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Amtrak: The Political and Social Aspects of Federal Intercity Passenger Rail Policy

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Amtrak: The Political and Social Aspects of Federal Intercity Passenger Rail Policy

Summary

Throughout its history, Amtrak, originally envisioned as a for-profit corporation, has failed to achieve a profit and has continued to rely on annual federal subsidies for its survival. Despite this, there has been enough support in Congress, and, at times also in the White House, to provide just enough subsidies to keep Amtrak's trains running. There has not, however, been enough federal and state financial support for Amtrak, as a money losing (and, some would add, at least at times, mismanaged) operation, to develop its routes into the robust national network that intercity passenger rail advocates had hoped for. That Amtrak has teetered on the edge of a shutdown many times, only to be saved by federal subsidies, raises the questions of why and to whom a national intercity rail network matters.

Amtrak's critics question the economic justification for sustaining nationwide intercity passenger rail service and believe that Amtrak survives primarily for political reasons. Amtrak's supporters reject this notion and assert that the federal government should invest in this mode of travel because diversification is a central element of any wise investment policy. A political stalemate over Amtrak has continued for over 30 years, partly because of a discrepancy that exists between the economic geography that supports a competitive passenger rail service and the political geography necessary to support its high cost structure.

Population growth, affluence, and housing policies, as well as government highway and aviation system development policies, tended to favor highway and air travel over passenger rail. Despite these trends, which have been a detriment to passenger rail, there are also social needs arguments, including the need to serve people who do not own cars, have a fear of flying, or believe they cannot afford airfare (and decline to use bus service). Some also argue that communities view rail service as part of their history and sense of themselves. The defense of Amtrak as a linchpin of the local social fabric and practical politics has, at some times and some places, been surprisingly effective in forestalling service reductions or garnering state subsidies to continue service.

Both advocates and opponents of federal-aid for Amtrak have suggested a variety of options for passenger rail in the United States. The options range from accepting the status quo, changing Amtrak's organizational structure, privatization, to liquidating Amtrak entirely. Funding options include maintaining the current system, using highway and aviation trust fund revenues or creating a separate rail trust fund, shifting the subsidy burden to the states, bonding, imposing taxes on Amtrak's competitors, and relying on private sector funding. Only after a political consensus is reached among policymakers, however, on what kind of passenger rail service, if any, is needed can a choice be made as to which organizational or financing options are best suited to reaching the chosen policy goal. This report will not be updated.

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Amtrak: The Political and Social Aspects of Federal Intercity Passenger Rail Policy

Throughout its history, the National Railroad Passenger Corporation (Amtrak), which was once envisioned as a for-profit corporation, has failed to achieve a profit and has needed to rely on annual federal subsidies for its survival. Despite this, there has been enough support in Congress, and at times also in the White House, to provide just enough subsidies to keep Amtrak's trains running. There has not, however, been enough federal and state financial support for Amtrak, as a money losing (some would add, at least at times, mismanaged) operation, to develop its routes into the robust national network that intercity passenger rail advocates had hoped for. That Amtrak has teetered on the edge of a shutdown many times only to be saved by federal subsidies, raises the questions of why and to whom a national intercity rail network matters.

Why the Amtrak Debate Matters

The debate over the future of intercity passenger rail in the United States raises arguments of energy efficiency, clean air, mobility (especially for the poor), traffic and air congestion mitigation, jobs, the place of trains in society and culture, as well as politics.¹ Inherent in these arguments are further stakeholder issues of whom, if anyone, will be served by intercity rail and who will bear the burdens of its expansion, reorganization, or demise. Historically, supporters of intercity rail have argued that Amtrak matters because it has or has the potential to: relieve airport and highway congestion in congested corridors; provide a more energy efficient and less environmentally damaging transportation mode than short haul air or automobiles; and more recently, that it provides a transportation alternative in the case of a terrorist attack.² All of these rationales have been challenged. Critics point to Amtrak's minuscule market share (less than 1% of all intercity passenger trips) and its limited capacity, to cast doubt on the congestion relief and security alternative arguments. They also argue that, for trips of 75 miles or more, automobiles usually have a second passenger, auto and rail's intercity trip energy efficiency per passenger mile

¹ The focus of this report is primarily on the social and political aspects of the Amtrak debate. For a discussion of the economics of intercity rail see, Pinkston, Elizabeth. *The Past and Future of U.S. Passenger Rail Service*. Washington, Congressional Budget Office. Sept. 2003. 40 p.

² For a concise discussion of these arguments see, Hank Dittmar, *Statement of Mr. Hank Dittmar, Project Director, Great American Station Foundation*. U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Hearing: Apr. 29, 2003.

is very similar.³ Although these arguments are important, the case can be made, that it is the political and social aspects of the debate that will likely determine Amtrak's ultimate outcome.

This report examines the political and social aspects of the debate on federal aid to intercity passenger service (primarily Amtrak). It begins with a discussion of the political aspects of the debate, examining Amtrak issues before the Congress, the executive branch, and at the state level. The report then discusses the differing views and needs of freight rail relative to the passenger service that often rides on track owned by the freight railroads. The social changes and influences on the decline in rail passenger ridership as well as social arguments for Amtrak's continuation are examined next. Finally a number of policy options are discussed. The report does not enter into a discussion of economic externalities (such as the possible indirect environmental or energy savings benefits) of intercity rail passenger service.⁴

Political Aspects of the Amtrak Debate

Amtrak and Congress

Some Amtrak critics argue there is no economic justification for sustaining nationwide intercity passenger rail service in the United States and believe, therefore, that Amtrak survives primarily for political reasons. The notion of a national intercity rail network in a country the size of the United States, according to them, does not make economic sense. It perpetuates an umbrella over the past when the notion of a transcontinental railroad only made sense because there were no airways.⁵ In the modern era, they contend, rail technology is best suited to solving regional transportation problems or hauling freight long distances.

Those who view the Amtrak debate as mostly about politics, generally cite three political forces as sustaining Amtrak's nationwide network. One political force is distributive politics.⁶ This view holds that Amtrak is primarily a mechanism that serves legislators' district-specific interests. It provides legislators the opportunity to claim credit for providing Amtrak service in their district or state. A second political force cited is the protection of an entrenched interest group. This view holds that because Amtrak's benefits accrue to a small group (namely Amtrak employees and suppliers), with each individual in the group having much at stake personally (their livelihood), there is more natural cohesion among them and they have greater incentive to mobilize and have their voices heard in Washington. According to this

³ See U.S. General Accounting Office. *Intercity Passenger Rail: Assessing the Benefits of Increased Federal Funding for Amtrak and High-Speed Passenger Rail Systems; Statement of Phyllis F. Scheinberg*. "GAO-01-480T" Washington, GAO, 2001. p. 9.

⁴ See *Past and Future of U.S. Passenger Rail Service*, p. 27.

⁵ A.T. Lewis, "Toward Market-Driven Rail Open Access," *Journal of Transportation Law, Logistics, and Policy*, Fall 2002, p. 34.

⁶ David P. Baron, "Distributive Politics and the Persistence of Amtrak," *Journal of Politics*, v. 52, Aug. 1990. p. 883.

view, while the general population bears the cost of Amtrak, it has far less at stake individually, and its political influence is therefore much more diluted. Thus, critics see a political bias in favor of Amtrak stemming from the fact that Amtrak's benefits are visible and highly concentrated while its costs are somewhat invisible and widely dispersed. A third political force cited as sustaining Amtrak is the path of least political resistance. While the public at large is not an intense Amtrak supporter, they do generally have a favorable view of passenger trains. Being blamed for shutting down Amtrak could invite bad publicity because passenger trains are viewed with a certain amount of nostalgia and respectability by the general public.

Those who view the Amtrak debate as mostly about politics often blame Congress for Amtrak's woes. They contend that Amtrak is a system built to be politically rather than economically sustainable. They assert that routes were chosen in order to cement political support in Congress, not drawn on the basis of where rail can be most competitive. Amtrak's service decisions are vulnerable to political pressure, they say, because Amtrak depends on Congress for funding, especially since funding is from the discretionary portion of the budget. They argue that Congress hinders intercity passenger rail's market potential by not allowing Amtrak to fully pursue a business model based on economies of density — that is, focusing all of its resources on a select number of high density corridors while abandoning low density ones. If Congress devolved power to the states, they argue, Members would not be able to claim credit for maintaining Amtrak service in their district or state.⁷

On the other side of the debate, Amtrak's supporters reject the notion that Amtrak only matters for political reasons. It makes sense for the federal government to invest in this mode of travel, they argue, because diversification is a central element of any wise investment policy. Amtrak offers a less oil dependent mode of travel, particularly in the Northeast Corridor (NEC) where the line is electrified. Amtrak could further reduce its dependence on oil if lines outside the NEC were also electrified. It is also a more reliable form of transportation than air or automobile in poor weather, particularly during the winter. Rail supporters maintain that, after all, America's love-affair with the car has limits.⁸ It does not extend to traffic jams, traffic accidents, air pollution, or highways in one's backyard, for instance. They also argue that the additional time that passengers need to be at airports before departure to allow for security processing has reduced the time competitiveness of shorter-haul flights compared to rail. To them, passenger rail should not be viewed as a business and judged merely on the basis of profit and loss, but rather should be viewed as an alternative mode of transportation and judged on the basis of providing a valuable public service.

Mismatch Between Political and Economic Geography. While Amtrak's severest critics might prefer that the railroad fade away and its most assertive supporters want to see massive increases in funding, there are many whose views fall somewhere in between these two poles. They support passenger rail subsidies but only if it can be shown to be cost-effective use of federal dollars. Rail

⁷ Robert J. Dilger. *American Transportation Policy*. Westport, CT, Praeger, 2003. p. 155.

⁸ For a different view, see Anthony Downs. *Still Stuck in Traffic: Coping With Peak-Hour Traffic Congestion*. Washington, Brookings Institution, 2004. 455 p.

transportation can be cost-effective but only in specific circumstances. Passenger rail's market niche is typically defined by trips between large cities, densely populated and with well developed transit systems, and in the range of 100 to 400 miles apart. Generally, in trips of this distance, trains can be time competitive with air travel. This is especially true if the travel time to the train station is less than that to the airport and because the line-haul distance between the cities is not sufficiently far enough to allow air, even with its speed advantage, to make-up the time difference. Of course, in order to be competitive, trains must also run as frequently as airplanes. And to be cost-effective, trains must not only run frequently but run near full. There has to be enough of a population base in a corridor to fill trains running repetitively. The NEC and a handful of other city pairs in the Midwest and along the West Coast have been identified by transportation experts as compelling markets for intercity rail. In these markets, railway technology deserves careful consideration as a means of expanding transportation capacity, these experts suggest, because it might be cheaper in some cases than expanding the highway or airway networks.

Transportation analysts generally contend that freight railroads have an economic incentive to consolidate their operations around a limited network because of the relatively high cost of their fixed infrastructure. The major freight railroads have pursued a high density strategy — focusing all of their resources around a select number of high volume corridors while abandoning low density ones. The major freight railroads are maintaining less miles of track, running more trains on their remaining track, and carrying more cargo per train by utilizing larger cars and longer trains. By doing so, they have become arguably the most financially self-sufficient railroad system in the world. Proponents of Amtrak reform argue that if Amtrak pursued a similar business model, limiting its service to only those routes worth serving, it could become more cost-effective. That is to say, if its service criterion was strictly market-driven, Amtrak could carry more people per dollar of subsidy and perhaps eliminate its reliance on at least operating subsidies in the long term.

While railroads have an economic incentive to concentrate their operations around a limited network, observers note that legislative bodies generally have a broader perspective. When allocating transportation resources, for instance, Members of Congress may weigh equity and income distribution issues equally or more important than economic efficiency concerns. This contrast between market versus political forces, according to some observers, is a fundamental flaw in Amtrak's original design. They contend it cannot operate as a business, or at least achieve operational self-sufficiency, while at the same time providing a social service by running trains with thin ridership levels over long distances. To ensure enough legislative support for its capital needs, Amtrak must extend service to areas where rail lacks a competitive advantage. In other words, a discrepancy exists between the economic geography that supports intercity passenger rail and the political geography necessary to support its funding.

Amtrak and the Executive Branch

What Amtrak may need most from the executive branch is political capital. However, no Administration since Amtrak's creation has been willing to expend much of its political capital on Amtrak, whether in favor or against it.

Administrations seem to have adopted the view that Amtrak is just not worth a serious political battle. Some have argued that for rail to achieve a significant role in the nation's transportation system, it is less important which policy direction is taken, and more important that a direction be chosen with the political will and financial commitment necessary to sustain the effort over the long-term. Some say that without strong leadership from the executive branch, Amtrak will likely continue to limp along.

The executive branch traditionally has been the body that would lead such an effort. For passenger rail to become a significant player, the issue probably would need to become one of priority for an Administration, perhaps approaching the Eisenhower Administration's championing of the interstate highway system, for example. Like the highway program, the effort probably would also have to outlive successive political cycles. However, as of yet, no Administration seems to be willing to break the political impasse over Amtrak. In the words of one observer, what has filled the vacuum instead is essentially "no policy, as policy."⁹ The long time-frame required to carry out a major rail program may be one political impediment. Understandably, an Administration may be reluctant to bear the costs of a project whose benefits largely would accrue under successive Administrations.

One observer sums up the executive branch's view of Amtrak as follows, "Since its inception, the company [Amtrak] has endured frequent hostility from the executive branch of the federal government along with recurring financial crises."¹⁰ The Nixon, Ford, Reagan, and first Bush Administrations would have preferred that Amtrak fade away or at least end its drain on federal resources. The Carter Administration sought drastic cuts in service while the Clinton Administration supported Amtrak, but did not see it as a very high priority.

Amtrak was created during the Nixon Administration which was divided over its creation. The Office of Management and Budget (OMB) opposed its creation believing that it would never turn a profit. The Department of Transportation (DOT), however, had a more positive view, believing that at least on the high-volume routes, Amtrak would become self-sufficient in a few years.¹¹ In the end, President Nixon reluctantly supported Amtrak's creation but the motive was more to improve the financial condition of the freight railroads than to preserve passenger rail service. In 1979, the Carter Administration, in response to increasing annual Amtrak deficits exceeding \$500 million, proposed reducing Amtrak's route network from about 27,000 miles to about 15,700 miles. It recommended eliminating 16 long-distance routes which would have reduced or eliminated Amtrak service in 40 states. However, many Members of Congress opposed the Carter plan, citing lost airline service due to airline deregulation and the energy crises as reasons not to curtail

⁹ John E. Ullmann, "Rail Passenger Woes: 'No Policy' as Policy," *Journal of Transportation Law, Logistics and Policy*, v. 70, summer 2003, p. 442.

¹⁰ John C. Spychalski, "Rail Transport: Retreat and Resurgence," *The Annals of the American Academy of Political Science*, v. 553, Sept. 1997, p. 42.

¹¹ For further discussion of profitability expectations, see CRS Report RL31473, *Amtrak Profitability: An Analysis of Congressional Expectations at Amtrak's Creation*, June 26, 2002.

passenger rail service at that time. In the end, Congress agreed to a more marginal network reduction to 23,515 miles. In the 1980s, the Reagan Administration proposed eliminating Amtrak's operating subsidies and selling Amtrak to the highest bidder. The first Bush Administration (1989-1993) followed a similar agenda with respect to Amtrak. In the 1990s, under the Clinton Administration, Amtrak's survival was no longer in doubt but the Clinton Administration did support the Amtrak Reform and Accountability Act of 1997 (P.L. 105-134). This act eliminated some statutory restrictions which had prevented Amtrak from pursuing some cost-cutting initiatives, but it also required Amtrak to become operationally self-sufficient by December 2002. The current Bush Administration's policy objectives concerning Amtrak are to eliminate federal operating subsidies, to establish separate ownership for train operations and track maintenance on the NEC, to introduce competition on some routes, and for state governments to finance some of Amtrak's capital expenses.¹²

Amtrak and State Governments

Those who view intercity passenger rail as best suited to solving regional transportation problems generally favor having state and local governments take greater responsibility for funding Amtrak (or some other intercity passenger rail provider). It raises the issue, however, of the political and economic climate at the state level.

State financial support for Amtrak has been far less than federal support. Compared with about \$1 billion per year in federal financing, in fiscal year 2002, for example, states only provided about \$168 million in funding.¹³ A recent GAO survey of officials at 17 state departments of transportation found that they were willing to provide funds for intercity passenger rail, but only if federal funding were also provided.¹⁴ In this survey, state officials also expressed concern about how they could fairly allocate costs among themselves for capital improvements on an interstate rail line. Some state officials noted that if benefits and costs were difficult to properly assign, some states might perceive that they were subsidizing rail service improvements in another state.¹⁵

At the federal level, Amtrak has been embroiled in an ideological struggle between those who believe the railroad should operate as a business and those who believe it should operate as a public agency. Because neither side has been able to muster an overwhelming majority, Amtrak just manages to survive rather than (potentially) gain more market share. Amtrak has attempted to resolve this political

¹² See *Statement of the Hon. Norman Y. Mineta, Secretary U.S. Department of Transportation on the Future of Intercity Passenger Rail, June 20, 2002*. Washington, The Department, 2002. 5p. Available at [<http://www.fra.dot.gov/us/content/1262>].

¹³ GAO, *Intercity Passenger Rail [:] Issues for Consideration in Developing an Intercity Passenger Rail Policy*, April 30, 2003. GAO-03-712T, p. 13.

¹⁴ *Ibid.*

¹⁵ GAO, *Intercity Passenger Rail [:] Congress Faces Critical Decisions in Developing a National Policy*, April 11, 2002. GAO-02-522T, p. 25.

dilemma by juggling two types of service: corridor and long-distance. Amtrak's dual service strategy raises the question: if Amtrak were devolved to the states, would the railroad be caught in the same kind of political conflict at the state level? One could imagine a situation similar to the present situation at the federal level: some state legislators or the Governor expecting the railroad to select routes based on market criteria (i.e. service only to major metropolitan areas) and other state legislators or Governors expecting it to select routes based on public service criteria (i.e. including stops through many small towns). Moreover, even if there were a consensus with regard to rail policy within a state, there is the likely possibility that, in the case of interstate routes, neighboring states would lack such a consensus or their consensus would lean the other way. Thus, if state budgets were the primary funding source, a rail carrier could be pressured to juggle different service requirements as its interstate trains crossed state lines.

Amtrak and the Freight Railroads

Any discussion about the politics of Amtrak must necessarily include a discussion of the freight railroads' point of view. This is because, in much of the country, Amtrak and the freight railroads share the same track. About 97% of Amtrak's route miles use track that is owned and maintained by the freight railroads. Moreover, just as freight rail infrastructure underlies much of Amtrak's operations, one could argue that freight rail economics underlies much of Amtrak policymaking. For example, it was the weak financial condition of the freight railroads and hence their desire to rid themselves of unprofitable passenger service that was the impetus for creating Amtrak in the first place.

History may repeat itself, according to some industry experts, including Amtrak's current president and CEO.¹⁶ They assert that the current state of freight rail economics may once again provide the catalyst for a major shift in rail policy direction. One reason why freight rather than passenger rail may be more likely to sway Congress toward a change in direction is that freight railroads carry roughly 40% of the nation's commerce while Amtrak carries less than 1% of intercity passengers.

Renegotiating the Owner and Tenant Relationship. Significantly, the freight railroads are opposed to transferring the terms and conditions under which Amtrak now operates on their track to any other passenger rail entity if Amtrak were to be restructured. More specifically, they would oppose transferring: Amtrak's right of access to freight railroad track, the rates Amtrak pays to the freight railroads for track access, and Amtrak's operating priority over freight trains. The freight railroads also believe they are currently subsidizing Amtrak service because Amtrak, in their view, does not pay them the full cost they incur in hosting Amtrak trains.¹⁷

¹⁶ Amtrak press release column by David L. Gunn: "Amtrak - The Canary and the Myths," February 25, 2003. Available at [<http://www.amtrak.com/press/ed20030225000.htm>].

¹⁷ For further information on the freight railroads' viewpoint, see Association of American Railroads, [<http://www.aar.org>].

Rail right-of-ways are more crowded today than they were when Amtrak was created. Because of increases in track utilization rates, the original arrangement between the freight railroads and Amtrak is far less attractive to the freight railroads today than it was in 1970. At that time, the freight railroads had excess capacity but today there are signs that the freight rail system is, in places, nearing maximum capacity. Track utilization rates are rising because the freight railroads are carrying more freight on fewer miles of track. From 1970 to 1999, the number of ton-miles of freight carried by Class I railroads increased by 87 percent while the number of miles of rail roadway operated by Class I railroads declined by 43 percent.¹⁸ Another measure of traffic density is revenue ton-miles per owned mile of roadway which calculates the amount of paying cargo that the railroads carry over their right-of-ways. This measure of traffic density increased from 3.89 million in 1970 to 14.42 million in 1999.¹⁹

Freight rail congestion can spill over to cause delays for Amtrak trains. For instance, in June 2004, 69% of all Amtrak train delays were caused by freight operations.²⁰ On an annual basis, about 62% to 65% of Amtrak's total hours of delay are caused by host railroads.²¹ A DOT Inspector General report notes that while Amtrak offers economic incentives to the freight railroads for aiding its on-time performance, the freight railroads find the costs incurred to themselves for altering their train schedules exceed the amount of Amtrak's incentive payments.²² The Inspector General report also finds that, "Despite the [freight] railroads' investments, certain parts of the railroad system have become severely congested and cannot accommodate the conflicting demands of both increasing freight movement and increasing commuter and intercity passenger rail traffic."²³

Amtrak on Freight Track. Amtrak's reliance on the freight railroad network for much of its infrastructure helps to explain its relative isolation from the institutional arrangements that have been established for funding other transportation modes.²⁴ In modern times, the federal government has had a relatively "hands-off" policy with respect to financing freight rail infrastructure. There is no trust fund nor cost share arrangement between the federal and state governments for financing rail infrastructure, as there is for highways, airways, and waterways, for example. The rationale for limited government funding of freight rail infrastructure has been based

¹⁸ Transportation Research Board, *Freight Capacity for the 21st Century*, Special Report 271, National Academy of Sciences, 2003, p. 19.

¹⁹ AAR, *Railroad Facts*, 2001 ed., p. 42.

²⁰ *U.S. Rail News*, August 25, 2004.

²¹ Calculated from U.S. Bureau of Transportation Statistics. *Pocket Guide to Transportation*. Washington, The Bureau, 2004. p.29.

²² U.S. DOT, Office of Inspector General, *FRA Oversight of Use of Slow Orders and Track Reclassification*, December 10, 2003, Control # MH-2004-047.

²³ *Ibid.*

²⁴ Anthony Perl, James A. Dunn Jr., "Reinventing Amtrak: The Politics of Survival," *Journal of Policy Analysis and Management*, v. 16, no. 4, 1997.

on the fact that freight railroads are for-profit corporations that have exclusive access to their privately owned rights-of-way.

Amtrak's reliance on the freight railroads for much of its infrastructure is a double edged sword. On the one hand, taxpayers benefit from having the private sector supplying much of Amtrak's infrastructure because it probably does so at substantially less cost than if it were furnished by the government. Amtrak pays the freight railroads about \$100 million annually for the use of their track (which is about as much as it spends on advertising and marketing). On the other hand, the freight railroads design, build, and maintain their track to meet their needs, which is heavy rolling-stock at slower speeds. Amtrak's needs are on-time performance. Competitive passenger trains require the highest quality track to increase train speed and to maintain precise schedules. In contrast, the freight railroads, since abandoning passenger service, have economized on track maintenance costs by single tracking and lowering track speed standards.²⁵

Time to Change Course? Some observers believe that, reminiscent of the policy shift that occurred in 1970, economic circumstances in the freight rail industry could once again provoke a policy response by Congress, and maybe force a resolution of the Amtrak debate as well. Many rail analysts are concerned whether the freight railroads are earning enough revenues to adequately invest in their infrastructure to meet anticipated cargo demand. Amtrak's president contends that Amtrak is analogous to "a canary in a coal mine" with respect to the freight railroad industry.²⁶ He contends that the thin profit margins the freight railroads continue to earn will eventually put them in the same place Amtrak is today. The Surface Transportation Board, the federal agency that regulates railroads, has repeatedly found that the freight railroads are "revenue inadequate," although the criterion used to measure revenue adequacy is set by statute and is controversial. Since 1980, rail tonnage has increased by 64% and the DOT IG reports that tonnage is expected to increase by well over 50% between now and 2020.²⁷ Some railway analysts warn that the freight railroads could be overwhelmed by the traffic growth and point to recent problems in meeting peak season capacity requirements as early warning signs of a pending "capacity crunch."

Some policymakers believe the current economic situation with the freight railroads demands a more activist federal rail policy. They contend that the focus of federal rail policy should be more than just Amtrak. They envision a national rail plan that integrates both freight and passenger rail infrastructure needs. As a policy solution, these lawmakers propose creating a rail trust fund to accelerate public investment in rail infrastructure. They suggest that just as highways are shared between private, for-profit trucking companies and the general traveling public, with each paying user fees to finance highway maintenance and construction, so too could

²⁵ Robert E. Gallamore, "Perspectives and Prospects for American Railroad Infrastructure," *Infrastructure*, Summer 1998.

²⁶ Column by David L. Gunn: "Amtrak - The Canary and the Myths," February 25, 2003. Available at [<http://www.amtrak.com/press/ed20030225000.htm>].

²⁷ U.S. DOT, Office of Inspector General, *FRA Oversight of Use of Slow Orders and Track Reclassification*, December 10, 2003, Control # MH-2004-047.

a user fee scheme be created for rail infrastructure, shared by the freight railroads and the general public traveling on passenger trains. According to this view, the efficiencies that railway technology can produce are not being fully realized because the nation is relying on the limited resources of the private sector to supply most rail capacity. Hence, in this view, the rail network is operating at less than optimal efficiency due to an infrastructure deficit. If the private sector is unable to keep pace with strong demand, they believe the government should fill the capital shortfall, bringing the supply of rail capacity in balance with demand. Thus, some rail supporters argue that establishing a dedicated public funding mechanism for expanding rail capacity is justified on the grounds of both passenger and freight mobility concerns.

However, while some lawmakers incorporate the freight railroad's infrastructure needs into arguments for more federal investment in rail infrastructure, the freight railroads do not subscribe to their policy prescription. As a practical matter, the freight railroads question whether freight and high-speed passenger trains are actually compatible on the same rights-of-way. But their concerns run deeper than this. A significant difference between railways on the one hand and highways and airways on the other is that rail carriers do not share their right-of-way with competitors. This is the railroads' concern with the analogous treatment of railways as highways or airways. They fear that the price of a federal aid program for improving rail infrastructure will be open access to their rights-of-way.

Social Aspects of the Debate

Ninety years ago railroads were symbols of the power, speed, and efficiency of the industrial era. They were also the ties that bound rural America to the nation as a whole. For intercity travel, railroads were more than the centerpiece of a multimodal transportation system: they were the only choice for relatively speedy and reliable passenger transportation. In a broader sense, rail service was seminal in the pattern of development of the nation's cities and towns. In rural areas route choices made by railroads to serve or bypass towns were seen as determining factors for which communities would prosper and which would not. In rail's heyday, rail stations often fulfilled a social role beyond their transportation uses, serving as civic landmarks and community gathering places. Given this history, some cities and towns associate rail service with their sense of identity as a community and often react to a loss of passenger rail service, no matter how limited, as they would to the loss of a dominant employer or a plant shutdown.

The decline of passenger rail ridership is not recent and is traced back by most observers to the early 1920s. Probably reflecting the increasing popularity of the automobile and a concomitant increase in road building, passenger rail ridership declined gradually during the 1920s from roughly 1.3 billion passengers in 1920 to 786 million in 1929. Under the influence of the economic contraction, ridership fell below 500 million passengers in 1932 and remained below that level until 1943-1945

when ridership surged under the impact of the troop movements, gas rationing, and industrial mobilization that accompanied the World War II war effort.²⁸

Changes in U.S. postwar society had an important impact on intercity rail ridership in the 1950s and 1960s. Returning World War II veterans and their families faced chronic housing shortages in many urban areas at the same time that the postwar baby boom was starting. The U.S. economy, undamaged during the conflict, was entering a period of affluence that contrasted sharply with the depression era that preceded the War. These circumstances led to changes that would impact intercity rail passenger service. Stimulated by rising incomes, high demand for housing, and by GI Bill subsidized mortgage loans, the process of suburbanization accelerated and spread to areas not served by central city train stations nor by adequate mass transit. Mobility to, from, and within the suburbs was automobile dependent. Rising incomes made car ownership affordable for most postwar families. The family car culture of the 1950s and 1960s had a major negative impact on intercity train use.²⁹ During this twenty year period the number of U.S. families grew by 32%.³⁰ Family car ownership grew from 59% of all families in 1950 to 82% in 1970.³¹ This did not bode well for passenger rail. It was often much cheaper for a family to travel together in their automobile to another city destination than to buy train tickets for everyone. In addition, the automobile provided mobility at the destination that train destinations with good transit connections could not match in terms of convenience. The building of the Interstate Highway System, which began in earnest in 1956 (supported by a dedicated fuel tax and other highway use taxes), was mostly completed by the early 1980s and solidified the automobile as the centerpiece of American mobility. The completion of the interstate network increased the attractiveness of the automobile for intercity trips and reinforced the automobile culture. It also made automobile travel even more attractive, relative to rail travel, for intercity trips.³²

Postwar affluence had another major influence on passenger rail's dwindling market share in that it made air travel affordable to an increasing segment of the U.S. population. This affordability was enhanced with the introduction of the commercial jet in the late 1950s which made long distance travel faster, more comfortable, safer,

²⁸ For passenger rail ridership and rail passenger miles statistics for 1920 to 1970 see George W. Hilton. *Amtrak*. Washington, American Enterprise Institute, 1980. p. 2-4.

²⁹ Louis Thompson notes that personal incomes in the U.S. have been higher than elsewhere so that, "enhanced access to autos and air travel attacked the railroads' passenger traffic base far earlier in the U.S. than elsewhere." See *Railroad Mergers: The End of History?*, in *Railroad Mergers: History, Analysis, Insight*, by Frank N. Wilner. Omaha, NE, Simmons-Bordman Books, Inc. 1997. P. 338-345.

³⁰ Calculated from U.S. Bureau of the Census. *Historical Statistics of the United States: Colonial Times to 1970*. Washington, The Bureau, 1975. p.41. The number of households grew even faster than the number of families, growing by more than 45% from 1950 to 1970. From 1950 to 1965 the average family size also grew, albeit modestly, from 3.54 to 3.7 people per family.

³¹ *Ibid.* p. 716.

³² *Past and Future of U.S. Passenger Rail Service*. P.5-6.

and cheaper. Air travel during the 1950s and 1960s benefitted from rising federal aviation spending (the spending, however, was not large relative to spending on highways), in particular on airports and air traffic control, although at levels significantly below spending after 1971.³³ Air travel was no longer considered the choice of only the rich. As early as 1960 passenger rail's share of the intercity travel market (in terms of passenger miles) relative to its commercial air carrier and intercity bus competitors was down below 30% of the market from its 1945 high of roughly 75%.³⁴ By 1970 intercity rail's share had fallen to 6.2% and by 2000 Amtrak's share was down to 1%. During this period, air carriers' share of the market, perhaps reflecting deregulation and the emergence of low fare airlines, increased from 77% in 1970 to 92% in 2000.³⁵

Amtrak's ridership grew from roughly 10 million passengers in 1971 to more than 21 million in 1979 after which ridership stabilized within a range from a low of 19.4 million (1983) to a high of 24 million (2003).³⁶ Even at the 24 million passenger level, Amtrak retains no more than 1% of the national intercity commercial passenger market.

Despite these socioeconomic trends that, over time, have been advantageous to highway and air transportation to the detriment of intercity rail, arguments based on social needs are made to support federal aid to intercity rail. One argument is that Amtrak serves those who do not have access to an automobile, cannot drive, have a fear of flying or cannot afford to fly. A second, argument is that for many communities, particularly in rural areas, rail passenger service is an integral part of the community's social fabric and sense of self. According to this view the loss of Amtrak service would tear the social fabric and have an impact on the community far greater than is indicated by the community's rail ridership levels.³⁷

³³ The era of a dedicated trust fund for aviation spending began in 1971, significantly later than for highways. Although air carriers paid a fuel tax, prior to 1971 its revenues were deposited in the Treasury general fund. See CRS Report RL30050, *Aviation: Direct Federal Spending, 1918-1998*, by John W. Fischer and Robert S. Kirk. February 3, 1999. 15 p.

³⁴ Based on figures in *Transportation in America: 5th edition*. Washington, Transportation Policy Associates. p. 8.

³⁵ *Past and Future of U.S. Passenger Rail Service*. Adapted from table 1, page 7. Although commercial bus service also lost market share from 18% in 1970 to 6.8% in 2000 in terms of passenger miles, bus service increased during this period.

³⁶ *Transportation in America: Historical Compendium: 1935-1985*. Washington, ENO Foundation. Also 5th and 19th editions, and Amtrak. Available at [<http://www.amtrak.com>]. 2003 is the most recent year for which passenger data is available.

³⁷ For examples, see Dennis Brown. "When Rural Communities Lose Passenger Rail Service." *Rural Development Perspectives*, v. 12 no. 2, 1996. p. 13-18.

Amtrak as a Necessary Alternative

Perhaps the most common of the social arguments for maintaining or expanding Amtrak's service is that there are people who cannot or will not use automobiles or aircraft for intercity travel, including those who have a fear of flying, do not own a car, or cannot afford air fare and prefer not to use intercity bus service. Proponents of maintaining Amtrak's long distance service contend that an estimated 25 million people in the United States suffer from a fear of flying and some of them depend on train service for long distance travel.³⁸ There is a dearth of reliable information on what the impact of fear of flying has on intercity transportation choice. The degree of fear apparently varies greatly and some aviaphobes manage to fly when they have to.³⁹ Roughly 8% of U.S. households do not have a personal vehicle (car, SUV, pickup truck, recreational vehicle, motorcycle).⁴⁰ There is evidence to support the contention that Amtrak is an important mode of transportation for people who do not have access to a personal vehicle. According to Amtrak's passenger demographic profile (see **Table 1**), 16% of its passengers have no car in their households. Passenger rail proponents argue that in much of the country Amtrak is an important means of intercity mobility for these households. A portion of this difference, however, could be a reflection of ridership from the central cities in the NEC, where car ownership is less common than in suburban and rural areas or the less densely populated cities that are common in much of the United States, rather than a national characteristic.

Finally, Amtrak is seen by some as being an important intercity travel alternative for the poor. Again, Amtrak's passenger demographic profile (**Table 1**) lends support to this argument: 42% of its ridership are from households with incomes less than \$50,000 compared to 36% for travel by car, bus, and air combined. The overall income average, however, for Amtrak riders is \$74,000, two thousand dollars more than the car-bus-air average (again, this could be a reflection of the impact of the NEC that caters to business passengers and serves a high-income region of the United States). Business travel is the trip purpose for 46% of Amtrak riders, 11% more than the car-bus-air market figure of 35%. The details of the Amtrak national travel market profiles are provided in **Table 1**, based on survey research done for Amtrak by National Brand Tracking Wave.

³⁸ Marcia D. Lowe. *Back on Track*. Washington, Worldwatch Institute. p. 7. The 25 million estimate is the number commonly reported in the press and appears to be based on an estimate that one in eight Americans experience anxiety over flying.

³⁹ Those who fear flying are generally described as falling into three subgroups: those who will not fly under any circumstances; those who only fly when they absolutely have to for major events such as weddings or funerals; and those who fly but are unhappy about it and experience considerable anxiety before and during the flight. See "When Anxiety Runs Sky-High," *Los Angeles Times*, July 7, 2003: part 6, page 1.

⁴⁰ U.S. Bureau of Transportation Statistics. *National Household Travel Survey (NHTS) [2001]: Highlights*. Washington, The Bureau. p. 2

Table 1. Amtrak National Travel Market: Demographic Profiles

Category		Market* (Percent)	Amtrak Customers (Percent)
Gender	Male	51	49
	Female	49	51
Trip Purpose	Any business	35	46
	Leisure only	65	54
Age	16-34	29	35
	35-54	45	39
	55-64	15	18
	65+	11	8
	Average	44 yrs.	43 yrs
Education	Less than HS	4	2
	HS graduate	22	14
	Some college	21	15
	College graduate	33	37
	Graduate school	20	32
Household Income	Under \$50k	36	42
	\$50k-\$100k	43	35
	\$100k+	21	23
	Average	\$72k	\$74k
Employment	Employed	70	70
	College	4	6
	Retired	16	18
	Homemaker	6	4
	Not employed	4	2
Ethnicity	White	80	70
	Black/African American	11	16
	Other	9	14
Spanish/Hispanic Origin	Yes	7	10
	No	93	90
Presence of Car		98	84
Presence of 2 or More Adults 18+ in Household		75	67
Presence of Children in Household		38	33

Source: 2003 National Brand Tracking Wave (contractor for Amtrak).

* Air, Car, and Bus travel combined.

Note: Don't Know/Not Sure/Refusals Deleted From Base Size.

Intercity Bus Service. Opponents of continued federal aid to Amtrak generally agree that those who fear flying, do not have access to a personal vehicle, and the poor, need service but contend that all of Amtrak's city destinations and nearly all of its rural service areas are also served by intercity bus (also referred to as motorcoach) companies. The motorcoach bus industry serves more than 4,000 communities with regularly scheduled service carrying roughly 40 million passengers per year (compared to Amtrak's 24 million). It also carries more than 500 million passengers annually in providing charter, shuttle, commuter, tour and other service markets.⁴¹ If Amtrak went out of business or cut back its service, they argue that few travelers to rural destinations would actually be bereft of public intercity transportation service. A recent study of scheduled intercity transportation service in rural areas of the United States indicates that, of just less than 35 million rural residents in the area served by intercity rail, only 304,000 were exclusively served by rail.⁴² Most of these residents have access to a personal vehicle. If Amtrak service were eliminated in the NEC, the substitution of intercity bus and air service to former Amtrak users could take enough time to cause some disruption of service to travelers.⁴³ For cities in other parts of the country, airline and bus companies would probably quickly take up the slack.

The breadth of bus service throughout the United States raises two policy questions: first, is Amtrak really a necessary alternative and second, would it make more sense to subsidize bus service for the country's aviaphobes, those without automobiles, and the poor, than to subsidize the Amtrak network. According to testimony on behalf of the American Bus Association, Greyhound Lines was able to provide at least daily, fixed route service to 332 communities in 2002 with \$4.7 million in subsidies under the Federal Transit Administration's Rural Transit Assistance Program under 49 U.S. Code Section 5311(f).⁴⁴ Intercity motorcoach travel is also the safest (in terms of annual fatalities per 100 million passenger miles) and energy efficient (in terms of British Thermal Units per passenger mile) of all surface transportation commercial passenger carriers.⁴⁵

⁴¹ U.S. Congress. House. Committee on Government Reform. *Hearing on How Can We Maximize Private Sector Participation in Transportation?; statement of Emil Frankel, Assistant Secretary for Transportation Policy.* May 18, 2004. Available at [<http://testimony.ost.dot.gov/test/frankel1.htm>]

⁴² U.S. Bureau of Transportation Statistics. *Scheduled Intercity Transportation: Rural Service Areas in the United States.* Washington, The Bureau. 2004. p. 13.

⁴³ Some observers argue that the loss of Amtrak service in the NEC would cause disruption for a significant time. Most observers, however, expect that, while there would be short term disruption, airline and bus companies could reallocate capacity from less heavily traveled destinations to the more lucrative NEC.

⁴⁴ U.S. Congress. Senate. Committee on Banking, Housing and Urban Affairs. *Hearing on the Administration's Proposal for Reauthorization of the Federal Public Transportation Assistance Programs; Testimony of Harry Blunt.* June 10, 2003.

⁴⁵ See Oak Ridge National Laboratory. *Transportation Energy Data Book: 23rd Edition: Table 2.11 and Appendix A.* Oak Ridge, Tennessee, 2003. p. 2-11, A-5, A-19. and National Safety Council. *Injury Facts.* Washington, The Council, 2004.

Intercity bus service, however, has also suffered a loss of intercity ridership since the 1950s, as the number of personal vehicles grew rapidly and the building of the Interstate Highway System made intercity driving more attractive to the growing numbers of drivers. The Bus Regulatory Reform Act of 1982 reduced the regulation of motor carriers and gave bus companies more freedom to discontinue unprofitable service. Locations served by scheduled intercity bus companies dropped from 11,820 locations to fewer than 6,000 in 1991⁴⁶ and to roughly 4,000 today. Of the nearly 75 million rural residents served by bus, nearly 15 million are exclusively served by bus. Continuing bus service is not a certainty. Greyhound Lines recently eliminated service to 260 rural locations in 13 states.⁴⁷ The issue remains, however, especially for service to rural areas, whether subsidizing bus service would make more sense than maintaining Amtrak's nationwide network.

Supporting Nostalgia or Sustaining Communities Social Fabric?

In recent years some Amtrak critics have characterized federal subsidies for intercity passenger rail service, especially for the long distance routes that serve rural communities, as a subsidy for railroad nostalgia.⁴⁸ According to this view, suburbanization, the building of the Interstate Highway system, and jet travel have made passenger trains economically unviable: intercity passenger rail cannot compete with air carriers on time and cost, or with automobiles on cost and convenience. Given this absence of an economic justification for passenger rail, excepting perhaps in a few urban corridors, they argue that the continued support for Amtrak is the result of nostalgia: a romantic attachment to passenger trains.

Communities facing loss of Amtrak service would take issue with this characterization and argue that it understates the importance of rail service to the social fabric of many communities.⁴⁹ They would deny that their views are a wistful yearning for an unrecoverable past. As mentioned earlier, some would argue that rail service and their rail station are a real part of their history and a valid component of their sense of community. In addition, in recent years both large and small communities have invested in their train stations as part of urban and small town renewal efforts and economic development schemes.⁵⁰ Communities that are tourist destinations tend to be especially adamant about retaining passenger rail service.

⁴⁶ Randy Isaacs. "Intercity Bus Transportation: New Opportunities for Rural America," Community Transportation Association, Technical Assistance Brief no. 11. Available at [<http://www.ctaa.org/ntrc/rtap/pubs/ta/intrcity.asp>].

⁴⁷ *Greyhound Announces Major Route Cutbacks*. Washington Transportation Letter, July 31, 2004. p. 4.

⁴⁸ Robert J. Samuelson. *Subsidized Nostalgia*. Washington Post, June 26, 2002: A25. Also *Nostalgia comes at Too High a Cost*. Chicago Sun-Times, June 26, 2002: 41.

⁴⁹ Dennis Brown. *When Rural Communities Lose Passenger Rail Service*. Rural Development Perspectives, v. 12. p. 13-18.

⁵⁰ AECOM Consulting Transportation Group. *Intercity Passenger Rail Transportation*. Washington, American Association of State Highway and Transportation Officials. p. 31-32.

Research indicates that states with relatively high tourist spending are more likely to provide financial support for Amtrak service.⁵¹ Although the number of passengers served may be small relative to national totals, these communities tend to lobby aggressively to maintain service both with state officials and their congressional delegations. The link between local defense of Amtrak as a linchpin of the social fabric and practical politics has been in some places and at some times quite effective in forestalling service reductions or garnering state aid to continue service.⁵²

“Subsidy” Issues in the Amtrak Debate

Few aspects of the Amtrak debate are argued as vehemently as discussions of federal-aid to Amtrak relative to federal-aid to highways and aviation.⁵³ Supporters of federal aid to passenger rail argue that Amtrak does not get a fair share of federal transportation funding. Critics respond that on a per passenger or per passenger mile basis Amtrak’s federal-aid is higher than for the other modes and is unjustified given passenger rail’s 0.8% share of long distance trips nationwide.⁵⁴

A Semantic Trap for Policymakers. A case can be made that these comparisons are of limited value in the debate because the transportation mode comparisons are of modes that are very different from each other in both what they do, how they are financed, and how they are structured. In addition, proponents of aid to Amtrak define subsidies broadly, including all government spending on highways and aviation and in some cases also assign dollar values for “hidden costs” (i.e., the costs to the public of smog, noise, congestion, accidents, energy security, etc.), while opponents of increased federal spending on intercity rail define subsidies narrowly, often only counting federal spending of Treasury general fund revenues as true subsidies (Amtrak is funded entirely from general fund revenues, as discussed below). This creates a semantic trap in the subsidy debate: the two sides are using the same word but with very different meanings. This in turn, creates a statistical disconnect that decision makers in the Amtrak debate either have to contend with or ignore. The subsidy comparisons also further complicate the debate from the basic transportation policy decision of whether or not Amtrak is necessary to fulfill federal social objectives or national mobility needs, and warrants federal financial support.

⁵¹ David C. Nice. *Amtrak: The History and Politics of a National Railroad*. Boulder, CO, 1998. p. 49.

⁵² See Brown, *When Rural Communities Lose Passenger Rail Service*. Provides examples of community responses to service reductions.

⁵³ See Wendell Cox. *Derailed*. National Review. Feb. 5, 2002. 2 p.; Robert J. Dilger. *American Transportation Policy*. Westport, CT, Praeger. 2003. P. 78-103.; Brian Hanson. *Future of Amtrak: Should the Nation’s Passenger Railroad be Saved?* CQ Researcher. Oct 18, 2002: 841-864.; David C. Nice. *Amtrak: The History and Politics of a National Railroad*. Boulder, CO. 1998. P. 31-53.; Ronald D. Utt. *Congress Should Accept Industry Offers to Buy Amtrak*. Washington, Heritage Foundation Backgrounder [no. 1179]. 11 P.

⁵⁴ The 0.8% figure is drawn from the, Bureau of Transportation Statistics’ *Highlights of the 2001 National Household Travel Survey*. Washington, The Bureau, [2004]. Because the definition of long distance includes trips as short as 50 miles one-way, the 0.8% includes some commuter rail trips but excludes some intercity trips to nearby cities on Amtrak.

Amtrak's Employment Costs

The most important factor in Amtrak's operating costs are employment costs. Testimony before the House Subcommittee on Railroads, included an examination of Amtrak's intercity rail ("core") operations employment costs.⁵⁵ The findings presented to the Subcommittee by the Federal Railroad Administration (FRA) included the following:

- Employment costs (salaries, wages, overtime, employee benefits, and other employee related costs) accounted for three-fifths of Amtrak's intercity rail operating expenses (core expenses less depreciation).
- The three-fifths proportion had remained steady since the mid-1990s indicating that no productivity gains had occurred during this time-frame.
- In the aggregate, core employment expenses grew during this period.
- On a train-mile basis employment costs remained constant (about \$36-\$37 per train-mile), again indicating an absence of major productivity advances.
- The combination of constant train mile costs and the addition of more train miles on the network had led to higher total costs.
- Since each train had been carrying fewer passengers, core employment expenses had been increasing on a passenger-mile basis. This had eroded the benefit of the higher fares that Amtrak had imposed, thereby making it more difficult to compete against the declining prices of air travel.

These trends in employment costs at Amtrak compared unfavorably with total operating cost trends in the airline industry.⁵⁶ From 1994 to 2000 Amtrak's core employment expense per mile exceeded the airlines' total operating cost per mile. Airlines had kept their costs within the annual inflation rate and discount carrier Southwest Airlines had controlled costs even further. Amtrak's employment costs per mile exceeded airline and bus intercity operating costs per mile for a number of reasons, including the high underlying level of compensation and a rate of growth in compensation that outpaced inflation. Average compensation for railroad workers exceeded that of air and bus employees. From 1980 to 1999, the real growth in compensation for core Amtrak employees grew more than 30% while that for airline employees decreased nearly 20%, and bus line employees' compensation dropped

⁵⁵ U.S. Congress. House. Committee on Transportation and Infrastructure. Subcommittee on Railroads. *Hearing: Amtrak Status; Honorable Allan Rutter, Administrator, Federal Railroad Administration*, March 6, 2002. Available at [<http://www.house.gov/transportation/rail/03-06-02/03-06-02memo.html>]. The supporting document includes charts and statistics to support a number of FRA conclusions, including that Amtrak's intercity rail has changed little in the last 30 years; that Amtrak's network limits its competitiveness; that Amtrak has poor schedule reliability on much of its system; that nationwide, Amtrak cannot compete with other modes on price; and that employment costs continue to grow.

⁵⁶ *Ibid.* p. 11-12.

more than 10%.⁵⁷ Supporting documentation provided by the FRA showed that airfares were 1/3 below Amtrak fares and perceived automobile driver costs per mile were less than 1/2 of Amtrak's fares.⁵⁸ In addition, airfares and perceived driver costs per passenger mile were found to be below Amtrak labor costs per passenger mile.

A DOT Inspector General report dated November 18, 2004 stated that labor costs were Amtrak's largest operating cost and should be a key focal point for cost reduction by Amtrak. The report also noted that labor costs (including those of Amtrak commuter rail employees) had been reduced during 2002, 2003, and 2004.⁵⁹ Annual labor costs as a percentage of total operating costs for 2003 were roughly 3% lower than in 2001. Part of this percentage decline, however, occurred because rising depreciation costs (not counted as an operating cost in the FRA study discussed above) pushed up the overall non-labor operations total. On a dollar basis, labor costs in 2003 were \$110 million below labor costs for 2001. Most of this reduction, according to Amtrak, was accomplished through elimination of redundant or under used positions (1,179 employees in 2002 and 492 employees in 2003).⁶⁰

Amtrak has been in contract negotiations with most of its unions since the existing labor agreements expired in 1999. Amtrak, however, did reach a collective bargaining agreement with the Transportation Communication Workers International Union (TCU) in September 2003. The agreement included some work rule changes and measures to contain medical costs, but it also provided TCU members with wage parity with freight rail workers and gave them a 6.6% wage increase. The parity concession was based on the fact that some Amtrak occupations' job skills, an engineer's for instance, can also be used for freight rail or commuter rail, and wage parity for engineers could be seen as necessary to prevent a loss of skilled employees from Amtrak to other rail companies. Amtrak's intercity rail operations, however, are not in business competition with freight or commuter rail companies, but with airline and bus companies, which, as discussed earlier, have much lower unit wage and benefit costs.⁶¹

The TCU agreement, as well as trends in Amtrak wages and benefits, contrast starkly with the recent compensation trends in Amtrak's long distance competitors, the airlines. Under intense competition from Southwest and other low cost airlines, all the major passenger air carriers have negotiated or are negotiating wage and benefit reductions with their employees' unions in order to forestall bankruptcy or as

⁵⁷ Ibid. Costs related to the Railroad Retirement Act and the Federal Employee Liability Act may result in higher costs for all railroads.

⁵⁸ Based on 2001 statistics. Perceived driver costs for business travel includes the full cost of ownership (including ownership and depreciation), while non-business driver perceived costs treated intercity travel as an incremental "out of pocket" expense and omitted ownership costs.

⁵⁹ U.S. Dept. of Transportation. Office of the Inspector General. *Assessment of Amtrak's 2003 and 2004 Financial Performance and Requirements*. Rept. No. CR2005-013; Nov. 18, 2004. Washington, The Department, 2004. p. 13.

⁶⁰ Ibid.

⁶¹ Ibid.

part of a bankruptcy reorganization. Although the threat of an Amtrak bankruptcy or service shutdown often looms over the annual Amtrak appropriations debate, labor give-backs on the scale experienced by the airline industry do not appear to have been considered by either Amtrak's management or its unions.

Policy Options for Congress

The following section examines options in financing and organizing passenger rail service in the United States. However, these options do not offer any resolutions in themselves to the Amtrak debate. The first question policymakers need to address is what kind of passenger rail service the nation needs, if any, and what it should serve. Only until consensus is reached on this question, can a choice be made as to which combination of financing and organizational options is best suited to reaching that goal. In other words, choosing a particular method of funding or institutional arrangement depends on the objective or goal that policymakers have with respect to the rail sector. For example, if financial and cost-efficiency objectives were given the most weight, then models that facilitate privatization and competition might be appropriate. If social objectives were deemed most important, a federally funded national railroad may be the preferred choice. All the options discussed below involve trade offs between financial efficiency and social objectives.

Liquidation or Reorganization of Amtrak Under Bankruptcy Laws

Proponents of liquidating Amtrak have different views as to the benefits of shutting down Amtrak. Some see it as simply a means of closing the Amtrak "money pit" that the federal government had been pouring money into since 1971. Others see liquidation as part of a transition to a privatized passenger rail system. Some supporters of long distance rail routes see Amtrak business liquidation or reorganization as an opportunity to shift resources away from the NEC in favor of long distance routes. Others see it as an opportunity to eliminate long distance service in favor of corridor service.⁶² These contradictory views are, at least in part, a reflection of the unknowns inherent in railroad bankruptcy proceedings.

Implications of Liquidation. Should a bankruptcy court decide that Amtrak should be liquidated, the decision would have implications for Amtrak users, creditors (especially the federal government, Amtrak's largest creditor), rail workers' benefits, and commuter and freight railroads. Because less than 1% of commercial intercity trips are taken by rail, an Amtrak shutdown would have a limited impact on *national* mobility since all Amtrak routes and nearly all Amtrak stops have bus, airplane, or automobile alternatives. However, because NEC carries nearly one-half of Amtrak's roughly 65,000 daily passengers, a sudden shutdown of Amtrak service could cause disruption as competing modes of transportation try to expand their

⁶² See Joseph Vranich, Cornelius Chapman, and Edward L. Hudgins. *A Plan to Liquidate Amtrak*. Washington, Cato Institute, 2002. 17 p. "Policy Analysis no. 425." ; Andrew C. Selden. *The Big Picture*. Minnesota Rail Passenger News. Fall 1999, Issue 97. 2 p.; *Past and Future of U.S. Passenger Rail*. p.33-34;

schedules to accommodate the travel needs of former Amtrak users. The impact, if any, of the loss of Amtrak competition on bus and airline ticket prices cannot be accurately forecast. The impact would be most noticeable in the NEC market.

In September 2002, the General Accounting Office (GAO) examined the potential financial issues had Amtrak undergone liquidation on December 31, 2001.⁶³ The GAO estimated that secured and unsecured creditors and stockholders would have had roughly \$44 billion in potential claims against Amtrak's estate. Of this, the federal government's claims would have totaled about 80%. Secured claims against real property would have been about \$18.6 billion. The federal government would have had \$17.1 billion in stock and accumulated dividends. Of the \$4.4 billion in unsecured claims, about \$3.2 billion would have been for payments owed to terminated employees. The GAO found that

it is unlikely that secured and unsecured creditors' claims would have been fully satisfied, because — other than the Northeast Corridor — Amtrak's assets available to satisfy these claims and interests (such as equipment and materials and supplies) are old, have little value, or appear unlikely to have a value equal to the claims against them. The market value of Amtrak's most valuable asset (the Northeast Corridor) has not been tested. While the corridor has substantial value, it is subject to easements and has billions of dollars of deferred maintenance. Furthermore, it is not likely that the stockholders would have received any payment for their ownership interest.⁶⁴

The GAO report also found that there would be impacts on the railroad retirement system and on the railroad unemployment system. The railroad retirement system is based on a modified pay-as-you go system: currently employed workers withholdings pay the benefits of current retirees. Amtrak's roughly 20,000 employees make up nearly 10% of railroad workers. If all Amtrak employees had lost their jobs and were not reemployed in the rail industry, the retirement system would have lost \$400 million annually in contributions and could have been forced into deficit by 2024. Similarly, the railroad unemployment system would have been exhausted by 2002, forcing the unemployment system to borrow from the railroad retirement system and to raise unemployment taxes from 4% to 12.5% for 2002-2004.

The GAO agreed with Amtrak that liquidation would have financial and operational impacts (especially in the NEC) on commuter and freight railroads. Amtrak estimated these costs at \$600 million.

The Railroad Bankruptcy Process: The Uncertainty of Outcomes.

As a consequence of an Amtrak bankruptcy, the Court and an appointed trustee would be making the decisions on the future of Amtrak rather than Congress (through its oversight process) and Amtrak directors and managers. Most recent discussions of Amtrak bankruptcy view it as a process that will lead to liquidation, but a Chapter

⁶³ U.S. General Accounting Office. *Intercity Passenger Rail: Potential Financial Issues in the Event That Amtrak Undergoes Liquidation*. "GAO-02-871" Washington, GAO, 2002. [39 p.]

⁶⁴ *Ibid.* p. 4.

11 filing may lead to a variety of other outcomes given the flexibility that Chapter 11 gives the court. Basically, Chapter 11 is designed to rehabilitate debtors through financial reorganization while at the same time safeguarding creditor rights. If reorganization is not viable, then distribution of assets through business liquidation is an option. Subchapter IV of Chapter 11 deals exclusively with railroads and includes provisions that would impact an Amtrak Chapter 11 filing.⁶⁵ For a railroad bankruptcy, the appointment of a trustee is a requirement. Subchapter IV directs the Court and the trustee to consider the public interest in the preservation of the debtor's rail service.⁶⁶ The Subchapter also allows the Surface Transportation Board (STB) and the Department of Transportation to participate in the bankruptcy proceedings. Some reorganization provisions could require STB approval. Railroad labor collective bargaining agreements are not subject to modification by the Court unless done in accordance with the Railway Labor Act.⁶⁷ Also, in the case of a proposed transfer of rail lines or their operation to another entity, the STB must require that the new carrier "provide a fair arrangement at least as protective of interests of employees as that established under 49 U.S.C. section 11326." This casts doubt on the extent to which reorganization under bankruptcy would lead to lower labor costs and increased workforce flexibility.

In addition, there may be some constraints upon Congress, under the Bankruptcy Clause of the Constitution, with respect to the liquidation of Amtrak. The Bankruptcy Clause requires, that bankruptcy laws be "uniform." The Supreme Court has interpreted this to mean that an enactment that assigns priorities and distributions to creditors in a single named bankruptcy violates this clause.⁶⁸ This could have implications for an Amtrak liquidation. An August 26, 2002 CRS report noted that:

the Amtrak Reform and Accountability Act appears to contemplate congressional action to effect a liquidation through freestanding legislation. Congressional enactment of legislation to liquidate a single, named debtor, *i.e.*, Amtrak, would be more likely to run afoul of the Bankruptcy Clause than liquidation under the U.S. Bankruptcy Code. Likewise, the provision in the Reform Act that makes 11 U.S.C. section 1172 (c) inapplicable to Amtrak's employees is constitutionally suspect if it has the actual effect of reassigning creditor rights within a named debtor's bankruptcy. Amending the Bankruptcy Code for the sole purpose of

⁶⁵ See CRS Report RL31550, *Railroad Reorganization Under the U.S. Bankruptcy Code: Implications of a filing by Amtrak*, by Robin Jeweler. August 25, 2002, for a more detailed discussion. See also GAO Report GAO-02-871, *Amtrak Liquidation: Appendix I; Significant Aspects of the Railroad Bankruptcy Process*, p. 29-34.

⁶⁶ Jeweler, p. 3-5 "With respect to railroads, the 'public interest' is expressly accorded statutory prominence. This provision may be interpreted to allow greater regulatory input into the proposed reorganization and may allow creditors to wait longer than other Chapter 11 creditors for resolution of the plan."

⁶⁷ The Railway Labor Act requires that disputes concerning pay, rules, and working conditions be submitted to the National Mediation Board for arbitration.

⁶⁸ Jeweler. *Railroad Reorganization*. p. 6.

reducing the rights of Amtrak employees could violate the uniformity requirement.⁶⁹

The role of Chapter 11 in a possible Amtrak bankruptcy filing as well as possible constitutional uncertainty of a legislated liquidation of Amtrak casts doubt on a bankruptcy filing leading to a liquidation of Amtrak, at least as part of the bankruptcy court's first reorganization plan. It is likely that, in the event of an Amtrak bankruptcy filing, the Bankruptcy Court would first consider options that would reorganize Amtrak or create a successor organization that would maintain as much rail service as possible. Because of the statutory prominence given to the "public interest" in the preservation of a debtor's rail service, it is likely that a business liquidation of Amtrak and distribution of its assets to its creditors would be the last alternative considered by the court, rather than the first. In addition, it appears that legislation requiring an Amtrak liquidation could be challenged on constitutional grounds. Congress could, however, force Amtrak into bankruptcy by simply eliminating federal payments to Amtrak. A complete elimination of federal support could make it difficult for a bankruptcy court and trustee to craft a reorganization that would fall short of liquidation.

Congress passed the Amtrak Reform and Accountability Act, which set a goal of operational self-sufficiency by 2002. The Amtrak Reform Council's finding in November 2001 that the self-sufficiency goal would not be met in 2002 should have triggered provisions of the law that require the Council to submit to Congress a restructuring plan (submitted by the ARC on February 7, 2002) and for Amtrak to submit an action plan for complete liquidation. However, the political support in Congress for Amtrak has been strong enough to forestall implementation of the ARC restructuring plan and preparation of a liquidation action plan by Amtrak. The 2002 Department of Defense Emergency Supplemental Appropriations Act (P.L. 107-117) prohibited Amtrak from spending either appropriated funds or its own revenues to prepare the liquidation action plan. This made it clear that, for the time being, Congress is more concerned with the ramifications of an Amtrak shutdown than with the cost of ongoing support.

Funding Options

All the options for the future of intercity passenger rail in the United States will require some form of government funding. Even options designed to liquidate Amtrak or eliminate any federal role could leave the federal government shouldering residual and transitional costs. Most observers believe that other options will require some governmental financial involvement no matter how passenger rail's business model or its industrial structure is changed. The following funding options, either individually or in combination of two or more, are seen as funding solutions by participants in the passenger rail debate.

Trust Fund Proposals. Amtrak supporters have long advocated the provision of a dependable source of federal aid to passenger rail through some sort of trust fund mechanism. The proposals either call for providing Amtrak with a share

⁶⁹ Ibid. p.7.

of an existing trust fund's resources (such as those of the HTF or AATF) or propose a separate rail trust fund usually to be supported by an increase in highway fuel user taxes. Amtrak supporters argue that the existing trust fund revenues should be treated as general transportation trust funds and therefore be available to Amtrak. They also argue that this aid to rail would benefit highway and airline passengers by providing them with a mobility option that would relieve congestion on crowded highways and at airports.⁷⁰ Highway and aviation interests reject this view and argue that the benefits to the taxpaying highway and air travelers of providing aid to Amtrak are minuscule compared to amount of aid Amtrak would need. In addition, for the near term, there are no uncommitted balances in the HTF that could be made available for Amtrak, and the AATF may soon be in a similar condition. To provide additional trust fund monies either federal aid to highways and aviation would have to be cut to make room for Amtrak spending or Congress would have to enact tax increases to provide aid to Amtrak. A more likely potential means of providing HTF funds for Amtrak, although limited, would be a change in the rules for transferring funds between highway and transit formula programs, that would allow states to use some of their highway formula program apportionments to support passenger rail projects.

To date, proposals to create a separate rail trust fund supported by highway user fuel taxes have garnered little support, beyond Amtrak supporters themselves. Proposals to support a rail trust fund by imposing a ticket tax on rail passengers similar to the airline passenger ticket tax have garnered little support, to date, primarily because demand for Amtrak tickets is price-sensitive.⁷¹ Amtrak might have to lower its ticket price to compensate for the amount of the tax to prevent loss of ridership. This situation could, in effect, amount to the government giving back to Amtrak what it would have generated from ticket revenues, anyway. A drawback that could have an impact on any trust fund arrangement that provided Amtrak with highway user fuel tax revenues could lead to states and their congressional delegations demanding Amtrak service equal to their Amtrak related fuel tax payments to the Treasury. The politics of this distribution could complicate any attempt by Amtrak to improve its performance by restructuring its route system.

More Reliance on State and Local Aid. Another possibility is to shift more of the financial responsibility for Amtrak to the state and local governments whose citizens may benefit from the service. One way of doing this could be to require a larger state or local match for federal spending on rail infrastructure projects in the state. Amtrak President, David L. Gunn, has suggested that state and federal governments should pay for capital costs and states should pay for operating costs not covered by ticket revenue.⁷² The Bush Administration has also proposed

⁷⁰ Although Amtrak supporters see both the HTF and ATF as being valid sources for aid to Amtrak their arguments focus on the HTF which is by far the larger of the trust funds and perhaps also because the HTF is more dependent on fuel taxes while the ATF is more dependent on direct taxation of ticketed passengers.

⁷¹ Steven A. Morrison, and Clifford Winston. "An Econometric Analysis of the Demand for Intercity Transportation," *Research in Transportation Economics*, v. 2, 1985, 213-237 p.

⁷² Don Phillips. "Amtrak Proposes Trust Fund; Rail President Says Government Help is (continued...)"

that states take a greater role in financing intercity passenger rail. Using state and local funding to support passenger rail is especially attractive to those who see passenger rail as a question of regional mobility. In 2002, of the 23.4 million in total ridership for Amtrak, 84% traveled on short-distance passenger trains. Even on Amtrak's long-distance trains only 18%, (based on year 2000 statistics) were end-to-end riders.⁷³

Historically the willingness to support Amtrak varies from state to state and over time.⁷⁴ Research indicates that, affluent states with large populations, and large metropolitan areas are more likely to be favorable to state support of passenger rail.⁷⁵ Requiring state support for Amtrak by states across its entire network of routes could lead to regional and interstate controversies over the distribution of the aid burden across states and regions. For example, some states may argue that their aid burden should be low or zero for service through their territory if the mobility benefits are seen as going disproportionately to travelers from adjoining states. There could also be friction between corridor and non corridor states over the distribution of the aid burden. In addition, most states, unlike the federal government, have annually balanced budget provisions to which they must adhere. This could put pressure on state legislatures to reduce or eliminate their support to passenger rail in times of constrained state revenue. Because of this, it is doubtful that state support would be more stable than federal spending on Amtrak. In addition, thirty states restrict the use of their gas tax revenues to highway purposes only. These restrictions could limit states' ability to pay for rail.⁷⁶

Bonding for High-Speed Rail. Some supporters of federally assisted funding for high-speed rail infrastructure propose that Amtrak be allowed to sell bonds for this purpose. The federal government would pay interest on these bonds by providing bondholders with income tax credits. A second approach would be to fund capital investment on rail projects through state financing of tax-exempt debt. This approach would be under the control of the states and might or might not involve Amtrak. The state would pay the principal and the interest on the bonds but because the bonds would be exempt from income taxes, the federal government would bear costs in terms of revenue lost as a result of forgone tax revenues. Proponents of bonding argue that, at the state and local level, using bonds is the customary way to fund transportation infrastructure as an investment that justifies the interest costs. The Congressional Budget Office (CBO) has found that tax credit

⁷² (...continued)

Crucial to Survival," *Washington Post*, Oct. 17, 2002: E3.

⁷³ U.S. Dept. of Transportation. Office of the Inspector General. *The Future of Intercity Passenger Rail Service and Amtrak*. Washington, The Department, 2003. 15 p.

⁷⁴ See David C. Nice. "The States: Reluctant Partners?" In *Amtrak: The History and Politics of a National Railroad*. Boulder, CO, 1998 P. 47-60.

⁷⁵ Ibid. P. 54-58. The study also found that subsidies were more likely to survive in states with a large tourism industry, a liberal ideology, a history of environmental protection efforts, and policy "innovativeness."

⁷⁶ See Robert Puentes and Ryan Prince. *Fueling Transportation Finance: a Primer on the Gas Tax*. Washington, Brookings Institution, 2003. p. 1, 12. "Brookings Reform Series"

bonds are significantly more costly to the federal government over time than funding through the annual appropriations process because of the cost of the credit rate to the government and the related loss of revenue.⁷⁷ In addition, CBO found that Amtrak would receive more money through a direct appropriation because of the cost of compensating private investors for the risk they would be undertaking in purchasing the bonds. CBO concluded that the tax-exempt bonds option would be less expensive for the federal government than tax credit bonding. CBO also expressed concern that using tax credits instead of cash would remove the funding from the annual appropriations oversight process and shift some current costs beyond the 10-year budget window, thereby reducing budget transparency.⁷⁸

Make Competing Modes Pay Their So-Called “True Costs”. An argument, derivative of the “hidden costs” argument mentioned earlier, raised by some Amtrak advocates is that, if highway and aviation system travelers paid the so called “true costs” of their intercity travel (including “hidden costs” such as costs of pollution, accidents, national energy security, congestion, noise, free parking, etc.) then passenger rail would be more competitive.⁷⁹ Adherents to this argument generally support the imposition of fuel and other transportation or emission taxes, as well as other user fees, to level the playing field. Within the context of the intercity travel policy community few, other than Amtrak advocates, accept the “true costs” argument, however.

Critics of this policy proposal generally reject the existence of “true costs” that can or should be charged to highway and aviation system users and also critique the policy on other grounds. They argue that it would not be politically feasible or fair to raise taxes and fees on over 99% of intercity travelers to benefit the less than 1% that ride passenger rail. They also state that passenger rail has noise, pollution, energy, congestion and safety costs of its own. Amtrak advocates do not address the costs that travelers would pay in terms of lost time, mobility, and convenience should they have to travel by rail rather than car or aircraft. Another criticism is that the pricing of “true costs” by passenger rail advocates often appears to be based on subjectively determined values (i.e. placing a value on the life or health impacts of highway or aviation pollution and noise; designating of part of the U.S. defense

⁷⁷ CBO. *Financial Analysis of H.R. 2329*. “CBO calculated the cost of income tax credits to the federal government by multiplying the “credit rate” by the face value of the outstanding bonds. That calculation assumed a credit rate of 6.5%, which reflects the typical spread between interest rates on government securities and rates on long-term corporate bonds with investment-grade ratings of A or AA.”

⁷⁸ CBO. *A Financial Analysis of H.R. 2329, The High-Speed Rail Investment Act*. Washington, CBO, 2001. P. 1-8. See also *A Comparison of Tax-Credit Bonds, Other Special-Purpose Bonds, and Appropriations in Financing Federal Transportation Programs*. Washington, CBO, 2003. 7 p.

⁷⁹ See Stephen B. Goddard. *Getting There: The Epic Struggle between Road and Rail in the American Century*. New York, Basic Books. 1994. p. 250-256, for a discussion of driving’s “true hidden costs.” For a more positive view of driving see, James A. Dunn. *Driving Forces: The Automobile, its Enemies, and the Politics of Mobility*. Washington, Brookings Institution Press, 1998. p.1-50.

budget that secures U.S. energy sources as a highway and aviation system cost; placing a high value on time lost in a traffic jam, etc.).⁸⁰

The pragmatic problem, however, with a policy imposing so-called “true costs” of highway and aviation systems use on their users to improve Amtrak’s prospects is that it probably would not work. As mentioned earlier in this report, travel by car, bus, rail, and air are not like goods. For example, the airlines dominate the travel market for trips over 300 miles. It is the time savings, not “hidden subsidies,” that attract consumers to air travel for these distances. Also, in the deregulated environment for air travel, the overall ticket price, including taxes, is determined by demand, capacity, and competition — not by taxation. Finally, even if the United States developed a robust intercity rail network, many doubt this change would resolve the “hidden subsidies” issue, or that Americans in large numbers would give up the mobility that their cars and access to the aviation system provide them.

Private Sector Participation. Policymakers have debated to what extent the private sector might be willing to participate in financing passenger rail service. The potential benefits of private sector participation are freeing up public capital for other purposes and increasing railroad productivity. Frequently, the experiences of other countries with rail privatization are cited in the debate. Foreign experiences have been mixed. The experiences of Great Britain and Japan with rail privatization are illustrative because they each pursued different approaches.

Great Britain began privatizing British Rail in 1994, dividing the national railroad into over 70 companies, including 25 privately owned Train Operating Companies (TOCs) to run the trains, three rolling stock companies (ROSCOs) to own and maintain passenger rail cars and locomotives, about a dozen companies to perform track renewal and maintenance and rolling stock heavy maintenance, and one company, Railtrack, to own and manage the entire railway infrastructure including track, signaling equipment, stations, rail depots, and rail shops. Thus, Great Britain went a step further than most foreign countries in privatizing the passenger rail sector because it not only privatized train operations but the infrastructure component as well. In May 1996, Railtrack’s stock shares were sold to the public. However, in November 2001, the government put Railtrack under administrative supervision after a series of fatal train accidents that were tied to deficient infrastructure. A new entity, called Network Rail, replaced Railtrack in October 2002. Network Rail is a government controlled, non-profit public trust. To some observers, the Railtrack experience suggests that passenger track infrastructure is best kept in the public sector but other observers argue that it was the execution of the concept, not privatization itself, that went awry in the case of Railtrack. With respect to the TOCs, during the initial years of privatization, subsidy levels to the TOCs increased. While they have since fallen off, subsidies paid to the TOCs have

⁸⁰ Much of the “hidden costs” argument is based on popularized use of the concepts of external and internal costs and benefits initially developed by economists. For a reasonably balanced discussion of these concepts within the context of transport see Kenneth Button, *Overview of Internalising the Social Costs of Transport*, in *Internalising the Social Costs of Transport*. Paris, Organisation for Economic Co-operation and Development, 1994.p. 1-20. Includes a useful discussion of a number of caveats concerning the monetary evaluation of externalities.

been higher than the subsidy level proposed by the TOCs in their original franchise agreements.

Japan's experience with privatization is informative because it pursued a vertically integrated model.⁸¹ In 1987, the government dissolved Japan National Railways (JNR) into three geographically separated but vertically integrated railroads on the main island of Honshu. Over the succeeding decade and a half, the majority of the stock of these three railroads was sold to private investors. As of 2004, JR West and JR East have been fully privatized while the government still owns a minority stake in JR Central. These three railroads are able to cover their operating costs from operating revenues and do not receive operating subsidies from the government. However, these railroads also generate significant revenues from non-rail businesses they operate alongside their track, such as offices, department stores, housing, and recreational facilities. On the three smaller islands of Hokkaido, Shikoku, and Kyushu, JNR was split into three railroads (one railroad on each island). These railroads have not been privatized and due to lower traffic densities than on Honshu, they receive operating subsidies in addition to capital subsidies. Japan's experience is illustrative because it divided its former national railroad into segments that it believed could be commercially viable from those that it believed would not be. The key question is how much of Japan's competitive rail industry is due to segmentation and privatization and how much of it is due to factors outside of rail policy, such as economic geography.

Privatization necessarily involves a trade-off between financial and efficiency objectives on the one hand and social or equity objectives on the other. In order to attract private capital (and provide sufficient economic returns) a privatized railroad may need to abandon money losing routes. A railroad kept under government control can subsidize money losing routes so there is less risk of losing service. A key issue with privatization is reconciling business objectives with the social objectives of government.

Options in Organizational Structure

Restructure Passenger Rail Service. To its critics, Amtrak is a dysfunctional institution: it is a railroad created by committee, and as such, it is impeding the progress of rail transportation in the United States, particularly its development in high-volume corridors. As a result of a compromise between those who would have preferred to shut it down and those who wanted to preserve and possibly expand passenger rail service, the railroad was given contradictory objectives: become profitable, but at the same time maintain a nationwide service that necessarily includes unprofitable routes. In their view, put simply, political compromise is no way to run a railroad. They argue the only solution is to start over with a better organizational design. A massive increase in subsidies to Amtrak, as opposed to subsidies to some other form of passenger rail service, they say, would simply throw good money after bad and do little to improve the competitiveness of intercity passenger rail in the United States. What is needed, in this view, are

⁸¹ For an explanation of a vertically integrated railroad, see the section entitled "Vertical Integration or Horizontal Separation."

measures that will improve the internal efficiency of the railroad and affect management and staff behavior, which can only be achieved by transforming the institutional organization of the sector itself.

Railway restructuring options generally involve breaking up a monolithic railroad along several dimensions, either geographically, by type of service, by business function, or some hybrid combination of these. Proponents of restructuring suggest several reasons for breaking up a monolithic railroad into a number of separate companies or entities. One reason is to bring about greater clarity of responsibility and accountability on the part of the railroad and in its relationship with government. A national railroad may try to cross-subsidize different areas of operation making it difficult for policymakers to determine if resources are being managed effectively. Amtrak has been accused of obscuring its allocation of funds, hiding costs, or delaying needed capital investments to save money. Some policymakers have been frustrated in trying to disentangle spending on track infrastructure versus spending on train operations, for instance. If public funds were instead provided to separate independent entities, each with a more narrowly defined mission, it would be easier for policymakers to track how funds were being spent. Another reason cited to break up a railroad into separate entities is to create a model that could support competition in the rail market. Competition is generally credited as a driver of higher service levels and lower costs, two of the principal goals of Amtrak reformers. It is also easier to privatize a railroad if it is divided into smaller business units. A final rationale for restructuring a railroad is to better insulate it from politically directed decision-making.

Opponents of Amtrak restructuring argue that creating too many separate entities complicates interrelationships among rail entities, making it more difficult to hold the entities responsible. They also do not view cross-subsidization as a negative consequence of Amtrak's current structure.

Geographic Segmentation. If Amtrak were split up geographically, it could be divided into several independent railroad carriers based on typical passenger use patterns. In other words, it could be divided up so that most passenger trips begin and end within the service territory of a single railroad. For example, the NEC and the Los Angeles to San Diego route segments could each be run by separate railroads. On Amtrak's long-distance routes, most customers travel between two intermediate points within these routes. Therefore, these routes could also be broken up and operated by different railroads based on the most popular origins and destinations traveled. One rationale for breaking up Amtrak into regional carriers would be to better focus management's attention on rail customer needs which are typically regional rather than national in nature. Breaking up Amtrak into separate regional carriers could also make the income distributional effects of railroad subsidies more clear and conspicuous.

Segmentation by Service Type. The same rationale for breaking up Amtrak geographically could apply to breaking it up along business sector dimensions. For example, three separate companies could be formed, one to operate corridor trains, one to operate long-distance trains, and one to operate commuter trains. Again, management focus would be the primary rationale. This approach could improve rail management's performance by allowing each railroad's

management team to specialize in one type of service. Different types of train service require different management strategies. Part of Amtrak's problem, according to many of its critics, is that it lacks market focus. One supporter of reform opines, "no other transportation carrier in the United States is expected to provide market and nonmarket services under the same managerial umbrella."⁸² Also, by dividing the railroad up, the government could clarify its relationship with each railroad. On the corridor routes, the operational self-sufficiency test could be used as the primary performance indicator. The long-distance provider could be dealt with as a non-profit, social service agency, or perhaps as some type of for-profit "land cruise" service for tourists. Much of the commuter railroad's oversight and funding could be devolved to state or local governments. Breaking up a railroad in this manner arguably could make it easier for decisionmakers to weigh the merits of railroad subsidies on a case-by-case basis. It could also clarify the geopolitical motives for supporting a particular rail operator.

Vertical Integration or Horizontal Separation. Much of the debate over Amtrak restructuring centers on the choice between a vertically integrated versus a vertically separated railroad. Amtrak currently operates as both. On the NEC, Amtrak operates as a vertically integrated railroad. It owns and maintains the track and operates the trains over the track. In most of the rest of the country, Amtrak operates as a vertically separated railroad. It operates the trains, but the rail track is owned and maintained by separate companies, namely the freight railroads. A vertically separated railway is akin to an owner and tenant relationship. Some Amtrak reform proposals call for transforming Amtrak into a vertically separated railroad on the NEC. However, some rail analysts believe the interrelationship between track and train operations is too complex to separate these functions into separate companies. They argue that a trade-off exists between the design and maintenance of track and the speed at which trains can run over the track, and since this trade-off affects the economics of the entire operation, it is most advisable to keep these functions under the control of one entity. The downside of a vertically integrated railway is that it is a barrier to competition because of the large infrastructure costs new entrants must overcome to compete with the existing carrier. Due to a lack of competition, integrated railways may exhibit monopolistic tendencies such as lack of market responsiveness, lack of incentives to reduce costs, and lack of innovativeness.

In an attempt to address some of the monopolistic tendencies of vertically integrated railroads, some countries (like Sweden and England) have separated the responsibilities of track from train operations. Vertically separated railways puts rail on a more equal footing with its intermodal rivals, highways and airways. The government can provide rail infrastructure in the same way that it provides highway and airway infrastructure. Like airlines and buses, a train operator, therefore, can concentrate on running trains rather than also having to devote resources and expertise to the infrastructure component.

⁸² Anthony Perl, "Improving U.S. Passenger Train Performance," *Transportation Research News*, v. 222, Sept.- Oct. 2002, p.22.

Theoretically, the separation of train operations from track infrastructure could lead to competition on the track. Rail carriers could compete for passengers head-to-head over the same track in much the same manner as airlines or bus and trucking companies compete with one another over their respective infrastructures. In practice, there is little experience with this form of rail competition. It may be too difficult to coordinate train schedules and allocate slots among multiple rail carriers. Instead, some countries have pursued a regulatory arrangement where train operating companies compete with one another for the exclusive right to operate on the track. In other words, train operators compete *for* the track not *on* the track. This is done through a franchising arrangement where interested train operators bid for the right to be the single provider of rail service over the track. They bid based on the level of service and the amount of government financial support (if any) they would require. Thus, competitive pressures among train operating companies are brought to bear during a bidding process. The government can award the franchise, giving the carrier the exclusive right to operate trains for a specified number of years, to the company that promises the highest service level at the lowest subsidy, for example. The train operator awarded the contract will have monopoly status as the only train provider, but the terms of the contract are supposed to keep monopolistic propensities in check. Also, the train operator should have incentive to develop a good reputation in order to qualify for bidding on successive contracts or for franchises in other service territories.

A drawback of a vertically separated railway is that it creates complexity. Separating track from train operations means that regulators must determine how the infrastructure entity is going to charge the train operating companies for track access. Regulators would need to estimate the appropriate infrastructure price. Past experience with transportation pricing regulation suggests that regulators often have to rely on incomplete or unreliable information and that mis-pricing often creates unintended disincentives for the regulated parties. While the introduction of competition may bring about management efficiencies on the part of the rail operator, a more complex regulatory environment may create its own inefficiencies. Contracts between the infrastructure provider and the train operator are necessarily complex and lawsuits may raise transaction costs substantially.

A primary purpose for separating track from train operations is in preparation for privatization. It is thought that the private sector will be more attracted to rail franchises if it is not burdened with the heavy cost of also maintaining the infrastructure. Many rail analysts, even some who support privatization, stress that policymakers should not expect privatization to completely wean a railroad from public funding. While the private sector might reduce the financial burden on the public sector, it probably can not replace it. To attract private investors, rail analysts also argue that the railroad must be structured in such a way that it is insulated as much as possible from political intervention.

Restructuring in Perspective. While much of the policy debate has focused on the best way to organize Amtrak, how it is organized is only one of many factors that can determine a passenger railroad's success or failure. In fact, many rail analysts contend that the structural organization of the railroad can only affect success or failure at the margin. They contend that the most critical issue facing Congress is the high level of public spending a viable intercity passenger rail system

requires. According to some, the fundamental problem with Amtrak is too much service with too little resources, not how it is organized. The mismatch between service and resources is not likely to be resolved as long as Amtrak supporters resist cutting service or Amtrak critics resist increasing funding.

Even if the United States were to choose the “right” model and undergo a massive rail investment program, such as building high-speed rail lines, this in and of itself would not ensure that rail would gain a significant share of the intercity travel market. Even state-of-the-art rail infrastructure will not succeed in a vacuum. Other factors, such as land use planning, population density, distances between cities, relative prices of alternative modes, and culture are a few of the other variables that may be equally or more significant in determining the competitiveness of intercity passenger trains.

The Status Quo as Political Equilibrium?

Despite the prevalence in the Amtrak debate, of the funding options discussed above, perhaps the most likely policy outcome for Amtrak is one that approximates the status quo. Amtrak’s geographic scope and level of service may be a reflection of a political equilibrium: a state of adjustment between opposing forces. Its network of corridor and long-distance routes may be the result of a balance between widely divergent ideological forces as well as a balance in the bases of power between the Houses of Congress and the branches of government. For the last three decades, Amtrak has had enough political, social, and ridership support to keep it alive in its present condition but not enough support to expand it into a more robust national passenger railroad network or opposition to kill it. Although this condition displeases both Amtrak advocates and critics, it does allow policymakers to avoid making the seemingly irrevocable decision to shut down Amtrak or alternatively, committing to a major financing program to enhance rail infrastructure. It also averts one of the most politically difficult decisions: the elimination of Amtrak’s long-distance routes.

The status quo has some advantages for Amtrak and its supporters in that it keeps Amtrak alive as a national network so that, should the political or economic fundamentals shift in passenger rail’s favor, policymakers would have an existing base to work from. Should Amtrak survive long enough, there could be changes in population densities, cost competitiveness with other modes, and other economic or social developments that could raise passenger rail’s prospects. On the other hand, the status quo, at least in the near term, does nothing to improve Amtrak’s financial or operational performance. It is also doubtful that the passage of time and the hoped for changes in demographic and economic conditions will favor a passenger rail system that has been stagnant. Amtrak will have to be sufficiently funded to upgrade its track and rolling stock, and be proficiently managed to encourage market changes. In addition, even if maintaining the status quo only means maintaining Amtrak’s current routes and service levels, it does not follow that the costs to the federal government will not increase. Amtrak’s appropriation has been rising recently, from \$521 million in FY2001 to \$1.2 billion for FY2004. The Department of Transportation Inspector General has estimated that Amtrak will need \$1.5 billion

annually just to maintain the current system.⁸³ Amtrak's FY2005 request for federal funding was \$1.798 billion. The Amtrak strategic plan for FY2005-FY2009 envisions FY2005 as the highpoint for Amtrak's appropriations request with the projected annual requests falling to \$1.615 billion for FY2009. The plan calls for an average annual federal appropriation of \$1.72 billion. The focus of the plan is to hold down operating costs and bring Amtrak's track and equipment up to a state-of-good-repair.⁸⁴ It is unclear if Congress will be willing to fund Amtrak at these levels over the life of Amtrak's strategic plan.⁸⁵ The FY2005 Omnibus Appropriations Act (H.R. 4818) conference report (H.Rept. 108-792) provides \$1.218 billion for Amtrak, \$580 million below Amtrak's request.

Inherent in the status quo option would be the continued funding of Amtrak with Treasury general fund revenues through the congressional authorization and appropriations process. This gives congressional appropriations committees an annual opportunity to review Amtrak's finances and performance, perhaps a desirable objective given Amtrak's history of management turnover and questionable decision making. Amtrak supporters, however, argue that this adds an element of uncertainty to its future federal financial support and thereby complicates planning, which is especially critical in the capital intensive passenger rail business. They also point out that because Amtrak has been without authorizing legislation since FY2002, its budget has been subject entirely to annual review by the appropriations committees.

Keeping Amtrak's current business and route structure would not entirely please either side in the Amtrak debate. Supporters see Amtrak's financial condition as largely a resource issue, not an organization issue. In their view, Amtrak suffers from capital starvation. More people would take the train, they say, if Amtrak could afford to buy and operate more trains. The current debate over how best to organize Amtrak, in their view, only distracts attention from the real problem: under-investment. As the National Association of Railroad Passengers states, "our view is that you can slice and dice and reorganize passenger rail any way you want, but it's not going to matter if the federal support for passenger rail doesn't increase."⁸⁶ Amtrak opponents see a continuation of federal spending to support Amtrak's

⁸³ U.S. Dept. of Transportation. Office of the Inspector General. *The Future of Intercity Passenger Rail Service and Amtrak: Statement of the Honorable Kenneth M. Mead, Inspector General*. October 2, 2003. Washington, The Dept., 2003. p. 3-4.

⁸⁴ National Railroad Passenger Corporation [Amtrak]. *Amtrak Strategic Plan: FY2005-2009*. June 29, 2004. Washington, The Corporation, 2004. [114] p.

⁸⁵ Within the context of the congressional budget process, Amtrak's appropriation falls under budget function 400 along with the budgets of the modal administrations of the DOT, the Coast Guard, the aeronautical part of NASA's budget, and the Maritime Administration. The House and Senate budget committees make separate spending allocations to the committees in their respective houses. In turn, the Appropriations Committees subdivide their allocations to their 13 regular subcommittees. The Transportation/Treasury Subcommittee provides appropriations for transportation programs within these limits. Because this is, in effect, a ceiling, a proposed increase in funding for Amtrak may be seen by proponents of other programs as causing a reduction in their programs' potential funding.

⁸⁶ "Red Ink on the Rails," *National Journal*, December 1, 2001, p.3678.

existing structure as providing too little benefit for the amount appropriated and argue that the money could be better spent elsewhere or not at all.

Some political observers suggest that even if there are legitimate economic reasons for breaking up Amtrak, a splintered Amtrak will not survive politically. Any passenger rail provider, even if state or local government funding were to increase, would still likely require substantial funding from the federal government. Thus, unless the railroad provides service on a national scale, it will not generate the support of a majority in Congress to ensure adequate funding. Thus, these observers argue political realities dictate that Amtrak be a national network or no network at all.⁸⁷

⁸⁷ Robert J. Dilger, *American Transportation Policy*, Westport, Connecticut, Praeger, 2003, p. 92.