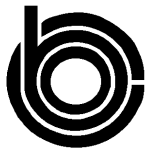

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 16, 1997

H.R. 2247
Amtrak Reform and Privatization Act of 1997

As ordered reported by the House Committee on Transportation and Infrastructure on July 30, 1997

SUMMARY

H.R. 2247 would authorize appropriations totaling $3.4 billion for Amtrak's capital expenses and operating expenses and the Northeast corridor improvement program, including $150 million to guarantee loans to Amtrak over the 1998-2000 period. But the legislation also would reduce the total amounts authorized to be appropriated—with the exception of the authorizations for loan guarantees—by an amount, each year, up to the sum made available to Amtrak in that year by the Taxpayer Relief Act of 1997 (Public Law 105-34). That law authorized payments to Amtrak totaling $2.3 billion, contingent on the enactment of Amtrak reform legislation. Those payments are expected to be made in two equal annual installments in 1998 and 1999.

H.R. 2247 would provide Amtrak with flexibility in its contracting, operating, labor, and liability practices; establish a temporary rail advisory council; and replace the current Board of Directors with an emergency reform board. In addition, this bill would give states the ability to create interstate rail compacts.

H.R. 2247 also would require the Secretary of Transportation to transfer the title to the aluminum reaction rail, power rail base, and other magnetic levitation track materials currently at the Transportation Technology Center in Pueblo, Colorado, to the state of Florida. If the materials are not used within three years after the date of enactment, title to them would revert to the federal government. This transfer would result in a loss of offsetting receipts to the federal government, thereby affecting direct spending. As a result, pay-as-you-go procedures would apply to the bill.

H.R. 2247 contains two intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). Because of uncertainties about how the language exempting Amtrak from direct and indirect taxation would be interpreted, CBO cannot determine

whether total tax losses to states and localities resulting from this bill would exceed the threshold established in UMRA ($50 million in 1996, adjusted annually for inflation).

H.R. 2247 would impose new federal private-sector mandates on Amtrak. CBO estimates that the costs of those mandates would not exceed the statutory threshold ($100 million adjusted annually for inflation) in any one year.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that the gross amounts authorized in the bill would be reduced to $50 million for both fiscal years 1998 and 1999 because of the bill's provision specifying reductions up to the amounts made available under the Taxpayer Relief Act of 1997. The $2.3 billion made available by that act would offset all of the bill's authorizations for 1998 and 1999 except those for the newly authorized loan guarantees. Because no part of the $2.3 billion is to be paid to Amtrak in 2000, there would be no reduction in the gross authorization for that year. On balance, H.R. 2247 would authorize net funding of about $1.2 billion over the 1998-2000 period: $3.4 billion in gross amounts, reduced by approximately $2.2 billion of the $2.3 billion in total anticipated payments to Amtrak under the Taxpayer Relief Act. The costs of this legislation fall within budget function 400 (transportation). The estimated budgetary impact of H.R. 2247 is shown in the following table.

BASIS OF ESTIMATE

Spending Subject to Appropriation

This estimate is based on the yearly authorization levels specified by the bill. Outlay estimates are based on historical spending rates for Amtrak. CBO estimates that outlays for operating expenses would equal obligations for that purpose each year, capital expenditures would occur at a rate of 40 percent in the year of obligation and 60 percent in the following year, and outlays for the Northeast corridor improvement program would occur at a rate of 20 percent in the first year, 50 percent in the second year, and 30 percent in the third year. While the legislation would give Amtrak the ability to receive all of its federal operating assistance at or near the beginning of each fiscal year, CBO expects that this change in the apportionment of funds to Amtrak would not affect the rate at which the funds are spent.

In estimating outlays of the $50 million authorized for each year to support loan guarantees, CBO assumes that 50 percent of the loans authorized to be guaranteed each year would be disbursed in the first year and 50 percent in the following year.

	By Fiscal Year, in Millions of Dollars					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law						
Budget Authority [a]	843	0	0	0	0	0
Estimated Outlays	886	364	117	25	0	0
Proposed Changes						
Gross Authorization						
Estimated Authorization Level	0	1,188	1,108	1,073	0	0
Estimated Outlays	0	662	1,024	1,064	544	75
Reductions under Section 701(g) [b]						
Estimated Authorization Level	0	-1,138	-1,058	0	0	0
Estimated Outlays	0	-637	-974	-510	-75	0
Spending Under H.R. 2247						
Estimated Authorization Level [a]	843	50	50	1,073	0	0
Estimated Outlays	886	389	167	579	469	75
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	-1	0	0	0	0
Estimated Outlays	0	-1	0	0	0	0

a. The 1997 level is the amount appropriated for that year.

b. Section 701(g) of H.R. 2247 would reduce the amounts authorized to be appropriated—with the exception of the funding for loan guarantees ($50 million a year for 1998 through 2000)—by an amount, each year, up to the sum made available to Amtrak in that year by the Taxpayer Relief Act of 1997. That act provided $2.3 billion to Amtrak, recorded on the budget as a decrease in revenues in 1998 and 1999.

Based on information from the Federal Railroad Administration (FRA), CBO estimates that expenses associated with the establishment of a temporary rail advisory council and the outreach program and annual report related to track work manufacturers would be less than $200,000 a year. In addition, CBO estimates that expenses associated with the director general would be $250,000 a year. The director general would be required if the newly created emergency reform board is not functioning within 60 days after enactment. Expenses

associated with the council, the outreach program, the annual report, the emergency reform board, and the director general would be subject to the availability of appropriated funds.

Direct Spending

H.R. 2247 would require the Secretary of Transportation to transfer the title to the aluminum reaction rail, power rail base, and other magnetic levitation track materials currently at the Transportation Technology Center in Pueblo, Colorado to the state of Florida. If the materials are not used within three years after the date of enactment, title to them would revert to the federal government. Based on information from FRA, CBO estimates that this transfer would result in a loss of receipts to the federal government. FRA was planning to sell the materials and estimates that the government would collect $1 million in 1998 from their sale. CBO assumes that the state of Florida would use the materials within three years so a transfer back to the federal government would not occur. Therefore, the federal government would lose about $1 million in offsetting receipts, which would be recorded as an increase in outlays of that amount.

Revenues

In section 615, the Congress would grant consent to states with interests in intercity passenger rail service to enter into interstate compacts to promote the provision of this service. This consent extends to compacts to furnish high-speed rail transportation, and to issue bonds to obtain financing for the provision of intercity passenger rail service. Under present law, state and local governments may issue tax-exempt bonds to obtain financing for certain types of rail facilities, including commuter rail, as is currently operated by Amtrak, and high-speed rail, which has been contemplated as a replacement for lines that have been or are operated by Amtrak. States that elect to form such compacts would probably issue tax-exempt bonds to finance their enterprise. It is possible, therefore, that the total volume of tax-exempt bonds outstanding could increase as a result of this provision, and that there would be a resulting decrease in receipts to the federal government. However, the possibility of the formation of such interstate compacts is so speculative at this time that we do not believe it would be appropriate to include an estimate of their possible effects on federal receipts in the scoring of this legislation.

The Taxpayer Relief Act of 1997 authorizes payments to Amtrak totaling $2.3 billion, contingent on enactment of Amtrak reform legislation. While enactment of H.R. 2247 would

presumably satisfy this requirement, the cost of the $2.3 billion has already been attributed to the Taxpayer Relief Act and is not charged to this bill.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act of 1985 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts. H.R. 2247 would affect direct spending because it would require the Secretary of Transportation to transfer the title to the aluminum reaction rail, power rail base, and other magnetic levitation track materials currently at the Transportation Technology Center in Pueblo, Colorado, to the state of Florida. CBO estimates that this transfer would result in a loss of $1 million in offsetting receipts (an increase in direct spending) to the federal government in fiscal year 1998.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Mandates

H.R. 2247 would exempt Amtrak from the property tax levied on it by the town of Beech Grove, Indiana. It would also exempt Amtrak's passengers and other customers from most state and local taxes, fees, and charges. Such preemptions of state and local taxing authority would constitute intergovernmental mandates under UMRA. Because of uncertainties about how the language exempting Amtrak from direct and indirect taxation would be interpreted, CBO cannot determine whether total tax losses resulting from this bill would exceed the threshold established in UMRA ($50 million in 1996, adjusted annually for inflation).

Amtrak currently pays approximately $1 million per year in local property tax on a maintenance facility located in Beech Grove, Indiana. The bill would exempt Amtrak from such taxes assessed after April 1, 1997. CBO estimates Beech Grove would lose tax revenue totaling approximately $5 million over the next five years.

Section 506 would exempt Amtrak's passengers and customers from most state and local taxes, fees, or charges, whereas current law exempts only Amtrak and its subsidiaries. Under current law, it is possible that the 1995 Supreme Court ruling, *Oklahoma Tax Commission vs. Jefferson Lines*, could be used in the future to justify the imposition of state taxes on Amtrak's interstate passenger tickets and possibly on its interstate mail or freight transportation services. No state has attempted to impose such a tax and, therefore, CBO estimates that this mandate would result in no cost over the next five years. Nonetheless, by

exempting Amtrak's passengers from most state and local taxes, enactment of this bill would foreclose a potential future source of state and local revenues. In fiscal year 1996, Amtrak collected about $840 million from ticket sales and about $61 million from mail and express services.

In addition, the tax exemption allowed in section 506 would apply to taxes, fees, and charges imposed "directly or indirectly" on Amtrak. It is unclear what the phrase "directly or indirectly" means. Information from Amtrak and the Federal Railroad Administration indicates that this provision is not intended to confer a tax exemption on individuals or companies selling goods or services to Amtrak. If this interpretation prevails, then tax losses are unlikely to be significant. If interpreted broadly, however, the language could prompt vendors or suppliers contracting with Amtrak to claim state tax exemptions. This could result in significantly lower tax revenues for affected states. CBO currently has no information concerning the likelihood that third-party contractors would attempt to claim tax exemptions under this provision.

Other Impacts

H.R. 2247 contains a number of other provisions that, while not mandates, could affect the budgets of state and local governments.

The bill would prohibit Amtrak from submitting below-cost bids to provide certain services for local governments and commuter authorities with respect to any activity other than the provision of intercity rail passenger transportation, commuter rail transportation, or mail express transportation. There is no such prohibition in current law. To the extent that Amtrak would otherwise make below-cost bids on future contracts, state and local transportation authorities would have to pay more for contracted services. Because Amtrak currently does not have any below-cost contracts and because not many activities could be affected, it is unlikely that this provision will result in significant costs.

The bill contains a provision that would help assure the enforceability of certain contracts between operators of rail passenger services—some of which are state and local governments—and owners of rights-of-way and other facilities. The need for this provision arises because of concern about liability in the case of an accident. This concern is the result of a court decision that required Conrail to pay substantial damages for a collision between an Amtrak train and a Conrail train, despite the existence of a contract limiting Conrail's liability. Without enactment of this provision, it is possible that owners of rail rights-of-way, such as Conrail, would press rail passenger operators, including state and local commuter rail

authorities, for higher compensation to cover this increased risk when current operating agreements come up for renegotiation. CBO cannot estimate how much more commuter authorities might have to pay for the use of freight rail tracks in the absence of this legislation.

The bill would also grant states access to Amtrak's records, accounts, and other documents used to determine the amount of any payment to Amtrak required of the state. While many of these documents are currently available to the public, the process of obtaining them is time-consuming and cumbersome.

The bill would make it easier for Amtrak to discontinue routes by repealing some route requirements and eliminating Congressional review of changes to Amtrak's route and service criteria. However, a related provision would allow states to enter into interstate compacts to retain existing intercity passenger rail services or create new services. These compacts could finance their activities by issuing notes or bonds. This change would make it easier for states to provide any services discontinued by Amtrak.

State and local governments could face higher costs if they decided to pay for the provision of any services that Amtrak discontinued. However, CBO has no information on which routes, if any, Amtrak would discontinue if these changes were to become law. Indeed, some industry experts argue that the net effect of the bill would be to increase Amtrak's overall efficiency and, thus, the likelihood that it would be able to maintain its existing services.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2247 would impose new federal private-sector mandates on Amtrak. CBO estimates that the costs of those mandates would not exceed the statutory threshold ($100 million adjusted annually for inflation) in any one year.

Amtrak was incorporated as a private company under the laws of the District of Columbia by the Rail Passenger Service Act of 1970. Under current budgetary treatment, Amtrak is not considered a federal entity, although its Board of Directors is appointed by the President and the U.S. Department of Transportation is the only holder of Amtrak preferred stock, the only voting stock of the corporation.

Section 101 would reduce an existing mandate pertaining to contracting out, while imposing a new, less stringent, requirement. Under current law, Amtrak cannot contract out work, other than food and beverage services, which would result in any layoffs. This section would

allow Amtrak to contract out for all services except the operation of trains (that is, for engine and train crews). Amtrak would be restricted to contracting with only a state or state authority for the operation of trains.

Section 102 would prohibit Amtrak from submitting any bids for the performance of services for less than Amtrak's cost, based on generally accepted accounting principles. Intercity rail passenger transportation, commuter rail passenger transportation, or mail or express transportation would be excluded from this mandate. Amtrak believes that this provision, especially because it is likely to be enforced through judicial proceedings, would probably prevent it from winning some contracts and subsequently cause Amtrak to lose revenues. Although Amtrak has had substantial contracts in the past that could have been effected by this restriction, it currently does not have any such contracts. Thus, CBO estimates that Amtrak would not incur significant costs in the form of lost revenues as a result of this provision.

Section 102 also place some restrictions on Amtrak's ability to enter into contracts with intercity bus operators. In particular, this section would allow Amtrak to enter into a contract for through service and joint fares only for the movement of passengers who have had prior or subsequent movement by rail. According to Amtrak, these restrictions would not affect its operations. Thus, Amtrak would not incur any cost because of this provision.

Section 104 would require that Amtrak establish an outreach program to work with U.S. track work manufacturers to increase the likelihood that the manufacturers would meet Amtrak's specifications. This program would also require Amtrak to provide engineering assistance for the manufacturers. Two years after enactment of this bill, Amtrak would report to the Congress on the progress of its outreach program. Because this program would not greatly expand Amtrak's current practice, CBO estimates that the incremental costs would be negligible.

Section 201 would increase from 90 days to 180 days the notice that Amtrak must provide when it plans to discontinue service. These changes would provide a state, regional or local authority, or another person additional time to consider assuming or sharing the cost of the discontinued service. This section also would repeal a provision that allows Amtrak to discontinue service because of the lack of appropriations without providing any minimum notice. As a result of these changes, Amtrak would be required to provide 180 days notice in all cases of service discontinuance and would incur additional costs for running trains in those service areas. Amtrak officials say it currently does not plan to discontinue any service. However, based on Amtrak's recent experience, CBO estimates that the cost of

continuing a potentially affected route would average from $110,000 a month to $1.2 million a month, for approximately three months, depending on the route.

PREVIOUS CBO ESTIMATE

On September 11, 1997, CBO provided its initial cost estimate for H.R. 2247, as ordered reported by the House Committee on Transportation and Infrastructure. That estimate reflected an error in the interpretation of the provision requiring reductions from the bill's gross authorizations. This revised estimate corrects that error, and reflects a net three-year authorization of about $1.2 billion, whereas our original estimate had a three-year total of about $1.1 billion. All other aspects of the estimate are unchanged.

On July 22 1997, CBO provided a cost estimate for S. 738, the Amtrak Reform and Accountability Act of 1997, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 26, 1997. S. 738 does not include provisions included in H.R. 2247 for new loan guarantees or for the transfer of magnetic levitation materials. In addition, S. 738 has different authorization levels than H.R. 2247.

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