid by Amtrak into the retirement system, leading to higher charges on the remaining railroad companies or reduced benefits, as well as \$344 million paid out in unemployment benefits to Amtrak employees over the next couple of years, which would deplete the unemployment account and require higher contributions from the remaining railroad companies to make up that loss.

GAO notes that Amtrak estimates increased operating and capital costs of up to \$600 million annually on commuter and freight railroads as a result of an Amtrak liquidation.⁴⁹ There would also be the cost of lost service to the 60,000 or so passengers who ride Amtrak trains every day, particularly in the NEC, where Amtrak represents over 60% of the common carrier market between Washington D.C. and New York City.

In addition, one significant aspect of liquidating Amtrak is that control over Amtrak would shift from the corporation itself and Congress to the Bankruptcy Court and the trustee it appoints. It is not clear how an Amtrak bankruptcy would unfold: while Amtrak's President talks firmly of shutting the company down, "bankruptcy law seeks, among other things, to protect the public interest in maintaining continued rail service."⁵⁰ Moreover, only one large railroad has been liquidated as a result of bankruptcy in the past 25 years, so there has been little recent experience with this option.

Finally, there is the question of what, if anything, would replace Amtrak. While passenger rail provides less than 1% of all passenger trips annually, that figure obscures regional differences in usage: in some parts of the country, passenger rail service is virtually nonexistent, while in other areas, it is an important component of the transportation network. About 64,000 people ride Amtrak trains every day; about 30,000 of them on Northeast Corridor trains, so there is a significant demand for passenger rail service along the Northeast Corridor and in a few other areas. But even if service were provided by a fully-privatized successor to Amtrak, that successor would be subject to the Railway Labor Act and other relevant statutes, and would presumably have to contribute to the Railroad Retirement and Unemployment System; in other words, even a private passenger rail service organization would face many of the same costs as Amtrak. As a result, some level of federal financial support may have to be provided to make that service feasible⁵¹—as has been the case in Britain. So liquidating Amtrak may not necessarily get the federal government out of the passenger rail business. However, liquidating Amtrak might lead to a rail passenger service system significantly different than the current system.

⁴⁹ GAO acknowledged increased costs to commuter and freight railroads, but did not fully quantify them.

⁵⁰ GAO, *op. cit.*, 2. See also CRS Report RL31550, *Railroad Reorganization under the U.S. Bankruptcy Code: Implications of a Filing by Amtrak*, by Robin Jeweler, August 26, 2002.

⁵¹ JayEtta Z. Hecker, Director, Physical Infrastructure Issues, General Accounting Office, *Intercity Passenger Rail: Congress Faces Critical Decisions in Developing a National Policy*, Testimony before Subcommittee on Railroads, Committee on Transportation and Infrastructure, House of Representatives, April 11, 2002, GAO-02-522T, 2.

Conclusion

Congress faces difficult choices in dealing with Amtrak. A policy stalemate has maintained the status quo for a long time, but Amtrak's growing financial difficulties make that status quo much more expensive, and the Administration is insisting on some sort of restructuring of Amtrak. Options exist, but each option involves a cost to some stakeholder in the system. Amtrak has a new president, but even the best management cannot erase the structural difficulties passenger rail service faces. Without some change in federal passenger rail policy, Amtrak will continue to require financial support on a scale Congress has been reluctant to provide.