Privatization of Intercity Rail Passenger Service
in the United States

Federal Railroad Administration
March 1998

The Honorable Richard C. Shelby
Chairman
Subcommittee on Transportation and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The enclosed is a report in response to Conference Report 104-785, accompanying the Department of Transportation and Related Agencies Appropriations Act, 1997, which encouraged the Federal Railroad Administration (FRA) to conduct a study on the privatization of intercity rail passenger service.

In undertaking this study, FRA compared the alternative scenarios of privatization suggested for study in the Conference Report with a base line scenario of implementing Amtrak's current strategic plan. The study shows that none of the scenarios suggested in the Conference Report offer any significant advantages in today's environment over the base case of funding and implementing Amtrak's strategic plan. In fact, all would place the preservation of a national system of intercity rail passenger service at risk and could jeopardize the public's interest in the Federal investment in intercity rail passenger service made over the last 27 years. In sum, the study validates the policy adopted by the Department and Amtrak's Board of Directors in 1994 to improve the quality of Amtrak service and to invest in the future of intercity rail passenger service while reducing Amtrak's dependence on Federal operating support.

The FRA looks forward to working with the Congress in the coming year to provide the resources necessary to complete the transformation of Amtrak into a market-oriented cost effective provider of quality transportation service. In the opinion of FRA, this strategy offers the best prospects for ensuring that intercity rail passenger service continues to play an important role in this nation’s transportation system for the foreseeable future.

A identical letter has been sent to Chairman Frank R. Wolf and Senator Frank R. Lautenberg.

Sincerely,

Jolene M. Molitoris
Administrator

Enclosure

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Chairman
Subcommittee on Transportation and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

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Enclosure

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Executive Summary and Introduction

The conference report accompanying the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1997 included the following request:

> *Amtrak privatization study*.-The conferees encourage FRA to conduct a study on the privatization of intercity rail passenger service. Such a study may investigate the alternatives of: (a) a passenger system operating under the franchise of a public or private national coordinating authority with service provided by one or more private operators; (b) privatization of Amtrak with significant, sustainable, and stable sources of capital funding; and (c) federal withdrawal from all intercity passenger rail funding responsibility. The study should also quantify the costs to the Federal Government of any privatization options outlined above. The study should seek analysis and options from a variety of groups, as outlined in the Senate report, and should be submitted to the House and Senate Committees on Appropriations by August 1, 1997.

This is the report of the study undertaken by FRA in response to this request.

<u>Amtrak in Transition</u>

At first glance, Amtrak does not appear to be a good candidate for privatization. It currently has none of the financial attributes that one would expect of a corporation in the private sector. Over the 1990s, Amtrak's expenses (including noncash expenses such as depreciation) have exceeded its revenues (excluding Federal financial assistance) by more than $700 million each year. It has no profitable core and requires Federal financial assistance to remain solvent. The Corporation's investment needs, particularly the recapitalization of the Northeast Corridor, have also required substantial Federal funding on a continuing basis.

Amtrak, however, is in transition. In 1994, the Administration and Amtrak's Board of Directors agreed that Amtrak’s future lies in a modernized, cost-efficient railroad where services are customer-driven. In line with this vision, a goal was established to eliminate of Amtrak's dependence on Federal operating subsidies by 2002 and Amtrak has made significant progress towards this goal. Moreover, there are a number of factors in play that offer the prospect of significantly improving the revenue/expense imbalance that has plagued the rail passenger industry for the last forty years. These include: Amtrak's strategic plan which contains initiatives to establish high-speed rail service on the Northeast Corridor between Boston and Washington, D.C., to expand its transportation of mail and express shipments on long-distance trains, and to improve the cost-effectiveness of Amtrak services through management-labor partnerships; the Administration's continuing commitment to Amtrak capital investment contained in the President's FY 1999 budget request; and the provision of partial stability in funding over the next two years through Section 977 of the Taxpayer Relief Act of 1997. While it will probably be at least three years before these initiatives bear substantial fruit, they will result in a stronger, much more financially viable system of intercity rail passenger service at the turn of the century.

Amtrak Privatization

In undertaking this study, FRA compared the alternative scenarios of privatization suggested for study in the Conference Report with a base line scenario of implementing Amtrak's current strategic plan. This baseline scenario includes a corporate governance structure as established by the Amtrak Reform and Accountability Act of 1997 as well as continuing levels of capital investment along the lines of the President's FY 1999 budget request.

The study used six criteria in a qualitative comparison of the different scenarios:

! Ability to provide for a coordinated national system of intercity rail passenger service.

! Ability to insure that the Federal investments in Amtrak will continue to be used in the public interest.

! Effect on Amtrak's employees.

! Time to implement.

! Cost to the Federal Government.

! Complexity to Implement.

The study showed that none of the scenarios suggested in the Conference Report was superior to the base case of funding and implementing Amtrak's strategic plan. All would place the preservation of a national system of intercity rail passenger service at risk and would jeopardize the public's interest in the Federal investment in intercity rail passenger service made over the last 27 years. Moreover, the only scenario with the potential for significant reductions in Federal financial commitments is the scenario under which all Federal financial support of intercity rail passenger service would end immediately. However, this alternative would also result in an Amtrak bankruptcy and subject the future of intercity rail passenger service to the uncertainties associated with bankruptcy proceedings. A factor contributing to the cost of the other two scenarios would be the likely Federalization of what are private debt and severance payment obligations under the base case.

The base case, as embodied in Amtrak's strategic plan, parallels some aspects of the foreign approaches to transferring the responsibility for passenger rail service to the private sector. Both the British and Japanese privatization experiences involved a transition period during which the operating viability of the railroad, as a candidate private sector company, was established. This is what is being done at Amtrak today. The Corporation is undertaking the investments necessary to improve the quality and cost-effectiveness of its service. The results of these efforts will provide a foundation for the debate on the appropriate role of the Federal Government in the provision of intercity rail passenger service when Amtrak's current authorization expires. Therefore, in the opinion of FRA, implementing Amtrak's strategic plan is the optimal course of action at this time.

Chapter I
A Brief Overview of Amtrak

1.1 Background

The National Railroad Passenger Corporation, better known as Amtrak, was created in 1971 by the Rail Passenger Service Act (RPSA) (45 U.S.C. 501 et seq., subsequently recodified at 49 U.S.C. 24101 et seq.). Amtrak has the statutory mandate to "operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service" (49 U.S.C. 24701). To accomplish this mandate, Amtrak operates a national network comprising approximately 22,200 route miles serving 516 stations in 44 States (Figure 1).[1] In FY 1997, Amtrak carried approximately 20 million intercity passengers.

Prior to the creation of Amtrak, passenger service was an integral part of the private sector railroad companies' operations, with entry, exit, fares and conditions of service regulated by the Interstate Commerce Commission (ICC). For many reasons, including government investment in alternative modes of transportation and excessive government regulation, the financial condition of the private sector railroad industry was in a downward spiral through much of the 1950s and 1960s. By 1970, the industry as a whole was in financial distress and nearly all of the rail systems serving the Northeast and Midwest were in bankruptcy or on the verge of filing for protection under the bankruptcy laws.

A major contributor to the financial distress of the railroad industry was the significant financial losses associated with passenger service. The RPSA was the first in a series of laws[2] enacted by Congress that ultimately resolved the so-called rail crisis and created conditions under which the private sector railroads, now exclusively freight in orientation, have become one of the financially healthiest segments of this Nation's transportation industry.

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[1]The States not served by Amtrak are Alaska, Hawaii, Maine, Oklahoma, South Dakota and Wyoming. Service between Portland, ME., and Boston, MA., has been proposed but is presently awaiting a decision by the Surface Transportation Board (STB) on a dispute concerning the level of compensation that Amtrak must provide to the freight railroad which owns a portion of the tracks required for this service. A decision by the STB on this matter is expected in the near future.

[2] The others are the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, and the Staggers Rail Act of 1980.

Under the RPSA, a railroad could contract with Amtrak to relieve the railroad of its entire responsibility for the provision of intercity rail passenger service in exchange for a payment related to the railroad's passenger service-related losses in 1969. These payments could be made in cash, by transfer of rail passenger equipment, or by provision of service on behalf of the Amtrak. Nearly all railroads[3] chose to take this opportunity as soon as it was offered and Amtrak began service on May 1, 1971.

Amtrak began service on a basic system designated by the Secretary of Transportation of 23,000 route miles, which compared to the 53,000 route miles over which the private sector operated passenger trains the year before. Over the next several years, Amtrak's system grew to approximately 27,000 route miles. In the face of mounting losses, the Department of Transportation recommended to Congress in 1979 that the system be scaled down by 43 percent to 15,700 route miles.[4] Congress did not concur with all of the Department's recommendations, however, and the Amtrak Reorganization Act of 1979 (Pub. L. No. 96-73, 93 Stat. 537 (September 29, 1979)), resulted in a reduction of Amtrak's system to approximately 24,000 route miles. Amtrak's system grew modestly between 1981 and 1995. In fiscal years 1995 and 1996, Amtrak's Board of Directors approved reductions in routes (2,800 miles) and train frequency (16 percent of train-miles) to permit the Corporation to operate within available resources.

Statutory Framework

The RPSA, with its subsequent revisions, provides Amtrak with the basic authority to operate intercity rail passenger service and to acquire and maintain the equipment and facilities necessary to provide that service. Amtrak is defined by statute as a rail carrier. As a consequence, it is subject to the entire panoply of railroad-related laws, including the Federal Railroad Safety Act of 1970 and its predecessor laws such as the Hours of Service Act, the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Federal Employees' Liability Act.

The RPSA and subsequent statutory changes did address economic regulatory issues that had burdened the private sector railroads when they provided passenger service. Amtrak is exempt from the provisions of the Interstate Commerce Act (recodified at 49 U.S.C. Subtitle IV) and State or other laws pertaining to the regulation of fares, routes and

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[3] Four railroads, the Chicago, Rock Island and Pacific Railroad, the Denver and Rio Grande Western Railroad, the Georgia Railroad, and the Southern Railway chose to continue passenger operations. By 1978, however, the responsibility for all intercity rail passenger service outside Alaska (where service is provided by the Alaska Railroad, then an operating office of the Federal Railroad Administration) had been transferred to Amtrak.

[4] *Final Report to Congress on the Amtrak Route System,* U.S. Department of Transportation, January 1979.

services (49 U.S.C. 24301(g)). Amtrak is also exempt from Federal, State and local income and property taxes (49 U.S.C. 24301 (k) and (l)).

Amtrak has the statutory right of access to the tracks and other facilities of the private sector freight railroads (49 U.S.C. 24308(a)) and the privilege that, except in an emergency, passenger trains operated by Amtrak shall be accorded preference over freight trains (49 U.S.C. 24308(c)). If the freight railroad and Amtrak fail to agree on the level of compensation for Amtrak's use of tracks and facilities, the Surface Transportation Board (STB), as successor to the ICC, determines the level of "just and reasonable" compensation based upon the incremental cost to the railroad of providing this service. Should the railroad refuse to permit Amtrak to operate at accelerated speeds or operate additional trains, the Secretary of Transportation is authorized to resolve the dispute on such terms and conditions the Secretary finds to be just and reasonable. Furthermore, a form of eminent domain is provided to Amtrak to address circumstances where Amtrak and a carrier are unable to agree on terms for the sale of property required for intercity rail passenger service. The RPSA also provided Amtrak with the exclusive right to provide intercity rail passenger service over the corridors that it operated. This "exclusive franchise" was repealed in 1997.

There are also statutory provisions limiting Amtrak's liability in the event of an accident (49 U.S.C. 28103), establishing domestic buying preferences (49 U.S.C. 24305(f)), and imposing such government-like requirements as limiting the compensation paid to corporate officials (49 U.S.C. 24303(b)), limiting the amount Amtrak can charge commuter rail agencies for the use of Amtrak-owned infrastructure in the Northeast Corridor (49 U.S.C. 24904(c)), applying the Freedom of Information Act (49 U.S.C. 24301(e)) and establishing an Inspector General (§8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.)). The Amtrak Reform and Accountability Act (ARAA) (Pub. L. 105-134, 111 Stat. 2520, December 2, 1997) provides that most of these government-like requirements will not apply in any year in which Amtrak does not receive a Federal subsidy.

Corporate Structure

It was the assumption of those drafting the RPSA, that Amtrak could become profitable in a comparatively short time with relatively modest Federal investment. Indeed, Amtrak's authorizing statute provides that the Corporation "shall be operated and managed as a for-profit corporation" and "is not a department, agency, or instrumentality of the United States Government" (49 U.S.C. 24301). The Corporation has the authority to issue common and preferred stock and nonvoting certificates of indebtedness and to enter into the various types of debt financing normally used by private sector corporations.

Amtrak's initial capitalization included $40 million in Federal grants, $100 million in Federal loan guarantees and approximately $200 million of cash and equipment as payment by the freight railroads for being relieved of the obligation to provide passenger service. In exchange for the latter payments, the private sector railroads were provided the option of taking a tax write off of the value of the payment or receiving common stock in the Corporation. A total of four railroads elected the option of receiving common stock. A total of 9,385,694 shares were issued to the following railroads and remain outstanding:

- the trustee of the Penn Central Railroad (now held by American Premium Underwriters) 56 percent,
- Burlington Northern Railroad (now the Burlington Northern Santa Fe) 36 percent,
- The Chicago, Milwaukee, St. Paul and Pacific Railroad (now Canadian Pacific Railway --SOO Line Railroad) 6 percent, and
- Grand Trunk Western Railroad Company (now Canadian National --Grand Trunk Western Railroad) 2 percent.

Section 415 of the ARAA requires that the Corporation shall redeem this stock before October 1, 2002, for the fair market value of the stock.

The initial $340 million investment has been supplemented by Federal financial assistance in each year since 1971. Through FY 1998, this assistance will total approximately $22 billion. (Appendix A provides a listing of the Federal financial assistance to Amtrak since its inception.) Appropriations for Amtrak are presently authorized through FY 2003[5]. However, the ARAA provides that Amtrak shall operate without Federal operating grant funds appropriated for its benefit commencing no later than the fiscal year after the fifth anniversary of the ARAA.

The Amtrak Improvement Act of 1981 (AIA)(Pub. L. 97-35--August 13, 1981) included a provision (until recently found at 49 U.S.C. 24304(d)) that required Amtrak to issue to the Secretary of Transportation preferred stock equal to the amount of funds appropriated by Congress for capital and operating assistance. This is the only series of preferred stock issued by the Corporation to date and, as of January 1, 1998, the Department held 108,379,338 shares. The preferred stock has a par value of $100.00 and is convertible into common stock, at the discretion of the Secretary, at a rate of 10 shares of common stock for each share of preferred. The preferred stock initially also had preference in the event of liquidation over common stock and all other forms of

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[5]The current authorizations for appropriations for the benefit of Amtrak for capital expenditures and operating expenses and payments are: $1,138 million in FY 1998, $1,058 million in FY 1999, $1,023 million in FY 2000, $989 million in FY 2001, and $955 million in FY 2002.

securities that Amtrak might issue. This liquidation preference was eliminated effective February 1, 1998 by section 415 of the ARAA.

Amtrak has also used a range of corporate financing mechanisms, including direct loans, leveraged lease arrangements and other tax-driven strategies to facilitate the recapitalization of its fleet. As of January 1, 1998, Amtrak had $1.17 billion in outstanding secured debt and capital lease obligations, which is projected to grow to $1.87 billion by 2001 when the final deliveries are made on the initial 18 high-speed trainsets for use on the Northeast Corridor and the eight trainsets being acquired for use between San Diego and Los Angeles.

Amtrak also maintains short term lines of credit to manage the uneven cash flow that is a normal part of the railroad and passenger transportation business and to meet shortfalls in operating assistance. As of January 1, 1998, Amtrak's line of credit was in the amount of $150 million with no outstanding draws against this line. Amtrak also has the outstanding unsecured credit obligations typical of a major business such as prepaid reservations, refunds of advances and overpayments for services, letters of credit for bonding requirements and additional collateral for various financings, post retirement medical benefits, unpaid vacation and sick leave, and pending claims for personal injuries and wrongful deaths resulting from operations. Such outstanding obligations total approximately $900 million.

Board of Directors

In light of the anticipated return to profitability, the RPSA provided that Amtrak's Board of Directors would represent a mix of public and private interests. The initial Board was envisioned as having 15 members with eight (including the Secretary of Transportation) appointed by the President with the advice and consent of the Senate, three elected by the common stock holders and four representatives of the preferred stockholders to be elected as soon as practicable after the first issuance of preferred stock.[6]

Over the next ten years, there were minor adjustments to the Board, increasing the number of members appointed by the President to nine (1973), then reducing this number back to eight and making the President of the Corporation an ex officio member of the Board (1976). However, by 1981 it had become clear that corporate profitability was a distant goal and that the Corporation would be dependent upon Federal investment for the foreseeable future. In 1981, Section 1174 of the AIA ended representation by the common stockholders on the Board and prescribed the appointment of the Board as follows:

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[6]Amtrak issued no preferred stock until 1981. Since 1981, the Secretary of Transportation, as the sole holder of preferred stock, has selected these members of the Board of Directors.

- the Secretary of Transportation (ex officio);
- the President of the Corporation (ex officio);
- one member appointed by the President, with the advice and consent of the Senate, selected from a list of three qualified individuals recommended by the Railway Labor Executives Association;
- one member appointed by the President, with the advice and consent of the Senate, selected from among the Governors of States with an interest in rail transportation;
- one member appointed by the President, with the advice and consent of the Senate, selected as a representative of business with an interest in rail transportation;
- two members selected by commuter authorities (subsequently revised to be selected by the President from a list of five submitted by commuter authorities that operate over Amtrak-owned tracks); and
- two representatives selected annually by the preferred stockholders.

Section 411 of ARAA provides for the selection of a new Reform Board, consisting of the President of Amtrak (as a non voting ex officio member) and seven individuals to be appointed by the President in consultation with the leadership of the Congress and with the advice and consent of the Senate. The appointments are to be made from among individuals who have technical qualifications, professional standing, and demonstrated expertise in the fields of transportation or corporate or financial management. Only one of the seven appointees can be either an employee of the United States or Amtrak. (If the President appoints the Secretary of Transportation to that position, the Secretary will not require confirmation.)

At the time this report is written, the Board in place at the time of enactment of the ARAA is continuing to serve until a majority of the new Reform Board is appointed and qualified. If the Reform Board has not assumed its responsibilities by July 1, 1998, then the provisions authorizing appropriations for Amtrak for each fiscal year after FY 1998 cease to be effective.

The Reform Board will serve for five years. If Amtrak is no longer receiving Federal assistance in FY 2003, a new Board will be selected based upon bylaws adopted by the Reform Board. If Amtrak continues to receive Federal assistance, then the Board formed in 2003 will be appointed in the same manner as the Reform Board.

Amtrak Reform Council

The ARAA also establishes an 11 member Amtrak Reform Council (ARC), to be appointed by the President and the Congressional leadership[7] for five year terms. The missions of the ARC are to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment and productivity improvements and financial reforms. The ARC will also report to Congress on Amtrak's ability to achieve savings from work rule changes included in its labor contracts and on Amtrak's use of tax refunds made available under Section 977 of the Taxpayer Relief Act of 1997 (TRA).

If, at any time after mid-FY 2000, the ARC concludes that Amtrak's business performance will require Federal operating grant funds after FY 2002, then the ARC will inform the President and Congress and prepare and submit an action plan to the Congress for a restructured and rationalized national intercity rail passenger system.

Management of the Corporation

Amtrak corporate management is headquartered in Washington, D.C., with operations managed by three strategic business units. The Northeast Corridor strategic business unit, headquartered in Philadelphia, PA., is responsible for operations over the Northeast Corridor (NEC) between Washington and Boston and a number of feeder routes serving Albany, NY., St. Albans, VT., Springfield, MA, Hartford, CT, and Harrisburg, PA. The Amtrak West strategic business unit, headquartered in Oakland, CA., is responsible for all service that both originates and terminates in California, Oregon, Washington and British Columbia. The Amtrak Intercity strategic business unit, headquartered in Chicago, IL., is responsible for the remainder of Amtrak's service, which includes corridor service centered on Chicago, as well as all of Amtrak's long distance trains even though they may originate or terminate in another strategic business unit.

Assets

Amtrak's tangible assets consist primarily of rail lines, stations and equipment.
Amtrak owns approximately 650 route miles of rail line, consisting of:

[7] The ARC consists of: the Secretary of Transportation, two appointees by the President including a representative of rail management and a representative of rail labor, three appointments each by the Speaker of the House of Representatives and the Majority Leader of the Senate, and one appointment each by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

- 362 miles as part of the Northeast Corridor between Washington, DC and New Rochelle, NY, and between New Haven, CT, and the Rhode Island/Massachusetts State line;

- 11 miles of the Empire Corridor between Pennsylvania Station (NYC) and Spuyten Duyvil;

- 11 miles of the Albany to Boston route between Rensselaer, NY and Boston Post Road;

- 62 miles between Springfield, MA, and New Haven, CT;

- 104 miles between Harrisburg, PA, and Philadelphia, PA;

- 99 miles between Porter, IN, and Kalamazoo, MI; and

- 1+ mile of track adjacent to Chicago Union Station.

Amtrak has some form of ownership interest (either the land, the building or both) in 233 stations, the most notable being Philadelphia's 30th Street Station, the other Northeast Corridor stations at Wilmington, Newark, New York City, New Haven and Providence, and Chicago Union Station.

Amtrak also operates a fleet consisting of approximately 419 diesel and 67 electric locomotives, 1,625 passenger cars, and 212 rail cars of other types (e.g. baggage, material handling cars, maintenance-of-way, etc.)

Nearly all of Amtrak's tangible assets are encumbered by liens and mortgages. The Federal Government provided Amtrak with loan guarantees during its early years and, by 1983, the Federal Financing Bank held Amtrak notes totaling $1.12 billion. In exchange for FRA assuming this debt, Amtrak provided to the Department of Transportation a security interest in all of its equipment then existing or to be acquired in the future and a first lien on Amtrak's assets in the event of a dissolution of the Corporation. Since 1990, Amtrak has undertaken a significant modernization of its fleet. With the concurrence of the Department, Amtrak has financed a significant portion of this modernization and to facilitate this financing, the Department has subordinated its security interest in the equipment being acquired.

Most Amtrak facilities in the Northeast and Midwest, including the rail lines identified above, were acquired by Amtrak as part of the creation of Conrail in 1976. The Department holds a mortgage on all of these properties for an amount equal to the cost of their acquisition plus the funds invested by the Federal Government as part of the Northeast Corridor Improvement Project. As of January 1, 1998, this totaled approximately $3.8 billion.

Amtrak also possesses a significant intangible asset, in its right of access to the tracks and facilities of the other railroads in the U.S. at incremental cost. Presently, Amtrak operations involve approximately 21,550 route miles of trackage rights over other railroads. Table 1.1 presents the status of Amtrak's operating agreements with other railroads.

Another valuable asset is Amtrak's dedicated workforce of 23,900 women and men. This number includes approximately 2,500 management and 21,400 so-called "agreement" employees represented by 13 unions and covered by 25 contracts. Table 1.2 provides the status of Amtrak's contracts with these unions.

1.2 Amtrak's Financial Condition

Amtrak is organized and managed as a for-profit business with a primary focus on providing intercity rail passenger service, including the incidental transportation of mail and express shipments. This core operation involves the transportation of approximately 20 million passengers annually. Amtrak also participates in three lines of business in addition to its core business. The largest of these is providing commuter service under contract to State or regional commuter authorities. Amtrak presently provides commuter service in seven locations[8] and transports approximately 48.5 million commuters each year in addition to the intercity passengers transported as part of its core business. In general, Amtrak's commuter contracts provide for payment to Amtrak of a fee or profit above the costs associated with providing the service.

Amtrak also provides rail-related services under contract. The most common of these are track and facility improvements for commuter railroads that use Amtrak's Northeast Corridor. Finally, Amtrak sells, leases or participates in the real estate development of its rights-of-ways and stations. The most common activity in recent years has been the leasing of rights-of-way to telecommunications companies.

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[8]The commuter rail services operated by Amtrak are: the Massachusetts Bay Transportation Authority's commuter rail system serving Boston,, the Connecticut Department of Transportation's Shore Line East service between New Haven and New London, CT., the Maryland Department of Transportation's Penn Line service between Perryville, MD., and Washington, D.C., the Virginia Railway Express service between Washington, D.C. and Fredericksburg and Manassas, VA., the Peninsula Commute Service between San Francisco and San Jose, CA., Metrolink Commuter Rail in the Los Angeles area, and the Coaster Service between Oceanside and San Diego, CA.

Table 1.1
Status of Amtrak's Operating Agreements

Railroad	Expiration
Burlington Northern Santa Fe (BNSF)	2000*/
Canadian Pacific-SOO line (CP -SOO)	November, 1997
Canadian Pacific -Delaware & Hudson	April, 1998
Conrail	2007*/
CSX Transportation, Inc.	2002*/
Grand Trunk Western Railroad	December, 1997
Illinois Central Railroad Co. (IC)	2010
Norfolk Southern (NS)	2000
Southern Pacific Lines (SP)	February, 1998
Union Pacific Railroad (UP)	February, 1998
New England Central Railroad (NECR)	2010
Metro-North Commuter Railroad (Hudson Line)	1999
Metro-North Commuter Railroad (New Haven Line)	2009
Southern California Regional Rail Authority	2004
METRA -Chicago	2011
San Diego Northern	Open-Ended
TRI-RAIL -Florida	2002
Vermont Railway and Clarendon & Pittsford	2010*/
*/ Open-ended - Contract continues until either party gives notice	

Table 1.2
Status of Amtrak's Labor Agreements

Union	**Number of Employees**	**Contract**	**Contract Term**
Electrical Workers (IBEW)	1,373	1	January 1995
Carmen, Coach Cleaners & Helpers (JCC)	2,422	1	January 1995
Machinists (IAM)	688	1	January 1995
MOE Supervisors (ARASA)	538	1	October 1995
Sheet Metal Workers (SMWIA)	481	1	October 1995
Firemen & Oilers (NCF&)-SEIU)	364	1	October 1995
Boilermakers & Blacksmiths (IBB)	80	1	October 1995
MOW Employees (BMWE)	2,393	2	January 2000
MOW Supervisors	166	1	October 1995
Signalmen (BRS)	821	2	October 1995
Amtrak Service Workers Council (ASWC)	2,016	1	January 1997
United Transportation Union	2,565	4	January 1995
On Board Service Supervisors (ARASA)	228	1	October 1995
Engineers (BLE)	1,429	2	January 1995
Dispatchers (BLE)	206	1	January 1995
Railroad Police (AFRP)	317	1	July 1995
Transport. Communications Union	5,308	3	January 1997
Total	**21,395**	**25**	

On a corporate-wide basis, in the fiscal year ending September 30, 1997, Amtrak had an operating loss of $762 million including noncash expenses such as depreciation and excluding Federal financial assistance. (Appendix B presents the consolidated statements from Amtrak's 1997 annual report.)

Recent Financial Performance

Over the last four years, Amtrak has reversed the decline in its financial performance that peaked in FY 1994, and shown modest (9 percent measured in current dollars) improvement in its bottom line (including non-cash expenses and excluding Federal financial support) (See Table 1.3.). This has occurred despite the fact that the Corporation has accommodated a $210 million increase in its operating cost base since 1995 due to inflation, increased costs associated with freight contracts, increased interest on new equipment financing and other causes. The continuing improvements between FY 1994 and FY 1997, (which would be a 15 percent improvement in constant 1994 dollars) reflect, in part, initiatives begun by the Corporation at the beginning of FY 1995 that were intended to reduce Amtrak's dependence on Federal operating subsidies.

Table 1.3
Amtrak's Income Statements (Condensed) FY 1992-FY 1997
(millions of current dollars)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Passenger Revenues	950	969	913	910	965	1,034
Non-Passenger Revenues	375	434	500	587	590	640
Total Revenues	1,325	1,403	1,413	1,497	1,555	1,674
Total Expenses	2,037	2,134	2,246[9]	2,305	2,318	2,436
Operating Profit/Loss	(712)	(731)	(834)	(808)	(764)	(762)

In 1994, the Administration established a strategy, which was subsequently adopted in principal by the Congress, of progressive reductions in Amtrak’s Federal operating

[9]Does not include $244 million in one-time charges.

assistance along a so-called "glide path" leading to the elimination of Amtrak's dependence on such assistance by FY 2002. Between FY 1995 and FY 1997, Amtrak's Federal operating assistance declined by $198 million (37 percent) from FY 1995 levels, thereby providing the Corporation with $335 million less over this time period than it would have received if the FY 1995 operating subsidy levels had been maintained. Filling this gap was a major factor forcing Amtrak to draw down its working capital as shown in Table 1.4. In FY 1997, the Corporation was forced to use $75 million of its short-term line of credit to meet operating expenses.

Table 1.4
Amtrak's Net Working Capital
(millions of current dollars)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Current Assets	246	234	199	223	212	221
Current Liabilities	313	334	426	372	408	521
Net Working Capital	-67	-100	-227	-149	-196	-300

Special Financial Circumstances

Section 977 of the Taxpayer Relief Act of 1997 (TRA) (Pub. L. No 105-34, 111 Stat. 788, 899) (August 5, 1997) will result in Amtrak receiving a "tax refund" from the Treasury totaling $2.323 billion to be divided equally between 1998 and 1999. Amtrak is required to provide one percent of its refund to each State not served by Amtrak. Assuming that this number remains at its present level, Amtrak will receive for its own use $1.092 billion in each of these 2 years. The TRA further provides that Amtrak may use these funds only for "qualified expenses" defined as: "the acquisition of equipment, rolling stock and other capital improvements, the upgrading of maintenance facilities, and the maintenance of existing equipment in intercity passenger rail service, and the payment of interest and principal on obligations incurred for such acquisition, upgrading and maintenance."

1.3 Amtrak's Strategic Plan

As part of the planning for operations during FY 1995 and for the FY 1996 appropriations cycle, the Department of Transportation and Amtrak's Board of Directors set as a goal for Amtrak, improving the quality of service while eliminating Amtrak's dependence on Federal operating subsidies. The key elements of the strategy to accomplish this goal are the provision of adequate assistance for operations during the transition period and the recapitalization of the Corporation's assets to improve service quality, generate increased revenue and reduce costs. Amtrak has made progress toward achieving this goal. Since 1995, a substantial amount of its equipment fleet has been replaced or has replacements on order, ridership has increased and service quality has improved.

Amtrak's Board of Directors have required management to develop a strategic plan to eliminate its dependence on Federal operating subsidies. The current strategic plan, which was prepared in September 1997 and is presently being updated, is based upon new initiatives to generate additional net revenues, expanded partnerships with States, localities and the private sector, and improvements in the cost effectiveness of intercity rail passenger service.

Central to the strategic plan are the introduction of two initiatives. The first is high-speed rail service on the Northeast Corridor between Washington and Boston during FY 2000, which is projected to generate incremental net revenues of between $150 million and $200 million annually. The second is a major expansion in the movement of mail and express shipments, which is presently projected to generate incremental net revenues of $44 million in FY 2001.

Also central to the plan is Federal funding. The plan is premised upon capital investment adequate to maintain and recapitalize Amtrak's fleet and infrastructure which, in turn, will permit Amtrak to improve the cost effectiveness of its existing service and implement new initiatives that can generate substantial net revenue. The plan envisions a total of approximately $5 billion in Federal investment during this period, which is consistent with the Administration’s FY 1999 budget request. Should this level of funding not be available, Amtrak will not be able to undertake investments essential to addressing its revenue/expense imbalance and, thus, would require a continuing commitment of Federal financial assistance to maintain its current level of operations.

1.4 Other Ongoing Studies of Amtrak

Section 202 of the ARAA requires an independent assessment of the financial requirements of Amtrak through 2002. This assessment, which is being managed by the Department of Transportation's Inspector General, will be completed in 1998.

Section 413 of the ARAA required that the General Accounting Office submit a report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure on the financial and other issues associated with an Amtrak bankruptcy. This report was provided to Congress on March 2, 1998.

The Conference Report accompanying the Department of Transportation and Related Agencies Appropriations Act for FY 1998 directs the General Accounting Office to examine economic data for Amtrak's system and to develop system-wide performance rankings for all routes currently in service based on short-term and long-term economic loss. This report is scheduled to be completed by May 15, 1998.

Chapter II
A Brief Overview of Privatization

FRA has considerable experience in successfully disposing of Federally-operated railroads; therefore, privatization of the Federal Government's interests in Amtrak does not represent a new concept for this agency. This section provides a brief overview of privatization, along with recent experiences in railroad privatization both here and abroad.

2.1 Privatization Strategies

Privatization is commonly viewed as a process aimed at shifting functions and responsibilities from the government to the private sector and has been viewed as a means to reduce or eliminate the public sector's funding of services and/or as a means to improve the quality of the services delivered. Privatization can take many forms. In the context of privatization of Amtrak, however, the most germane forms are transfer of ownership and franchising of services. Under the transfer of ownership, the government's interest in the enterprise, including its interest in the enterprise’s assets, are transferred to the private sector. This transfer is usually through a competitive sale or some other process that provides some assurance that the government is obtaining fair value for the assets. This approach has been used in the U.S., in both the Conrail sale and the transfer of the Alaska Railroad to the State of Alaska, and in some countries overseas.

The franchising approach to privatization involves the government’s grant of concessions or franchises to private sector companies to provide service previously provided by the government for a fixed period of time. The franchisee has the right to receive revenues and other benefits from provision of the service. Under some versions, the franchisee makes the capital investment necessary for continued or enhanced operation and in other versions, the government remains responsible for such investments. The government may also be responsible for providing some operating assistance. The franchise option has also been frequently been used overseas.

2.2 U.S. Experience

In 1980, the Federal Government owned two railroads. The oldest, the Alaska Railroad, had been built by the Department of the Interior to facilitate the development of the Alaska Territory during the early part of this century. The other was Conrail, which had been formed from the remains of seven bankrupt railroads serving the Northeast and Midwest. Between

1981 and 1987, FRA managed the transfer of the Alaska Railroad to State ownership and the return of Conrail to the private sector.

CONRAIL

The late 1960's and early 1970's were difficult times for the railroad industry, particularly for the railroads in the Northeast. The industry's rate of return on investment fell annually (with minor exceptions) from 4.2% in 1955 to 1.7% in 1970. The decline in the eastern part of the country was more precipitous from 4.2% in 1955 to a negative rate by 1970. Railroad's market share as measured by domestic intercity tonnage carried by mode dropped from 46.7% in 1950 to 31.1% in 1970.

The Penn Central Railroad filed for bankruptcy in 1970 followed by several smaller railroads serving the Northeast. In all, seven Eastern railroads were unable to survive increased competition from other modes of transportation financed, in part, by Federal subsidies, the changing demand for rail service in the United States and the economic regulatory requirements that significantly limited the railroads' ability to compete with other modes. These railroads had together accounted for nearly one-half of the rail freight business in the nation.

Congress recognized the importance of continuing rail service and that the faltering companies required financial assistance. This resulted in enactment of the Emergency Rail Services Act of 1970. This act, as amended, provided up to $200 million in guarantees to trustees of railroads undergoing reorganization. In 1972, the Penn Central trustee indicated that the railroad could be reorganized provided that the railroad was permitted to abandon unprofitable lines, reduce labor costs, and not be required to incur losses from commuter rail passenger service. However, in 1973, the ICC rejected the trustee's plan of reorganization.

Later that year, Congress passed the Regional Rail Reorganization Act (3R Act)(45 U.S.C. 701 et seq.). The United States Railway Association (USRA) was established to develop a plan to salvage rail service in the Northeast. That plan, known as the Final System Plan, was allowed to go into effect on November 9, 1975 and led to the creation of Conrail on April 1, 1976, out of portions of the estates of seven bankrupt railroads serving the Northeast and Midwest. The initial Federal investment was $2.1 billion in loans and equity, with an additional $1.2 billion in Federal funds provided to modernize the railroad and make it more efficient along with $642 million for labor protection and work force reduction programs. In addition, the owners of the bankrupt properties were eventually compensated with approximately $2.9 billion for properties that were taken. The Federal investment in Conrail, including the purchase price, totaled $7.815 billion.

Two more major rail bankruptcies in the mid-1970's, this time in the Midwest, convinced Congress that additional action was necessary to address the railroads' financial condition and competitive disadvantages. Congress addressed the basic competitive problems throughout the railroad industry by passing the Staggers Rail Act of 1980, which significantly reduced the regulatory burden on the railroads and allowed them the flexibility to rationalize their routes, set rates and provide services to meet shippers' needs. This legislation contributed significantly to the financial stability of the rail industry.

The Staggers Act also required that special attention be given to Conrail's problems. It required the USRA and Conrail to submit reports to Congress addressing measures designed to ensure a financially self-sustaining rail system. The Department of Transportation was also requested to submit a report to Congress with respect to the future structure and operations of Conrail. The three reports generated much debate on the future of Conrail and led to enactment of the Northeast Rail Service Act of 1981 (NERSA) (45 U.S.C. 1101 et seq.).

NERSA granted Conrail special advantages over and above the flexibility of the Staggers Act to encourage profitability, and directed the Secretary of Transportation to transfer Conrail to the private sector. While the goal of NERSA was to make Conrail a profitable entity, and thereby attractive to private purchasers, there were certain trigger points at which the Secretary of Transportation was authorized to begin selling Conrail in pieces. NERSA authorized the Secretary to retain an investment banker to help arrange a sale of Conrail and to limit the United States' financial exposure.

Unquestionably, the provisions of the Staggers Act and NERSA had an important effect on Conrail's ability to achieve its financial improvements. Conrail's bottom line benefitted significantly from labor buyouts, expedited abandonments and transfer to public agencies of Conrail's commuter rail service authorized by NERSA. It also benefitted from wage concessions and other contributions by Conrail's employees. Conrail's last year as a direct recipient of Federal aid was 1981. The financial assistance combined with regulatory flexibility under the Staggers Act and NERSA and the commitment of its employees allowed Conrail to turn itself around. Conrail's net income rose to a high of $500 million in 1984. This level of net income, together with an absence of long-term debt, made Conrail attractive to the private sector.

The profitability determinations required by NERSA were favorable, thus providing for the sale of Conrail as an entity. The Department received fifteen offers to purchase the government's interest in Conrail. In February 1985, after lengthy negotiations with competing bidders, the Secretary signed a Memorandum of Intent with Norfolk Southern Corporation for the sale of Conrail.

The Secretary submitted the sale plan to Congress for approval. However, Congress was not convinced of the merits of the transfer of Conrail to another railroad and the Secretary then worked with Congress to develop an alternative plan. The Conrail Privatization Act, enacted October 21, 1986, provided for the public offering of the 85 percent of Conrail's common stock owned by the U.S. Government. The offering, held on March 26, 1987, was the largest initial public offering of a U.S. industrial company in history. Including cash payments from

Conrail to the U.S. Treasury made in the course of preparing for the public offering, the total proceeds to the U.S. from the sale of the government's interest in Conrail were $1.9 billion.

Conrail has remained a successful and profitable private enterprise. In 1997, the Norfolk Southern Corporation, the CSX Corporation and Conrail agreed that Conrail would be acquired by the other two railroads for approximately $16 billion (in cash and assumption of debt) and that its assets divided between them. This proposal is currently subject to an ongoing proceeding before the STB (Finance Docket 33388).

ALASKA RAILROAD

The Alaska Railroad (ARR) consists of approximately 525 route miles of track extending from Seward on the Gulf of Alaska, through Anchorage to Alaska's interior at Fairbanks. ARR serves the ice free ports of Seward, Whittier and Anchorage and is connected to the North American freight rail system via rail barge at Seattle, WA, and Prince Rupert, B.C. In addition to the movement of freight within the State and from ports to interior destinations, the ARR is the only provider of regularly scheduled intercity rail passenger service in the United States other than Amtrak. In 1997, ARR carried approximately 624,000 passengers and 78,000 carloads (6.2 million tons) of freight.

The ARR was authorized in 1915 as part of the Federal Government's effort to encourage development of the Alaska Territory. The railroad was built under the auspices of the U.S. Department of the Interior between 1917 and 1923 and continued under that Department's control until the Department of Transportation was created. At that point, the ARR became an operating office within FRA and the railroad's operations and capital investment requirements were funded as part of FRA's appropriation. During the last 5 years of Federal ownership, annual appropriations for the benefit of the Alaska Railroad totaled $32.9 million, although no funds were provided in FY 1984.

Discussions concerning the transfer of the ARR to a non-Federal entity first began in 1968 and legislation to this effect was first introduced in 1971. However, increased railroad use and revenues resulting from the construction of the Trans-Alaska Pipeline reduced the interest in Federal divestiture. By 1979, divestiture of the Federal interest in the ARR was again viewed in the context of reducing Federal appropriations. Ultimately, this led to enactment of the Alaska Railroad Transfer Act (ARTA) (45 U.S.C. 1201 et seq.) in December 1982.

The ARTA provided for transfer of the railroad to the State in exchange for a payment equal to the going concern value of the railroad. The USRA undertook a nine month evaluation of the railroad, establishing its value at $22,271,000. The ARR was transferred to the State on January 6, 1985 and is now operated as the Alaska Railroad Corporation (ARRC), an independent State-owned corporation established by the Alaska legislature for this purpose.

The Federal Government retained certain obligations resulting from its ownership of the ARR. Approximately 500 employees transferred from the FRA-run railroad to the ARRC and these employees could elect to remain part of the Federal Civil Service Retirement System with the ARRC making the Federal agency's contribution for these employees. (New employees are covered by a corporate defined-benefit pension plan.) The Federal Government remains responsible for workmen's compensation and disability payments related to incidents that occurred before the transfer, with these payments funded as part of FRA's budget. Finally, the Federal Government also retained certain obligations relating to the cleanup of contaminated property and facilities that occurred before the transfer. Approximately eight sites are presently involved.

The ARRC is managed as a for-profit corporation although, as a State-owned corporation, it is exempt from Federal and State taxes. The intent of the State is that the ARRC be financially self-sustaining and State investment in the railroad has been limited to funding of specific investments associated with economic development projects promoted by the State. The railroad has generally broken even on operating expenses since transfer, with little additional revenue remaining for rehabilitation and programmed maintenance. As a consequence, by 1996 the rail infrastructure had accumulated substantial deferred maintenance, which was beginning to adversely affect operations in the form of slow orders on passenger trains. While it was the intent of the ARTA that there would be no further Federal appropriations made for the benefit of the ARR, beginning with FY 1996, a total of $30 million in Federal appropriations have been earmarked by Congress for capital improvements to benefit passenger service on the ARRC.

Section 977 of the Taxpayer Relief Act provides that Amtrak will provide one percent of any tax refund it receives under that section to each State that does not have Amtrak service. In the case of such States that provide intercity rail passenger service (Alaska is the only one that currently provides such service) the use of these funds is limited to certain rail-related capital investments. As a consequence the ARRC will receive approximately $11.5 million from Amtrak in both FY 1998 and FY 1999 to support the continued capital investment in the railroad.

2.3 Railroad Restructuring and Privatization in Other Countries

Restructuring and privatization of government-owned and subsidized industries is becoming commonplace worldwide as countries have embraced market-oriented reforms including the transfer of state-owned industries to private ownership in order to attract private capital, reduce public expenditures and improve the quality of service. This has been particularly true of the rail industries which often have been one of the largest of the state-owned enterprises. Moreover, state-owned railroads have generally been poor financial performers. With a few notable exceptions such as the high-speed passenger services provided in France, Germany and Japan, most have been characterized by stagnant or falling traffic, and poor service to customers. Railroad privatization efforts have been implemented or are being explored in many locations throughout the world including: the Ivory Coast and the Cameroon in Africa; Germany and the United Kingdom in Europe; Canada and Mexico in North America; Argentina and Brazil in South America; and Australia, Japan and New Zealand on the Pacific rim.

There has been no single approach to privatization of publicly owned railroads. Privatization strategies have developed as solutions to the specific circumstances of the nation involved, including the nature of its rail system, the long term goals for the privatization effort, and local economic and political imperatives. However, a review of past and on going railroad privatization efforts has shown that each country must face fundamental decisions at two points in the process. The first is how to make the rail operation available as an entity attractive to the private sector. This includes the organization of the productive functions of the railroad into discrete and accountable business-oriented units. This can mean restructuring of the railroad company’s assets to enhance their value by putting them to their best use as determined by open market prices and disposing of nonessential operations. It may also include debt restructuring, continued government subsidies, operating changes, abandonments, asset sales, and focused investments. The second decision point addresses the question how best to place the responsibility for rail service into the private sector. In response to this issue, different governments have adopted different techniques such as asset sales, franchise contracts, or outright stock offerings.

While establishing an initial corporate structure and transferring ownership from the public sector to the private sector can be accomplished in a time period measured in months or a few years, the viability of the newly independent business units takes more time to establish. Experience has shown that the transition from public ownership to a viable private sector operation without substantial government support will take at least five to ten years. Since most of rail privatization experience overseas has been undertaken in this decade, the jury is still out in most countries as to whether privatization of rail service, in particular passenger rail service, has been a complete success.

This section will look at three different approaches to privatization. The first two examples involve a continuation of the concept of an integrated railroad by dividing the national railroad into separate regional railroads. In one (Argentina) the regional railroads are franchised by the national government for a fixed period of time while, in the other (Japan), the intent is to sell the regional railroads outright through the sale of stock. The third approach (The United Kingdom) involves an "unbundling" of the railroad into several specific elements, to be sold or franchised. For the reader interested in more details on these three privatization efforts or the efforts in additional countries, a bibliography is included in Appendix G of this report. Of particular interest might be the comprehensive report by the World Bank: *Best Methods of Railway Restructuring and Privatization --CFS Discussion Paper Series Number 111,* by Ron Kopicki and Louis S. Thompson, August 1995.

ARGENTINA

The railroads in Argentina generally developed under concessions from the national government, many of which were held by foreign nationals. These companies were acquired by the national government in the years immediately following World War II; however, they were operated as separate companies until 1960. At that time, they were reorganized into a single company, Ferrocarriles Argentinos (FA), which consisted of approximately 27,000 route miles and 220,000 employees. The FA provided all of the rail services provided by the three different parts of the U.S. rail industry, freight service, urban commuter rail service, and intercity rail passenger service.

The railroad business in Argentina had peaked in the 1930s and by 1945, began to lose market share. The railroads were faced with competition from highways, a market not particularly conducive to financially successful freight operations, and with requirements that the railroads provide social and uneconomic services. The decline in freight operations and the rail market share of freight transportation that began in 1945 continued with little interruption for the next 45 years. By the 1980s, FA had become primarily a passenger railroad; increasingly relying on the national government for financial assistance. Federal subsidies to FA in 1989 totaled $1.3 billion and represented the single largest drain on the treasury with the railroad's requirements exceeding one percent of Argentina's gross domestic product (GDP). At the same time, the condition of FA had significantly declined with large amounts of deferred maintenance and general dissatisfaction among its customers.

The Privatization of FA

The Argentine economy of the late 1980s was experiencing triple digit hyperinflation fueled, in part, by deficit spending. The government that took office in 1989 established a strategy to bring the economy under control which included privatization of many government owned enterprises, including the largest -- the FA. The approach chosen by Argentina was to return to the era of concessions, whereby the national government would divide FA into distinct operating entities and offer concessions for these entities for 30 years, with a 10 year renewal period.

The first decision in defining the nature of these concessions was to separate the freight operations from the passenger operations. FA's freight operations were viewed as potentially profitable and with the greatest prospects for successful privatization. These operations were divided into six separate integrated franchises; that is, the concessionaire would maintain infrastructure and rolling stock, control traffic, operate trains and market services. Each concessionaire would receive locomotives and rail cars from FA adequate to serve the concession and the government would continue to own the infrastructure.

The bids for the freight concessions were evaluated on a number of factors including: the experience of the operators, the investment proposed by the concessionaire, the fees the concessionaire would pay the government for the right to use the tracks and equipment provided as part of the concession, and the number of FA employees that would retain their jobs under the new management.

The concessions were offered for sale between January 1991 and February 1992. Responses were received for five of the six concessions. Most of the consortiums submitting bids included participation by U.S. or Canadian regional railroads. (It was required that FA own a minimum of 15 percent of the stock of each concession and that employees own at least 4 percent). The evaluation process took between 13 and 24 months. By October 1993, five of the six concessions were in private hands; about four years after the privatization process began. The sixth franchise, the narrow gauge Belgrano line in which potential investors showed little interest, was transferred to a new state-owned corporation.

The commuter rail passenger service in the Buenos Aires metropolitan area consisted of 2,000 daily trains on approximately 500 miles of rail line. This service was viewed as essential to the nation's economy, even though there was little expectation that the service could be made profitable. The first step on the path toward privatization was creation of Ferrocarriles Metropolitanos Sociedad Anonima (FEMESA) to manage these rail operations. It was then determined to grant concessions for these services; however, the government would continue to own the infrastructure and rolling stock and define maximum fares and minimum standards of service and require a multi-year investment plan. (Service and investments above the minimum levels, however, could entitle the concessionaire to charge higher fares.) Since it was clear that these services would not be profitable, the government would provide a subsidy, and the level of monthly payments to be provided by the national government was part of the evaluation process and negotiations of the concession terms. The commuter services were divided into seven entities. Bids were submitted in early 1992, and by late 1994 the concessions were awarded.

The prospects for intercity rail passenger service were determined to be marginal at best and, in August 1992, the government announced its intent to abandon intercity rail passenger service. The national government offered to continue service during a transition period if provincial governments assumed 50% of each train's operating loss. The response was not great and most intercity rail passenger service was terminated.

Progress to Date

With one small exception, the private sector provides Argentina's freight rail service. The various private owners of the former FA lines are composed of Argentina companies, many of whom are regular customers of the railroads, with expertise on day-to-day operations provided by North American railroad companies. A benefit of market oriented freight operations has been competition with trucks which, in turn, has driven down overall freight rates. While this has been of benefit to the consumers, the freight rail concessions have generally been marginally profitable to-date; indeed, some have been losing money. As a consequence, investment in infrastructure and equipment has lagged behind expectations.

All indications point to a gradual improvement in commuter service. With this exception, rail passenger services have fared poorly under the privatization of FA. With only a few provinces willing or able to subsidize operations within their boundaries, approximately 70 percent of the intercity rail passenger services in Argentina were discontinued by March 1993. Service remains between the capital Buenos Aires and a few cities and towns. Isolated passenger services of a more local nature, which are either funded by a provincial government, or geared to the tourist market, are also in operation.

The amount of subsidy provided by the national government to railroads has been reduced to approximately 25 percent of the level provided immediately before privatization began. Rail employment has also decreased to less than 20 percent of preprivatization levels with early retirements and severance benefits funded by the national government with the assistance of the World Bank.

JAPAN

Prior to World War II, most railroads in Japan were operated as part of a government department, the Ministry of Railways. There was a limited number of privately owned railroads, primarily providing service within urban areas. In 1949, the publicly owned railroads were organized into a public corporation, the Japanese National Railways (JNR), with the intent of providing greater autonomy to management.

The JNR primarily provided intercity passenger and freight services with only about 8 percent of its trackage in the high-density metropolitan areas where it shares commuter rail service responsibilities with approximately 100 privately held railroads. Prior to the beginning of privatization efforts, JNR operated approximately 12,500 route miles of rail line with another 3,500 miles operated by private companies. The JNR system was a passenger dominated system, with freight a relatively small component of its business due to competition from coastal shipping and trucks. While JNR's mileage was small by U.S. standards, equal to about 7 percent of the U.S. total, it was intensively used and generated about as much revenue as the entire U.S. rail system.

JNR was an extension of the national government. As such, its employees were public servants, its operating philosophy reflected public interest considerations as well as the profit motive, and its funding and resource allocation decision making was strongly influenced by the national parliament. JNR was one of the largest enterprises in Japan, and by 1980 employed 414,000 workers.

The primary motivation behind the privatization of JNR was an escalating financial crisis. JNR had seen its market share erode through the 1960s and 1970s, beginning with a string of increasingly large deficits in 1964. Instead of addressing the shortfall through fare increases, service reductions or subsidy increases, JNR offset these losses through borrowing. By 1987, JNR's debt had reached $337 billion and its annual revenues were no longer sufficient to service this debt. The governmental deliberations on the future of JNR began in 1981 and resulted in the passage of necessary legislation in 1986 and the reorganization of JNR in April 1987. The solution to the JNR "problem" developed by the Japanese government was to restructure the national railroad into separate companies then sell them in a private offering.

The Dissolution of JNR

The national JNR system was divided into six passenger companies serving specific geographical areas and one national freight operator (collectively referred to as "JRs"). The JRs were organized as joint stock companies with their own board of directors and management. The transition to privatization consisted of three distinct steps. First was the reorganization of the rail system to be privatized. Those assets of the JNR necessary for the operation of each of the JRs was transferred to them along with the employees thought necessary for the efficient operation of the railroad. This would be followed by a period of economic recuperation necessary to establish the individual JRs economic viability and to enhance their value. The final step would be public offerings of the common stock in these JRs companies.

Three of the passenger JRs (East, Central and West) were established to serve contiguous regions of the main island of Honshu. The other passenger JRs were established for the islands of Hokkaido, Shikoku and Kyushu. These railroads were established as vertically integrated companies, owning most of their track and equipment as well as providing passenger services. The exception was JNR's famous high-speed Shinkansen rail lines. The Shinkansen's assets were transferred to the Shinkansen Holding Corporation, which is jointly owned by the passenger JRs, and each of the six passenger JRs leases assets from this corporation. (The national freight JR owns no track but operates on trackage rights over the passenger JRs – just the opposite of Amtrak's relationship with the U.S. rail industry.)

Recognizing that it was unlikely that the three passenger JRs serving islands other than Honshu would by profitable in the foreseeable future, these companies received an endowment of interest bearing securities in a "Management Stabilization Fund" which is designed to generate supplemental revenues to aid in making these three companies economically viable.

The three JRs on Honshu (together with the Shinkansen Holding Corporation) assumed approximately 30% of the JNR debt. The stock in the JRs, all non core assets (including substantial amounts of real estate), liabilities, and employees deemed to be surplus, were transferred to the JNR Settlement Corporation. The purpose of the JNR Settlement Corporation is to arrange for the early retirement, reemployment, or severance of surplus employees and to reduce the remaining debt through the sale of the noncore assets and stock in the JRs. Debt remaining after liquidation of assets will be converted to general obligations of the national government.

Progress to Date

In general, the quality of service has been maintained over the 10 years since the privatization effort began. Passenger fares have remained stable and the rail passenger share of the intercity transportation market has been maintained through a 22% increase in rail ridership. The freight railroad has continued to lose market share, primarily as a result of truck competition, although the decline has not been as great as in previous years.

The financial performance of the passenger JRs, on a current year basis, has shown progress. The three JRs on Honshu show operating profits sufficient to pay down their share of the debt. The other passenger JRs have not generated sufficient revenues to cover expenses from operations and, due to a number of causes including low interest rates, the management stabilization fund has not generated sufficient revenues to offset these losses.

The sale of common stock in the JRs has proceeded slowly. In 1993, approximately 62 percent of the stock in JR East was sold through a public offering. Approximately 68 percent of the shares in JR West were sold in late 1996 and approximately 60 percent of the shares of JR Central were sold in late 1997. Because of the condition of the Japanese stock market, sales of the remaining stock in the JRs have been deferred.

Employment among the JRs has been reduced to 157,000. The large majority of displaced workers were provided with early retirements or were placed in other industries which was made possible by the Japanese economic expansion that was in progress as the JRs were being established. The JNR Settlement Corporation has been less successful in reducing the debt, in large part due to the declining values of the JNR surplus real estate that was to be sold to retire the debt as well as the inability to dispose of the shares in the JRs. As a consequence, the amount of debt that the national government is expected to have to assume after asset liquidation has nearly tripled to approximately $160 billion.

UNITED KINGDOM

The initial development of the railroads of the United Kingdom paralleled that of the United States, with numerous private entrepreneurs developing small railroads to serve specific regions or economic needs. Gradually, these private railroads coalesced into a relatively few larger systems. In 1948, the patterns of railroad development in the two countries diverged when the four major British rail systems were nationalized as a result of the declining financial fortunes of these railroads which had been exacerbated by extensive damage incurred during World War II. From that point, railroad service in the United Kingdom was managed as a single state enterprise B British Rail.

The British Rail (BR) of 1993 performed all rail-related functions which, by then, were the responsibility of three different parts of the U.S. rail industry including freight service, commuter rail passenger service, and intercity rail passenger service. Unlike in the U.S., the British rail system was dominated by passenger service. The BR system consisted of approximately 10,275 route miles (approximately 5% of the U.S. system) with approximately 9,000 miles used for passenger service (approximately one-third the size of Amtrak's system.)

BR was operated as a single, integrated business including infrastructure and equipment ownership and maintenance, train operations as well as the marketing of passenger and freight services. BR was organized around specific freight and passenger markets and these divisions were supported by centralized functions such as personnel, legal, finance and accounting.

Beginning in 1979, Britain embarked upon a policy of returning State-owned enterprises to the private sector. After the election of 1992, it was determined that the time was ripe for dismantling of BR. In developing the plan for privatization of its railroads, the British were confronted with a number of overlapping challenges. While it was anticipated that the limited freight service could be profitable in the private sector and therefore was an appropriate candidate for sale, the same could not be said of passenger service. The political need to continue service to less populated areas and at off-peak hours led to a conclusion that continuing public subsidies were necessary. If the passenger companies that were to receive continuing subsidies were sold and have no long-term ties to the public decision making process, then the taxpayers could suffer. Another challenge was the substantial overlap in the use of tracks and infrastructure which created issues of coordination among and between passenger and freight businesses. But, perhaps the greatest challenge was the perceived need to inject competition into the railroad business -- in particular the passenger business -- to improve customer service, to control costs, and to encourage private sector investment.

To address these challenges, the British Government undertook a comprehensive dissolution of BR. This approach created multiple separate entities to undertake freight operations, passenger operations, ownership of infrastructure, ownership of rolling stock, maintenance of equipment and maintenance of rolling stock. It also required the establishment of new governmental roles in the awarding of franchises, allocation of subsidies and resolution of disputes among the newly independent parties.

The Privatization of BR

Service

BR's freight service was divided into six freight companies. The BR's Trainload Freight service, which primarily consisted of the movement of bulk commodities, was divided into three companies, each centered in a region of the nation but with service outside these core areas. It was estimated that more than half the track used for freight service would have at least two operators. BR also had three other freight services that operated over the national network; one moving intermodal traffic (primarily ocean containers) one moving mail, and the third moving express. Each of these six companies, along with the equipment needed for their operation, was sold at auction by January 1996.

BR's passenger service was divided into 25 separate franchises for the right to provide passenger service over specific routes or groups of routes which had been identified based on a mixture of geographical, business and market criteria. In dividing the passenger services, the long distance services were kept separate from regional and commuter services. Franchising the operation of these services for a fixed period of time (generally in the range of seven to 15 years) was viewed as the best approach to ensure essential service was provided; to use market incentives to provide the best service at the lowest cost; and, to protect the public's interest, including the possibility that an operator would not perform adequately and need to be replaced. These 25 franchises were awarded to train operating companies (TOCs) between December 1995 and February 1997.

An important interim step in the transfer of franchises was the establishment of shadow franchises within British Rail in April 1995. These shadow franchises, which mirrored those to be offered to the private sector, involved the allocation of most operational responsibility, equipment and staff needed to operate the railroad. This afforded the management teams experience in operating in the new environment.

Infrastructure

Perhaps the most important part of the British privatization strategy was the decision to separate the operators of the service from the ownership and maintenance of infrastructure. A separate company named Railtrack was formed to own the national rail infrastructure, including track, signals and stations. Independent rail service operators would contract for access to the track in their service areas. As a neutral party, Railtrack offered potential solutions to concerns about coordination and standardization of service among competitive operators, as well as for promoting competition including the periodic recompetition of passenger franchises and exploring such freight-related issues as open access. Railtrack was sold through a public offering in May 1996.

The maintenance of the infrastructure was separated from Railtrack by the division of BR's existing track maintenance functions into several separate entities that would create a competitive commercial market for track maintenance. This involved the creation of six track renewal companies and seven infrastructure maintenance companies. These thirteen companies were sold by auction between February and June 1996.

Equipment

Passenger operators were also separated from the ownership and maintenance of operating equipment. Three rolling stock leasing companies (ROSCOs) were created to own and lease passenger locomotives and cars. (Since freight services were to be sold outright and freight services often require specialized equipment, it was deemed appropriate for ownership of freight equipment to be in the hands of freight operators.) This structure was envisioned as creating a competitive market for rolling stock, lowering the entry cost for prospective operators and facilitating the recompetition of passenger franchises. Each ROSCO initially took possession of between 3,000 and 4,000 pieces of equipment. (To put this into the U.S. context, each ROSCO began with approximately twice the amount of rolling stock in Amtrak's fleet.) The three ROSCOs were sold by auction in December 1995.

As with track maintenance, BR's equipment maintenance was transferred into separate entities to create a competitive commercial market for these functions.

Labor

In Britain, it is unlawful to transfer ownership without affording the employees the opportunity to transfer with the business along with their existing terms and conditions of employment. Employees had been assigned to shadow franchises, along with their contracts, the year before the franchises were offered for bid. These employees and their contracts were part of the assets acquired as part of the freight operations and passenger franchises.

Government Regulation

Two new government entities were established. The Rail Regulator was established to promote competition and prevent abuses made possible by dominance in any specific market, resolve disputes between Railtrack and the different operators in the allocation and cost of track access, and to ensure the interconnectivity of services. The Rail Regulator's primary power is the authority to license passenger and freight operators and providers of infrastructure service, including the approval of access agreements.

The Director of Passenger Franchising was established with the responsibility for identifying the minimum service and quality standards, establishing the level of subsidy paid to franchise operators and awarding the franchises. In effect, the 25 TOCs's provide services under contract to the Director. Before a franchise was awarded, the potential operator already had contracts with Railtrack for access and with one or more ROSCOs for equipment. Upon award of the franchise, the TOCS assumed responsibility for the employees assigned to the particular operation.

The franchise agreement details the nature of the service to be provided in terms of volume and quality, specifies maximum fares and limits the competition the franchisee can introduce to other franchises. Improvements in efficiency and cost effectiveness are anticipated from innovative services, innovative fares (within the overall ceiling), renegotiated contracts with the employees and contractors (including Railtrack and the ROSCOs), and the introduction of new capital.

Progress to Date

In a process that took approximately five years, all the different companies created as part of the dissolution of BR have been sold and all the franchises for passenger service have been awarded. The sale for companies and franchises generated approximately $8 billion in proceeds for the government. The freight business is operating without subsidy. Only one of the passenger operations (Gatwick Airport to London) is unsubsidized and paying a franchise fee. The remainder are subsidized with a total of approximately $3 billion in operating subsidies paid in 1997. (This compares with a subsidy level of $1.6 billion in 1994.) The franchise agreements provide that the 1997 level of subsidy will be reduced by two-thirds over the next seven years.

There are mixed results with regard to service. In some cases, TOCs are investing in new equipment to provide improved service, both in terms of schedule and comfort. However, the chairman of British Rail was recently quoted as stating that the performance of the private train companies is worse than the state network they replaced. The performance statistics published by the Director of Passenger Franchising reportedly show a worsening in reliability and punctuality in the final quarter of 1997 following a decline in the summer.[10]

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[10]"State rail chief attacks privatised network", *Financial Times*, 1/15/98.

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Chapter III
Evaluation of Privatization Scenarios

3.1 Evaluation Factors

As seen in the preceding chapter, development of an agreed-to plan of action to privatize publicly-owned rail assets is a complex and time consuming process. The plan to privatize Conrail involved three separate pieces of authorizing legislation over the course of six years, enactment of the Alaska Railroad transfer legislation took11 years from when it was first introduced, and the foreign experience has shown such processes are equally lengthy overseas. The reason for this complexity is clear. The transfer of such important assets and responsibilities involves a balancing of many separate, related and, at times, competing interests.

FRA had neither the mandate nor the resources to develop the definitive, final assessment of all the relevant policy considerations associated with the possible privatization of Amtrak as part of this study. Given the complexity of the topic and Amtrak's current condition as a corporation in transition, FRA determined that a first level analysis was appropriate at this time. This analysis is designed to identify, in a broad, qualitative context, the comparative strengths and weaknesses of each of the alternative scenarios suggested in the Conference Report as well as a base case of implementing Amtrak's strategic plan as proposed in the Administration's FY 1999 budget request. This comparison is done in the context of broad evaluation criteria representative of the broad range of policy considerations that should be addressed in determining whether and how to proceed with privatizing the Federal interests in intercity rail passenger service.

The Federal commitment to intercity rail passenger service as part of the nation's passenger transportation system was confirmed with the enactment of the Amtrak Reform and Accountability Act (ARAA) on December 2, 1997. This study overlapped the final portion of the lengthy legislative debate that led to enactment of the ARAA and FRA identified evaluation criteria that reflected the major issues addressed in the legislative debate. Regardless of the position of the different interests involved in the development of the ARAA, the policy considerations debated and ultimately addressed by the ARAA's major provisions focused on the role of intercity rail passenger service in the national transportation system, the public's interests in assets acquired with public funds over the last 27 years, the interests of Amtrak's employees and the cost to the Federal Government of improving Amtrak's financial condition. Not surprisingly, these same issues were raised during FRA's outreach conducted as part of this study. Each of these major policy considerations are reflected in one of the criteria used in this analysis. In addition, FRA also included criteria that reflect the time required to implement an alternative scenario and the relative complexity of implementation. In reviewing recent writings discussing the issue of privatization of Amtrak, it seemed to FRA that many either never knew or had forgotten the lengthy struggles that accompanied FRA's two prior experiences with privatizing a railroad. The road toward privatizing a major asset such as Amtrak will not be a quick or easy one. These two criteria serve, in part, as a reality check for those who might wish to do this today and expect that it will be done tomorrow.

The criteria used in the analysis are summarized below:

A. Ability to provide for a coordinated national system of intercity rail passenger service.

Section 101 of the ARAA provides Amtrak with the statutory mandate to "operate a national rail passenger transportation system which ties together existing and emergent regional rail passenger service and other intermodal passenger service" (49 U.S.C. 24701). This criterion addresses the extent to which a particular scenario achieves this mandate, recognizing that this does not necessarily require maintenance of the current route structure.

B. Ability to insure that the Federal investments in Amtrak will continue to be used in the public interest.

The Federal Government has invested approximately $20 billion in Amtrak since 1971, including approximately $7 billion in capital improvements. The American public's continuing interest that these investments to be used to meet the public needs they were intended to address are reflected in a number of security instruments. (See pages 9 and 10.) The fate of these security interests were the subject of debate as section 415 of the ARAA was drafted and, in the end, they were largely left intact. This criterion addresses the extent to which a particular scenario protects these public interests, recognizing that, in theory, this could be accomplished by either a private or public rail provider.

C. Effect on Amtrak's employees.

Amtrak has a dedicated and talented work force that has demonstrated its commitment to meeting the public transportation needs addressed by intercity rail passenger service. Labor-related issues were extensively discussed during the development of ARAA and are reflected in several sections including Sections 121, 141, 142 and 415 and it is appropriate to consider the interests of Amtrak's employees in an evaluation such as this. Moreover, there are significant cost implications associated with actions that adversely affect Amtrak's employees. The first is in the area of severance payments. Historically and presently this has amounted to one year of salary protection for each year worked up to a maximum of six years. These so-called labor protection payments, however, are currently the topic of negotiations between Amtrak and its employees as provided for by section 141 of ARAA. The Comptroller General has concluded that the Federal Government is not legally liable for these labor protection payments; although the GAO has noted that legitimate differences of opinion exist on the issue of Federal obligations in the event of an Amtrak bankruptcy. Establishing whether the successor to Amtrak in a privatization scenario could meet the responsibility for making such payments could affect the relative desirability of a particular privatization scenario.

Another area where adverse effects on employees has Federal policy and cost implications involves payments by Amtrak to the railroad retirement and railroad unemployment trust funds. Such payments are made by railroads based on the number of active duty employees (as opposed to the number receiving benefits). Since Amtrak's annual payment into the railroad retirement account of approximately $335 million comprises about seven percent of the total receipts of this account, a significant change in intercity rail employment would have revenue implications for the remaining railroads and their employees that provide the funds managed by the Railroad Retirement Board.

D. Time to implement.

This evaluation criterion addresses how long it would take to implement a scenario. As indicated earlier, the development and implementation of any privatization scenario will likely be a complicated, time-consuming process. Section 301 ARAA authorizes funding for Amtrak through FY 2002 and provides mechanisms that could help in improving the cost effectiveness of intercity rail passenger service. Section 204 provides that, if Amtrak is not meeting its financial goals after December 2, 1999, Congress may revisit the issue of whether to sunset the Corporation. This criterion addresses the question of whether the scenario under consideration could be implemented and have a material impact on intercity rail passenger service faster than the workings of these two important parts of the ARAA.

E. Cost to the Federal Government.

Section 301 of the ARAA authorizes Federal appropriations for the benefit of Amtrak totaling $5.163 billion through FY 2002 which is approximately the same amount of total Federal investment contained in Amtrak's most recent strategic plan and the out year projections of the Administration's FY 1999 budget (when the TRA funding is taken into account.) This criterion assesses whether a specific scenario holds the prospect of costing the Federal Government less than the current approach to Amtrak.

F. Complexity to Implement.

The past experience with privatization of rail assets demonstrates that greater the complexity to implement a scenario, the greater is the risk that the scenario will not be implemented successfully.

3.2 The Privatization Scenarios

The Conference Report requested that FRA focus this study on three separate scenarios of possible Amtrak privatization. The scenarios are:

Scenario 1: a passenger system operating under the franchise of a public or private national coordinating authority with service provided by one or more operators.

Scenario 2: privatization of Amtrak with significant, sustainable, and stable sources of capital funding.

Scenario 3: federal withdrawal from all intercity passenger funding responsibility.

Base Case: This is a qualitative analysis which compares the scenarios suggested in the Conference Report to a base case. The analysis uses as a base case implementation of Amtrak's current strategic plan within the current statutory framework, including the provisions of the Amtrak Reform and Accountability Act of 1997. Under this scenario, Amtrak would operate under the executive direction of the new Reform Board of Directors to be established later this year. It is assumed that Amtrak will receive the level of funding proposed in the President's budget request for FY 1999 which totals $2.234 billion over the next four years ($621 million in FY 1999, $571 million in FY 2000 and $521 million in each of FY 2001 and FY 2002) in addition to the approximately $2.2 billion Amtrak will be receiving in FY 1998 and FY 1999 under section 977 of the Taxpayer Relief Act of 1997.

It is further assumed under the base case that: Amtrak's successful introduction of high-speed rail service on the Northeast Corridor in early FY 2000 with annual net additional revenue of at least $150 million beginning in FY 2001; a favorable decision by the Surface Transportation Board permitting Amtrak to implement expanded transportation of mail and express shipments in a manner consistent with the strategic plan of September 1997; that Amtrak successfully renegotiates its labor contracts on substantially the same terms as its December 1997 agreement with the Brotherhood of Maintenance of Way Employees including those provisions that relate to work rule changes; and, that Amtrak's basic debt structure, including its short-term lines of credit remains unchanged.

This base case does not preclude privatization. The Corporation presently is authorized to issue common stock, preferred stock and other types of securities normally issued by private sector companies conveying ownership interests in a corporation. Section 411 of the ARAA (49 U.S.C. 24302 (b)(2)) provides that if Amtrak has not received Federal assistance during the fiscal year five years after enactment (FY 2003), then Amtrak's Board of Directors will be selected based upon bylaws adopted by the Reform Board. Collectively, these statutory provisions establish the ability for the Reform Board to issue common stock to the private sector and turn governance of Amtrak over to these stockholders, effectively privatizing the Corporation.

Evaluation of the scenarios

The analysis of scenarios for Amtrak privatization that follows involves a qualitative assessment of the relative strength or weakness of each of the scenarios for the six evaluation criteria listed above. Each of the scenarios will be compared to the base case in terms of whether the scenario under consideration is better(+) worse (-) or about the same (0).

3.3 Evaluation of Scenario 1

A passenger system operating under a franchise from a public or private national coordinating authority.

Scenario Implementation

Under this scenario, it is assumed legislation would be enacted that establishes a national coordinating authority that holds title to Amtrak's current assets, including Amtrak's current statutory right of access to the tracks and facilities of the private sector railroads at incremental cost. The coordinating authority would then offer, on a competitive basis, franchises for the right to provide intercity rail passenger service for a fixed period of time, based upon various factors including payments to the franchisee, or in the case of profitable services, payment by the franchisee to the Federal Government. The franchisees would be responsible for the maintenance of the infrastructure presently owned by Amtrak and needed for their service. The coordinating authority would be the recipient of any Federal financial assistance and, in turn, allocate these funds to franchise holders.

There are two obvious versions to this scenario. The first would be awarding a single national franchise for providing intercity rail passenger service. Under this version, it is assumed that the franchisee would initially operate Amtrak's existing system.

The second version would be for the national coordinating authority to divide intercity rail passenger service into discrete units each representing a different route or grouping of routes. The national coordinating authority would then offer the franchise to provide intercity service in each discrete unit. Those that are potentially profitable would be awarded on the basis of payments to the authority. Those that are not profitable would be awarded on the basis of the least subsidy required, with subsidies provided by Federal and State assistance and payments from profitable franchisees.

Under both versions, the level of available Federal financial support is assumed to be equivalent to the base case less that amount necessary to cover the costs of the authority. The franchisees would not inherit Amtrak's contracts with its employees and would be responsible for negotiating new contracts with appropriate unions.

This scenario addresses the essential elements of the two privatization strategies mentioned in the report of the Senate Committee on the Department of Transportation and Related Agencies Appropriations Act for FY 1997; the so-called British passenger rail privatization methodology and the Discovery Institute Inquiry on Passenger Rail Privatization of October 1995.

Scenario Evaluation

A. Ability to provide for a coordinated national system of intercity rail passenger service. (0/-)

This scenario is viewed as inferior to the base case for this criterion. The single franchise version would be initially equivalent to the base case with the operator able to implement sufficient efficiencies to fund the operation of a national system and provide an economic incentive. However, the prospects for preserving a coordinated national system are not good under the version of this scenario that would have the national coordinating authority award franchises for discrete units of intercity rail passenger service. This approach invites "cherry picking" leading to uneven service levels across the country. Another shortcoming would be the lack of service interaction among the various franchises as has been experienced overseas. Examples include inconsistent reservation services, uncoordinated service times, and unnecessary gaps in service.

The evaluation of this criterion is consistent with experience overseas where long distance trains without continuing commitments to provide operating support have been largely terminated. Experience in the United Kingdom has also demonstrated the difficulty in delivering customer driven service involving more than one franchisee.

B. Ability to insure that the Federal investments in Amtrak will continue to be used in the public interest. (0)

This scenario is viewed as essentially equivalent to the base case since the national coordinating authority could be given the mandate of ensuring these investments continue to be used in the public interest. The Conference Report mentioned two concepts for the national coordinating authority, one public and the other private. In the context of this evaluation factor, the public authority would probably be best at safeguarding the public's interests since it would have a broader mandate than maximizing shareholder return. With this exception, there are no apparent advantages to either version of the authority.

C. Effect on Amtrak's employees. (-)

Under this scenario, the franchisees would not assume Amtrak's contracts and would likely seek to have different work rules and staffing levels than Amtrak. In addition, Amtrak has a number of functions based upon its status as a national carrier, such as centralized accounting and reservation services, that might not factor into the variant of this scenario in which franchises are awarded for discrete units of intercity rail passenger service. It is assumed that the operating efficiencies sought by the franchisees would, to a large degree, result in staffing reductions. This is also consistent with past privatization practice, both in this country and overseas. It is expected that Amtrak's employee unions would negotiate a benefit package for its members in exchange for supporting such changes.

D. Time to implement. (-)

Given the advanced state of the 105th Congress, it is assumed that the earliest necessary enabling legislation could be enacted would be late calendar 1999 with implementation during FY 2001.

E. Cost to the Federal Government. (-)

Amtrak has been managed as a for-profit corporation and, some aspects of its operations are relatively efficient. As an example, many Amtrak trains presently operate with one person in the cab of the locomotives, a situation at least as efficient as the private sector railroads and Amtrak and its employees will be working cooperatively to further improve Amtrak's cost effectiveness. However, competitive award of franchises would likely generate additional cost reductions.

The franchisees would most likely seek these cost reductions in centralized administrative costs and system-wide functions such as reservations. The franchisees would also expect that intercity rail passenger service could achieve operating and maintenance efficiencies that would lead to lower costs; although the extent that these efficiencies would exceed those that Amtrak and its employees are collectively working to achieve is unclear. The other major potential for operational savings would come from the possibility that franchisees will not seek to provide a national system of service with the elimination of routes and services. Cumulatively, these actions would likely lead to lower net costs. A portion of any of these cost reductions would be retained by the franchisee as an economic incentive with the remaining portion translating into lower subsidy requirements.

However, the potential cost to the Federal Government must also reflect costs associated with implementing the scenario. The Comptroller General has concluded that the Federal Government is not legally liable for labor protection payments and the Federal Government has not guaranteed any of Amtrak’s existing debt. However, rail privatization efforts in this country and overseas, have required the support from employees and debt holders as part of the political consensus necessary to pursue privatization. It is possible the Federal Government would have to assume some (if not all) responsibility for severance payments. Furthermore, since all of Amtrak's modern equipment has been offered as security for equipment financing, the Federal Government's ability to "reposition" this equipment for use by other providers of intercity rail passenger service must address the interests of the creditors. This very well could mean assuming Amtrak's obligations, extending debt guarantees or other assurances to ensure that the equipment is available. It is believed that these additional obligations that would be incurred by the Federal Government would offset, to some degree, the lower subsidy requirements over the first several years of privatization.

F. Complexity to implement. (-)

Implementation of a franchising scenario will be an extremely complex undertaking, as demonstrated by experience overseas, with States, localities and passengers having to address the uncertainties of whether the intercity rail passenger service option would be available. Franchise procurement processes would have to be established as would rules for termination and establishing franchises.

3.4 Evaluation of Scenario 2

Privatization of Amtrak with a significant, sustainable and stable source of funds.

Scenario Implementation

Under this scenario, a "significant, sustainable and stable" source of Federal capital assistance would be created for the benefit of Amtrak. The recent legislative debate has discussed such a concept in the context of a trust fund with revenues derived from between 0.5 and 1.0 cents per gallon of the Federal tax on motor fuels, with the contract authority and liquidating appropriations necessary to permit Amtrak to annually expend the income of the trust fund. Once such funding support was established, then a new series of Amtrak common stock could be sold at a public offering and the new common stock holders would take control of Amtrak's Board of Directors. The private Amtrak is assumed to retain the current Amtrak's freedom from Federal and State economic regulation, including entry and exit. The overall objective of the corporation, as it is with all private corporations, would be to maximize the return to investors.

It is assumed that the Federal investment in intercity rail passenger service would be limited to capital with its use limited by the definitions normally applied to private sector companies. Given the public interest in this continuing Federal investment, it is assumed that there would be restrictions on the use of this capital and that investments would be limited to those that support intercity rail passenger service and that there would be some continuing Federal interest in these investments during their useful lives. There would be no Federal operating assistance provided to the private Amtrak.

Scenario Evaluation

A. Ability to provide for a coordinated national system of intercity rail passenger service. (-)

In approaching a system with no Federal operating subsidies, it is clear that there would be little incentive on the part of the private Amtrak to continue to operate service on routes with actual and projected net negative revenues (including State operating subsidies). Instead, there would be an incentive to maximize investment on those routes with relatively good financial performance to further enhance service and drive down operating and maintenance costs. These incentives would play out quickly in the form of the termination of most long distance routes, as business decisions are made on an economic basis.

B. Ability to insure that the Federal investments in Amtrak will continue to be used in the public interest. (-)

This scenario is also viewed as inferior because the privatized corporation would seek to maximize return on investment which might result in the disposal of assets or altering their use in a manner not necessarily in line with the public interest.

C. Effect on Amtrak's employees. (-)

Under this scenario, the privatized corporation could assume Amtrak's existing contracts with its employees. As with Scenario 1, it is believed that, in the search for operating efficiencies and route reductions, there would be significant downsizing. The impact of any reductions in force would be offset, to some extent, by the protections in these contracts. It is expected that Amtrak's employee unions would negotiate a benefit package for its members in exchange for supporting such changes.

D. Time to implement. (+)

Given the advanced state of the 105th Congress, it is assumed that the earliest necessary enabling legislation could be enacted would be late calendar 1999. However, implementation might be possible in FY 2000 since the grants would continue to be made to Amtrak.

E. Cost to the Federal Government. (-)

The large majority of Amtrak's funding requirements are capital investments involving recapitalization of its major assets, such as the Northeast Corridor, and it is unlikely that the private corporation would choose to undertake fewer projects over the next few years. It is assumed that the "significant, sustainable and stable" source of capital referred to in the Conference Report would not be significantly larger than the out year projections assumed for the base case.

As with the franchise scenario, under this scenario, both employees and creditors would have legitimate concerns over their long-term treatment, in the long term, under the changed circumstances resulting from privatization. As stated earlier, the Comptroller General has concluded that the Federal Government is not legally liable for labor protection and the Federal Government has not guaranteed any of Amtrak's existing debt. However, the support of both labor and creditors would likely be necessary to achieve the political consensus necessary to implement this scenario, which could translate into additional costs to the Federal Government. These additional Federal costs would be on top of the capital investment provided the newly privatized corporation and, thus affect the total cost to the Federal Government over the next several years.

F. Complexity to implement. (0)

Once the issue of Amtrak's outstanding common stock is resolved, and the trust fund established, this scenario is relatively easy to implement.

3.5 Evaluation of Scenario 3

Federal withdrawal from all intercity passenger funding responsibility.

Scenario Implementation

Under this scenario, Amtrak would receive no direct Federal financial assistance in FY 1999 and thereafter. While Amtrak would probably have sufficient resources to operate through FY 1999, Amtrak's current forecasts project that corporate expenses will exceed revenues by more than $300 million in FY 2000, excluding non-cash expenses and Federal financial assistance. Furthermore, the resulting inability to make necessary ongoing capital investments would prevent Amtrak from making additional progress toward operating self sufficiency and end prospects for eliminating budgetary shortfalls. In such circumstances, it is most likely that Amtrak would file for bankruptcy in FY 2000 and that this scenario represents the workings of the bankruptcy process.

Railroad bankruptcies require the appointment of a trustee from a list of five nominees submitted by the Department of Transportation. The trustee would supplant Amtrak's management and Board of Directors and, under the guidance of the bankruptcy court, would operate Amtrak during bankruptcy. The trustee and the bankruptcy court are required to consider the public interest as well as the interest of Amtrak, creditors, and holders of Amtrak securities in making the many decisions that would impact on Amtrak's operations and future.

Public interest considerations are likely to lead the trustee to try to preserve as much intercity rail passenger service as possible. Nevertheless, without future government subsidies, if Amtrak could not be reorganized on an income basis, its assets would be liquidated for continued rail use or dismantled.

Section 413 of the ARAA directed the General Accounting Office to prepare a report on the effects of an Amtrak bankruptcy. This report[11] was provided to Congress on March 2, 1998, and is a good source document for the many issues that would be faced in implementing this scenario.

Scenario Evaluation

A. Ability to provide for a coordinated national system of intercity rail passenger service. (-)

If Amtrak were to enter bankruptcy with sufficient funds or under circumstances that permit financing to be obtained by the trustee, it is likely the trustee would initially try to preserve as much intercity service as possible to determine whether the Corporation could be reorganized and to afford other interested parties, most notably the States, an opportunity to assume responsibility for those portions of Amtrak's service important to them. This would likely encompass the Northeast Corridor and its feeder routes, and corridor services in the Midwest and on the West Coast. However, as the bankruptcy process continued, the number of surviving routes and services would be reduced further to those that could be profitable on an income basis or with State and local subsidies. If Amtrak entered bankruptcy without adequate working capital, the trustee would be forced to cease operations, especially outside the Northeast Corridor, and it is unlikely that many States could respond quickly enough to maintain terminated services. Regardless of whether Amtrak entered bankruptcy with or without cash, given the current performance of Amtrak routes, it would be expected that substantial portions of Amtrak's system would be quickly eliminated and that there would be no coordinated national system of intercity rail passenger service.

B. Ability to insure that the Federal investments in Amtrak will continue to be used in the public interest. (-)

The trustee and bankruptcy court are required to consider the public interest; however, this is not their only consideration. They must also consider the interests of Amtrak, its creditors and holders of its securities in making decisions impacting Amtrak's future. If Amtrak cannot be successfully reorganized, its assets will be liquidated -- sold for their "highest and best use" -- which may not be consistent with the public interest.

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[11] Intercity Passenger Rail - Issues Associated With a Possible Amtrak Liquidation, GAO/RCED-98-60, General Accounting Office, March 1998.

C. Effect on Amtrak's employees. (-)

The bankruptcy proceeding could result in major service discontinuances and layoffs. An Amtrak trustee would probably not pay labor protection claims, or for the health care of Amtrak retirees, during a reorganization. If Amtrak were successfully reorganized, labor protection and health care for retirees would then be paid to the extent the assets in the estate permit such funding. If Amtrak were liquidated, labor protection claims would have a priority status among unsecured claims, but only to the extent they were earned within 90 days before filing for bankruptcy.

D. Time to implement. (-)

While the bankruptcy proceeding would likely begin in FY 2000, bankruptcy proceedings involving railroads are notoriously long lived, usually taking between seven and 10 years to resolve. As examples, the bankruptcy of the Delaware and Hudson Railway, which was filed in June 1988 and was concluded in February 1998. The bankruptcy of the Chicago, Missouri and Western Railway, which was filed in April 1, 1988, concluded on December 31, 1997.

E. Cost to the Federal Government. (+)

In the context of direct Federal appropriations it would score as (+) because no further appropriations are required. However, there would likely be indirect Federal costs including the potential loss of assets in which the Federal Government has an interest. In addition, an Amtrak liquidation would result in pressure to increase infrastructure investments (highway, rail commuter and airport) to accommodate travelers now using Amtrak. In particular, the commuter agencies providing service on the Northeast Corridor would likely be responsible for larger investments in the rail infrastructure and higher operating costs. Displaced Amtrak employees would place greater demands on the Federally-managed railroad retirement and railroad unemployment systems. The recent report by the General Accounting Office on the issues associated with an Amtrak liquidation concluded that the costs to the Federal Government of such an event are uncertain and difficult to predict.

F. Complexity to implement. (-)

The bankruptcy process is highly complex and outside the control of transportation policy makers.

3.6 Summary Of The Scenario Evaluations.

Table 3.1 summarizes the scores of the evaluation above. The evaluation showed that each of the scenarios suggested in the Conference Report was inferior to the base case of funding and implementing Amtrak's strategic plan.

Table 3.1
Summary Ratings of Privatization Scenarios

	Scenario 1	Scenario 2	Scenario 3
Provide for National System	0/-	-	-
Public Interest	0	-	-
Adversely Affect Employees	-	-	-
Time to Implement	-	+	-
Cost	-	-	+
Complexity to Implement	-	0	-

3.7 Uncertainties Affecting The Evaluation

The evaluation undertaken in this chapter reflects an estimate of the relative strength of each scenario in addressing the specific evaluation criteria. The evaluation is based upon FRA's best judgement. It must be recognized, however, that there are a great number of issues and uncertainties facing Amtrak that must be resolved in the near future. Any discussion of the desirability of implementing any of privatization scenarios should recognize these and their potential to affect the long-term future of a private Amtrak. Some of the most notable are:

Federal funding

The Conference Report uses a term "significant, stable and sustainable source of funding" in the context of one of the scenarios. This implies enactment of a trust fund or some similar funding mechanism dedicated to intercity rail passenger service and, in the context of the Conference Report, dedicated to a private sector Amtrak. The establishment of such a dedicated source of funding is not consistent with the President's program. The Administration believes that, rather than statutorily earmarking funds for a specific transportation purpose, the States should have greater flexibility in determining how Federal transportation trust funds can best meet their specific transportation needs. Consistent with this approach, the Administration's legislative proposal, the National Economic Crossroads Transportation Efficiency Act S. 468 and H.R. 1268, proposes funding Amtrak from the Federal Highway Trust Fund and broadening the eligibility of most surface transportation programs to include intercity rail passenger service. This would provide the States with greater flexibility to provide financial support to the intercity rail passenger services important to them. The fate of these initiatives will not be known until mid-to-late 1998.

Access to tracks and facilities of the freight railroads.

Outside the Northeast Corridor, Amtrak's most valuable "asset" is the statutory right of access to the tracks and facilities of the private sector railroads at incremental cost. The major railroads have taken the position that this right is not transferrable or assignable.[12] If this position is supportable, it raises significant questions as to the whether intercity rail passenger service can be provided at a reasonable cost outside the Northeast Corridor by an entity other than Amtrak.

Applicability of Federal railroad laws.

Amtrak is a rail carrier under 49 U.S.C. section 10102, formerly referred to as the Interstate Commerce Act. While Amtrak is exempt from most of the economic regulations that govern the freight rail industry, it is subject to the panoply of laws that govern other aspects of the rail industry. There are costs and other considerations associated with compliance with these acts and it has been opined by some that the cost of providing intercity rail passenger service could be lowered by limiting or eliminating the applicability of these acts. (See as an example, the Discovery Institute Inquiry referenced in Appendix E.) FRA believes that a public purpose is served by each of these acts and that any Amtrak privatization scenario should assume that future intercity rail passenger service providers will be subject to them in the future in the same manner that Amtrak is subject to them today.

Amtrak's debt.

Amtrak currently has a debt liability of approximately $2 billion, of which approximately $1.1 billion is secured by Amtrak's equipment. Since all of Amtrak's modern equipment has been offered as security for equipment financing, the Federal Government's ability to "reposition" this equipment for use by other providers of intercity rail passenger

[12] Testimony of Karen Borlaug Phillips, Senior Vice President – Policy, Legislation and Communications, Association of American Railroads, before the Subcommittee on Surface Transportation, Committee on Commerce, Science and Transportation, United States Senate, March 13, 1997.

service (as assumed under Scenario 1) must address the interests of the creditors. This very well could mean assuming Amtrak's obligations, extending debt guarantees or other assurances to ensure that the equipment is available. An unwillingness to address such interests may adversely affect the ability of any government-sponsored entity to obtain financing from the private markets.

If Amtrak were liquidated (as assumed in Scenario 3) the United States would not be legally liable for secured or unsecured creditors' claims since the Federal Government has not guaranteed any of this debt. (Although this position, no doubt, would be litigated, FRA believes that the Federal Government’s position rests on a solid foundation.) In theory, therefore, any losses experienced by Amtrak's secured and unsecured creditors would be borne in full by themselves or their insurers. However, it is unclear whether this theoretical outcome would reflect the political environment at the time these assets would be liquidated.

Amtrak's labor agreements.

As with so many other factors potentially affecting the future of intercity rail passenger service, Amtrak's relationship with its agreement employees is and will be in a state of transition over the next few years. Amtrak's employees are represented by a total of 13 unions and covered by a total of 25 agreements. Amtrak has only one current agreement, that with the Brotherhood of Maintenance of Way Employees (BMWE) which covers approximately 2,300 of Amtrak's 21,300 agreement employees through January 2000. The remaining contracts are in the process of being renegotiated.

One of the provisions of the BMWE agreement that has the greatest potential for improving operating efficiencies is the creation of a joint management -- union committee to review current work practices. This committee will identify measures to improve the cost and quality of maintenance activities with the savings resulting from improved efficiencies being shared by the Corporation and its employees. When applied across Amtrak's entire work force, such efforts have positive implications for the ability of intercity rail passenger service to be economically viable without public financial assistance and therefore, improve the base case in relation to the privatization scenarios.

Moreover, the ARAA requires that Amtrak and its employees enter into negotiations over two issues previously covered by statute, labor protection and contracting out. The outcome of these negotiations may also have long-term implications for the economics of intercity rail passenger service.

The success of Amtrak's new initiatives.

Amtrak has two major initiatives in progress that have the potential to dramatically alter the economics of intercity rail passenger service. The first is the introduction of high-speed rail service between Boston and Washington, D.C., which is scheduled to begin in late calendar 1999 and to be fully in place by mid 2000. Estimates prepared for Amtrak indicate that a mature high-speed service has the potential to generate an additional net annual revenue of between $150 million and $200 million. A substantial amount of work remains over the next two to three years, however, to make this service a reality and to verify the accuracy of these revenue projections.

The second major initiative is an expansion by Amtrak of the transportation of mail and express shipments on passenger trains. Such shipments have been both authorized and encouraged by Congress (49 U.S.C. 24306). In 1997, Amtrak determined that an expansion of mail and express shipments offered the most feasible opportunity to improve the economics of its long distance trains with the potential to increase net revenues by $44 million by FY 2001. Amtrak has leased equipment necessary to undertake this service expansion, has had extensive discussions with potential customers and railroads, and moved test shipments. However, Amtrak's ability to undertake this initiative has been challenged by the Union Pacific Railroad, which has been supported by most of the larger freight railroads. The issue is now before the STB (Finance Docket 33469). All filings have been made and a decision is expected in the near future.

Amtrak's existing common stock.

One of the added complexities in considering the privatization of Amtrak is that the National Railroad Passenger Corporation "is not a department, agency or instrumentality of the United States Government" (49 U.S.C. 24301). While the Department of Transportation holds all of Amtrak's preferred stock, its common stock is held by four private corporations. Section 415 of the ARAA requires that Amtrak redeem this stock by October 1, 2002 for its fair market value. This redemption would clarify the Federal Government's ownership of Amtrak and its ability to act on any privatization scenario. FRA and Amtrak believe that the current common stock is without value. However, if this position is not shared by the holders of the common stock, the resolution of this issue could cloud the implementation of any privatization plan.

Chapter IV
Conclusion

The Department of Transportation believes that intercity rail passenger service can and should be a significant part of this Nation's intermodal transportation system. In the corridor between Washington and New York, Amtrak has proven it can provide a cost effective service that successfully competes in the intercity common carrier transportation market place. In other corridors, such as those on the West Coast, Amtrak is viewed by the States as an attractive transportation alternative that can help meet intercity mobility needs while meeting increasingly stringent environmental standards. And, in many small towns and rural areas, Amtrak provides the only means of common carrier transportation connection to major urban centers.

Privatization of rail assets, a term that encompasses a wide range of policy options, has been tried both in this country and overseas. Experience has shown that rail freight service can be profitable in a wide range of economic systems, with privatization successfully providing improved service while reducing or eliminating a continuing requirement for public investment. The success of privatizing intercity rail passenger service is less clear. Preservation of passenger service has, at least initially, required a continuing public financial investment and no final conclusions can yet be drawn as to whether these privatization efforts will be completely successful.

In undertaking this study, FRA compared the alternative scenarios of privatization suggested for study in the Conference Report with a base line scenario of implementing Amtrak's current strategic plan. The alternative scenarios were viewed as defining a wide range of possible approaches that could be applied to privatizing Amtrak.

The study showed that none of the scenarios suggested in the Conference Report offer persuasive, or significant net advantages in today's environment to the base case of funding and implementing Amtrak's strategic plan. In fact, all would place the preservation of a national system of intercity rail passenger service at risk and could jeopardize the public's interest in the Federal investment in intercity rail passenger service made over the last 27 years. The only scenario that offers the possibility of any significant cost savings over the next five years is the scenario that would put Amtrak into bankruptcy. However, the ultimate fate of intercity rail passenger service and the cost to the Federal Government and others of implementing that scenario are clouded by the uncertain workings of the railroad bankruptcy process.

The conclusion that flows from this study is not that FRA believes that the ultimate privatization of Amtrak is an inappropriate policy objective. Rather, FRA believes that any policy debate on the future of intercity rail passenger service must recognize the wide range of policy concerns, the many public and private interests, and the complexities that would affect any such transfer.

The current Federal policy towards intercity rail passenger service recognizes many of these concerns, interests, and complexities. Moreover, it parallels the early stages of some of the more sophisticated foreign approaches to turning responsibility for providing passenger service to the private sector in many respects. Both the British and Japanese privatization experience involved a transition period during which the economic viability of the candidate private sector company was established. This is what is being done at Amtrak today. The Corporation is undertaking the investments necessary to improve the quality and cost-effectiveness of its service and eliminate its dependence on Federal operating subsidies. FRA believes that this is the optimal course of action.

Appendix A

AMTRAK FEDERAL FUNDING - IN MILLIONS OF CURRENT DOLLARS

FISCAL YEAR	OPERATING	CAPITAL	LABOR PROTECTION	403(B)	NORTHEAST CORRIDOR PURCHASE	JOBS BILL	OTHER	AMTRAK GRANT TOTAL	NORTHEAST CORRIDOR IMPROVEMENT PROJECT	TOTAL, ALL GRANTS	LOAN GUARANTEES	TOTAL, ALL FUNDS
1971	$40.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$40.0	$0.0	$40.0	$100.0	$140.0
1972	$170.0	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$170.0	$0.0	$170.0	$50.0	$220.0
1973	$9.1 (1)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$9.1	$0.0	$9.1	$50.0	$59.1
1974	$137.5 (1)	$0.5	$0.0	$2.0	$0.0	$0.0	$0.0	$140.0	$0.0	$140.0	$300.0	$440.0
1975	$276.5	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$276.5	$0.0	$276.5	$400.0	$676.5
1976	$465.0 (2)	$136.2 (3)	$0.0	$0.0	$0.0	$0.0	$7.9 (4)	$609.1	$50.0	$659.1	$0.0	$659.1
1977	$482.6 (5)	$93.1	$0.0	$0.0	$25.0	$0.0	$0.0	$600.7	$200.0	$800.7	$0.0	$800.7
1978	$536.0	$130.0	$0.0	$0.0	$25.0	$0.0	$25.0 (6)	$716.0	$400.0	$1,116.0	($25.0)	$1,091.0
1979	$600.0	$130.0	$0.0	$0.0	$24.0	$0.0	$25.0 (6)	$779.0	$490.0 (7)	$1,269.0	($25.0)	$1,244.0
1980	$630.4	$211.0 (8)	$0.0	$20.0	$12.0	$0.0	$0.0	$873.4	$381.0 (7A)	$1,254.4	$0.0	$1,254.4
1981	$650.0	$202.0	$11.0	$18.0	$0.0	$0.0	$15.3 (9)	$896.3	$350.0	$1,246.3	$30.0	$1,276.3
1982	$569.0	$166.0	$0.0	$0.0	$0.0	$0.0	$0.0	$735.0	$170.0	$905.0	$0.0	$905.0
1983	$670.0	$30.0	$0.0	$0.0	$0.0	$80.0	$0.0	$780.0	$115.0	$895.0	$0.0	$895.0
1984	$716.4 (10)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$716.4	$100.0	$816.4	$0.0	$816.4
1985	$684.0 (10)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$684.0	$27.6	$711.6	$0.0	$711.6
1986	$590.7 (10)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$590.7	$12.0	$602.7	$0.0	$602.7
1987	$602.0 (12)	$0.0	$0.0	$0.0	$0.0	$0.0	$5.0 (13)	$607.0	$17.0	$624.0	$0.0	$624.0
1988	$580.8 (14)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$580.8	$27.6 (15)	$608.4	$0.0	$608.4
1989	$584.0 (16)	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$584.0	$19.6	$603.6	$0.0	$603.6
1990	$521.1 (17)	$83.6	$0.0	$0.0	$0.0	$0.0	$0.0	$604.7	$24.4 (18)	$629.1	$0.0	$629.1
1991	$343.1 (19)	$143.0 (20)	$0.0	$0.0	$0.0	$0.0	$150.0 (21)	$636.1	$179.0 (22)	$815.1	$0.0	$815.1
1992	$331.0 (23)	$175.0 (24)	$0.0	$0.0	$0.0	$0.0	$145.0 (21)	$651.0	$205.0	$856.0	$0.0	$856.0
1993	$351.0 (25)	$190.0 (25)	$0.0	$0.0	$0.0	$0.0	$146.0 (21)	$687.0	$204.1	$891.1	$0.0	$891.1
1994	$351.7 (26)	$195.0 (27)	$0.0	$0.0	$0.0	$0.0	$137.0 (21)	$683.7	$225.0	$908.7	$0.0	$908.7
1995	$542.0 (28)	$230.0 (29)	$0.0	$0.0	$0.0	$0.0	$0.0	$772.0	$200.0	$972.0	$0.0	$972.0
1996	$305.0 (30)	$230.0 (31)	$0.0	$0.0	$0.0	$0.0	$100.0 (32)	$635.0	$115.0	$750.0	$0.0	$750.0
1997	$364.5 (33)	$223.45 (34)	$0.0	$0.0	$0.0	$0.0	$80.0 (35)	$667.95	$175.0 (36)	$842.95	$0.0	$842.95
1998	$344.0	$199.0 (37)	$0.0	$0.0	$0.0	$0.0	$1,092.0 (38)	$1,436.00	$250.0 (39)	$1,686.00	$0.0	$1,686.00
	$12,447.4	$2,568.9	$11.0	$40.0	$86.0 (11)	$80.0	$1,928.2	$17,161.5	$3,937.3	$21,098.8	$880.0	$21,978.8

(1) $9.1 MILLION WAS AUTHORIZED BUT NEVER APPROPRIATED. AUTHORITY RESCINDED IN FY 1974.
(2) INCLUDES $350 MILLION FOR 1976, $105 MILLION FOR THE TRANSITION QUARTER OF 1976, AND $10 MILLION FOR NECIP OPERATIONS.
(3) INCLUDES $109.7 MILLION APPROPRIATION PLUS $1.5 MILLION FOR A RAIL PASSENGER TERMINAL AND FACILITIES AT BWI FOR 1976, PLUS $25 MILLION FOR THE TRANSITION QUARTER 1976.
(4) SECTION 213 OF THE 3R ACT OF 1973 PROVIDED FUINDING OF $7,925,484.85 FOR EMERGENCY NEC MAINTENANCE PURSUANT TO SECTION 704(d) OF THE 4R ACT OF 1976.
(5) INCLUDES $62.6 MILLION NEC OPERATING GRANT.
(6) GRANT TO RETIRE LOAN GUARANTEE.
(7) INCLUDES $35 MILLION FOR GRADE CROSSINGS.
(7A) INCLUDES $31 MILLION FOR GRADE CROSSINGS.
(8) CAPITAL INCLUDED $20 MILLION FOR LABOR PROTECTION, OF WHICH $10 MILLION WAS REPROGRAMMED FOR FY81 OPERATIONS.
(9) $15.3 MILLION TRANSFERRED FROM SECTION 505 OF THE 4R ACT OF 1976.
(10) BLOCK GRANT.
(11) AMTRAK PURCHASED THE NORTHEAST CORRIDOR FOR $86 MILLION.
(12) FY 1987 FUNDING INCLUDES $7,209,352 FROM CONRAIL SECTION 702 LABOR PROTECTION.
(13) SUPPLEMENTAL TRANSFERRED $5 MILLION FROM REDEEMABLE PREFERENCE SHARES FOR MONTREALER SERVICE.
(14) BLOCK GRANT.
(15) INCLUDES $950,000 TRANSFERRED FROM FHWA FOR SEPTA BRIDGES.
(16) $4 MILLION TRANSFERRED FROM AMTRAK UNOBLIGATED BALANCE FOR WASHINGTON UNION STATION PURCHASE.
(17) AMTRAK'S APPROPRIATION (PL 101-164, 11/21/89) TOTALED $530 MILLION FOR OPERATING/LABOR PROTECTION AND $85 MILLION FOR CAPITAL. UNDER THE BUDGET RECONCILIATION ACT (PL 101-239, 12/17/89) AND DRUG FUND OFFSET, AMTRAK'S FUNDING WAS REDUCED BY $7,889,000 FOR OPERATING/LABOR PROTECTION TO $521,111,000 AND $1,426,000 FOR CAPITAL TO $83,574,000.
(18) AMTRAK NECIP APPROPRIATION TOTALED $24.8 MILLION WITH BUDGET RECONCILIATION ACT AND DRUG FUND OFFSET FUNDING REDUCED BY $358,000 TO $24,442,000.
(19) AMTRAK'S APPROPRIATION (P.L. 101-516, 11/05/90) TOTALED $343.08 MILLION FOR OPERATING/LABOR PROTECTION, $132 MILLION FOR CAPITAL AND $150 MILLION FOR MANDATORY PAYMENTS OF WHICH $133 MILLION WAS FOR RRTA, $7 MILLION FOR RUIA AND $10 MILLION FOR RURT. UNDER THE FY 1991 SEQUESTRATION (5/9/91 MEMO FOR ROA-40), AMTRAK'S FUNDING WAS REDUCED BY $4,447 FOR OPERATING/LABOR PROTECTION TO $343,075,553, $1,872 FOR CAPITAL TO $131,998,128, $1,729 FOR RRTA TO $132,998,271 AND $221 FOR RURT TO $9,999,779.
(20) $11 MILLION TRANSFERRED FROM NEW YORK STATE UNDER THE INTERSTATE TRANSFER GRANTS-TRANSIT ACCOUNT AND MADE AVAILABLE TO AMTRAK FOR THE WESTSIDE CONNECTOR RAIL LINE PROJECT IN NEW YORK CITY.
(21) FRA MADE MANDATORY RAILROAD PASSENGER PAYMENTS.
(22) AMTRAK NECIP APPROPRIATION TOTALED $179 MILLION. WITH FY 1991 SEQUESTRATION, FUNDING REDUCED BY $2,327 TO $178,997,673.
(23) INCLUDES $500,000 FOR ILLINOIS DOT HIGH SPEED RAIL STUDY FROM CHICAGO TO ST. LOUIS.
(24) INCLUDES $7 MILLION FOR 30TH STREET STATION DEMONSTRATION PROJECT AND $500,000 FOR NOISE PROBLEMS BETWEEN READVILLE AND FOREST HILLS, MA.
(25) INCLUDES SUPPLEMENTAL OF $20 MILLION FOR OPERATIONS AND $25 MILLION FOR CAPITAL, OF WHICH $21 MILLION FOR CAPITALIZED OVERHAULS AND $4 MILLION FOR PRELIMINARY DESIGN AND ENGINEERING OF RAIL LINK BETWEEN NORTH AND SOUTH STATIONS IN BOSTON, MA.; CAPITAL INCLUDES $5.5 MILLION FOR METROPARK, NJ PARKING GARAGE, $500,000 FOR NOISE MITIGATION AT AMTRAK'S SOUTH HAMPTON YARD IN BOSTON, MA. AND CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/93.
(26) INCLUDES $700,000 TO COVER 35% OF ESTIMATED OPERATING LOSSES FOR SECOND 403(B) TRAIN BETWEEN RALEIGH AND CHARLOTTE, NC.
(27) CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/94.
(28) INCLUDES $383 MILLION FOR OPERATIONS, $1 MILLION FOR LABOR PROTECTION, $8 MILLION FOR SHORT-TERM AVOIDABLE LOSSES UNDER SECTION 403 (b) SERVICES, AND $150 MILLION FOR MANDATORY RAILROAD PASSENGER PAYMENTS.
(29) CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/95.
(30) INCLUDES $185 MILLION FOR OPERATIONS AND $120 MILLION FOR MANDATORY RAILROAD PASSENGER PAYMENTS.
(31) PROVIDES UP TO $20 MILLION FOR EMERGENCY LIFE SAFETY REPAIRS AT PENN STATION, AS ALLOWED DURING FY 1995, AS WELL AS FOR RECONSTRUCTION OF THE STATION'S SERVICE BUILDING AND AMTRAK CAN TRANSFER NOT MORE THAN $15 MILLION FROM THE CAPITAL GRANT TO NECIP. CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/96.
(32) TRANSITION GRANT.
(33) INCLUDES $200 MILLION FOR OPERATIONS FROM FY 1997 DOT APPROPRIATIONS ACT AND $22.5 MILLION FOR OPERATIONS FROM THE FY 1997 OMNIBUS APPROPRIATIONS ACT TO CONTINUE SERVICE FOR 6 MONTHS ON FOUR ROUTES THAT WERE TO BE DISCONTINUED AND $142 MILLION FOR MANDATORY PAYMENTS.
(34) CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/97.
(35) HIGH-SPEED RAIL TRAINSETS AND MAINTENANCE FACILITIES.
(36) INCLUDES $115 MILLION FOR NECIP FROM FY 1997 DOT APPROPRIATIONS ACT AND $60 MILLION FROM FY 1997 OMNIBUS APPROPRIATIONS ACT.
(37) CAPITAL FUNDS DO NOT BECOME AVAILABLE UNTIL 7/1/98. THE FY 1998 DOT APPROPRIATIONS ACT 1998 PROVIDES THAT CAPITAL FUNDS WILL NOT BE DISTRIBUTED TO AMTRAK IF AMTRAK RECEIVES FUNDS UNDER THE TAXPAYER RELIEF ACT OF 1997. THESE FUNDS, THEREFORE, ARE OMITTED FROM THE TOTAL.
(38) SECTION 977 OF THE TAXPAYER RELIEF ACT OF 1997 PROVIDES AMTRAK WITH $1.092 BILLION IN FY 1998 FOR "QUALIFIED EXPENSES" (SECTION 977 (e)). IT IS ANTICIPATED THAT THESE FUNDS WILL BE PROVIDED ON OR BEORE APRIL 1, 1998.
(39) INCLUDES $250 MILLION FOR NECIP OF WHICH $12 MILLION SHALL BE FOR THE PENNSLYVANIA STATION REDEVELOPMENT PROJECT.

Appendix B

National Railroad Passenger Corporation and Subsidiaries (Amtrak) Consolidated Balance Sheets

Assets	September 30, 1997	September 30, 1996
	(Thousands of dollars)	
Current Assets:		
Cash and cash equivalents	$ 36,376	$ 21,168
Accounts receivable, net of allowance for doubtful accounts of $629 and $6,366 in 1997 and 1996, respectively	81,647	81,889
Materials and supplies	91,201	104,799
Other current assets	12,010	4,330
Total current assets	221,234	212,186
Property and Equipment:		
Property and equipment	8,275,366	7,395,482
Less—Accumulated depreciation and amortization	(2,841,163)	(2,605,599)
	5,434,203	4,789,883
Other Assets and Deferred Charges	81,869	73,593
Total assets	$ 5,737,306	$ 5,075,662

Liabilities and Capitalization

	September 30, 1997	September 30, 1996
	(Thousands of dollars)	
Current Liabilities:		
Accounts payable	$ 191,627	$ 162,570
Accrued expenses and other current liabilities	161,571	151,051
Deferred ticket revenue	47,740	36,106
Current debt and capital lease obligations	120,188	57,854
Total current liabilities	521,126	407,581
Long-Term Debt and Capital Lease Obligations:		
Capital lease obligations	791,193	552,230
Equipment and other debt	425,044	376,911
	1,216,237	929,141
Other Liabilities and Deferred Credits:		
Casualty reserves	138,453	155,795
Postretirement employee benefits obligation	115,549	111,294
Advances from railroads and commuter agencies	15,258	15,884
Environmental reserve	49,383	39,454
Other	1,455	6,106
	320,098	328,533
Total liabilities	2,057,461	1,665,255
Commitments and Contingencies		
Capitalization (see Consolidated Statements of Changes in Capitalization)	3,679,845	3,410,407
Total liabilities and capitalization	$5,737,306	$5,075,662

The accompanying notes are an integral part of these consolidated balance sheets.

National Railroad Passenger Corporation and Subsidiaries (Amtrak)
Consolidated Statements of Operations

For the Years Ended September 30,

	1997	1996
	(Thousands of dollars)	
Revenues:		
Passenger related	$1,034,004	$ 964,867
Other	306,992	248,086
Total revenues from Core business	1,340,996	1,212,953
Commuter	241,570	234,378
Reimbursable	91,138	107,505
Total revenues	1,673,704	1,554,836
Expenses:		
Salaries, wages, and benefits	1,298,477	1,236,257
Train operations	365,413	320,542
Facility and office related	187,112	181,333
Maintenance of way goods and services	45,803	59,369
Advertising and sales	97,888	108,590
Casualty and accident claims	69,621	65,818
Interest	75,844	60,223
Depreciation and amortization	241,764	237,972
Other	53,731	48,310
Total expenses	2,435,653	2,318,414
Net loss	$ 761,949	$ 763,578

The accompanying notes are an integral part of these consolidated statements.

National Railroad Passenger Corporation and Subsidiaries (Amtrak)
Consolidated Statements of Cash Flows

For the Years Ended September 30,

	1997	1996
	(Thousands of dollars)	
Cash Flows From Operating Activities:		
Net loss	$ (761,949)	$(763,578)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	241,764	237,972
Provision for losses on accounts receivable	3,172	4,309
Provision for inventory loss and obsolescence	14,157	-
Other	(2,127)	-
Changes in assets and liabilities:		
Decrease in accounts receivable	19,970	3,761
Increase in materials and supplies	(559)	(2,967)
(Increase) decrease in other current assets	(7,680)	4,235
Increase in other assets and deferred charges	(9,621)	(3,319)
Increase in accounts payable, deferred ticket revenue, and accrued expenses and other current liabilities	65,185	23,563
Decrease in other liabilities and deferred credits	(8,435)	(19,893)
Net cash used in operating activities	(446,123)	(515,917)
Cash Flows From Investing Activities:		
Purchases and refurbishments of property and equipment	(560,443)	(419,522)
Proceeds from disposals of property and equipment	2,886	3,082
Cash released from restricted proceeds of tax benefits sales	-	9,125
Cash investments	-	(54)
Proceeds from dispositions of cash investments	-	54
Net cash used in investing activities	(557,557)	(407,315)
Cash Flows From Financing Activities:		
Proceeds from issuance of preferred stock	602,100	619,100
Proceeds from federal paid-in capital	385,597	270,842
Proceeds from federal and state capital payments	20,790	23,563
Proceeds from debt and lease financings	181,483	41,553
Repayments of debt and capital lease obligations	(171,082)	(38,500)
Net cash provided by financing activities	1,018,888	916,558
Net increase (decrease) in cash and cash equivalents	15,208	(6,674)
Cash and cash equivalents—beginning of year	21,168	27,842
Cash and cash equivalents—end of year	$ 36,376	$ 21,168

The accompanying notes are an integral part of these consolidated statements.

National Railroad Passenger Corporation and Subsidiaries (Amtrak)
Consolidated Statements of Changes in Capitalization

	Preferred stock	Common stock	Other paid-in capital	Accumulated deficit	Totals
			(Thousands of dollars)		
Balance at September 30, 1995	$ 9,412,247	$93,857	$4,993,767	$(11,247,142)	$ 3,252,729
Issuance of preferred stock:					
Operating grant	285,700	-	-	-	285,700
Capital grant	213,400	-	-	-	213,400
Mandatory passenger rail service payments	120,000	-	-	-	120,000
Federal paid-in capital	-	-	270,842	-	270,842
Federal and state capital payments	-	-	31,314	-	31,314
Net loss	-	-	-	(763,578)	(763,578)
Balance at September 30, 1996	10,031,347	93,857	5,295,923	(12,010,720)	3,410,407
Issuance of preferred stock:					
Operating grant	222,500	-	-	-	222,500
Capital grant	237,600	-	-	-	237,600
Mandatory passenger rail service payments	142,000	-	-	-	142,000
Federal paid-in capital	-	-	385,597	-	385,597
Federal and state capital payments	-	-	43,690	-	43,690
Net loss	-	-	-	(761,949)	(761,949)
Balance at September 30, 1997	**$10,633,447**	**$93,857**	**$5,725,210**	**$(12,772,669)**	**$ 3,679,845**

The accompanying notes are an integral part of these consolidated statements.

Appendix C

Consultation and Outreach

In the preparation of this study, FRA undertook three initiatives to solicit options and analysis from outside parties. In the first, the Federal Railroad Administrator wrote to a wide range of potentially interested persons in March 1997 to solicit input and offer these persons an opportunity to provide their views and any analysis they might wish to offer on this important issue. This letter was sent to the following:

- Amtrak,
- General Accounting Office,
- Departments of Transportation of each State,
- Coalition of Northeastern Governors,
- commuter agencies that operate over Amtrak-owned track,
- commuter agencies whose service is provided by Amtrak,
- Transportation Trades Department, AFL-CIO,
- freight railroads whose tracks are used by Amtrak,
- Association of American Railroads,
- National Association of Railroad Passengers,
- Surface Transportation Policy Project,
- Discovery Institute, and
- American Passenger Rail Coalition.

In the second, FRA discussed lessons learned from overseas privatization efforts with parties directly involved in these efforts including the World Bank, the British Ministry of Transport and N.M. Rothschild & Sons Ltd.

FRA's third initiative to solicit input involved sponsoring, under the auspices of the Transportation Research Board of the National Academy of Sciences, the "National Conference on Critical Issues for the Future of Intercity Passenger Rail" on June 10 and 11, 1997. This conference brought together approximately 160 Federal, State and local transportation officials, as well as officials from the World Bank, Canadian and European transportation agencies, Amtrak, suppliers, consultants and members of academia with experience and an interest in intercity rail passenger service.

What We Heard

As one would expect from such a wide ranging consultation and outreach process, FRA heard a number of differing opinions about the future of intercity rail passenger service and the Federal Government's role in this transportation. Relatively few, outside those that might have a financial interest in the privatization process, strongly supported immediate and complete privatization of Amtrak. More common were those who thought that, while portions of Amtrak might lend themselves to privatization, there would be little interest by the private sector in other portions and that these less lucrative feeder and connecting routes were essential to a national system. Others were lukewarm at best to the concept of privatization, believing that there were other approaches that could achieve the benefits offered by privatization supporters. Relatively few supported the idea of cutting off all Federal assistance to Amtrak immediately. Most thought that a continuing level of Federal support, in particular for capital investment, was both necessary and appropriate. Notwithstanding the differing views on some fundamental issues, FRA heard broad support for certain concepts that should be part of any debate on the future of intercity rail passenger service and these are summarized below.

One of the more perplexing challenges that has faced Amtrak over the last 27 years has been its ill defined mission. Amtrak has tried to meet a wide range of expectations of what intercity rail passenger service should be without adequate resources to do all these things well. There was a general perception that there is a need to better define the role of intercity rail passenger service in the U.S. transportation system. Among the issues that need to be addressed are:

- the meaning of a "national system" and the importance of the national linkages,
- the role of the national carrier in developing enhanced service in intercity corridors,
- the role of intercity rail passenger service in providing transportation service to small urban and rural areas and to a graying population, and
- the valuation, both monetarily and politically, of the so-called "external" benefits of intercity rail passenger service in such areas as environmental and energy benefits, congestion relief, employment and in facilitating mobility.

There is also a need to better define the role for the Federal Government in the provision of intercity rail passenger service. Among the issues that FRA heard that should be addressed include:

- the long-term Federal commitment to direct financial assistance and ways to make this commitment more predictable,
- the policy with regard to modal equity in funding at the Federal level, including whether the eligibility of Federal transportation funding programs should be expanded to include intercity rail passenger service, and
- the future of Federal statutes that some view as restricting the ability of intercity rail passenger service from achieving its potential.

The role of the States and localities should be more clearly delineated. Among the issues related to the evolving role of the States are:

- The extent that States should participate in the decisions affecting service within specific States,

- the role of the States, vis a vis, the intercity rail passenger carrier in promoting the development of improved rail transportation services including high-speed service, and

- identifying the role individual States should have in supporting interstate service.

Finally, better defining the role of the private sector in providing intercity rail passenger service was viewed as important to any future policy. This should address such issues as:

- the relationship of the passenger service to the private sector freight railroads in such areas as access, compensation, and liability,

- whether competition can result in better service or lower costs and identifying the approach that achieves the maximum benefits of competition while achieving other policy goals, and

- how to best attract private sector funds into intercity service.

A general conclusion that came from FRA's listening to the wide range of interests that were contacted is that there is no consensus on these basic issues. Indeed, one of the challenges that has faced Amtrak is that it is both a corporation and a mode of transportation, a situation that is unique in the U.S. transportation system. There was general agreement that research and discussion is needed to better define a public policy towards intercity rail passenger service. Until that policy is better defined, a major restructuring of intercity rail passenger service, such as a privatization of Amtrak, has little chance of being more effective than "rearranging the deck chairs on the Titanic". The Amtrak Reform and Accountability Act of 1997 reauthorized Amtrak through October 1, 2002. FRA believes that this affords the opportunity for all stakeholders in Amtrak's future to thoughtfully participate in the development of a public policy on the future of intercity rail passenger service that can form the basis for future legislative initiatives.

Appendix D

The House Committee on Transportation and Infrastructure Working Group on Intercity Passenger Rail

On March 20 1997, the leadership of the House of Representatives' Committee on Transportation and Infrastructure and of the Committee's Railroad Subcommittee announced that they had assembled a working group of 13 individuals to review intercity rail passenger service provided by Amtrak and to make recommendations to the Committee on options for Amtrak's future. This working group provided two reports to the Committee leadership in June 1997, a majority report signed by 11 members of the group and minority comments signed by the other two. The following summarizes the primary recommendations in these reports.

The majority report of the Working Group recognized that the United States "needs a well-integrated national transportation policy that offers a range of modal choices in order to maximize mobility and to minimize transportation costs, infrastructure funding requirements and environmental damage in a variety of settings." and "Under the right conditions, passenger rail service can provide an attractive, financially sustainable transportation alternative that enhances the efficiency of other modes (including cars, trucks, buses, airplanes and freight rail)."

The majority report also expressed the view that, if passenger rail is to achieve its promise as an important part of the nation's transportation system in the future, "it must operate in a profoundly more growth- and customer-oriented fashion." The national rail passenger system must have two priorities:

- provide safe reliable, comfortable, convenient and financially-sound passenger rail service in all densely populated corridors of the U.S. that show declining air quality and presently or potentially intractable traffic congestion problems; and,

- encourage public/private development of attractive overnight service, on an periodic basis, throughout regions of the nation where such service is justified on an economic basis.

The report goes on to review Amtrak's current financial condition, which it concluded was desperate. This conclusion formed the basis for its recommendations that a significantly different approach should be taken to the provision of intercity rail passenger service.

It was the position expressed by the majority of the working group that "intercity rail should be placed on the same footing as other modes of transportation. This would include a stable and permanent commitment by the Federal Government to fund the infrastructure costs of intercity passenger rail. It would also mean elimination of operating subsidies for operators of passenger rail, and the introduction of competition among these competitors."

A key element of the majority's proposal was the separation of passenger operations from infrastructure responsibilities. The report recommended that the Northeast Corridor and other infrastructure owned by Amtrak would be transferred to a new Federally-owned corporation named Amrail. Amtrak's right of access to the freight railroads tracks and facilities would also be transferred to Amrail. It was envisioned, however, that new terms and arrangements would be developed that fall somewhere between Amtrak's current right of access at incremental cost and the commuter rail's situation where rail operators must agree with the freight railroad through "arm's length" negotiations. This new entity would be responsible for managing the track, signals and other elements of the NEC infrastructure as well as making investments in other corridors needed to facilitate enhanced passenger rail development.

The majority report viewed as important the introduction of competition into the passenger rail industry. Amtrak would be funded for a transition period of 12 to 18 months at levels necessary to continue existing operations and avoid bankruptcy. However, after the transition period, there would be competition for providing service over specific routes with Amrail setting competitive procedures and selecting the operators.

The Amrail procedures were envisioned as providing for "reasonable" protection of employees adversely affected by competition. It was anticipated, however, that a properly structured reform of intercity rail passenger service would result in an increase in rail passenger employment that would be more stable and secure than currently exists.

The minority report took exception to the majority's proposal. The minority believed that separating infrastructure from operations would "muddy" the responsibility for passenger service with the different sides (infrastructure and operations) quick to blame the other for any shortcomings. The minority also expressed its skepticism that Amrail would be any more successful than Amtrak and the Department of Transportation in obtaining funding for infrastructure improvements and, indeed, the minority believes that fewer Federal funds would be provided if the reforms were adopted. The minority objected to the idea proposed by the majority that Amtrak's right of access to freight railroad tracks and facilities at incremental cost be revised through negotiation with the freight industry, which, in their view, would drive up the cost of providing passenger service. Finally, the minority expressed its opinion that eliminating operating subsidies would likely result in the demise of most intercity rail passenger service.

Appendix E

Discovery Institute Inquiry
"Can Privatization Put Passenger Rail Service Back on Track"

In addressing the possible study of Amtrak privatization by FRA, the Senate report accompanying the Department of Transportation and Related Agencies Appropriations Act, FY 1997, suggested consideration of a Discovery Institute inquiry into the future of Amtrak that was published in October 1995. The Discovery Institute is a Seattle-based "think tank" devoted to promoting the binational region of Cascadia, which includes the States of Oregon and Washington and the province of British Columbia. The paper was prepared by Mr. Ray B. Chambers, a fellow of the Discovery Institute and a lobbyist on behalf of a number of freight railroad clients.

The Discovery Institute piece proposes a strategy for the restructuring of intercity rail passenger service, including its privatization. Under this proposal, first there would be a major revision or repeal of Federal railroad legislation affecting intercity rail passenger service. Then, Amtrak would be funded for a three to five year transition period. During that time, the intercity rail passenger system would be redefined and a mechanism established for the competitive award of rights to provide intercity rail passenger service on specific segments or corridors of this system.

The key entity in this process would be a "blue ribbon" federal commission which the Discovery Institute piece refers to as RAPS (Rail Alliance for Passenger Service). RAPS would be charged with the analysis of intercity rail passenger service, development of a new national system plan, funding and management of passenger rail infrastructure, licensing potential operators of intercity trains, awarding rights to provide service, and distributing any available Federal operating subsidies.

RAPS membership would include representatives of Amtrak, rights-of-way owners, States and communities, business, labor and consumers. Its first mission would to identify a market-driven national system. This would involve analyses of various intercity corridors, including the cost and feasibility of upgrading designated routes to 125 mph. Freight and passenger interface issues would be addressed and estimates of infrastructure costs developed. The distribution and future ownership of Amtrak's equipment would also be addressed. In addition, a special study of the Northeast Corridor (NEC) and its role in the national system would be undertaken. Options for the NEC infrastructure that would be reviewed would include transfer to a multi-State compact with private operators paying a fee to operate over this line.

RAPS would be vested with Amtrak's right of access to the freight railroad's tracks and facilities. After the new national system is designated, RAPS would solicit proposals from multi-party compacts for authority to operate over specific corridors and intermodal facilities.

These compacts are envisioned to be composed of an entrepreneur/operator of the passenger service, the host freight railroads (who may choose to operate the trains themselves), States, communities and private stakeholders. To the extent that the host railroad is not a party to the compact, RAPS would ensure issues between the passenger operator and host railroad are resolved. The Discovery Institute piece envisioned that this process would involve competition for the right to serve particular routes including, perhaps, Amtrak and its employees if they decide to privatize and compete as a member of a "compact coalition"

After awarding the franchises for service on particular corridors, RAPS would evolve into a residual national authority for oversight and coordination of the national passenger rail system. The RAPS Board would provide for arbitration of disputes and administer what ever Federal funding is ultimately provided. The Discovery Institute piece also envisioned that, at some point, the RAPS would be privatized as well.

The RAPS planning process would primarily focus on relatively short intercity corridors. Under the concept promoted in this paper, the national rail passenger system would be based upon corridors in every region of the country. Only after the corridor compacts had been implemented would it become clear whether national connectivity should be a goal. This paper also touched upon the issues of long-term funding, but the extent to which long-term Federal funding would be necessary could only be determined through the detailed plans that would flow from the RAPS process.

Appendix F

Study Participants

The Conference Report's recommendation provided that the Federal Railroad Administration should undertake this study with its available resources. Therefore, this report reflects a work product of the staff of FRA. The report was prepared under the auspices of the Office of Railroad Development, with input from the Office of Chief Counsel and the Office of Policy and Program Development. The major contributors to this study were:

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Appendix G

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