S. HRG. 106–1138

OVERSIGHT HEARING ON AMTRAK

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

SEPTEMBER 26, 2000

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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OVERSIGHT HEARING ON AMTRAK

TUESDAY, SEPTEMBER 26, 2000

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SR–253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good morning. Today's hearing will be the first Amtrak oversight hearing by the full Committee since we approved comprehensive reform legislation nearly 3 years ago. Clearly not all Members of this Committee share the same perspective concerning the obligation imposed on the American taxpayers to fund Amtrak for what is now in its 29th year of subsidization, and more than $23 billion, even though Amtrak was to have been free of all federal assistance 2 years after it was established long ago in 1971.

However, we did all work collectively on reform legislation, with the intent to give Amtrak the tools it said it needed to become operationally self-sufficient. I am eager to learn what progress Amtrak has made toward achieving that statutory goal.

More important, we must examine whether the statutory provisions shepherded by this Committee will even be relevant if Amtrak and others are successful in enacting the $10 million bond funding scheme being pushed forward by the Senate Financing Committee. Despite my urging to the contrary, last week the Finance Committee was expected to report out legislation which included the bonding authority for Amtrak. The actual legislative language has still not been made available, but their postponed markup is now expected to occur this week.

So far, this multibillion blank check has managed to sail through without even a single hearing by the Finance Committee, just like when it found a way to give Amtrak $2.2 billion in tax refunds, even though Amtrak has never earned a profit nor paid corporate taxes.

There is a nagging feeling of deja vu, and I fear once again the American taxpayers will pay the price. As Chairman of the authorizing Committee, I will not sit idly by for another committee to effectively nullify the 1997 reform legislation developed by this Committee. I intend to do all I can to put the spotlight on how this funding scheme will impact the federal taxpayers and the legal obligations of the federal government, not to mention the spirit of the 1997 reform legislation.

During this hearing, Amtrak will present a glowing report on its achievements. I caution my colleagues to not tune out those who will testify about the less than glowing facts. While Amtrak will discuss last year's record-setting year and this year's growing ridership revenues, the Department of Transportation Inspector General will report that Amtrak has also been experiencing its largest operating losses in history during the same record-setting period.

Again, Amtrak has been experiencing its largest losses in history at the time when our Nation's economy has been at its strongest. Yet we would never know about these losses if we only relied on Amtrak's press releases. We never hear that Amtrak's expenses are rising, or that its ridership and revenue gains are actually below the levels projected in Amtrak's strategic business plan. I cannot understand how Amtrak can so easily issue press releases about its seemingly glowing statistics and outright ignore the realities of the bigger financial picture. To my knowledge, no legitimate business enterprise in this country could get away with deceiving its stakeholders in the manner Amtrak has been doing in its press releases about ridership and revenues.

Obviously, ridership is not the end-all Amtrak wants us to think it is, if Amtrak is experiencing astronomical operating losses at the same time it is touting its ridership. Further, if you actually look at Amtrak's ridership historically, you will find that last year's record ridership was essentially at the same level it was in 1979. Amtrak's stagnant ridership cannot be ignored, particularly given the growth experienced by other passenger modes.

In the past decade, car travel is up 25 percent, bus travel is up 7 percent, and air travel is up 37 percent. And, let us consider the actual ridership level comparison. Inner city buses carried 357 million passengers annually, compared to Amtrak's 21 million. That is 17 times more passengers. Airlines carry 582 million passengers, 28 times more than Amtrak carries, but we are supposed to be impressed that Amtrak's ridership is at the same level it was 20 years ago, and we will be asked to continue pumping billions of dollars in a form of transportation that the majority of the traveling public is not interested in utilizing outside of the Northeast.

If we are serious about fulfilling our responsibilities, we need to consider all of the facts, good and bad. We need to oversee Amtrak based on its actual financial results and service demand. This cannot be accomplished if we allow our objectiveness to be overridden by notions of nostalgia and a single goal of retaining a form of transportation from yesteryear regardless of the cost.

Perhaps today we cannot make a definitive conclusion on whether Amtrak can meet its statutory requirement to be free of operating assistance by the end of 2002. According to the recent report by the Inspector General, however, it is next to impossible.

But one thing is certain today. Amtrak needs to make more progress before any further funding schemes are enacted, particularly schemes in which another committee is effectively authorizing Amtrak as a federal monopoly for another 30 years.

I welcome today's witnesses, and look forward to hearing their testimony.

Senator Wyden.
[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Today's hearing will be the first Amtrak oversight hearing by the Full Committee since we approved comprehensive reform legislation nearly 3 years ago.

Clearly, not all Members of this Committee share the same perspective concerning the obligation imposed on the American taxpayers to fund Amtrak for what is now in its 29th year of subsidization—and more than $23 billion dollars—even though Amtrak was to have been *free* of *all* federal assistance 2 years after it was established in 1971. However, we did all work collectively on the reform legislation with the intent to give Amtrak the tools it said it needed to become operationally self-sufficient. I am eager to learn what progress Amtrak has made toward achieving that statutory goal.

The Amtrak Reform and Accountability Act of 1997 provided the operational, procurement, labor, and liability reforms that Amtrak requested so it could operate more like a legitimate business. The reforms were designed to allow Amtrak to run its operations based on good business decisions, rather than political pressures. For example, the reforms allowed Amtrak to set its own route structure, instead of conforming to a statutory mandate. The reforms allowed Amtrak to contract out work where Amtrak decides it makes sense to do so. The reforms further allowed Amtrak to negotiate more reasonable labor protection agreements in lieu of the statutory six-year guaranteed severance. I will be very interested in learning how Amtrak has utilized its new authorities and what cost savings these long sought after reforms have actually generated.

In another area, the law required the Department of Transportation Inspector General (DOT–IG) to oversee an independent audit of Amtrak's financial books in order to establish a performance bench-mark. Subsequent annual audits by the DOT–IG were also required. In addition, the law created an 11-member Amtrak Reform Council (ARC) to review Amtrak's operations and financial results and make recommendations to help Amtrak improve both operationally and financially. Today we will hear from the DOT–IG and the ARC on their findings and perspective about Amtrak's future. The General Accounting Office (GAO) will also provide us with an overview on their various reports.

As I said, during this hearing we will hear about Amtrak's progress toward meeting the statutory requirement of operational self-sufficiency. I am sure that Amtrak will present a glowing report on its achievements. But I caution my colleagues to not tune out those who will testify about the less glowing facts. For instance, Amtrak will discuss last year's "record setting year" and this year's growing ridership statistics. However, we will also be told by the DOT–IG that during the same "record setting" year, Amtrak also experienced its *largest* operating losses in history. Amtrak's operating loss for FY 1999 was $907 million and its projected loss for this year is nearly as great.

Again, Amtrak has been experiencing its *largest losses in history* at the time when our nation's economy has been at its strongest. Yet we would never know about Amtrak's losses if we only relied on Amtrak's press releases. I for one, cannot understand how Amtrak can so easily issue press releases about its seemingly glowing statistics and outright ignore the realities of the bigger financial picture. To my knowledge, no legitimate business enterprise in this country could get away with deceiving its stakeholders in the manner Amtrak has been doing in its press releases about ridership and revenues. Sure, ridership has been up a month here and there—and that's great news. But, obviously, ridership is not the end-all we would expect it be if Amtrak is experiencing astronomical operating losses at the same time it is touting its ridership.

Further, if you actually look at Amtrak's ridership historically, you will find that last year's "record ridership" is essentially at the *same level it was in 1979*! Yes, its ridership was 21.4 million in 1979 and 21.5 million in 1999. But no one relying only on Amtrak's cheers would ever know this to be the case.

Amtrak's stagnate ridership shouldn't be ignored particularly given the growth experienced by other passenger modes. In just the past decade, car travel is up 25 percent, bus travel is up 7 percent and air travel is up 37 percent. And let's consider the actual ridership level comparison: intercity buses carry 357 million passengers annually compared to Amtrak's 21 million—that is 17 times more passengers. Airlines carry 582 million passengers—28 times more than Amtrak carries. But we are supposed to be impressed that Amtrak's ridership is at the same level it was 20 years ago and we'll be asked to continue pumping billions of dollars into a form of transportation that the majority of the traveling public isn't interested in utilizing outside of the Northeast.

If we are serious about fulfilling our responsibilities, we need to consider *all* of the facts, good and bad. We need to oversee Amtrak based on its actual financial results and service demand. This cannot be accomplished if we allow our objectiveness to be overridden by nostalgia, and the notion of retaining a form of transportation from yesteryear at no matter what cost.

We cannot predict today whether Amtrak will meet its statutory requirement to be free of operating assistance by the end of 2002. Some are certain Amtrak will reach operational self sufficiency. Some, like the DOT–IG, are skeptical and still others consider it virtually impossible. But I am certain about one thing: Amtrak needs to make more progress before any further funding schemes are considered.

I am strongly opposed to Amtrak's efforts to enact legislation to provide it up to *$10 billion* of additional funding above and beyond that provided in Amtrak's existing authorization as developed by this Committee. This latest proposal is being sold as a way to fund high speed rail projects across the country through the issuance of Amtrak bonds. It is too bad there isn't a single highspeed route in operation today to give us any real inkling if the traveling public would utilize highspeed service at a rate to even come close to making it cost effective beyond the Northeast Corridor. Why should we hand over billions of more dollars to Amtrak to selectively invest in highspeed corridors when it hasn't been able to effectively carry out its underlying mission?

Intercity rail passenger ridership has remained essentially unchanged during Amtrak's near 30-years of operation and $23 billion dollars in subsidies, while ridership via other transportation modes has fastly grown. Amtrak's capital needs are projected by the GAO to be $4 billion dollars through 2004 and at least another $5.1 billion dollars through 2015. I would think it would make a lot more sense for Amtrak and its proponents to focus their efforts on finding a way to fund these already identified capital infrastructure needs before looking to spend billions of dollars on service not even in operation.

More important, Amtrak has not yet fulfilled the operating self-sufficiency mandate required under the law. Therefore, I find it very premature, at best, to be pushing a new $10 billion funding proposal at this juncture. I will nevertheless be very interested to learn how the proposed bond legislation, if enacted, would impact the federal taxpayers, the legal obligations of the federal government, and the spirit of the 1997 Act. And, if enacted, will Amtrak cease to expect future federal subsidies entirely? Somehow, I doubt it.

I welcome today's witnesses and look forward to hearing their testimony.

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you, Mr. Chairman. I very much appreciate your holding this oversight hearing. I personally think a whole lot more oversight needs to be done in the U.S. Congress, and I am glad that you are going forward with today's hearing.

Once again we have another troubling Inspector General report about Amtrak. This one shows very clearly that Amtrak continues to employ Alice in Wonderland financial analysis. For more than a year, both the Inspector General and the General Accounting Office have been raising concerns that Amtrak is not going to meet its legal obligation to become subsidy free by 2003.

Despite these warnings, Amtrak keeps issuing rosy projections and asserting that its business plan is going to make the railroad self-sufficient one year ahead of schedule. The recent Inspector General report states that Amtrak's business plan will not achieve operating self-sufficiency in 2003.

When it unveiled this plan, Amtrak claimed realigning its routes would generate an additional $105 million in revenue, but one of the key auditors says, and I quote, "Amtrak never gave us any support for their numbers," unquote. In reality, the new high-speed trains which are the linchpin of Amtrak's plan for financial solvency run into delay after delay.

Originally scheduled to begin running last fall and generate $180 million in profits next year, these trains still have not gone into service. Even as it became clear that the trains were not going to run as scheduled, Amtrak officials continued to insist that the delay would not have a negative financial impact.

The bottom line is, the numbers say one thing, Amtrak insists on something else. Recently a member of the Amtrak Reform Council created by the Amtrak Reform Accountability Act resigned on the grounds that Amtrak was making decisions to add pork barrel trains to the districts or home towns of politically connected officials. Despite a legislative mandate, the Amtrak Reform Accountability Act, and commitments to Congress that Amtrak would achieve operational self-sufficiency, Amtrak continues to ignore financial reality and play politics with its routes.

I would just like to emphasize how strongly I feel about that point, Mr. Chairman, because there is no question that Amtrak is playing politics with these new routes and what it is doing with respect to assigning them. Governor Thompson, to his credit, in one of our last hearings acknowledged that the route in Eastern Oregon should not have been eliminated.

If you will look at those routes, strictly on the merits, that route in Eastern Oregon should not have been eliminated. Fortunately Tommy Thompson has got some candor chromosomes in there, and he admitted it, and I appreciate that, but Amtrak still has not addressed the problem, and this Senator is going to stay with it until we start calling these routes on the merits.

This is just no way to run a railroad in this country. We ought to start moving to get Amtrak operating in an efficient manner before it becomes a financial train wreck and the taxpayers are left to pick up the pieces. It is time to make decisions at this agency on the merits, and not with respect to politics, and I look forward again, Mr. Chairman, to working with you on a bipartisan basis in this regard.

The CHAIRMAN. Thank you, Senator Wyden.

Our panel today is the Hon. Kenneth Mead, Inspector General, U.S. Department of Transportation, Governor Tommy Thompson, the chairman of the Amtrak Reform Board. He is accompanied by George Warrington, who is the president of the National Railroad Passenger Corporation. Mrs. Phyllis Scheinberg, who is the Associate Director of Transportation Issues, U.S. General Accounting Office, Mr. Gilbert Carmichael, who is the chairman of the Amtrak Reform Council, Mr. Joseph Vranich, and Hon. Timothy M. Kaine, mayor of Richmond, Virginia, on behalf of the U.S. Conference of Mayors.

Welcome before the Committee, Mr. Mead.

STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. MEAD. Thank you, Mr. Chairman. Last week we issued our most recent congressionally mandated report on Amtrak. The good news is that Amtrak's revenue and ridership showed marked improvement in 1999 and continued to do so in 2000. That improvement has undoubtedly been moved along by the economy and in the Northeast Corridor is certainly facilitated by aviation delays and cancellations and aviation system congestion.

That has not been sufficient to turn the tide, though. Essentially, in order for Amtrak to become self-sufficient by 2003 it will need to aggressively curtail expense growth, which is offsetting revenue gains—there is still nearly three quarters of a billion dollars in undefined management actions in its business plan—launch Acela high-speed rail service, and secure sufficient capital to support its basic needs. I will take each of these points briefly in turn and then make a few observations on S. 1900.

The Financial Status. This year, passenger revenues improved by nearly 9 percent, ridership by about 4 percent. Also, nonpassenger revenues showed a strong 9.7 percent growth in 1999 and over 15 percent in 2000, and these nonpassenger-related revenues now account for an amazing—at least it is amazing to me—over 40 percent of the total operating revenues. Certainly, that area has been improving.

But at the same time, system expenses have grown significantly, nearly 7 percent in 1999 and so far this year an additional 7.8 percent over last year. Interest expense on debt grew rapidly in the nineties, and it will be over $100 million per year in 2001.

Amtrak's cash loss in 1999 was $579 million, the highest in a decade. We project the cash loss will decline in 2000 to $521 million, which will be the lowest since 1992, but substantially greater declines will be necessary under Amtrak's mandate. Unless Amtrak can find a way to curtail expense growth, and soon, we doubt that Amtrak will be able to reach self-sufficiency by 2003.

Mr. Chairman, we examined Amtrak's plans for reducing losses, and unless they take major corrective action we see them falling about $1.4 billion short of their projections between 2000 and 2004. Our biggest concern is that Amtrak's business plan projects operating self-sufficiency largely on the back of $737 million in undefined business actions. They are mostly unspecified reductions on the expense side, and actions of the magnitude necessary to fill those gaps do not translate into savings overnight. So we see a real urgency here.

We also have some issues about Amtrak's Northeast Corridor projections and on mail and express, but these are minor in comparison to the three quarters of a billion dollars in undefined management actions.

A word about Acela delays. The delays in starting Acela Express will start affecting revenues in 2001, but it will not be severe if there are no further expected delays. The Acela service should be able to reach its full potential by 2003 if there are no further delays.

A word on this, in fairness to Amtrak. Delays of this nature—it is about a year, maybe a little longer depending on how you count—are not uncommon in complex programs of this type. This Committee has for years overseen the air traffic control modernization effort, and we know that a delay of a year there would sometimes be refreshing.

Capital outlook. For years we and others, including my colleague Phyllis Scheinberg from GAO, have warned about serious capital shortfalls facing this railroad. These predictions have come true. In 2001, assuming Amtrak's cash losses are no higher than it projects, and that assumes that it will close about 20 percent of this three quarters of a billion dollar gap, Amtrak will face a minimum capital shortfall of over $90 million.

In 2001, Amtrak is going to have to find an additional $385 million, or Amtrak is going to have no choice but to ignore some of its minimum needs, cancel key projects in progress, including ones that are important to its glide path, and defer on commitments to states for corridor development. I think this underscores how critical it is for Amtrak to close that three quarters of a billion dollar gap in its business plan, and quickly. It is also important for Amtrak to take care of its minimum capital needs first, such as operational reliability, before spending scarce capital on growth-related projects outside of minimum needs.

I am not saying the spending on these growth-related projects is frivolous, but I am saying that the minimum needs ought to be taken care of first, and we have found a number of examples where that is not the case.

Finally, S. 1900. We and the GAO have repeatedly cautioned that even if Amtrak attains operational self-sufficiency in 2003, it is going to require long-term capital funding. The Amtrak Reform and Accountability Act, Mr. Chairman, did not say whether Amtrak could count on long-term capital assistance from the federal government. Clearly, it is Congress' role to determine the amount and the vehicle for providing federal capital support.

Another question is when these decisions ought to be made: now, before Amtrak shows whether it will meet the requirements under the reform act, or at the end of the 5-year glide path, when you know one way or the other.

Under the current version of this bill, Amtrak could sell $10 billion in high speed rail bonds over the next 10 years. Interest payments are to be made by taxpayers in the form of a tax credit to bond holders and repayment of principal is to be paid by the States, which will be financed by a 20-percent matching contribution by the States that will be placed in escrow.

The House version would limit to 30 percent the amount that could go to any one corridor, and the bonding authority would be available to any intercity railroad, not just Amtrak.

Now, I am here to tell you that S. 1900 would partially address Amtrak's capital needs, but Amtrak's total capital needs extend well beyond high-speed corridors. Even with S. 1900 the Committee should be aware that Amtrak will continue to need annual appropriations, most likely more than the $500 million or so that it currently receives. Until Amtrak develops a detailed 5-year plan for capital, its annual requirements cannot be estimated with any degree of precision.

Also, as introduced, S. 1900 lacks sufficient oversight of Amtrak's spending of the bond proceeds. The costs of developing high speed corridors are significant, and $1 billion each year will not be sufficient for Amtrak to meaningfully invest in every corridor seeking a piece of the pie. If funds are sprinkled around the country in amounts sufficient to get projects underway but insufficient to complete them, the likely results will be few of the routes will achieve expectations, to say nothing of the fiscal problems, and Mr. Chairman, the pressures to do this are going to be extraordinary.

I have got in my hand a list of endorsements for S. 1900 from all over the country—people that are seeking corridors. Amtrak packaged this up and sent it over, and it really is amazing, the expectations from around the country. Everybody will not be able to eat part of that pie, and I think it is important that if we start projects, that we make sure that we have the funds available to complete them.

The CHAIRMAN. How much money, do you think, just off the top of your head, is in all those letters?

Mr. MEAD. I think probably twice the $10 billion, and I am sure that is conservative. In other words, the $10 billion is not going to come close to meeting all the demands from all over the country.

The CHAIRMAN. How many promises have been made?

Mr. MEAD. I am not privy to any promises that have been made. My point here is that federal oversight is critical, and we have been assured that adequate oversight provisions would be put in the bill. I think that is a very important point, otherwise we will have a lot of projects starting up, cropping up around the country, but you want to finish them, too.

Finally, we have questions about how a 10-year authorization for high-speed rail bonds would interface with the mandate to achieve operating self-sufficiency by 2003. If Congress decides that S. 1900 is the appropriate vehicle for addressing certain of Amtrak's capital needs, we think continuation of that authority ought to be made explicitly contingent on Amtrak meeting its operating self-sufficiency mandate as prescribed by law.

Now, I know there is concern about what happens if they miss it by $5 or $10 million, and I think you probably need a safety valve in there. If they come close I think the equation is much different, and they should be considered as meeting it, and so I am not talking about them being off by a few million dollars. I am talking about them missing it by magnitudes.

That concludes my statement, sir.

[The prepared statement of Mr. Mead follows:]

PREPARED STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Committee,

We appreciate the opportunity to testify on Amtrak's financial performance and requirements. Last winter when we testified on this subject, we stated that it would be possible for Amtrak to achieve operating self-sufficiency by 2003, but that delays in Acela Express would pose additional obstacles. Today, the picture is bleaker. Acela Express is still not in service and large holes exist in Amtrak's business plan that will need to be filled in order for Amtrak to achieve operating self-sufficiency. On the plus side, Acela Express stands to benefit if aviation delays continue to plague the Northeast. However, time is running short, as are Amtrak's available funds to invest in its equipment and infrastructure. Amtrak will face a $91 million minimum capital needs funding shortfall in 2001, or worse, if it does not hit its operating targets.

With 3 years to go in its Congressionally-set mandate, we still believe it is possible for Amtrak to reach operating self-sufficiency, but this will depend heavily upon Amtrak's ability to curb expense growth; in its 2001 business plan, fill the nearly three-quarters of a billion dollars in existing "undefined management actions"[1]; and secure sufficient capital funding to support Amtrak's projected ridership and revenue growth.

We have just issued a report—the 2000 Assessment of Amtrak's Financial Performance and Requirements[2]—that summarizes our findings from our most recent Congressionally mandated annual review of Amtrak. Today, we would like to discuss the main points in this report by presenting our views on Amtrak's financial status through the first 11 months of Fiscal Year 2000, the likelihood of Amtrak's reaching operating self-sufficiency by 2003, the impact of Acela delays, and Amtrak's capital funding needs. And as requested, I would also like to share some comments on the proposed bond bill, S. 1900, that is currently under consideration in the Senate.

Amtrak's Recent Financial and Performance Results

Amtrak has shown financial improvement but greater efforts must concentrate on curtailing expense growth. The good news is that Amtrak's revenue and ridership showed marked improvement in 1999 and through the first 11 months of 2000. The bad news is that expense growth has kept pace. If Amtrak is to reach operating self-sufficiency by 2003, it must aggressively pursue actions that curb the growth in expenses.

- **Revenue and Ridership results are positive.** The revenue growth that began in 1995 has brought Amtrak to the highest passenger revenue levels in its history and Amtrak expects that 2000 passenger revenues will exceed those of 1999. Passenger revenue grew by 5.7 percent in 1999 and in the first 11 months of 2000, was up 8.6 percent over the same period in 1999. Overall operating revenues increased in 1999 by 7.4 percent, and were 11.7 percent higher in the first 11 months of 2000 than they were for the same period in 1999. Non-passenger revenues showed a strong 9.7 percent growth in 1999 and in the first 11 months of 2000, were almost 16 percent better than the same period last year.[3] Ridership grew 2 percent over 1998 levels and in the first 9 months of 2000, was up by 3.5 percent.[4]

Overall operating revenues increased in 1999 by 7.4 percent, from $1,708 million to $1,834 million,[5] with non-passenger revenues showing a strong 9.7 percent growth, increasing from $707 million in 1998 to over $775 million in 1999. Non-passenger revenue constituted an increasing share of Amtrak's total revenues between 1990 and 1999. The overall increase in non-passenger revenue for the last 10 years has been 105 percent, going from $378 million in 1990 to almost $776 million in 1999. Non-passenger activities now account for over 42 percent of Amtrak's total operating revenues.

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[1] Placeholders in Amtrak's business plan that represent the difference between where Amtrak needs to be to achieve operating self-sufficiency and where it believes it will be based on the performance of already identified actions.

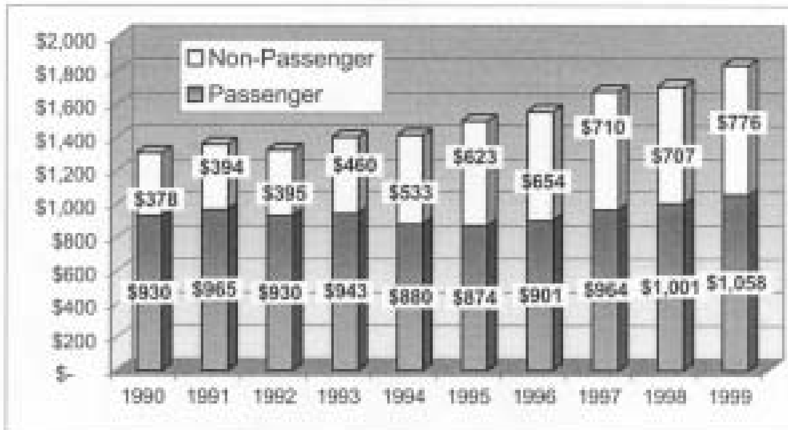
[2] Report No. CR–2000–121, September 19, 2000. 2000 Assessment of Amtrak's Financial Performance and Requirements, Office of Inspector General, U.S. Department of Transportation.

[3] Non-passenger revenues include mail and express, commuter, reimbursable, commercial development, non-transportation, state reimbursement, and other transportation revenues.

[4] Ridership and on-time performance results were only available through June 2000.

[5] Amtrak's reported operating revenue in 1999 and 1998 included, as required by generally accepted accounting principles, $191 million and $542 million, respectively, of federal payments received, including TRA funds, and $58 million in interest earnings on temporarily invested TRA funds. Because the TRA funds and the interest earnings will be spent on capital investment, they have been excluded from our reporting of operating revenue.

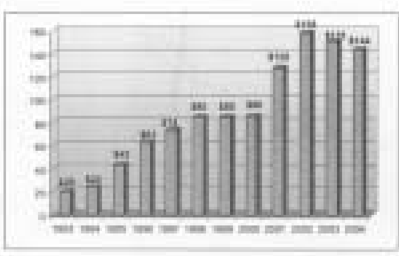
Composition of Amtrak Revenues, 1990 Through 1999 ($ in millions)



Source: Amtrak Financial Statements

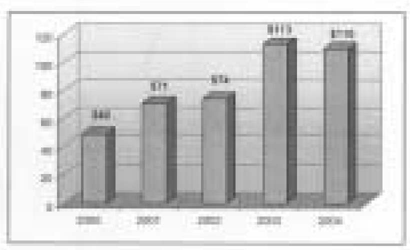
- Although revenue and ridership trends are positive, increases in labor costs, depreciation, and train operation expenses have fueled continued growth in operating expenses, increasing by 6.9 percent in 1999 and by 7.3 percent in the first 9 months of 2000. Additionally, Amtrak has funded most of its recent refleeting efforts through external financing, which caused interest expenses to grow rapidly in the 1990's. The interest costs on this financing are adding about $100 million more to cash losses *per year* between 2000 and 2004 than in the 5-year period before these programs. Principal payments on debt, which are considered capital costs, are also projected to grow steadily between 2000 and 2004.

Growth in Interest Expenses, 1993 Through 2004 ($ in millions)



Source: Amtrak 2000 Strategic Business Plan

Projected Growth in Debt Principal 2000 Through 2004 ($ in millions)



Source: Data provided by Amtrak in July 2000

This expense growth has kept Amtrak's cash loss from declining. Amtrak's cash loss in 1999 of $579 million was Amtrak's highest in 10 years. Although we project the cash loss in 2000 will be $521 million, the lowest since 1992, Amtrak must make significantly more progress each year if it is to reach its goal of operating self-sufficiency in 2003. Amtrak must reduce its cash loss to $266 million in 2003 to meet this goal, a required improvement of $255 million over 2000. Reducing the cash loss will depend heavily on limiting the growth in Amtrak's expenses over the next 3 years.

The ridership and passenger revenue growth has occurred in the face of little change in either Amtrak's Customer Satisfaction Index or its on-time performance. In 1999, the Index decreased to 83 from 85 in 1998, and has rebounded to 85 for the first 9 months of 2000. On-time performance was constant at 79 percent in 1998 and 1999, and has risen slightly to 80 percent for the first 9 months of 2000. Both on-time performance and customer satisfaction have been affected by the service problems experienced by the freight railroads over the last 3 years.

To further bolster ridership, passenger retention, and revenue, Amtrak instituted a Customer Service Guarantee on July 4, 2000. The guarantee provides passengers who are not satisfied with Amtrak's service, for any reason, with vouchers for future travel equal to the value of the trip on which they were dissatisfied. Amtrak's goal for the Customer Service Guarantee is that no more than 1 passenger in 1,000 (a 99.9 percent satisfaction rate) will request a voucher. The issuance rate for July was about 2.8 per 1,000 passengers (99.7) and the estimate for August is about 5 per 1,000 passengers (99.5).

Amtrak's Future Financial Outlook

Amtrak will need to take major corrective actions if it is to achieve operating self-sufficiency in 2003. Despite positive trends in revenue and Amtrak's financial results being close to goals over the last 2 years, starting next year, the bar will be raised much higher. Amtrak's cash losses must drop by an average of $85 million per year to reach operating self-sufficiency in 2003.

Our assessment of Amtrak's business plan identified a number of elements that are unlikely to perform as Amtrak expects. *If no corrective action were taken to compensate for them,* Amtrak's cash loss would be about $1.4 billion more than it projects over the 5-year period, 2000 through 2004. Most critically, we project that in 2003, the year of operational self-sufficiency, Amtrak would still require $351 million more in operating assistance than it can fund with its federal appropriation.

About 85 percent of the total $1.4 billion at risk of not being achieved is concentrated in 3 elements of the Plan: $737 million in undefined management actions, $304 million in Northeast Corridor passenger revenues, and $179 million in Mail and Express net revenues. I would like to say a few words about each of these areas.

- **Undefined Management Actions.** Amtrak's business plan projects operating self-sufficiency largely on the back of the $737 million in undefined management actions. In essence, these undefined actions represent the gap between the total cash loss improvements Amtrak needs and what it expects to get from actions it has already identified. If Amtrak's 2001 business plan does not fully define these management actions, we strongly doubt that Amtrak will be able to achieve its mandate by 2003. Actions of the magnitude necessary to fill these gaps do not translate into revenues or savings overnight.
- **Northeast Corridor Passenger Revenues.** We are concerned that Amtrak's projections for Acela Express ridership assume a higher-than-likely diversion of passengers from air and automobile, and an underestimation of ridership on the slightly slower, but significantly less expensive Acela Regional service. However, if Amtrak were to make some fare and service adjustments, and if aviation delays continue to plague the Northeast Corridor, we believe that a significant share of the benefits we have questioned would indeed be forthcoming.
- **Mail and Express.** In our opinion, the Mail and Express service is not likely to ramp up as quickly as Amtrak projects; however, by 2004, our projections come close to Amtrak's. Agreements with freight railroads for permission to operate trains with consists greater than 30 cars is essential to the growth of Mail and Express capacity. According to Amtrak, most of the freight railroads have expressed a willingness to enter into such negotiations.

The bottom line is that if our projected losses were to occur, the situation would be untenable for Amtrak. In 2001 and 2002, Amtrak would have to cover the greater losses through its federal appropriation, leaving virtually no funds for capital investment. *Amtrak must take major corrective actions now.*

Acela Delays

Acela Delays Will Impact Revenue but Delays are Understandable in New Technology Investments. The delays in the introduction of Acela Express and Acela Regional service will reduce Amtrak's 2001 revenue below Amtrak's earlier projections. This will put additional pressure on Amtrak to reduce expenses and fortify its efforts to improve performance in both its passenger and non-passenger services, including Mail and Express. However, the approximately 1-year delay should not be surprising for a program of this nature. The testing and introduction schedules were ambitious, in part, because of the dire need for Amtrak to generate as much new revenue as quickly as possible in order to meet its self-sufficiency deadline.

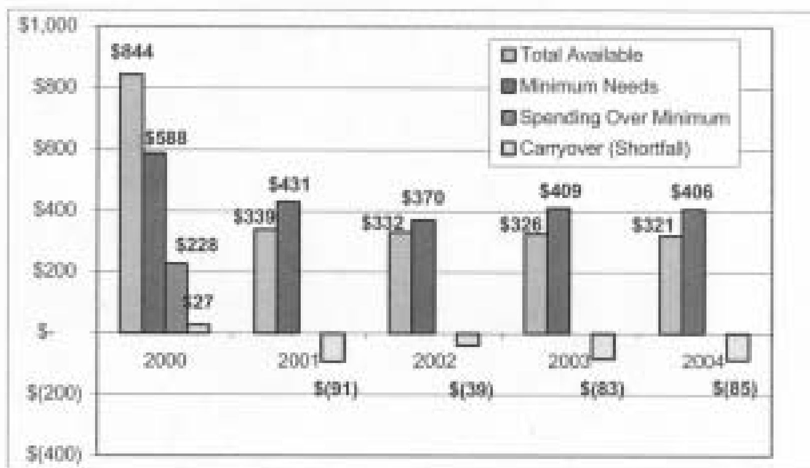
Amtrak's 2000 Strategic Business Plan incorporated the revenue and expense impacts of delays until July 2000, which was the anticipated start-up date when the Plan was issued in January. The revised plan for starting operations in October 2000 will result in some additional revenue loss in 2000 (which is reflected in our assessment) and in 2001. While delays of this magnitude will pose a financial challenge to Amtrak in 2001, if there are no further extended delays, the Acela service should be able to reach its full operating and revenue potential in 2003.

Although the Acela delays have affected Amtrak's revenue projections and path toward self-sufficiency, delays of this nature are not uncommon in programs of this complexity. In fact, in other industries projects with delays of this length might actually be considered ahead of schedule. The new trainsets represent a significant adaptation of existing high-speed designs to meet more stringent safety requirements in the United States and to compensate for the unique track configurations on the Northeast Corridor. Problems identified in testing and design modifications are normal consequences of such new technology development programs.

Capital Needs

Amtrak's capital outlook is grave. In both our prior assessments, we projected that Amtrak would face serious capital shortfalls beginning in 2001. Our predictions have come true. In 2001, *assuming Amtrak's cash losses are no higher than it projects,* Amtrak will face a minimum needs capital funding shortfall of $91 million, and continued shortfalls through 2004 totaling $298 million.[6]

Amtrak's Projected Minimum Capital Needs Funding Shortfall, 2000 Through 2004 ($ in millions)



Amtrak will be faced with some very difficult choices next year concerning how to best use its limited capital dollars. After covering its mandatory capital costs, Amtrak will have only $179 million left to invest in its capital program. Competing for these funds would be remaining minimum needs, key projects in progress—including many projects that support the self-sufficiency glidepath, and commitments to States for corridor development projects. Amtrak would need *at least* an additional $385 million in capital funding in 2001 if it were to cover all of these costs.

If our projections for cash losses in 2001 were to occur, Amtrak's capital position would be far more serious. Amtrak would need to use $310 million more than planned of its federal appropriation to cover the losses, leaving only $29 million available for capital investment, which is not even enough to cover Amtrak's debt obligations in 2001. This outcome is not inevitable, but it underscores how critical

[6] Our definition of minimum needs includes only the capital investment necessary to maintain Amtrak's infrastructure and assets in a steady state *through 2003.* Thereafter, the condition of Amtrak's infrastructure and assets will begin to steadily decline.

it is for Amtrak to fill the gap in its business plan for undefined management actions.

Growth-focused capital spending starves minimum needs and could ultimately undermine the benefits of key investments like high-speed rail. Despite known minimum-needs shortfalls, Amtrak has pursued a growth-focused capital program. In our 1999 assessment, we recommended that Amtrak set aside funds to meet minimum needs in 2001 and 2002 by revising its spending plans for 2000.

Although Amtrak agreed with our predictions, its 2000 Plan provided for continued investment in projects outside of minimum needs. For example, Amtrak invested $25 million in planning efforts for the Midwest Regional Rail Initiative, $15 million in infrastructure improvements to support the future Las Vegas service, and $9 million for the refurbishment of Heritage diner cars. Amtrak's spending strategy reflects its belief that these projects are necessary to achieve the business plan goals and ultimately self-sufficiency by 2003. We agree that these projects are important to Amtrak's financial growth, but do not believe they should be funded at the expense of the minimum investments necessary to maintain the reliable operation of the railroad.

In addition to spending on non-minimum needs, Amtrak also *underspent* on certain minimum needs in 1999 and 2000 to support a higher level of growth-related capital spending. This is most true for projects that support the operational reliability of Amtrak's services. Projects in this category include replacing old tracks, resurfacing rails, and replacing worn out electric traction catenary wire and insulators. We estimate Amtrak's minimum operational reliability needs to be $135 million each year. Amtrak's annual spending on operational reliability projects in the past 3 years has averaged only $71 million.

If Amtrak continues to defer spending on operational reliability, service quality will suffer and its goals for revenue growth may not be met. In order for high-speed rail to be successful, Amtrak acknowledges that it must provide superior service and on-time performance. If it cannot maintain that level of service, ridership and revenue will begin to erode.

Funding Amtrak's Capital Requirements

In February of this year, we testified before the Subcommittee on Surface Transportation and Merchant Marine on several Amtrak issues, including the question of capital funding for Amtrak beyond 2002. Although precluding use of federal funds for most operating expenses after 2002, the Amtrak Reform and Accountability Act did not say whether Amtrak could count on receiving any long-term federal subsidies for capital investment.

At that hearing, we stated that even if Amtrak meets its operating self-sufficiency mandate in 2003, it would not make it by much, clearly not enough to cover its minimum capital requirements. Our position then, as it is now, is that without significant capital funding to cover such costs as debt, safety improvements, infrastructure reinvestment, and equipment renewal, Amtrak will not be able to continue to operate the railroad. We do not see this situation changing—it will not be feasible in the foreseeable future for Amtrak to progress to a point where it can generate sufficient internal revenue to cover its capital costs.

If Amtrak is to continue operating a national rail passenger network, Amtrak will require significant long-term capital funding—in amounts well above the annual operating subsidy of which it is supposed to be largely free in 2003. At that point, the central questions would not be *whether* Amtrak would receive a capital subsidy, but rather (1) what the funding vehicle would be (direct appropriations, contract authority, tax subsidy, etc.), (2) in what amounts, and (3) for what purposes. Another question is when these decisions should be made—now, before Amtrak shows whether it will meet the requirements of the Amtrak Reform and Accountability Act, or in 2003, at the end of the 5-year glidepath.

S. 1900. Clearly, it is the Congress' role to determine the need, the amount, and the vehicle for providing federal capital support. However, at your request, we have several observations on S. 1900, the High Speed Rail Investment Act.

In addition to Amtrak funding policy, S. 1900 is a question of tax policy. Under the current version of the bill, the legislation, if enacted, would enable Amtrak to sell $10 billion in high-speed rail bonds over the next 10 years. Interest payments would be made by taxpayers in the form of a tax credit to bondholders and repayment of principal would be secured by a 20 percent matching contribution by the States that would be placed in escrow. The House version (H.R. 3700) would limit to 30 percent the amount of total funding that could go to any one corridor and would make the bonding authority available to any intercity passenger railroad, not just Amtrak.

These proposals are clearly attractive to Amtrak. S. 1900 would address part of the difficulty in securing additional appropriated funds for Amtrak capital investment. However, Amtrak's capital needs extend well beyond high-speed corridors and because S. 1900 is limited to high-speed corridors, Amtrak will continue to need annual appropriations. These appropriations will be necessary to cover capital costs such as repayment of debt, information technology projects, environmental remediation, and approximately $200 million each year in overhauls and rolling stock improvements.

Until Amtrak develops a detailed, 5-year capital program, the annual requirements can not be estimated with precision. We recommended that Amtrak develop such a plan in our recent Amtrak financial assessment. However, even if S. 1900 or some version of the bill is passed, Amtrak is still likely to need *more* per year than the current Amtrak capital funding of $521 million.

Federal oversight requirements. As introduced, S. 1900 lacked sufficient federal oversight of Amtrak's spending of the bond proceeds. Essentially, the tax credit vehicle bypasses the oversight that would otherwise be in place through the annual appropriation process.

Costs of developing high-speed corridors are significant and $1 billion each year will not be sufficient for Amtrak to meaningfully invest in every corridor seeking a piece of the pie. Amtrak will need to make choices on where and how much to invest in each project. If funds are sprinkled around the country in amounts sufficient to get projects underway but insufficient to complete them, the likely result would be that few of the routes would make positive contributions to Amtrak's achieving or maintaining operating self-sufficiency.

The intent of S. 1900 is to provide Amtrak a vehicle to make investments that will not only help it maintain self-sufficiency, but potentially begin generating internal funds for capital investment. Federal oversight will be critical to ensure that Amtrak's investments meet those criteria. Without such oversight, passage of this or any similar bill would be tantamount to writing Amtrak a blank check. We have been advised that adequate oversight provisions have or will be included in the bill language; however, we have not seen the provisions of the marked-up bill and cannot comment on their adequacy.

S. 1900 and Amtrak's Glidepath. Finally, we have questions about how a 10-year authorization for high-speed rail bonds would interface with the provisions of the Amtrak Reform and Accountability Act, which requires Amtrak to reach operating self-sufficiency in 2003. Our most recent report finds that without major corrective action to curtail expense growth and fill unspecified revenue increases and expense savings totaling more than $700 million, Amtrak will not achieve this mandate. Although S. 1900 will not change how we measure operating self-sufficiency, it also will not fill this gap. If Congress decides that S. 1900 is an appropriate vehicle for addressing Amtrak's capital requirements in the northeast and other high speed corridors, we believe continuation of any such authority be made contingent on Amtrak meeting its operating self-sufficiency mandate as prescribed by law.

This concludes our statement. I would be pleased to answer any questions.

The CHAIRMAN. Thank you very much, Mr. Mead. We appreciate all you have done.

Senator Allard, we welcome you. I know you were delayed and had requested to make a statement before the Committee.

STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Senator ALLARD. Mr. Chairman, I want to thank you for your willingness to accommodate my schedule this morning. I know you are under a deadline, too. I had to testify at 9:30 before another Committee, and then I have my own hearing at 10:30, and we have got votes, I think, at 10:15, and we may have to shut these Committees down at 11:30 if the Senate two-hour rule is invoked, so I appreciate you allowing me to move in and give this testimony.

Mr. Chairman, again I want to thank you for inviting me here today to share my comments with the Commerce Committee regarding the Senate Banking Committee's experience with Amtrak. I regret that I cannot stay to hear the testimony from your other witnesses, but I have to chair a hearing, as I mentioned earlier, at 10:30.

As you are aware, I serve on the Committee on Banking, Housing and Urban Affairs as Chairman of the Subcommittee on Housing and Transportation. In my capacity as Chairman of the Subcommittee with jurisdiction over the federal mass transit program which includes certain parts of the commuter rail, I have had opportunities to interact with Amtrak management and personally follow the business practices employed by Amtrak, and it is disappointing to me that although the taxpayers provide Amtrak almost $600 million in direct subsidies annually it does not operate in the best interest of the American people, nor do the subsidies stop at $600 million, as a recent hearing before my Subcommittee has demonstrated.

On April 25 and July 11 of this year the Committee and Subcommittee held hearings which exposed questionable activities by Amtrak involving a commuter rail contract it holds in Boston with the Massachusetts Bay Transportation Authority, or what we refer to frequently as MBTA.

At the urging of the Federal Transit Administration, the MBTA put out a request for bids for the provision of commuter rail service in accordance with federal procurement law, which requires competitive bidding. Four bids were received, and were subjected to an objective and thorough cost and work quality analysis. Of the bids submitted, Amtrak ranked fourth out of the 4 bids, last.

The winning bidder, Bay State Transit Services, won the competitive bidding process in both categories, submitting a bid at $116 million less than Amtrak, and I have this chart behind me, which shows the analysis of these various contracts, and you can see, here is Amtrak's bid, and we have got Bay State, Mass Rail, and Bombardier. There are 4 bidders in there. This demonstrates these contract and bid prices.

Amtrak's management and work force, however, prevented implementation of the Bay State contract. Current Amtrak workers refused to apply for employment which Bay State offered as required by federal law. Amtrak management and the unions representing the workers created a hostile work environment, intimidated Bay State employees, and threatened unfounded lawsuits, all to ensure that Amtrak retained the lucrative MBTA contract.

Faced with the potential for what amounted to a strike which could have stranded 60,000 Boston commuters, the Federal Transit Administration reluctantly approved a 3-year extension of the commuter rail contract for Amtrak. Amtrak, the same bidder that offered the lowest quality service at the highest price. I repeat, Mr. Chairman. Its bid, as analyzed, showed it was the lowest quality service at the highest price. Further, Amtrak adopted an all-or-nothing position and refused to provide service for the MBTA during the transition period of the Bay State contract implementation, and unfortunately the cost to the taxpayer for Amtrak continuing to provide service for the 3-year extension is far greater than the Bay State offer.

Mr. Chairman, I respectfully request that an article from the *Boston Herald* dated July 13, 2000 regarding the Banking Committee's hearing on this matter be entered as a part of the record.

The CHAIRMAN. Without objection.
[The information referred to follows:]

The Boston Herald

July 13, 2000

TRUTH ABOUT THE T TOLD BY STRANGERS

It took U.S. senators from Texas and Colorado to stand up for the rights of Bay State taxpayers and rail commuters this week.

Boy, there's something wrong with that picture!

Sens. Wayne Allard (R-Colo.) and Phil Gramm (R-Texas) used a congressional hearing to give federal officials what-for over approving Amtrak's 3-year extension of its maintenance contract for the MBTA commuter rail system. The T had put the contract out to competitive bid and the winner, Bay State Transit, promised to save the system—and that really means taxpayers—$116 million over 5 years.

But Amtrak's unions would not be moved. Workers refused to apply for jobs with the new company. Then the U.S. Department of Labor, at the urging of some members of the Massachusetts congressional delegation who were themselves taking orders from the unions, decided to play hardball with the MBTA.

Caught between the proverbial rock and a hard place, the Cellucci administration and the MBTA caved in and extended the Amtrak contract.

Gramm had it about right when he noted at the hearing that "the Labor Department is a wholly owned subsidiary of the AFL–CIO." He added that the costly Amtrak contract extension was "one of the most extraordinary things I have seen."

And that it surely is. Bay State taxpayers and commuters have been taken for a ride again and the Clinton Labor Department and members of our own congressional delegation—including Sen. John Kerry, who appeared at the hearing to defend the utterly indefensible deal—share in the blame.

At least a handful of folks in Washington have the guts to point out the obvious truth.

Senator ALLARD. The result of this contract is double jeopardy for Amtrak, the enormous subsidy provided by this contract on top of the almost $600 million annually that the Congress appropriates, and this is only one example. I have received accounts of similar situations where Amtrak has used its unique position as a federally subsidized entity and its existing political support to exercise an unfair advantage in the marketplace.

I struggle with how I can explain to the taxpayers of Colorado why the federal government feels it is acceptable to squander their resources by giving Amtrak a free ride at the expense of commuters everywhere.

Both full Committee chairman Phil Gramm and I have serious concerns about pending legislation that will give Amtrak yet another source of taxpayer resources. Senate bill 1900, the High-Speed Rail Investment Act, would allow Amtrak to issue $10 million in tax-free bonds to fund high-speed rail. This legislation proposes giving Amtrak yet another opportunity to secure federal subsidies, albeit tax subsidies.

With your concurrence, Mr. Chairman, I would like to enter into the record a copy of the Heritage Foundation's Backgrounder on Senate bill 1900, called Senate Boondoggle May Outdo All Others. This is not something I would be comfortable supporting, since Amtrak seems incapable of operating like a real business, or even competing fairly in the free market.

Mr. Chairman, thank you for holding this important hearing and giving me the opportunity to share my views with the Committee. I am sorry I will not be able to answer any questions. My Subcommittee hearing begins shortly, and we vote shortly, too.

[The information referred to follows:]

NEW AMTRAK BOONDOGGLE MAY OUTDO ALL OTHERS

by Dr. Ronald D. Utt

Backgrounder No. 1392

August 28, 2000

Legislation now before Congress proposes to dedicate as much as $16 billion of future budget surpluses to prop up Amtrak, America's federally chartered and subsidized passenger rail service. Members of Congress should view this new proposal with skepticism given Amtrak's record-breaking losses, stagnant ridership, and persistent failure to implement high-speed rail service, promised for 1997 and now delayed for a third straight year.

Instead, Congress should exercise its oversight responsibility to investigate the system's future viability. It should also weigh the value received from the $23 billion in *direct* federal subsidies—including $3.6 billion over just the past 3 years[1]—that U.S. taxpayers already have poured into the system merely to keep it afloat.

The High Speed Rail Investment Act (S.1900, H.R. 3700), introduced by Senator Frank R. Lautenberg (D–NJ) and Representative Amo Houghton, Jr. (R–NY), would allow Amtrak to borrow as much as $10 billion in interest-free loans over the next 10 years. Although Amtrak would pay no interest, lenders would still earn the equivalent of interest on the loans through a federal tax credit equal to the interest paid on long-term corporate bonds.[2] Currently, this rate is about 8 percent per annum. In effect, the U.S. Treasury would pay the interest to the bondholders on behalf of Amtrak.

These implicit interest payments by the federal government could add up to as much as $16 billion over the life of the bonds. For example, at an 8 percent interest rate, an individual investor holding a $1,000 Amtrak bond would be entitled to an $80 tax credit each year the bond is held. This means that if the investor owed $10,000 in federal income taxes in a given year, the $1,000 Amtrak bond would reduce his or her tax obligation to $9,920. The bill authorizes the issuance of $10 billion worth of these bonds at maturities of up to 20 years. The loss of tax revenues to the U.S. Treasury would total $16 billion if interest rates remained unchanged at 8 percent.

Renewed congressional efforts to bail out Amtrak are a striking turnaround from commitments made just a few years ago. In 1994, Amtrak promised to improve its operations and performance so that it could eliminate the need for federal subsidies by 2002.[3] In 1997, Congress confirmed that commitment when it passed the Amtrak Reform and Accountability Act (PL 105–134), which among other provisions established the Amtrak Reform Council, whose responsibility was to notify Congress and the President in the event Amtrak failed to meet its financial goals.

Currently, however, Amtrak is not meeting its goals; instead, its operating losses are escalating from year to year. Doubts about Amtrak's ability to meet its financial objectives are shared by the Department of Transportation's Inspector General, who observed in a recent report to Congress that meeting the goal of self-sufficiency by 2003 will be "difficult."[4]

Not only is Amtrak failing to meet its promise and statutory requirement to break even financially by 2002, but its financial situation has worsened. Amtrak's annual operating loss rose from $833 million in 1994 to a record $930 million in 1998. Its loss for 1999 was $916 million,[5] and losses for the first half of fiscal year (FY) 2000 are reported to be higher than those during the same period in 1999.[6]

Furthermore, these losses have ballooned despite a booming economy that has sent Americans traveling in record numbers and caused business profits to soar.

[1] U.S. General Accounting Office, *Intercity Passenger Rail: Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs,* GAO/RCED–00–138, May 2000, p. 3.

[2] The bill calls this the "credit rate."

[3] GAO, *Intercity Passenger Rail: Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs,* p. 3.

[4] U.S. Department of Transportation, Office of the Inspector General, *Semi-Annual Report to the Congress, April 1, 1999–September 31, 1999,* p. 21.

[5] National Railroad Passenger Corporation, 1999 *Annual Report,* p. 41. On an operating basis, 1999's loss was the highest ever because 1998's loss included one-time costs associated with a labor settlement.

[6] Joseph Vranich, "Resignation from the Amtrak Reform Council," letter to Senator Trent Lott, July 10, 2000.

This suggests that Amtrak's management and strategic plan are not up to the task of meeting the FY 2002 financial objectives.

Losses Amid Rising Prosperity

The rising prosperity of the 1990s has led to unprecedented mobility and travel opportunities for all Americans, and this in turn has benefited almost all segments of the transportation industry. Between 1990 and 1999, the number of domestic airline passengers rose by 37 percent, from 423 million at the beginning of the decade to 582 million last year.[7] Automobile use as measured by passenger-miles increased by 25 percent from 1990 to 1998.[8]

Even intercity bus service, Amtrak's closest competitor, saw its passenger volume rise by 7 percent between 1990 and 1998.[9] Indeed, intercity bus service currently carries 17 times more passengers than Amtrak, and Amtrak's share of the intercity passenger market amounts to only six-tenths of 1 percent nationwide when measured in passenger-miles.[10]

In contrast to its competitors' success, Amtrak was one of the rare American businesses that bucked the trend toward increased customers and soaring profits in the past decade. According to the railroad's most recent annual report, Amtrak's annual passenger level fell from 22.2 million passengers in 1990 to 21.5 million last year,[11] and its operating loss widened from $704 million to $916 million over the same interval.

Acela to the Rescue?

As it has done so many times before, the railroad's management has responded to failure by promising to do better next year—if only Congress will give Amtrak more money now. Amtrak's 1994 commitment to break even by 2002 was the most recent of these promises.

Recognizing that a history of broken promises is becoming tiresome to some in Congress, Amtrak has resorted to a clever new public relations tactic. It now proposes to implement a profitable, high-speed rail service called the Acela. Amtrak maintains that the Acela will be so profitable that it will make Amtrak financially self-sufficient and independent of future federal subsidies. The $10 billion loan proposal, under this scenario, would be America's down payment on this promise.

The promise, however, is not likely to be fulfilled. Amtrak has never made a real profit on any of its existing lines, and there is no reason to expect that this 30-year record of disappointment is about to end. For example, one of Amtrak's particularly costly lines is the Cardinal route, running between Chicago and Washington, D.C., via West Virginia, which incurs $3.29 of cost for every dollar of earned revenue. Overall, according to the U.S. General Accounting Office (GAO), Amtrak incurs costs of $1.86 for each dollar of revenue it receives.[12]

Even Amtrak's contention that it makes a small profit on its Metroliner service in the Northeast Corridor is true only under Amtrak's less-than-complete accounting standards. To declare the Metroliner profitable, Amtrak must neglect the capital costs associated with road bed, rolling stock, engines, buildings, and signal systems.

While the perennial optimist could argue that Amtrak might improve its operations, Amtrak's high-speed rail performance to date suggests that the Acela program will not be the catalyst. Service was scheduled to begin in 1997, but a series of design, mechanical, and testing problems have delayed the opening, and a new date has not been set for Acela's debut.[13]

Assuming that the high-speed line ultimately does open, its anticipated profitability depends upon substantially increased ridership. The increased ridership figures, however, may be overly optimistic. Taking the Acela rather than the Metroliner on the route where it would work best—between New York and Washington—would save a traveler only 15 minutes, reducing the trip from 3 hours to 2 hours and 45 minutes. While this represents some improvement, the change is not likely to convince passengers to abandon cars or planes.

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[7] Air Transport Association of America, Inc., "Traffic Summary 1960–1999: U.S. Scheduled Airlines," at *www.air-transport.org/public/industry/24.asp,* August 2000.

[8] Eno Transportation Foundation, *Transportation in America* 1999, 2000, p. 47.

[9] *Ibid.,* p. 48.

[10] *Ibid.,* p. 47.

[11] National Railroad Passenger Corporation, 1999 *Annual Report,* p. 43.

[12] U.S. General Accounting Office, *Intercity Passenger Rail: Financial Performance of Amtrak's Routes,* GAO/RCED–98–151, May 1998, pp. 6–7.

[13] Don Phillips, "Amtrak Testing of High-Speed Electric Train Is Delayed Again," *The Washington Post,* July 22, 2000, p. A11.

On the Boston to New York run, Amtrak projects the Acela will reduce train times from 4 hours and 30 minutes to 3 hours.[14] This is a significant improvement, but it is still substantially longer than flying. The same trip on a scheduled airline is currently only one hour and 20 minutes.

The Potential for Blackmail

Perhaps the most troublesome aspect of the proposed $10 billion federally subsidized loan is not its projected taxpayer cost of $16 billion. While worrisome, the cost is eclipsed by the potential for even greater taxpayer costs as a result of the opportunities for fiscal blackmail that a debt of that magnitude would create. If the federal government decided to end its funding of Amtrak at some point, it might feel bound to assume the costs of the loan. If Amtrak were to add the cost of the loan to the cost of its liquidation, it would have leverage with which to argue against such a liquidation.

In past efforts to prolong the life of a failing Amtrak, supporters argued that the government's liquidation cost if it were to allow Amtrak to go bankrupt would vastly exceed the subsidies necessary to achieve Amtrak's financial independence. In 1997, for example, Amtrak claimed that the costs associated with its liquidation could be as high as $10 billion to $14 billion. Congress asked the General Accounting Office to confirm this,[15] but the GAO was unable to estimate Amtrak's likely liquidation costs with confidence.

However, if Congress passes the High Speed Rail Investment Act, it might feel obliged to incur the cost of the $10 billion in federally subsidized bonds; this would be in addition to the other costs that it could incur if it chose to liquidate Amtrak. Although the legislation would not grant the government's full faith and credit to the special Amtrak tax credit bonds, the government would have a moral obligation to reimburse those who invest in these bonds. Because the government created, subsidizes, and directs Amtrak, it would be expected to shoulder the responsibility of making good on the loan if Amtrak were to fail.

And Amtrak would make the most of this obligation. If it fails to break even in 2002 as it has promised, it no doubt will use the obligation as leverage to seek ever more costly bailouts.

Subsidizing the Last Choice in Travel

Notwithstanding Congress's long-standing obsession with socialized rail passenger service and its $23 billion investment in Amtrak, intercity travelers continue to shun Amtrak in favor of alternate modes of transport. For this reason, the High Speed Rail Act represents an exceptionally costly bailout of an enterprise that has failed to provide cost-effective service during its 30 years of operation.

When Congress passed the Amtrak Reform and Accountability Act in 1997, it gave the Amtrak Reform Council the responsibility to assess Amtrak's progress toward financial independence by 2002. If that goal is not met, the Council will have to determine whether Amtrak should be restructured or liquidated. Congress should make no additional financial commitments to Amtrak until the council submits its report and recommendations and Congress reviews them.

In the meantime, Congress should study the growing number of privatization reforms that have been applied successfully to government-operated passenger rail service in other countries, including Great Britain and Japan.[16] Given Amtrak's long history of failed schemes and operating losses, such innovations—not $10 billion for an unproven high-speed rail program—are the only way Amtrak will improve its own operations.

—Ronald D. Utt, Ph.D. is Senior Research Fellow in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.

The CHAIRMAN. Thank you, Senator Allard. Welcome, Governor Thompson.

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[14] National Railroad Passenger Corporation, "Acela Questions & Answers," at *www.acela.com/questions/index.htm,* August 2000. In reality, the diminished time for the Boston-New York run is closer to an hour, not the 90 minutes claimed. Amtrak has already reduced the time on the run by 30 minutes by eliminating the engine change in New Haven, Connecticut, now that the line from New Haven to Boston has been electrified.

[15] U.S. General Accounting Office, *Intercity Passenger Rail: Issues Associated With a Possible Amtrak Liquidation,* GAO/RCED–98–60, March 1998, p. 2.

[16] For additional details on the success of transit privatization worldwide, see Ronald D. Utt, "Congress Should Accept Industry Offers to Buy Amtrak," Heritage Foundation *Backgrounder* No. 1179, May 18, 1998

STATEMENT OF GOVERNOR TOMMY THOMPSON, CHAIRMAN OF THE AMTRAK REFORM BOARD, ACCOMPANIED BY GEORGE WARRINGTON, PRESIDENT, NATIONAL RAILROAD PASSENGER CORPORATION

Governor Thompson. Thanks, Mr. Chairman. First, to answer your question, there have been no commitments at all on any money that may be coming in the future.

Members of the Committee, I want to thank you for inviting me to testify today. I believe it is important to keep in mind that our goal should be to create a seamless transportation network that offers all Americans the widest array of travel choices possible. As a Nation, we recognize the importance of funding our highways. We spend $32 billion a year, and yet our roads are more congested than ever, reducing the quality of life for our citizens and costing businesses untold dollars in lost productivity.

The federal government will spend $14 billion this year on aviation projects, yet as this Committee well knows airline passengers are facing longer delays and are increasingly frustrated with the airline industry.

At the same time the federal government subsidizes mass transit by $6 billion it gives $521 million only to Amtrak, about one-half of what the authorizers indicated that we should have. We spent $23 billion on passenger rail, but that was over 29 years, averaging about $½ billion a year.

However, I believe as you do, Mr. Chairman, that the way for Amtrak to succeed is not through more subsidies, but through innovation, market-based reforms. I am here to tell you that Amtrak will meet its goal of operational self-sufficiency by 2003 by doing just that. We are making great strides already. Let me give you a few examples.

On July 4, 2000, Amtrak launched its new service guarantee, the only transportation mode that does it. This guarantee and the improved service are designed to increase repeat business. Amtrak has an unprecedented agreement with Continental Airlines to connect their customers to our stations in the Northeast.

Amtrak's partnership with the freight railroads have already helped grow our mail and express business by 30 percent over last year, 30 percent, and we are only just beginning to explore this profitable relationship. Our network growth strategy will expand rail service in 21 States, further grow our mail and express business and generate $255 million in improvements to our bottom line by 2003.

While some have criticized Amtrak, saying we expanded service for political gain, but the truth be told we are doing it to make money, simply, pure and simple. Amtrak's partnership with States to build regional high-speed rail corridors will have a profound impact on our financial situation, as well as on America's transportation system. On January 31, 2000, Amtrak launched Acela regional train service between Boston and New York, which has increased ridership by 42 percent, and our profits by 70 percent.

Mr. Chairman, the business initiatives I described are already producing results. Amtrak continues to break ridership and revenue records. A 21-year high of nearly 2.1 million passengers rode Amtrak in August, leading to an all-time monthly ticket revenue record of $108 million in 1 month, and with only a few days left in this fiscal year, Amtrak is on course to set a record for annual ticket revenues and to break its all-time annual ridership record of 22 million passengers.

The strong financial performance of our company assures us that with continued federal capital support Amtrak will meet its business plan target of operating self-sufficiency by 2003. To date, Amtrak has met its annual target on the glide path to ending federal operating assistance. We will require no more than the planned $362 million in federal support for operating expenses this year, $122 million less than we did last year.

Amtrak does face, however, some real challenges if it is going to succeed. The first is without a doubt the delay in launching the Acela Express, which created revenue shortfall for us this year of $150 million, and I want you to know we will be receiving our first Acela Express within the next several days, but our strong performance this year has served to take up more than half of that unanticipated shortfall.

Second, I know that Ken Mead, the Department of Transportation Inspector General, has issued a report stating that Amtrak will not achieve operational self-sufficiency by 2003 if we continue along our business plan of last year. His concern is based primarily on a set of undefined actions in order to increase revenues and reduce cost. We are addressing those concerns as a board. Last week at our board meeting we approved a brand-new business plan, Mr. Chairman and members, for 2001 that reduces the undefined actions over a 4-year period to less than 1 percent of our total expenses annually. I can assure you that Amtrak will have no difficulty identifying further actions.

But as a Governor, I am here to tell you that this country needs more than just a self-sufficient Amtrak. We do need high-speed trains in heavily populated areas that take the pressure off the overloaded airports and the highways. We need a national long-distance train network supporting our rural communities and carrying critical express cargos.

We need to respond to the demands of Governors, Congressmen, Senators, and mayors all across this country who are clamoring for a high-speed rail system this country can be proud of, and that is just part of the kind of pressure we are receiving, is what we gave to Ken Mead.

The High Speed Rail Investment Act will provide the necessary capital funds for rail through an innovative financing mechanism that requires State participation through a match just like in the highway, just like in the transit programs. This is a new and, yes, a creative way to get the capital funds to get high-speed corridor projects that are ready and waiting and demanding to be built.

Let me be perfectly clear. This is not about a bail-out for Amtrak. We do not need a bail-out, Mr. Chairman, and that is not why we are supporting this bill. What we do need is capital. What we do need is for States around this country to have a federal matching program, as with highways, as with airports, as with mass transit, a program that assists them in making the rail infrastructure investments necessary to support our growing system.

Mr. Chairman, for much of Amtrak's history it was not run like a business, did not have an entrepreneurial focus, and did lack a serious business plan, but in recent years, Mr. Chairman, since the reauthorization, we have made remarkable progress in turning Amtrak around, reducing our dependence on federal operations support, and we will continue to do so for as long as this board is in existence and for as long as Congress has given us the support that we deserve.

Thank you, Mr. Chairman.

[The prepared statement of Governor Thompson follows:]

PREPARED STATEMENT OF GOVERNOR TOMMY THOMPSON, CHAIRMAN OF THE AMTRAK REFORM BOARD, ACCOMPANIED BY GEORGE WARRINGTON, PRESIDENT, NATIONAL RAILROAD PASSENGER CORPORATION

Mr. Chairman, I thank you and the distinguished Members of this Committee for giving me the opportunity to describe how Amtrak is well on its way toward achieving operational self-sufficiency by fiscal year 2003, as required by the Amtrak Reform and Accountability Act of 1997.

As you well know, the Act was the first significant step in relieving us of the burden of being all things to all people, and to start acting and performing like a business.

To that end, one of the Board's first actions in 1998 was the adoption of a five-year Strategic Business Plan that is transforming Amtrak into a market-based, customer-focused operation. I'll be discussing the Business Plan, and the extraordinary results it has achieved in just a moment.

But first, both as a Republican and as the Chairman of Amtrak's Board, I'd like to say how very proud I am that 2 of our nation's most prominent Republicans—yourself, Mr. Chairman, and Gov. George W. Bush of Texas—were our guests this summer aboard Amtrak trains. We feel deeply privileged to have hosted you, along with nearly 6.2 million other Americans, all of whom took to the rails this summer—a number unprecedented in Amtrak's history.

The record-breaking ridership and revenue figures helped us turn an important corner—not only in Amtrak's corporate history, but also in America's transportation history. Although hardly anyone predicted it 29 years ago when Amtrak was created, railroads are experiencing a renaissance in America today. There are 2 reasons for this.

First, travelers are demanding a more personalized way to travel. And you can't get much more comfortable than rail travel. In contrast, our highways are jammed, and the news from this summer on the airline side only gets worse. It's bad enough reading the headlines of hundreds of flight cancellations each day, but I have also heard some personal horror stories from travelers that underscore a real need for a balanced transportation system. I guess the fact that this summer O'Hare has had to order *more* than the normal 1,500 cots reserved for snowstorms says it all.

I believe the second reason for the renaissance is that when travelers board the train and go with Amtrak they receive better service than the airlines provide and, frankly, better than what we have been able to provide in the past. We have worked hard over the last year preparing to launch an unprecedented national satisfaction guarantee—and on July 4, we did it!

Our focus is on providing our customers—or guests, as we prefer to call them—with an enjoyable travel experience, and that means a new level of service in the travel industry for every customer. Faster, more efficient service. Consistently professional, highly personalized service. Striking new and renovated stations. And, of course, new and refurbished trains with a rich package of amenities for our guests' pleasure and comfort.

Under the guarantee, we promise all of our guests a safe, comfortable and enjoyable travel experience. If guests are not satisfied at any point in their Amtrak travel experience, and if our employees can't make it right, they'll get a Service Guarantee Certificate, entitling them to equivalent free travel in the future.

Amtrak launched the Service Guarantee because it makes good business sense. The guarantee and the improved service are designed to increase passenger satisfaction and cause those who have tried Amtrak to return with greater frequency. We estimate that just a one-percent increase in our guest retention rate will add $13 million in revenues. Moreover, getting customers to tell us about problems in our service is a virtually cost-free way of identifying and correcting the things that tend to drive people away from Amtrak.

Mr. Chairman, I believe that it's the convergence of these 2 factors—on the one hand, travelers searching for an alternative; on the other, Amtrak's new, unconditional commitment to passenger satisfaction—that is behind the current railroad renaissance.

There are 3 additional points that I'd like to make about the resurgence of passenger rail.

First of all, it's real. It's not one of those flash-in-the-pan, here today, gone tomorrow phenomena. And, the reason railroads are here to stay has to do with dollars and cents. As I'm sure Committee Members know, the costs of building new highways and airports are soaring. And, while we must maintain our highways and airports, you get more "bang for your buck" by investing your transportation dollar in passenger rail, than by investing that same dollar in new highway or airport construction.

The second critical point about the current railroad renaissance is that, although I have naturally focused on Amtrak, public investment in passenger rail can also revitalize the infrastructure of the railroad freight industry, and result in increased capacity for freight as well as passenger railroads. That's why public investment in Amtrak is a classic "two fer": By unclogging our highways and airlanes, it helps commuters; by unclogging the arteries of our commerce, it helps shippers and manufacturers.

My third point about the national rail renaissance is that it's crucial to the success of our entire national transportation system. What most people fail to understand about this system is that it's a balanced network consisting of highways, airports and railroads. And the balance is surprisingly delicate. If you remove passenger railroads from the balance, then the other parts of the system just won't work right. But if you've got a strong railroad system that takes some of the pressure off of our highways and airports, then you enable *them* to fulfill their potential, as well.

The goal of public policy, Mr. Chairman, should be to create a framework within which our highways, our airports and our railroads can work together to create a seamless transportation network that provides Americans with the widest array of travel choices.

Today, more and more Americans want to travel, and we all need to work together to provide them with seamless travel options. Amtrak plays an important role in the mix. For instance, on long-distance trips, travelers would fly to major hubs, and then for shorter distances, rely on high speed rail services. As I put it in my State of the State Address to the Wisconsin legislature last January, "Soon, the business traveler will fly from Washington to Milwaukee, jump on a high-speed train to Madison, then catch a bus to drop her at her doorstep just in time for dinner with the family, cooked by her husband."

I am pleased to report that Amtrak has already taken steps to build a seamless system with its partners. We have an unprecedented agreement with Continental Airlines to connect their customers to our stations in the Northeast for portions of their trip and to reroute them on our trains in inclement weather. Working with Hertz, we now have rental car services available at 56 stations in the country, and the number is growing. And we work with Coach USA and Greyhound to take travelers to their hotels and destinations once they step off our trains.

This spirit of entrepreneurial partnership has helped us achieve some mighty impressive financial successes in the last year, and it is the kind of spirit that will help us fulfill our legal obligations under the Amtrak Reform and Accountability Act.

Amtrak's relentlessly entrepreneurial focus informs every step we take. Our partnerships with the freight railroads have already helped grow our Mail and Express business by 30 percent over last year—and we've only begun to explore the possibilities of what promises to be a vastly—and mutually—profitable relationship.

Our Network Growth Strategy will expand rail service in 21 states, further grow our Mail and Express business, and generate $255 million in improvements to our bottom line by 2003. This service expansion is not about trying to be all things to all people. It's about the basic economic principle that in order to cover your fixed costs, you must expand your operations and grow revenues. It's about growing to prosperity, not cutting services and killing your market just to meet a budget.

Thanks to our strategic investments in state-of-the-art technology, our Call Centers—which won the "Best Call Center" Award from *Call Center Magazine* in 1998—are doing even better today. Sales per man-hour are up 11 percent over last year, to $859/hour; ticketed sales are up 12 percent, to $487 million; and bookings are up 12 percent, to $1.7 billion.

And our partnerships with states to build regional, high-speed rail corridors will have a profound impact on our financial situation, as well as on America's transportation system.

Mr. Chairman, Amtrak is absolutely committed to building a market-based national system whose economic viability derives from both passenger revenue and commercial ventures. On January 31, 2000, we took a major step in the realization of our vision by launching *Acela Regional* train service between Boston and New York. The new, all-electric *Acela Regional* service dramatically reduces travel time within New England, making rail attractive for both leisure and business travelers. Ridership on the *Acela Regional* is up 42 percent over the trains it replaced, adding millions to the bottom line.

The *Regional* service will prime customers for the arrival of the *Acela Express*. When all 20 high-speed trainsets are operating, travel time between Boston and New York will be reduced to a little over 3 hours, and between New York and Washington to as little as 2 hours and thirty minutes. We anticipate gaining 3 percentage points in market share, from 12 to 15 percent, in the Northeast.

But high-speed rail is not something just the Northeast wants. Across America, interest in high-speed rail is running high. That's why 36 states are working with Amtrak on passenger rail projects—and 28 of those states are investing in high-speed rail projects. California, for example, plans to invest $700 million for intercity passenger rail investment next year. Also, as part of the $5 billion Midwest Regional Rail Initiative, Illinois plans to spend $140 million; Michigan has already spent $25 million; and my own state, Wisconsin, plans to spend $60 million. The state of Washington has invested $125 million, New York will invest $100 million and both North Carolina and Pennsylvania are investing at least $70 million in high-speed rail projects respectively. Virginia recently approved $75 million in new spending for the Richmond Washington high-speed rail corridor, and Georgia recently approved $200 million for investment in high-speed rail and commuter in that state.

As I said earlier in my testimony, the railroad renaissance is real!

Mr. Chairman, the initiatives I've described are already producing spectacular results:

Amtrak continues to break ridership and revenue records. A 21-year high of nearly 2.1 million passengers rode Amtrak in August, leading to an all-time monthly ticket revenue record of $108.4 million. The record setting August ticket revenues broke July's record ticket revenues of $107.2 million, and was the third month in a row that ridership surpassed 2 million. With only a few days left in the current fiscal year, Amtrak is on course to set a record for annual ticket revenue and to break its all-time annual ridership record of 22.2 million passengers.

We expect ridership and ticket revenues to grow even faster in the coming year with the introduction of *Acela Express.* The Federal Railroad Administration (FRA) has been working in lockstep with Amtrak and the manufacturers during the testing and we have just received a favorable review and certification from the FRA. We anticipate that the manufacturers will offer the trainset for conditional acceptance by Amtrak any day and that we will soon thereafter launch the service.

Mr. Chairman, the strong financial performance of our company assures that, with continued federal capital support, Amtrak will meet its business plan target of operating self-sufficiency by 2003. Amtrak is successfully continuing along the congressionally-mandated glidepath to end federal operating assistance. We will require no more than the planned $362 million in federal support for operating expenses this year, $122 million less than last year. And, we will meet or improve upon the cash plan contained in the Corporation's Business Plan. Finally, we have been predicting that we would have a revenue shortfall due to the delay in the launch of *Acela Express.* This remains true, but I am pleased to tell you that our strong performance so far this year has served to make up more than half the anticipated shortfall, so that we will miss our Business Plan goal for bottom-line performance by $60–$70 million, not $150 million.

Still, the question remains: How can we sustain Amtrak's successes and create a passenger rail system that truly is an integral part of our transportation network?

Well, the answer is no surprise. Like every other mode of transportation, passenger rail needs federal capital investment funds. The $2.2 billion that Amtrak received from the Taxpayer Relief Act has provided critical funding to keep Amtrak on its path to operating self-sufficiency. But, as a Governor, I'm here to tell you that the country needs more than just a self-sufficient Amtrak. We need high-speed trains in heavily populated corridors that take the pressure off the overloaded airports and highways. We need a national long-distance train network supporting our rural communities and carrying critical express cargoes. We need the federal government to take a leadership role in investing in an interstate railroad system that this country can be proud of.

The High Speed Rail Investment Act would provide the necessary funds for rail through an innovative financing mechanism that requires state participation through a match—just like in the highway and transit programs. This is a new and creative way to get the capital funds to high-speed corridor projects that are ready and waiting to be built. This is not about a "bailout " for Amtrak. We don't need a bailout, and that's not why we're supporting this bill. What we do need is for states around the country to have a federal matching program, as with highways and transit—a program that assists them in making the rail infrastructure investments necessary to support our growing system.

Mr. Chairman, I'd like to conclude my statement by acknowledging that there was a lot to criticize about the old Amtrak. For much of our history, I'm afraid that Amtrak was not run like a business, did not have an entrepreneurial focus, and lacked a serious business plan.

Fortunately, Mr. Chairman, your leadership has helped this corporation turn itself around and reduce our dependence on federal operating support. You have focused on our shortcomings to help strengthen our focus, and to hold us accountable for becoming an operationally self-sufficient, market-oriented, moneymaking enterprise. That is why, though we have crossed swords in the past, and may well do so again today, you should know that I have the deepest admiration and respect for you, and for your vision of what Amtrak can be.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Governor Thompson.

Ms. Scheinberg, welcome back.

STATEMENT OF PHYLLIS F. SCHEINBERG, ASSOCIATE DIRECTOR, TRANSPORTATION ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Ms. SCHEINBERG. Thank you, Mr. Chairman and Members of the Committee. I appreciate the opportunity to testify today on Amtrak's progress toward operating self-sufficiency, its capital investment needs, and the future of Amtrak and of intercity passenger rail in this country.

In summary, Amtrak's financial performance has not been bright, and the railroad faces substantial capital needs. Also, in the next years the Congress will be asked to make important decisions about the future of Amtrak and the Nation's intercity passenger rail. There are 3 points I would like to make.

First, Amtrak continues to struggle financially, and must overcome major hurdles to reach operational self-sufficiency by 2003. Specifically, Amtrak has made relatively limited progress toward self-sufficiency. In the last 5 years, it has reduced its budget gap by only $78 million, and must reduce the gap by another $287 million before 2003.

This financial struggle has continued this year. Amtrak is significantly behind its current year goal of closing its budget gap by $114 million. In fact, through June of this year it was $80 million behind its planned reductions.

The CHAIRMAN. $80 million behind how much?

Ms. SCHEINBERG. $114 million is what it was going to achieve this current year, and the data we got from Amtrak was through the third quarter of this year. It was $80 million behind the $114 million goal. It had achieved $33 million of the $114 million goal.

The CHAIRMAN. Thank you.

Ms. SCHEINBERG. I do not have the latest quarter's results. We will have them soon.

We have heard today and previously from Amtrak that its revenues are up. These increases tell only half the story. They tell the good news. While revenues are up, so are costs, and the cost increases tell the other half of the story, which is the bad news. Unfortunately, the cost increases have mostly wiped out the impact of the revenue and ridership gains that Governor Thompson talked about. Amtrak is largely no better off today than it was a year ago.

Given the limited progress that Amtrak has made toward self-sufficiency, it will need to make significantly more progress than it planned in the next 2 years. This will be extremely difficult, given that Amtrak's costs are expected to increase. While Amtrak's business plans have tended to hold cost increases to the rate of inflation, Amtrak's operating costs increased 12 percent above inflation during the 5 years from 1995 to 1999.

The impact of these cost increases is that while Amtrak spent money to make money, it has realized little benefit from the expenditures that it has made. During the past year, as in each of the previous 5 years, for every operating dollar that Amtrak spent, it earned only about 64 cents in total revenue.

It is going to be extremely difficult for Amtrak to turn this trend around because of upcoming events. For example, the results of ongoing collective bargaining with its labor unions and the expected increased interest expenses from financing the new train sets are 2 of the challenges that Amtrak faces.

My second point today is that Amtrak has substantial short-term and long-term capital investment needs that will be difficult to meet. We have estimated Amtrak capital needs to be at least $4 billion just through 2004, and at least $9 billion through 2015. Most of these needs are in the Northeast Corridor, and include life safety improvements and bringing the corridor up to a state of good repair. Amtrak will find it very difficult to pay for these needs.

Between 2001 and 2004, Amtrak's capital needs will exceed expected federal capital funds by about $2 billion. Some of this amount could be paid by other users of Amtrak facilities. However, the federal government could be called upon to cover any shortfall. If so, the federal support requested could be substantially higher than current appropriation levels.

Moreover, Amtrak has not identified all of its capital needs or their costs. It has not identified even all of its needs on the Northeast Corridor, or the needs of its existing routes off the Corridor, nor has Amtrak identified its needs for new equipment, or for the costs related to the network growth strategy, or for the costs of expanding its mail and express service, and Amtrak has not yet developed the costs of the new high-speed rail corridors across the country.

The reason Amtrak does not know the costs of all these capital investments is that it has not had a comprehensive multi-year capital plan since 1997. We have recommended that Amtrak develop such a plan, including the related benefits of the capital investments, the priorities of the needs, and the likely funding sources.

My final point today is that no matter whether Amtrak succeeds or fails in reaching self-sufficiency, important decisions will need to be made about the future of Amtrak, the scope of intercity passenger rail service in the United States, and the levels of federal support. Even if Amtrak does reach self-sufficiency, it will need substantially more federal funds than it currently receives each year.

The $9 billion that Amtrak will need just to meet identified capital needs are needs that are critical to maintain current service levels and will require an average of $600 million a year. In addition, Amtrak will require about $200 million annually to cover excess railroad retirement payments. As a result, the federal government could be called upon to provide substantially more annual funding for Amtrak than the $521 million it currently provides.

The CHAIRMAN. What range are you talking about?

Ms. SCHEINBERG. Potentially twice as much. We would be talking $1 billion if Amtrak reaches self-sufficiency. If Amtrak fails to reach self-sufficiency, the Congress would be called upon to decide the future of Amtrak and the future of intercity passenger rail in general. It is not too early for the Congress to begin considering what its long-term vision is for Amtrak and intercity passenger rail, and how this vision should be implemented. This would include determining the scope of a national intercity passenger rail network, if any, how that network would be operated, and the level of federal funding that would be provided to support the network.

Mr. Chairman, that concludes my statement. I will be happy to answer any questions.

[The prepared statement of Ms. Scheinberg follows:]

PREPARED STATEMENT OF PHYLLIS F. SCHEINBERG, ASSOCIATE DIRECTOR, TRANSPORTATION ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to testify today on the National Railroad Passenger Corporation's (Amtrak) progress toward achieving operating self-sufficiency; its capital investment needs and how these capital needs compare with expected federal funding; and the future of Amtrak and intercity passenger rail. The Congress has directed Amtrak to be free of federal operating subsidies by the end of fiscal year 2002. This deadline presents serious implications for the future of Amtrak and intercity passenger rail service in this country. This statement is based on our recent reports on Amtrak financial issues.[1]

In summary:

- Amtrak continues to struggle financially and must overcome substantial hurdles to reach operational self-sufficiency. Amtrak has made limited progress in reducing its budget gap—the gap that Amtrak needs to close to reach operational self-sufficiency. From fiscal years 1995 through 1999, Amtrak was able to reduce its budget gap by only $78 million—from about $554 million to $476 million. From fiscal years 2000 through 2002, Amtrak will need to achieve about $287 million in additional savings to reach operational self-sufficiency. Yet Amtrak has made limited progress toward this goal in the first 9 months of this fiscal year. Furthermore, Amtrak's costs are expected to increase, and Amtrak has a mixed record in controlling cost growth. In addition, Amtrak's ability to realize substantial revenue increases and productivity improvements is uncertain. Nearly three-quarters of the $1.9 billion in net financial benefits that Amtrak expects to achieve between now and 2004 have either not been identified or are based on initiatives that have yet to be fully implemented.
- Amtrak has substantial short- and long-term capital investment needs that will be difficult to meet. From discussions with Amtrak managers and a review of published reports, we estimate Amtrak's identified capital needs to be at least

[1] *Intercity Passenger Rail: Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs* (GAO/RCED–00–138, May 31, 2000), *Intercity Passenger Rail: Amtrak Needs to Improve Its Accountability for Taxpayer Relief Act Funds* (GAO/RCED/AIMD–00–78, Feb. 29, 2000), and *Intercity Passenger Rail: Amtrak Faces Challenges in Improving Its Financial Condition* (GAO/T–RCED–00–30, Oct. 28, 1999).

$9 billion through 2015 (in 1999 dollars). In addition, Amtrak will have other capital needs, such as acquiring new equipment, for which the company has not yet developed cost estimates. Amtrak will find it difficult to pay for these needs. Over the 2001 through 2004 period, the identified capital investment needs will exceed expected federal capital funds by nearly $2 billion. Although some of this amount may be paid by other railroads that use Amtrak facilities, the federal government could be called upon to cover any funding shortfall, with capital financial support requested substantially higher than current levels.

- Key decisions will soon have to be made regarding the future of Amtrak, the nation's intercity passenger rail operator. If Amtrak does not reach operational self-sufficiency within the next 2 years, federal law requires that the Amtrak Reform Council submit a plan to the Congress for a restructured intercity passenger rail system and that Amtrak prepare a plan for its own liquidation.[2] On the other hand, if Amtrak does attain operational self-sufficiency, it could require a substantially higher level of financial support than it receives now to meet its capital needs and for certain railroad retirement expenses. In either case, the future of Amtrak will need to be decided. If that future does not include Amtrak, basic decisions must be made about an intercity passenger rail system. The decisions include the scope of a national intercity passenger rail network, if any; how it would be operated; and the level of federal funding that would be provided to support this network.

Background

The Rail Passenger Service Act of 1970 created Amtrak to provide intercity passenger rail service. Like other major national intercity passenger rail systems in the world, Amtrak has received substantial government support—over $23 billion through fiscal year 2000. However, the Amtrak Reform and Accountability Act of 1997 (Amtrak Reform Act) prohibited Amtrak from using federal funds for operating expenses, except for an amount equal to excess Railroad Retirement Tax Act payments, after 2002.[3] To help accomplish this goal, the Amtrak Reform Act provided Amtrak with flexibility to address certain costs. The act eliminated a statutory ban on contracting out work that would result in employee layoffs and abolished statutorily required labor protection arrangements that provided up to 6 years of compensation for employees who lost their job because of the discontinuance of intercity passenger rail service on a route or certain other actions. The Amtrak Reform Act required negotiations with the unions over new protection arrangements. To help achieve its financial goals, Amtrak has developed a series of strategic business plans.

Amtrak, like other railroads, is a very capital-intensive business. Since its creation, Amtrak has spent about $10.2 billion in federal support for capital improvements and equipment overhauls. This amount includes about $1.8 billion of the $2.2 billion that Amtrak received through the Taxpayer Relief Act of 1997. These funds could be used for broadly defined expenses, including (1) acquiring equipment, rolling stock (such as passenger cars and locomotives), and other capital improvements; (2) upgrading maintenance facilities; (3) maintaining existing equipment in intercity passenger rail service; and (4) paying of interest and principal on obligations incurred for these purposes. Amtrak has also obtained capital funding from state and local governments, generally for specific capital investments, and from the commercial debt markets. These funds support Amtrak's 22,000-route-mile passenger rail system, including 650 miles of track owned by Amtrak. Amtrak maintains an active fleet of 2,600 cars and locomotives.

Amtrak Will Have to Overcome Major Hurdles to Become Operationally Self-Sufficient

Amtrak continues to struggle in its quest to become operationally self-sufficient by the end of 2002. Amtrak has made relatively little progress over the past 5 years, and the results for the first 9 months of the current fiscal year in reducing its budget are not encouraging. This means that substantial additional progress will be required over the next 2 years to attain operational self-sufficiency. One of Amtrak's difficulties in reaching operational self-sufficiency is controlling its costs, particularly labor costs. Finally, Amtrak has yet to fully implement the various revenue

[2] The Amtrak Reform Council is an independent oversight body created by the Amtrak Reform and Accountability Act of 1997.

[3] Amtrak participates in the railroad retirement system, under which each participating railroad pays a portion of the total retirement and benefit costs for employees of the industry.

enhancing and productivity improvement initiatives that it considers important to operational self-sufficiency, including its Acela Express service.[4]

Most Financial Results Needed to Reach Operational Self-Sufficiency Are in the Future

Amtrak has made limited progress in moving toward operational self-sufficiency in the last 5 years. According to Amtrak, its budget gap[5] fell by $78 million during fiscal year 1995 and through 1999—from about $554 million in fiscal year 1995 to $476 million in fiscal year 1999.[6]

Through the first 9 months of the current fiscal year (October–June), Amtrak's revenue increased by 11 percent over the same period in 1999. But, expenses increased by 7 percent. Since Amtrak has about $3 in expenses for every $2 in revenue, the increase in expenses for the most part negated revenue gains. As a result, the budget gap was only about $33 million lower than it was for the same period in 1999. Amtrak officials agreed that additional actions are needed during the final 3 months of this year to achieve the planned budget gap reduction of $114 million and that achieving its goal will be difficult. Amtrak attributes the problems to the delayed rollout of the Acela Express service and a slower-than-expected increase in its mail and express business.[7]

The limited progress that Amtrak has achieved in reducing its budget gap makes it essential that Amtrak make substantial strides over the next 2 years to achieve operational self-sufficiency. To become operationally self-sufficient by 2002—that is, to reduce its budget gap to no more than the amount of excess Railroad Retirement Tax Act payments—Amtrak will have to reduce its budget gap by an additional $287 million[8] over what it was in fiscal year 1999. This is nearly 4 times the reduction that Amtrak made in the last 5 years. It is therefore critical that Amtrak take those actions necessary to control cost growth and achieve the revenue projections contained in its latest business plan.[9]

Amtrak Will Continue to Have Difficulty Controlling Its Costs

Amtrak has had and will continue to have difficulty controlling cost growth. Amtrak met its expense targets in 1998 and 1999 but missed them from 1995 to 1997 and, overall, its expenses have been about $150 million more than planned over this period. Amtrak's strategic business plans have generally tried to hold cost increases to no more than the rate of inflation. But, as we recently reported, Amtrak's operating costs increased by about 12 percent over the rate of inflation from 1995 through 1999.[10] Amtrak's inflation-adjusted costs (1999 dollars) were about $2.4 billion in 1995 and about $2.7 billion in 1999. Amtrak has attributed increased costs to, among other things, the results of labor negotiations, expanded service levels, increased depreciation, and the implementation of its progressive overhaul program. While Amtrak has "spent money to make money," it has realized little benefit from the expenditures it has made. For example, in 1995, for every operating dollar that Amtrak spent, it earned $0.65 in total revenue. In comparison, Amtrak earned $0.67 in total revenue for every dollar spent in 1999. Through the first 9 months of this fiscal year, Amtrak has earned about $0.64 in total revenue for every dollar expended.

Labor costs represent Amtrak's single largest operating cost—about 52 percent of total operating costs in 1999. Amtrak's labor costs have increased since 1995—about 10 percent above the rate of inflation (from about $1.3 billion to about $1.4 billion). This is a net increase, that is, net of the savings achieved through such actions as negotiated productivity improvements. In part, this increase reflects the fact that

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[4] Acela Express is part of Amtrak's high-speed rail program on the Northeast Corridor. Acela Express trains are expected to reach speeds of up to 150 miles per hour and have trip times of about 3 hours between New York City and Boston and about 2½ hours between New York City and Washington, D.C.

[5] Amtrak defines budget gap as the corporation's net loss (total revenues less total expenses) less capital-related expenses, including the depreciation of its physical plant, other noncash expenses, and expenses from its program to progressively overhaul railcars (i.e., to conduct limited overhauls of cars each year rather than comprehensive overhauls every several years).

[6] The 1998 budget gap excludes $36 million in retroactive payments under recently negotiated labor agreements.

[7] "Express" is the transportation of higher value, time-sensitive goods, such as produce.

[8] This amount represents the $476 million budget gap in 1999 less expected excess Railroad Retirement Tax Act payments in 2002 of $189 million.

[9] In addition, Amtrak's overall financial condition has also not improved. Through the first 9 months of this year, Amtrak's net loss was about $711 million—about $6 million higher than it was for the same period in fiscal year 1999 ($705 million). Amtrak's lower-than-expected performance appears to be related to higher expenses rather than lower revenue.

[10] See GAO/RCED–00–138.

the size of Amtrak's workforce has not changed materially in recent years. In 1999, Amtrak employed about 22,500 agreement (union represented) employees and about 2,700 management employees—about the same total as in 1994 when Amtrak started to reduce its workforce. Amtrak officials attributed employment increases to such things as service expansion and capital investments. In part, increases in labor costs may also reflect that Amtrak has no standard measures of labor productivity for its different lines of business (e.g., intercity passenger rail service and commuter service). Such measures would allow Amtrak to determine its efficiency and better manage cost growth.

Amtrak's cost growth can be expected to continue. Amtrak's operating plan for 2000 shows that overall operating costs will increase by a net $60 million over the next 5 years.[11] This is a net increase because it includes growth in such costs as labor and interest expenses as well as savings from such things as productivity improvements. Regarding labor costs, Amtrak has entered into a new round of collective bargaining with its union-represented employees. If the new round of bargaining follows the pattern of past negotiations, substantial cost increases can be expected. As a result of collective bargaining for 1998 to 1994, Amtrak estimated that wages increased between $120 million and $140 million. As a result of the most recently completed round of bargaining (1995 to early 2000), Amtrak estimated that wage payments increased by $144 million through 1999.[12]

Important Business Plan Initiatives to Increase Revenues and Improve Productivity Have Yet to Be Fully Implemented

Amtrak's plans to reach operational self-sufficiency emphasize business growth, particularly increasing revenues and improving productivity. Over the next several years, Amtrak expects substantial increases in revenue from such initiatives as implementing its Network Growth Strategy (a strategy to increase passenger and mail and express business) and new service standards designed to ensure a consistent, high-quality product. Amtrak's most recent business plan update estimates that initiatives such as these will result in net financial improvements of about $1.9 billion through 2004.

Nearly three-quarters ($1.4 billion) of the net financial benefits that Amtrak expects to achieve from 2000 through 2004 have either not been identified or are based on initiatives that Amtrak has not yet fully implemented. (See table 1.) These include such initiatives as expanding the mail and express program, developing actions to improve productivity, implementing the market-based route network, and implementing service standards. Amtrak officials told us they are in the process of defining the specific actions associated with these initiatives but agreed they had not yet been fully defined. That Amtrak has not fully implemented its most important business plan initiatives increases the uncertainty about whether it can meet its financial goals over the next 2 years.

[11] This includes the costs of progressive overhauls. Amtrak funds progressive overhauls through its capital program. However, under generally accepted accounting principles, the cost of such overhauls are considered an operating expense.

[12] Total negotiated wage payments (including general wage increases, signing bonuses, and retroactive payments) were $260 million. Amtrak expects to pay the balance of this amount ($116 million) in 2000.

Table 1: Estimated Financial Impacts of Amtrak's Business Plan Initiatives, Fiscal Years 2000 Through 2004

Dollars in millions

Initiative	Change in revenues	Change in expenses	Net impact
Productivity actions to be determined	$70.3	–$803.6	$874.0
Aligning route structure to customer demand	30.0	–205.0	235.0
Increasing ticket revenue	175.2	5.9	169.2
Mail and express expansion	274.3	181.4	92.9
Productivity actions to offset inflation [a]	0	–54.2	54.2
Subtotal	**$549.8**	**–$875.5**	**$1,425.3**
Implement other initiatives	429.5	–80.7	510.2
Total	**$979.2**	**–$956.2**	**$1,935.51**

Note: Totals may not add due to rounding. Amtrak's business plan does not contain a separate initiative for its Acela Express service. Rather, Acela Express is integrated into the plan as a whole.

[a] Amtrak officials told us that this initiative is a combination of actions designed to achieve cost savings to offset potential cost increases due to inflation. These activities include wage and work rule changes, revenue enhancements, and improved food and beverage management.

Source: GAO's analysis of Amtrak's data

In addition, Amtrak has encountered difficulties in implementing high-speed rail service on the Northeast Corridor. Amtrak's Acela program is one of the cornerstones of Amtrak's plans to eliminate the need for federal operating subsidies. In January 2000, Amtrak began Acela Regional service on a limited basis between Washington, D.C., and Boston.[13] However, the introduction of Acela Express has been delayed by mechanical problems since September 1999, and Amtrak has yet to announce a start date for this service. Amtrak expected the Acela Express to generate about $180 million in net revenues by 2003. Amtrak officials agreed that revenues have been lost because of Acela Express delays and are still quantifying these losses as the delay continues. According to Amtrak, the company is currently identifying actions that might be needed to offset lost Acela Express revenues and reduce Amtrak's budget gap as a whole. The loss of Acela Express revenue increases the pressure on Amtrak to make even more progress in other areas over the next 2 years to reach operational self-sufficiency.

Amtrak's Capital Needs Could Require an Increase in Federal Support

Amtrak has substantial capital investment needs that could result in requests for increases in federal capital support. As we recently reported, these needs total over $9 billion through 2015.[14] These needs include making safety improvements on the Northeast Corridor, bringing the Northeast Corridor up to a condition where only routine maintenance is required (called "state of good repair"), and overhauling equipment. However, Amtrak will have difficulty funding these investments. We estimate that Amtrak's capital investment needs will exceed expected federal funding by nearly $2 billion from 2001 through 2004. The shortfall will likely be higher since it does not include capital investment needs for which Amtrak has not developed cost estimates.

Amtrak Has Significant Short- and Long-Term Capital Investment Needs

Amtrak has significant capital needs, both in the short-term (2001 through 2004) and in the long-term (2005 through 2015). Our discussions with Amtrak officials and review of reports show Amtrak's capital investment requirements over the next 4 years (through 2004) to total at least $4 billion. Infrastructure investment needs account for over $2.5 billion of the total and are targeted toward addressing deferred maintenance and improving the quality of service on the Northeast Corridor.[15] Included in these investment needs is about $316 million to continue safety investments at various locations on the Corridor. According to an Amtrak analysis, these investments are primarily concentrated on the tunnels leading into and out of New York City's Pennsylvania Station—a station that serves over 300,000 intercity and commuter rail passengers daily. In addition, about $1.2 billion will be needed to eliminate deferred maintenance and restore the Corridor's infrastructure to a condition where only routine maintenance is required. Other short-term capital investment needs include reducing equipment maintenance backlogs in the progressive overhaul program (at an estimated cost of over $1 billion), repaying debt principal for the acquisition of cars and locomotives ($346 million), and upgrading maintenance facilities ($42 million).

Amtrak's long-term capital investment needs also focus heavily on the Northeast Corridor. We estimate that at least $5.1 billion in investments may be needed from 2005 to 2015. These capital investment requirements include making further safety improvements to tunnels, including those leading into and out of Pennsylvania Station, continuing to restore the Corridor to a state of good repair, and completing the highspeed rail program. Most of the long-term capital investments we identified (about $4.5 billion) are concentrated on continuing the restoration of the Northeast Corridor's infrastructure to a state of good repair. Other long-term capital investment needs include replacing bridges and tunnels on the Northeast Corridor and replacing and rehabilitating the Corridor's electric power system (a system that supplies power to Amtrak's trains and dates from the 1920s to the 1940s). These invest-

[13] Acela Regional is designed to replace Amtrak's current NortheastDirect, Empire, and Keystone service and will offer improved equipment, trip times, and schedules.

[14] See GAO/RCED–00–138. All amounts in this section are in constant 1999 dollars. Amtrak has not comprehensively identified its short- and long-term capital investment needs. Therefore, to identify these needs, we asked Amtrak managers to identify capital investments they believed are needed to maintain current service levels and improve Amtrak's service and reviewed Amtrak and other reports addressing capital investment needs. As a result, the needs we identified may not be the same as those that might have been identified by Amtrak, had it comprehensively identified its capital needs.

[15] Amtrak expects to share some portion of this cost with other users of the Northeast Corridor.

ments would replace aging systems that are prone to mechanical failures and allow for growth.

In addition to the identified short- and long-term capital needs, Amtrak will have other capital investment needs for which it has not developed cost estimates. These include equipment maintenance needs and new capital investment needs, such as station renovations and acquiring new equipment. Although Amtrak acquired a large number of passenger cars and locomotives during the 1990s, some components of Amtrak's fleet are past their useful lives and will need to be replaced. Finally, Amtrak will have capital investment needs related to implementing its Network Growth Strategy, expanding its express program, and developing new "high-speed" rail corridors across the country.

Potential Funding Shortfalls May Require Additional Federal Support

Amtrak's identified capital investments will exceed expected levels of federal capital funds by nearly $2 billion over the 2001 through 2004 period. Since Amtrak has never covered the cost of its operations, it has relied solely on external funds for capital investments. This has included the federal government, state and local governments, and the commercial debt market.

Amtrak should be able to meet its planned investment requirements through 2000 from Taxpayer Relief Act funds and the fiscal year 2000 federal capital grant. However, beginning in 2001, Amtrak's capital investment requirements will exceed expected available federal funding. The shortfall assumes that Amtrak will receive federal capital grants of $521 million annually through 2004.[16] In reality, Amtrak's funding shortfall will be more than $2 billion because our analysis does not include investment requirements for which Amtrak has not yet developed cost estimates. The potential shortfall in federal capital funds will require Amtrak to rely heavily on sources other than federal capital grants to meet some its needs. However, the federal government may well be called upon to fund these shortfalls in amounts substantially higher than current funding levels.

Analyzing Amtrak's capital needs and expected funding to meet these needs is made more difficult because Amtrak has not prepared a multi-year capital plan since 1997. Instead, it has developed a series of capital plans that cover only a limited horizon—not more than 1 year at a time. These plans do not fully describe Amtrak's current and future capital investment requirements and how they will be funded, or indicate their relative priority. Amtrak has stated that it expects to issue a multi-year capital plan later this year.

Time Nears for Decisions on the Future of Amtrak and Intercity Passenger Rail

Amtrak is under extreme pressure to reach operational self-sufficiency by the end of 2002. In our opinion, no matter whether Amtrak succeeds or fails in this endeavor, important decisions will need to be made about the scope of intercity passenger rail service and the level of federal support, if any.

If Amtrak attains operational self-sufficiency, it will likely need substantially more funds than it currently receives. As discussed earlier, we estimate that Amtrak will need at least $9 billion to meet its identified capital needs through 2015. This amount does not include needs for which cost estimates have not been made. In addition, Amtrak will require substantial funds annually to cover excess Railroad Retirement Tax Act payments, an operating expense for which it may receive federal funds under the Amtrak Reform Act (e.g., according to Amtrak, $190 million in 2003 and $200 million in 2004). The federal government could be called upon to provide support for both Amtrak's capital needs and excess Railroad Retirement Tax Act payments, which could total more than the $521 million that Amtrak currently receives in federal support.

On the other hand, if Amtrak fails to reach operational self-sufficiency, the Amtrak Reform Act requires that the railroad submit to the Congress a liquidation plan, and the Amtrak Reform Council submit a plan to the Congress for a restructured national intercity passenger rail system. As a result of any congressional action on these plans, the nation's intercity passenger rail service could have a considerably different look.

In either situation, the future of Amtrak, and, by extension, the future of intercity passenger rail in the United States need to be decided. Given that 2002 is just 2

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[16] Our analysis is based on Amtrak receiving $521 million in capital grants beginning in 2001. Amtrak's most recent business plan update also assumes that Amtrak will receive this level of capital funding through 2003. No estimate was available for 2004. Recently introduced bills, if enacted, could provide capital funds for Amtrak. S.1900 and H.R. 3700 allow Amtrak to issue $10 billion in bonds over 10 years for capital improvements to Amtrak's Northeast Corridor and other high-speed rail corridors.

years away, it is not too early to begin considering a long-term vision for Amtrak and intercity passenger rail and how this vision should be structured. If that future does not include Amtrak, basic decisions about an intercity passenger rail system need to be made. This would include determining the scope of an intercity passenger rail network, if any; how it would be operated; and what level of funding would be provided to support this network.

Mr. Chairman, this concludes our testimony. We would be pleased to answer any questions you or Members of the Committee may have.

The CHAIRMAN. Thank you very much. Mr. Carmichael, welcome.

STATEMENT OF GILBERT E. CARMICHAEL, CHAIRMAN, AMTRAK REFORM COUNCIL

Mr. CARMICHAEL. Mr. Chairman, thank you for inviting the Amtrak Reform Council to address your Committee oversight on Amtrak today. I would like to make the point that the Amtrak Reform Council is a citizens' group, not paid. I have two of my members of the Council here with me today. I would like to introduce James Coston, appointed by Senate Minority Leader Daschle, and the newest member of our Council, Nancy Rutledge Connery, appointed by Senator Trent Lott.

The CHAIRMAN. Welcome.

Mr. CARMICHAEL. The Council has provided the Committee a statement that addresses in detail each of the topics of your letter of invitation. It is a thick report. This morning I will summarize for you the Council's views on Amtrak's recent financial performance, and the proposed High-Speed Rail Investment Act bonds. I will try to make it quick.

The CHAIRMAN. Take all the time you need, Mr. Carmichael. This is a very important issue.

Mr. CARMICHAEL. On Thursday, September 21, the Department of Transportation's Office of the Inspector General released a report entitled, 2000 Assessment of Amtrak's Financial Performance and Requirements. The Council believes that this report is a highly professional work product that reflects the views that are generally held of Amtrak's financial situation. Amtrak definitely faces substantial challenges in its effort to achieve self-sufficiency, and the Amtrak Reform Council will continue its program of developing tough constructive recommendations designed to assist Amtrak to reach that goal by the end of 2003.

There is little point, Mr. Chairman, in having the Council discuss the details of its report. Our own analysis supports its accuracy. The report stands on its own feet real well. Thus, I will move on to the question of how the Council perceives the proposed legislation to authorize Amtrak to issue bonds to finance high-speed rail projects. I think I misspoke a minute ago when I said end of 2003. I believe December of 2002 is the date.

When the Council was asked by the Senate Commerce Committee to testify at this hearing on Amtrak issues, including providing the Council's views on the proposed High-Speed Rail Investment Act, I directed our staff to send a memorandum to all the Council members to determine the views of each Council member as to whether the Council should support or oppose the passage of this legislation. Having polled its members, I can say that the Amtrak Reform Council supports the objective of the bonds, which is to help financially develop a national system of federally designated high-speed rail corridors, and the Council believes that the $10 billion, if managed effectively, can be used to start this important process.

The Council also supports specific legislation authorizing the bonds, providing certain changes that have been part of the ongoing discussion among Amtrak and others in the last few weeks, including our Council staff, that these changes are incorporated into the final legislation.

Having said that, the Council differs in approach on several important issues from the Senate Finance Committee's concept paper that describes the bonds, assuming that no additional changes have been made since last Friday. Certain of these issues are policy issues that would affect the bond program and how it would operate. There is also a technical issue that could well have impact on whether the bond program would be able to operate effectively.

With regards to policy issues on the bond program, let me address the key issues that the Council sees in the context of the proposed legislation. First, the Reform Council believes the States and possibly bona fide high-speed rail authority, as well as Amtrak, should be able to issue the bonds.

Second, it believes that priority should be given to providing funding for infrastructure investments, and that the bonds should be only used for equipment on the corridors if private financing is not available. The Council believes passenger equipment can be funded in large part by the private sector.

The Council's third issue is that the States and the U.S. Department of Transportation should have a major role in selecting and prioritizing the projects.

From a technical standpoint, the Council also believes there is an issue that needs to be addressed as the bill is prepared for consideration, or the entire bond program may not work as effectively as it should. This issue relates to whether the bond proceeds should be deposited in Amtrak's corporate treasury prior to a permanent investment in high-speed rail projects or otherwise commingled with Amtrak funds.

The Council believes that if the bond proceeds, as well as the escrow fund, are not under the exclusive control of an independent trustee, such treatment could have a chilling effect on the marketability of the bonds. It could also tie up the bond proceeds and the bond escrow account in court, should there be creditors' claims against Amtrak.

Mr. Chairman, this position reflects the views of nine of the 11 Council members concerning the proposed legislation. As for the remaining 2 members, Mr. Charles Moneypenny, the Presidentially designated member representing the views of railway labor, he expressed the view that the Council should not take a position on the bonds, and the administration, that is in the process of determining its position in that. When it is determined, the Council would be so advised. We are treating the administration's position right now as a temporary abstention.

Mr. Chairman, we are now looking for the first time in many decades at a domestic intercity transportation picture that actually needs the rail passenger modes in many important transportation markets in this Nation. Air and highway congestion in critical city pairs and regions have brought us to this position.

The States and the cities, or at least a significant number of them, faced with the need to find additional useful intercity transportation capacity, are being aggressive in pursuit of the opportunities for improved intercity rail passenger service, and I think that explains some of the heavy endorsements that we have seen about this bond act.

The reason we are facing these very difficult issues that these bonds pose is that, unlike the highways and the airways, neither local nor State governments nor the federal government have determined an institutional or financial solution for adding the track and equipment capacity to our Nation's railroad right-of-way system to provide an expanded system of intercity passenger rail service.

The privately owned rail right-of-ways present unique issues, compared to the publicly owned and publicly funded national systems of highways, airports, and airways. Rail rights-of-ways, unlike other modes of transportation, do not have a stable funding mechanism for the rail passenger service to develop, so we should realize that under our current transportation policy we are making or using Amtrak alone to do what in other modes is done by 2 separate and separately funded types of organization.

One organization is focusing on infrastructure, and another one is focusing on transport operation. The infrastructure organization is exemplified by the Federal Highway Administration, operating in concert with the State highway departments, the Federal Aviation Administration, and the Corps of Engineers.

The role of transport operation in all of these modes is carried out by operating companies that carry passengers, mail and express, the airlines, the bus lines, and the truck lines, or companies in modes other than rail, are not entangled in the huge infrastructure funding burdens. They pay a user fee for the infrastructure and focus their attention on serving the traveling public.

My personal comment, this is a huge burden on Amtrak management and probably is causing the confusion we have as we try to analyze how Amtrak should be operating.

Mr. Chairman, should these bonds not pass in this session of Congress, it is likely other ways could be found to finance improvements in intercity rail passenger service, and the federally designated high-speed rail corridors that are evolving such proposals might best be developed, I believe, from a well-considered effort by experts in transportation policy and finance to determine a modern, intermodal surface transportation policy, and an accompanying array of financing mechanisms needed to fund improvements in intercity passenger rail infrastructure and equipment.

The Council will be ready to participate in any such discussion and debate about how to do the job, and it is my hope that our January report that we are required by law to make will offer some solutions in this area to help us fund the intercity rail system and to solve some of these problems.

Thank you very much.

[The prepared statement of Mr. Carmichael follows:]

PREPARED STATEMENT OF GILBERT E. CARMICHAEL, CHAIRMAN, AMTRAK REFORM COUNCIL

Mr. Chairman, thank you for inviting the Amtrak Reform Council to address your Committee's oversight hearing on Amtrak. While I am alone at the witness table, I would like to introduce other members of the Reform Council who are here today for this important hearing. These members include James Coston, appointed by Senate Minority Leader Daschle, and the newest member of the Council, Nancy Rutledge Connery, appointed by Senate Majority Leader Lott. Also present is a representative of the Federal Railroad Administration, representing the Secretary of Transportation's *ex officio* position on the Council.

Mr. Chairman, one of my key objectives as the Council's Chairman is to focus the substantial experience and insight of the Council's members on solid analyses and initiatives designed to improve intercity rail passenger service. Through the earnest efforts of the Council's members, supported by our staff, I believe we have forged a pragmatic bipartisan majority that brings a practical and realistic perspective to the issues the Congress has charged the Council to address.

As you requested, the Council has provided to the Committee a statement that addresses in detail each of the topics that you raised in your letter of invitation. This morning I will summarize for you the Council's view on Amtrak's recent performance and the Council's views on the proposed High-Speed Rail Investment Act bonds, designed to continue and expand the task of developing the federally-designated high-speed rail corridors throughout this country. My summary will include:

- Results of Amtrak's use of new authorities provided by the Reform Act;
- Comments on financial performance and Amtrak's progress toward self-sufficiency;
- A brief overview of the Council's perspective on where things stand, as context for the Council's views; and
- The Council's view of the proposed High-Speed Rail Investment bonds.

How Amtrak Has Used its New Authorities Provided under the Act and What Cost Savings the Legislative Reforms Have Actually Generated

The reforms set forth in the Amtrak Reform and Accountability Act of 1997 ("the Reform Act" or "ARAA"), among other objectives, were intended to eliminate statutory obstacles to essential Amtrak operational, financial and productivity improvements and to provide Amtrak with additional authority to operate more like a private, for-profit business. To this end, the Act, in its major provisions: (1) repealed Amtrak's obligation to provide rail passenger service within the "basic system" defined by statute and provided Amtrak with complete authority to determine its national system of routes and services in response to the marketplace [ARAA Sec.101]; (2) repealed the specific statutory requirements for labor protection payments for route closures and work transfers and placed the disposition of this issue on the labor-management collective bargaining table [ARAA Secs. 141, 142]; and (3) repealed the statutory prohibition against contracting out work and required that this issue be placed on the collective bargaining table commencing no later than November 1, 1999 [ARAA Sec.121].

The Act also encouraged Amtrak to achieve management efficiencies and revenue enhancements. In this regard, it charged the Council with monitoring Amtrak's efforts to achieve labor productivity improvements and required Amtrak, if it entered into an agreement with its union employees after January 1, 1997 involving workrules intended to achieve savings, to report quarterly to the Council both the savings realized as a result of the agreement and how the savings are allocated. The Act requires the Council to submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues or the status of those issues [ARAA Sec. 203].

Based on information furnished by Amtrak, it is the Council's understanding that Amtrak has utilized its new flexibility under the Act as follows.

A. Modifications to the National Route System

To assist Amtrak in identifying economically attractive route closures and realignments, as well as to assist in overall business planning, Amtrak has developed a new strategic planning methodology called the Market Based Network Analysis (MBNA). The MBNA has an associated Financial Model that estimates, for alternative packages of rail passenger services and revenues, the expected costs and profitability of a proposed route or system of routes. Using the MBNA to assess its route system, Amtrak developed a plan for realignments and extensions of its route system, which it called the Network Growth Strategy (NGS). Amtrak announced the NGS in late winter of this fiscal year. The Council has not yet had an opportunity to fully analyze it since it was not reflected in Amtrak's FY2000 Strategic Business Plan and since many of the NGS actions have not been fully implemented.

Based on its NGS analysis, Amtrak has proposed to add additional routes and frequencies to its current service. Accordingly, no cost savings have yet resulted from the additional flexibility provided Amtrak to determine its national service network free from statutory restrictions. After the Council completes its analysis of the NGS, it will examine Amtrak's specific route and service proposals. Under the ARAA, the Council is charged with making recommendations for changes in Amtrak's route structure based on Amtrak's criteria.

B. Labor Protection Payments

Amtrak and its unions chose to address the issue of labor protection as required under the Act through binding arbitration. In a November 1999 decision, the arbitration board modified the pre-existing employee protective provisions (as regards major aspects) as follows:

(a) Under pre-existing law, any affected Amtrak employee was entitled to wage and benefit protection for a period equal to the amount of service, not to exceed 6 years; under the arbitration award, an Amtrak employee must have 2 years of service to be awarded protection.

(b) The maximum duration of employee protective benefits was reduced from 6 years to 5 years, and employees must have more years of service than previously, on a sliding scale, to reach maximum benefits. For example, an employee with 3–5 years of service would receive 12 months' benefits; an employee with 20–25 years of service would receive 48 months' benefits. (According to Amtrak, approximately 20 percent of current Amtrak employees eligible for labor protection have more than 20 years of service and would be entitled to 4–5 years of income protection for a "trigger occurrence" if unable to exercise seniority.)

(c) The arbitration panel agreed that no employee protection would be required for the first 2 years of any new service commenced after the arbitration.

(d) The issue of whether labor protection would apply to the termination of non-commuter contracts for local or state service was remanded for further negotiation and re-submission to arbitration if there is no agreement. (The arbitration panel found that Amtrak had no obligation for labor protection with respect to commuter contracts.) According to Amtrak, the issue remanded is still under negotiation and there are open issues that may be resubmitted to the arbitration panel.

(e) The "triggers" for the imposition of employee protective benefits remained the same: (1) closure of a route or reduction in frequency below 3 round trips per week; or, as affects shop employees, (2) closure of a maintenance shop facility or transfer of work from the facility to another facility more than 30 miles away.

(f) The arbitration award provided that it may be further amended by the parties through negotiation after January 1, 2000.

Despite the improvements achieved by Amtrak through the arbitration award, Amtrak's new labor protection obligations to employees, particularly those with many years of service, remain significantly higher than those of non-railroad corporations in the United States. No widespread "trigger occurrence" has taken place on Amtrak as yet that would give rise to labor protection payments. Should such an occurrence take place, there would be cost savings generated by the arbitration award modifying Amtrak's labor protection obligations.

C. Contracting Out

As of the date of the Council's first annual report to Congress (January 2000), Amtrak had not undertaken studies to determine whether contracting out any of its operations would improve its financial performance. Amtrak also had not served Section 6 notices under the Railway Labor Act placing the contracting out issue on the bargaining table, which the ARAA required Amtrak to do by November 1, 1999.

The Council is informed by Amtrak that it served Section 6 notices on June 12, 2000 placing the contracting out issue on the bargaining table. Amtrak, accordingly, considers the contracting out issue to be currently under active negotiation with unions representing Amtrak employees. Amtrak considers the specific contracting out issues it placed on the bargaining table to be confidential.

Because Amtrak has not yet contracted out work under the new authority provided in the ARAA, there are no cost savings as yet to be reported. The Act, moreover, puts no deadline on the collective bargaining process with respect to the issue of contracting out, nor does it require Amtrak and union representatives to reach agreement on the issue of contracting out.

D. Productivity Improvements

Amtrak has achieved some changes in work rules in its recent agreements that have the potential to result in labor cost savings. Some of the more important changes include: contracting out Amtrak's entire Commissary operations to an outside contractor, eliminating approximately 244 positions through employee buy-outs (Amtrak has had statutory authority to contract out its food service operations since 1981); extension of the period from 4 hours to 6 hours before a second engineer must be added to an engine consist (Amtrak estimates that this will permit the elimination of over 50 positions in the short term, and another 30 positions in FY1999 and FY2000); and providing Amtrak management with additional flexibility to assign work with respect to the implementation of high speed service on the NEC (no specific savings calculations provided).

Under the ARAA, Amtrak is required to report quarterly to the Council regarding work rules savings resulting from recent agreements, including how the savings are allocated. Under recent agreements, Amtrak's labor costs have grown by approximately 10 percent above the rate of inflation since 1995. (See May 2000 GAO Report *"Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs"* ("GAO Report") at 8.) Amtrak's stated goal is to partially (20 percent) offset recent wage increases through labor productivity improvements.

Amtrak submitted to the Council a set of numbers on a quarter-by-quarter basis stating a "final" total of $21.3 million in "productivity improvements and work rules and cash savings" for FY1999. The report did not show how the savings were allocated and provided no analysis of how the numbers were calculated. For the first three quarters of FY2000, Amtrak submitted a comparable report stating a preliminary total of $19.5 million in "productivity improvements, work rule and cash savings from post-January 1, 1997 labor agreements." Similarly, the report did not show how the savings were allocated nor how the numbers were calculated.

As found by both the Council (in its January 2000 report) and the General Accounting Office (in its May 2000 report), there is no way to confirm Amtrak's productivity calculations nor to distinguish how much the stated savings are instead attributable to internal Amtrak departmental budget cuts. Amtrak has no methodology in place by which it can measure work rule savings nor does it maintain an audit trail of the information necessary to measure such changes. (See Council Report at 20; *GAO Report* at 27, n.14).

Moreover, as further noted by the Council and GAO reports, Amtrak currently "does not have standard measures of labor productivity for its different lines of business (e.g., intercity passenger service, commuter service)."*GAO Report* at 26; Council report at 20. Both the Council and the GAO believe that the development of standard measures of productivity is critical if Amtrak is to control its labor costs (which constitute over 50 percent of operating costs).[1] Amtrak has stated in response to the *GAO Report* that it intends to develop such measures (*GAO Report* at 5).

Under subsection 203(f) of the ARAA, Amtrak is required to make available to the Council all information that the Council needs to carry out its duties. The Council, in turn, must adopt procedures to protect against public disclosure of confidential information. Although the Council staff has negotiated a confidentiality agreement with Amtrak, Amtrak has to-date declined to provide Council staff with information (particularly relating to labor productivity) that it deems confidential. The Council is working with Amtrak to secure additional productivity data and to agree on acceptable methodologies for measuring labor cost savings and monitoring general labor productivity.

Progress Toward Self-sufficiency

While there is a general understanding among people knowledgeable about Amtrak that Amtrak has made some improvements in its financial and operating performance, and that Amtrak has achieved many of the objectives of its strategic business plan through the first half of FY2000, Amtrak needs to achieve significantly greater improvements beginning in FY2001 for Amtrak to achieve operating self-sufficiency by FY2003 as required by the ARAA.

[1] Indeed, the Council has not been able to find management or benchmarking systems in place at Amtrak to measure the productivity of any of Amtrak's endeavors, not just the management of its work force.

A. Key Points From Recent Audits and Reports by the DOT/IG and the GAO.

This hearing will undoubtedly hear in detail from Kenneth Mead, the Inspector General of the Department of Transportation, about his office's September 19, 2000, report, "2000 Assessment of Amtrak's Financial Performance and Requirements." According to an article in last Friday's Washington Post, Amtrak largely agrees with Mr. Mead's assessment, as does the Council. We would just like to highlight a few of the points that report made, from the perspective of the Council.

Starting from the DOT IG's point that Amtrak has indeed increased its ridership and revenue in 1999 and 2000, but that it must curtail its expense growth to achieve operating self-sufficiency in 2003, we would move on to quote 2 points:

- **"Without major corrective action, Amtrak will not achieve operating self-sufficiency in 2003."** Specifically, Amtrak needs to achieve $737 million in savings from undefined management actions, and it needs to achieve its revenue forecasts for Acela Express and other Northeast Corridor service despite a revenue risk identified by the Inspector General's report of $304 million.
- **"Amtrak's capital outlook is grave."** Amtrak will face serious capital shortfalls beginning in FY2001. Even assuming Amtrak's cash losses are no higher than Amtrak projects, Amtrak will face a minimum funding shortfall of $91 million, and continued shortfalls through 2004 will total $298 million. The Council thinks it is important to note that this capital shortfall reflects, in part, a less than optimal use by Amtrak of its TRA funds.

You also asked the Council, Mr. Chairman, to comment on the May 2000 report of the United States General Accounting Office, "Intercity Passenger Rail, Amtrak Will Continue To Have Difficulty Controlling Its Costs And Meeting Capital Needs." This report made a number of findings consistent with the Inspector General's report and findings of the Amtrak Reform Council.

- While its performance has improved in recent years, from 1995 to 1999, Amtrak's operating costs were, in total, about $150 million more than planned.
- Amtrak has no measures of labor productivity for its lines of business (e.g., intercity passenger service, commuter service) that could help it better manage its labor costs.[2]
- Because future cost increases can be expected, it will be critical for Amtrak to achieve the revenue projections for such things as its high-speed rail program on the Northeast Corridor.
- GAO estimates Amtrak has short- and long-term capital investment needs totaling about $9.1 billion through 2015 plus additional capital investment needs for which costs estimates have not yet been developed.
- GAO recommended that Amtrak develop measures of labor productivity for its different lines of business and a multi-year capital plan. Amtrak agreed to these recommendations.

B. Amtrak's Recent Financial Performance

Although Amtrak's actual financial performance as measured by its "Budget Result" was slightly ahead of its Strategic Business Plan projections through the second quarter of its fiscal year (March 31, 2000), Amtrak was $9.5 million below its Budget Result after the third quarter (June 30, 2000), and its financial performance for the balance of FY2000 is likely to be increasingly unfavorable relative to its FY2000 Budget due primarily to shortfalls in passenger and mail/express revenues attributable to delays in the introduction of Acela Express service and lower growth of mail/express revenues.

Amtrak's system revenues increased 7 percent from FY1998 to FY1999, and system revenues were up 11 percent in the first nine months of FY2000 relative to FY1999, which was essentially consistent with projected revenue levels in the FY2000 Strategic Business Plan. After increasing 2 percent in FY1999 over FY1998, ridership was up 3.5 percent during the first nine months of FY2000, but 1.2 percent below the Strategic Business Plan projection. Amtrak achieved its Business Plan revenue projections while falling short of its ridership levels due to higher average ticket prices than projected.

Total system expenses increased 7 percent from FY1998 to FY1999, and they were up 7 percent in the first nine months of FY2000 relative to FY1999, which was approximately 1 percent (or $14 million) worse than projected in the FY2000 Strategic

[2] See Footnote 1

Business Plan. It is important to note, however, in comparing changes in revenues and changes in expenses, that since Amtrak's expenses exceed its revenues by a large amount, operating losses were approximately $16 million greater than projected in the Strategic Business Plan for the first 9 months of FY2000 even though FY2000 revenues were essentially on Plan.

Amtrak's cash losses were $54 million greater in FY1999 than FY1998. Amtrak's cash losses were $27 million (6 percent) lower in the first 9 months of FY2000 than FY1999, but they are $22 million (5 percent) behind its Strategic Business Plan projection.

We believe, together with the Office of the DOT Inspector General and the GAO, that while Amtrak arguably has achieved many of its Plan objectives during the past 2 years, most the "heavy lifting" in terms of improving the Corporation's bottom line lies ahead, with even greater need for annual improvements starting in FY2001.

Although the general trend of Amtrak's financial performance has been improving in recent months because of increased ridership—due in part to new services and to historic levels of congestion in the aviation system, particularly in the Northeast Corridor—the delay of Acela has meant that Amtrak is going to end this year significantly (approximately $75 million) below Plan.

Where Does the Council Stand and What Does it See?

Mr. Chairman, in a recent conversation, Senator Lott told me that he wants the Council, as part of its statutory duties of making recommendations for improvements, to give the Congress a plan for a new modern national rail passenger system and to make sure we include recommendations about how to fund it. In the broader context, Mr. Chairman, I think Senator Lott's request captures the essence of what the Congress in the Reform Act asked the Council to do—regardless of whether there is ever a need for a finding as to Amtrak's self-sufficiency.

After about 18 months of full operations, Mr. Chairman, I feel that this Council has come together quite well and that it has developed a solid perspective on the situation of intercity rail passenger rail service in America today.

A. The Situation Today

Mr. Chairman, we are now looking at a domestic intercity transportation picture that for the first time in many years, actually needs the rail passenger mode in many important transportation markets in this nation. Air and road congestion in critical city pairs and regions have brought us to this position.

The States, or at least a significant number of them that are faced with the need to find additional useful intercity transportation capacity, are being aggressive in their pursuit of opportunities for improved intercity rail passenger service.

The Council also sees a federal government—both executive and legislative—that has:

- Provided Amtrak, which by law is now a private, federally-chartered District of Columbia corporation, as the sole national instrument for operating and improving intercity rail passenger service in this nation today; and
- Designated 11 emerging high-speed rail corridors—to go with 2 already-established corridors (the Northeast Corridor and New York's Empire Corridor).

B. Amtrak Today, as Analyzed and Reported by the Council

Amtrak is a conglomerate, trying to carry out many major functions in addition to its core mission. That mission is to operate a national system of intercity rail passenger, mail and express services, which is what Amtrak was established to do.

In the Acela delay, which it now seems may be coming to an end, Amtrak is facing a critical obstacle to self-sufficiency. But it is important to note that Acela—even if it achieves the results that Amtrak forecasts—will provide significantly less than half of the financial performance improvements that the DOT IG's report says that Amtrak needs to achieve.

Its Northeast Corridor infrastructure is also a problem. The Council has recommended that Amtrak keep separate financial statements on it. If it were a separate corporate division of Amtrak, it might be able to raise its own funds in capital markets.

Amtrak has had, and continues to have, major problems achieving improvements in all areas of productivity, including its use of capital, labor, and materials. That said, the Council does not regard labor as the problem at Amtrak. The real problem is the overall structure of the corporation's management, exacerbated by inadequate information systems, and a lack of accountability—division by division and function by function—for bottom line results. Amtrak is also subject to substantial and continuing political interference, which seriously hampers its ability to operate like a business.

Amtrak operates a fleet of passenger cars that is too old and too small. It needs new equipment to provide better service that will attract new riders and haul more mail and express traffic. The Council believes that much, if not all, of this equipment should be able to be financed by private capital markets.

It needs better infrastructure on which to operate, both in the NEC and throughout the other 12 corridors. But this is far from just Amtrak's problem.

To do all this, our nation needs a new system of financing for rail passenger service, which means that the government should put on its policy hat and design one for it, looking both at infrastructure and equipment and the roles of government financing and private capital markets.

This brings me to the question as to how the proposed bonds fit into all of this.

The Proposal to Authorize Special Bonds to Finance High-speed Rail Investments

When the Council was asked by the Senate Commerce Committee to testify at this hearing on Amtrak issues, including providing the Council's views on the proposed "High Speed Rail Investment Act" (S.1900 and H.R. 3700), I directed the staff to send a memorandum to all Council members to determine the views of each Council member as to whether the Council should support or oppose the passage of this legislation. The results of the poll are as follows. Nine of the eleven Council members supported the proposed legislation with certain modifications: (1) the Bonds can be issued by "an intercity passenger rail carrier," which would include state high speed rail authorities, not just by Amtrak; (2) priority should be given to use the Bond funding for infrastructure only, and should only be used for equipment if private financing is not available[3]; and (3) Bond funds be segregated from the operating bank accounts of Amtrak and other intercity passenger rail carriers' that might issue Bonds, and not be treated as fungible assets of these corporations. (This would be a change from the way that Amtrak dealt with the Taxpayer Relief Act funds in terms of interim use and investment.) Several Council members believe that the Council has no business taking a position on certain tax-related issues that are more appropriately issues for others to determine. An example of such issues are the Department of the Treasury's current limitations on private activity tax-exempt bonds and requirements that proceeds from tax-exempt bonds be expended within 3 years of the time that tax exempt bonds are issued by the States. [A summary of the specific issues proposed to the Council members as part of their "vote" is found at Attachment I].

The 2 remaining members had different positions. Mr. Moneypenny, the Presidentially-designated member representing the views of rail labor, expressed the view that the Council should not take a position on the bonds. The Administration indicated that it was in the process of determining its position and that, when its position was determined, it would so advise the Council. As of the time of the submission of this testimony to the Committee, the Council had not received notice of the Administration's position. We are treating that as a temporary abstention.

Mr. Chairman, should these bonds not pass in this session of the Congress, it is likely that other ways could be found to finance high-speed rail, including the federally-designated high-speed rail corridors. Such proposals might best be developed, I believe, from a well-considered effort by experts in transportation policy and finance to determine a modern Intermodal Surface Transportation Policy and an accompanying array of financing mechanisms needed to fund improvements in intercity passenger rail infrastructure and equipment. The Council will be ready to participate in any such discussion and debate about how to best do the job. This effort would have to start with a comprehensive capital needs plan, which Amtrak has not provided, aside from its 25-year estimate of capital needs for the south end of the Northeast Corridor.

Is $10 billion needed? Without a doubt. And considerably more, in fact, if we are serious about improving and expanding intercity rail passenger service. The Reform Act charges the Council with a positive mission—to recommend improvements in Amtrak and, if Amtrak cannot improve to the extent the Congress requires, to design an improved national intercity rail passenger system. The Council was established to determine the best way to improve our national rail passenger system, and we see the need for a major investment in passenger rail service over the coming years. Assuming that, in some form and at some time, $1 billion per year for Corridor Development is provided, that amount could easily be matched by as much as $1 billion per year for other needs. These other needs include additional funding for

[3] The Council believes passenger equipment can be funded in large part by the private sector.

the NEC and the emerging corridors, enhancements to the current national rail passenger system and to Amtrak's mail and express operations, and implementation of the Network Growth Strategy.

Let me preface all this by saying that—on behalf of the Council—I think we would not be doing our duty as an independent oversight agency if we did not point one thing out. The reason we are we are all facing the very difficult issues that these bonds pose—and here I quote from the Council's first annual report—is that:

> "Unlike roads and air, however, neither local or state governments nor the federal government have determined an institutional and financial solution for adding the track and equipment capacity to provide an expanded system of intercity rail passenger service. The privately-owned rail freight rights-of-way present unique issues compared to the publicly-owned and publicly-funded national systems of highways, airports, and airways. Rail rights-of-way, unlike other modes of transportation, do not have a stable funding mechanism for rail passenger corridor development." (Amtrak Reform Council, First Annual Report, January 2000, p.1)

So we should realize that—under our current transportation policy—we are using Amtrak to do what in other modes is done by 2 separate and separately funded types of organizations, one focusing on infrastructure, and one focusing on transport operations. The first is exemplified by the roles of the Federal Highway Administration operating in concert with the state highway departments, the Federal Aviation Administration, and the Corps of Engineers. The role of transport operations is—in all of these other modes—carried out by operating companies that carry passengers, mail, and express. Companies in modes other than rail are not entangled with huge infrastructure funding burdens; they pay a user fee for the infrastructure and focus their attention on serving the traveling public.

I know Mr. Chairman that this Committee is much concerned with the problems of the aviation system today, and we each have our own stories about the stress of contemporary airline travel. But the problems of the airlines and the aviation system are the problems of success. Each year for the past 3 years the airlines have been *adding* more intercity passengers than Amtrak carries annually in total. And they have been *adding* each year as many or more employees than Amtrak's total complement of agreement employees.

The question the Council is asking is "What is the best way to get rail passenger service to begin to share in the economic bonanza that is causing problems for air and highway travel?"

Against this backdrop, the Council's concern with this legislation has 2 dimensions—policy and practicality.

From an overall policy standpoint, has this approach really been thought through thoroughly? Is the mechanism of these bonds, aside from the matter of who issues them, the best way to finance passenger rail capital needs? I would think that it depends on what part of those needs you are looking at. It is almost certainly *not* a sound way to fund the capital needs of Amtrak the corporation. But it might well be a reasonable way to fund long-term infrastructure improvements to the FDHSRCs. That raises these specific policy issues:

1. Is Amtrak the corporation, from all standpoints the best vehicle for issuing these bonds?
   - It does have about $5 billion in Net Operating Loss Carryovers (NOLs), but these exist because historical government subsidies were made in the form of preferred stock investments in Amtrak by the government, which arguably should have been characterized as operating grants rather than capital investments.
   - What about Amtrak's balance sheet? Should it be burdened with $10 billion in debt (or contingent liability debt) for improvements to the infrastructure, most of which it does not own? What will this do to Amtrak's ability to borrow in private markets?
   - Should we be loading major program and financing responsibilities on a corporation which is clearly having difficulties getting its core business to run well, and which is facing the need to achieve self-sufficiency by December 2, 2002?
2. Has there been a clear assessment of the best potential roles of public financing and private capital markets?
3. And finally, has there been any solid attempt to determine the best possible way for money to be put into the infrastructure improvements of America's private railroads in order to provide the capacity and speed improvements needed

to implement the Federally-Designated High-Speed Rail Corridors? [Attachment II shows that, under the most favorable assumptions, over 30 years the taxpayers (federal and state) will pay at least $15 billion (and possibly as much as $18 billion) for $10 billion of high speed rail projects].

The proposed bond mechanism in effect uses Amtrak as a sort of Fannie Mae for the infrastructure of the railroad industry. One reason for the choice is clear—the $5 billion in NOLs that the corporation holds because of the subsidies it received previously from the government. These NOLs shelter the escrow Fund's taxable interest income needed to grow on a compounded basis and be available in 20 years to repay the bonds.

This is where issues of practicality come in. In the event that the Congress decides to pass the bond bill in this session, the Council believes that it should be done with the following amendments:

(a) The funds primarily should be used for infrastructure improvements, with 90 percent for the FDHSRCs and 10 percent for non-FDHSRCs (the 10 percent should be allocated to non-Corridor states by DOT) and should only be used for equipment expenditures if private-sector financing of equipment is not available;

(b) There should be adequate criteria for evaluating and assigning priority to the candidate projects, with DOT and the states playing the major role in the initial selection of projects. Amtrak should not be in the business of choosing projects outside the NEC. Assets outside the NEC are not Amtrak's assets, nor does Amtrak have a monopoly to provide rail passenger transportation in those areas;

(c) Effective oversight arrangements need to be in place for the projects to be funded by the bonds;

(d) All funds, including both state contributions and bond proceeds, should be under the control of the Independent Trustee and should not be able to be borrowed by Amtrak (or any other issuer), or otherwise be entangled with its internal finances. To do so would be to create a risk of having the proceeds entangled in the internal finances of the issuer in a way that could put the bond proceeds and the bond escrow account at risk in the event of creditors' claims (in Amtrak's case, this would include the risk of default on its commercial debt obligations that Amtrak, in Appropriations testimony, has stated that it could indeed face). Moreover, discussions the Council's staff has had with financial experts experienced in bonds indicate that, when the prospectuses for these Bonds are issued, if Bond proceeds are to be mixed with Amtrak's internal funds, it could raise the perceived financial risks of the Bonds.

Mr. Chairman, thank you again for your invitation to the Council. The issues you and the Committee are addressing are critical to the future of rail passenger service in this country, which we all want responsibly and effectively to promote.

Attachment I

Background Paper on Proposed Changes Accepted and Under Discussion to S. 1900 and H.R. 3700

I. Issues Discussed With Amtrak and FRA, Annotated by Later Changes from the Senate Budget Committee Meeting

The Council staff met with Sandra Brown (Vice President, Government Affairs) and Bill Erkelenz (legal counsel) of Amtrak and Mark Yachmetz (Associate Administrator for Railroad Development, Federal Railroad Administration). Ken Kolson followed up by telephone on August 24 with Bill Erkelenz. On September 8th, the Council staff met with Mitch Warren of the Senate Committee on the Budget (SCOB).

A. *Update on the Status of the Legislation.* Amtrak indicated that ongoing legislative discussions surrounding the High Speed Rail Investment Act are now based on the text of H.R. 3700, not S. 1900; that Senator Lautenberg has agreed to the more restrictive provisions of H.R.3700 [1]; and that Amtrak has agreed to support certain amendments and clarifications to H.R.3700, which are summarized below:

[1] Amtrak has indicated that it is willing to be bound by the additional restrictions of H.R. 3700 (no more than 30 percent of funds invested in any corridor; explicit statement that there

1. Amtrak would support the House language that (a) would allow rail passenger carriers other than Amtrak (including specially-established State entities) to issue Bonds and (b) would place a 30 percent cap on proceeds that could be used for any corridor, including the NEC. Amtrak noted its interpretation that the Alaska Railroad was qualified to issue bonds.[2] In the Budget Committee meeting, Mr. Warren indicated that the issue of additional potential issuers of the bonds had been augmented by a proposal from railway labor that Davis-Bacon provisions apply to all projects, regardless of the issuer.

2. Amtrak would support statutory criteria for Amtrak and DOT to apply in selecting projects (criteria similar to those used by the Federal Transit Administration in approving transit grants). Amtrak also would support oversight and greater participation by the Secretary of Transportation or the DOT Inspector General in the process of selecting projects to receive Bond funding. Mr. Warren of the Budget Committee indicated that work was underway to develop criteria.

3. Amtrak would support adoption of provisions providing for federal and state oversight of the projects funded and amounts expended by Amtrak under the Bond program, possibly using as guidance the project management oversight process from the transit industry with a private PMO ("Project Management Oversight") contractor making sure that the funds are expended according to the applications and grant agreements executed between Amtrak and the States.

4. Amtrak would support legislation clarifying that States could use tax-exempt project revenue bonds to fund the States' 20 percent matching contributions in whole or in part.[3] This provision could encounter U.S. Treasury Department opposition since it may open the door for others also to get implicit federal subsidies by getting authority to issue more tax-exempt project financing bonds.

5. Amtrak agreed to have a capital plan in place before any bonds are issued. Although Amtrak did not provide the specifications of the promised capital plan, Amtrak seemed to suggest that it would provide a five-year capital plan rather than a longer-term plan. It is expected that Amtrak's capital plan would be issued before the end of September.

6. Amtrak believes the 36-month period to make qualified expenditures may not be sufficient because it will take time before projects can get underway (particularly with a requirement for DOT approval of project plans, and possible requirements for Environmental Impact Statements). Chairman Shuster informed Amtrak that he thinks the 36-month period is too short. FRA noted that its experience with the Northeast Corridor Improvement Project supports the need for a longer spend-out period.[4] Amtrak anticipates that approximately 20 percent of each years' bond funds will be invested in the years that the bonds are issued. In the Budget Committee meeting the issue was raised that Treasury regulations do not permit longer than 3 years between issuance and expenditure for the project to be financed.

7. Amtrak reads the language of the bills as requiring a State to put up its 20 percent match in cash (not just to make a written commitment) prior to the issuance of any Bonds.

8. Amtrak noted that the issue of who will manage a project must be resolved in each case. The entity that would manage the project would be specified

is no federal guaranty of the bonds; and any "intercity passenger rail carrier" can issue the Bonds, not just Amtrak).

[2] Although only 10 percent of the proceeds of an issue each year can be used to improve non-designated high-speed corridors under the language of the bills, Amtrak interprets the language as allowing the Alaska Railroad to issue bonds for 10 percent of the maximum allowable $1 billion cap each year. Senator Stevens reads it this way too.

[3] Amtrak noted that states can put up their 20 percent shares of funding by issuing general obligation tax-exempt bonds (but the states presumably would prefer to issue project financing bonds since such bonds are not full faith and credit obligations of the states). Amtrak also noted that the current IRS Code allows States to issue tax-exempt project financing bonds for high-speed train facilities as long as such trains can travel at speeds of 150 mph or faster for appropriate portions of their trips.

[4] Mark Yachmetz noted during the meeting that in the approximately 19 years that funds were administered by the Northeast Corridor Improvement Project, first year funds expended never exceeded 15 percent, and only twice did first year funds expended exceed 10 percent.

in agreements among Amtrak, the states, and any freight railroad that might be involved.

9. Amtrak will take legal measures, to the extent possible, to insulate the funds held by the independent trustee (in what Amtrak calls an Escrow Fund) from Amtrak's creditors; Amtrak does not envision that a separate taxable entity will be created; Amtrak will pick the independent trustee using a competitive process similar to the one used to select the advisor to invest the TRA funds; and Amtrak expects that the bonds will be paid off through Guaranteed Investment Contracts (GICs) purchased by the trustee. Amtrak's legal counsel said that, if necessary, perhaps the Escrow Fund could be placed in a Grantor Trust to isolate it from Amtrak's general creditors, while allowing Amtrak's tax attributes to be used to shelter taxable income otherwise earned by the Escrow Fund.[5]

10. When asked about how income taxes on Escrow Fund interest earnings would be paid (which Amtrak anticipates will be taxable for income tax purposes), Amtrak offered its remaining approximately $5 billion of Net Operating Loss Carryovers[6] as well as future losses (due to depreciation, etc.) to be available to shelter any taxable interest income. Presumably, the same Amtrak losses would be available to shelter any taxable interest earnings resulting from temporary investments of the Bond principal of $1 billion per year until the funds are expended for qualified, approved projects.

11. The 5 percent of the proceeds that can be used for non-qualified project expenditures is expected by Amtrak to be used for "soft costs" (e.g., transaction costs; funds for oversight of projects [Project Management Oversight similar to that used for projects funded with transit grants, as proposed by OMB and DOT/IG] and other set-asides to ensure that no issue arises regarding the qualification of the Bonds).[7]

B. *Other Issues Discussed.* In addition to the above issues, which Amtrak represented as likely legislative amendments, other issues related to the Bonds were discussed, as indicated below:

1. When asked if certain types of project expenditures such as progressive overhauls could be funded with Bond proceeds, Amtrak indicated that they theoretically could. Amtrak, however, did not anticipate that the States would agree to use Bond funds for progressive overhauls. The FRA concurred, stating that although the States may approve using Bond funds and may provide matching State funds for capital expenditures on a Generally Accepted Accounting Principal (GAAP) basis (i.e., new, long-term assets or expenditures which rebuild or significantly increase the useful lives of assets), approving Bond funds for progressive overhauls was not likely.

2. Amtrak anticipated that the DOT or some other federal agency would have to approve project applications before Bond funds would be made available. As a result, both Amtrak and Mark Yachmetz did not think that Bond funds, unlike TRA funds, would be used for purposes that did not advance high-speed rail passenger service.

3. Freight railroads and other entities that benefit from the Bond funding would have to agree to certain requirements and restrictions pertaining to use and maintenance of the assets funded throughout the life cycle of the assets (FRA

[5] Legal structures can isolate the Escrow Fund from Amtrak, but in an Amtrak bankruptcy proceeding, creditors of Amtrak could argue that the Escrow Fund should repay Amtrak (a) for the value of any principal payments made with Amtrak funds pursuant to Amtrak's guaranty of Bond principal within 3 years of an Amtrak bankruptcy, and (b) for the value of Amtrak tax losses used by the Escrow Fund to shelter interest income from federal and state income tax liability within 3 years of an Amtrak Bankruptcy.

[6] Amtrak's audited financial statements report a NOL carryover balance of $8.4 billion as of December 31, 1998, less a $3.3 billion reduction in fiscal year 1999 due to the funding received under Taxpayer Relief Act of 1997. Since the Net Operating Loss (NOL) Carryovers represent losses funded by federal investment in Amtrak, primarily through the purchase of preferred stock, this approximately $5 billion of NOL Carryovers may not be available in the future if there is a financial recapitalization of Amtrak. Furthermore, depending upon the income tax treatments appropriate for future federal and state funding mechanisms, Amtrak may not generate sufficient taxable losses in the future to fully offset the interest income earned by the Escrow Fund.

[7] The 5 percent could also allow the bonds to be sold at a small discount to their par value and still satisfy the statutory requirement that at least 95 percent of the proceeds are used for qualified investments.

noted that there needs to be an agreement with the freight railroads in place prior to approval of the project and issuance of the Bonds).

4. The bills do not spell out how the Bond fund proceeds can be invested by Amtrak for the 36-month (or greater) temporary period before they are used to pay for qualified project expenditures. Amtrak intends to invest the money in high-yield investments, the earnings from which would go into the Escrow Fund to pay off the bonds. Amtrak estimates that the Escrow Fund will have to earn a rate of return of approximately 6.25 percent (rather than the 8.38 percent rate calculated by the Council staff, which assumed that Bond principal would be immediately spent on qualified project expenditures). This is because Amtrak assumes that a maximum of 20 percent of the bond funds will be expended in the first year, not more than 40 percent in the next year, with the balance presumably being spent in the third and following years. Before the funds are used for project expenditures, the interest earnings on the invested Bond principal will go into the Escrow Fund, allowing a lower rate of return to be required on the 20 percent State matching funds in the Escrow Fund.[8]

5. When asked, Amtrak agreed that, under the language of the current bills, it could borrow the money for all or part of the 36-month "temporary investment" period at a stated rate of interest and deposit the interest payments in the Escrow Fund. Amtrak indicated that, prior to this question, no one in the Corporation had given any thought to Amtrak's borrowing the funds temporarily.

6. Amtrak interprets the bills as allowing a freight railroad to reimburse a state for all or part of the 20 percent match. Amtrak (and DOT) believe that any benefit to a freight railroad in improving its infrastructure in a high-speed corridor would also benefit Amtrak and intercity passenger service, even if only indirectly.

7. Mark Yachmetz noted that DOT was in discussions with Amtrak about the bills, but, as of August 23, DOT had taken no position yet. DOT may endorse the bills (with certain amendments), or it may not. After the meeting, he noted to the ARC staff that H.R.3700 was likely to be the last legislative opportunity to fund high-speed rail development projects until FY2003.

II. Staff Suggestions for Improvements to Amendments Proposed and Description of Further Amendments Believed to be Needed

After reviewing the improvements in the proposed legislation as discussed with Amtrak and DOT, the Council staff believes that some of the proposed amendments need strengthening and additional conditions should be imposed.

A. *Suggested Improvements to Proposed Amendments.*

1. There should be clear investment criteria for the Secretary of Transportation to use in prioritizing and approving projects, and Amtrak should be made subject to DOT reporting requirements regarding project expenditures. It would be preferable for the Secretary of Transportation to make decisions that will shape the Nation's future passenger rail infrastructure. In addition:

- There should be incentives for the states to increase the percentage of matching funds contributed to financing projects funded with the Bonds; this should be one of the criteria used by the Secretary in reviewing and assigning priorities to projects submitted for approval (Amtrak and DOT noted that this issue was currently under discussion, and this issue is a high priority for the Senate Budget Committee);
- There should be incentives in place to obtain contributions from freight railroads that are beneficiaries of bond-financed projects (DOT and the Senate Budget Committee are also working on this issue).

2. Capital improvements should meet the standards of Generally Accepted Accounting Principles. The bond proceeds would therefore be used only for capital ex-

[8] Attached to this memorandum are analyses which show the amounts that need to be earned to repay Bond principal in 20 years with Bond funds (1) immediately spent on qualified project expenditures, and (2) invested for a period of time before being spent on qualified project expenditures. These attachments, showing both after income tax and before income tax cases, confirm Amtrak's assertion that an after-tax (or tax exempt) interest rate of approximately 6.25 percent for 20 years will be sufficient for the Escrow Fund to repay the loan principal in 20 years.

penditures for projects funding infrastructure improvements or equipment. Amtrak operating expenses, such as progressive overhauls or preventive maintenance, would not be eligible.

3. Amtrak should be required, on a permanent basis, to incorporate a rolling five-year capital investment expenditure plan into its Strategic Business Planning process ("rolling" means that the investment expenditure plan would be updated each year for the next 5 years as part of Amtrak's normal business planning process).

4. In addition to the language of H.R. 3700, which permits Amtrak and other intercity rail passenger carriers to issue Bonds, bona fide high-speed rail authorities should also be permitted to issue the Bonds. Rail labor has proposed that Davis-Bacon provisions should apply to projects financed by any issuer of the bonds.

B. Additional Conditions That Should Be Considered

1. DOT should be required to maintain annual oversight of the state of good repair of the assets improved with investment funds:

- Freight railroads should be required to issue reports concerning how the funds were expended and demonstrating that they have performed normalized maintenance on the segments improved with Bond funds.
- Amtrak should be required to provide annual reports on the financial and physical state of good repair of the NEC infrastructure, including improvements made with bond funds.

2. To ensure that Bond proceeds are not mixed with Amtrak's operating funds in any way that could entangle the proceeds with any future creditors' claims, all Bond proceeds and state contributions should be placed in separate accounts within the Escrow Fund controlled and managed by the independent trustee. The temporary investment of the Bond funds should be limited to AAA investment grade securities, possibly limited to federal government obligations.

3. The statute should require that, within the $3 billion allocated to the NEC, the highest priority is to correct the remaining fire and life safety problems in Penn Station New York and its associated complex of tunnels. At a minimum, safety should be a principal criterion for the DOT to use in assigning priority to and selecting projects.

4. States should have the right to inspect Amtrak's financial records for Bond-funded projects.

III. Impact of Changes Accepted by Amtrak and Those Yet to Be Considered in the Bills

In looking at the process that has occurred during the past few weeks since the hearing by the House Ways and Means Subcommittee on Oversight, it seems that:

1. If, indeed, the bonds are intended to fund only the infrastructure improvements of the federally-designated high-speed rail corridors (the FDHSRCs, which, includes the Northeast Corridor, the Empire Corridor, and the 11 emerging high-speed rail corridors designated under ISTEA and TEA–21), there is probably a better way to structure an infrastructure improvement program (e.g., a federal-state variant of the NECIP program in which FRA, with assistance from FHWA, would work with the state DOTs and the freight railroads to upgrade infrastructure).

2. If this were the only vehicle that would ever be possible for funding the corridors, additional amendments should be considered (as discussed in Section II) that would ensure:

(a) Funds could only be used for infrastructure improvements to the NEC and the FDHSRCs (plus the 10 percent for non-FDHSRCs, which should be allocated by DOT);

(b) Adequate criteria be in place for evaluating and assigning priority to the projects, with DOT playing a direct role in initially choosing projects. Amtrak should not be in the business of choosing projects outside the NEC. Assets outside the NEC are not Amtrak's assets, nor does Amtrak have a monopoly to provide rail passenger transportation;

(c) Amtrak should not be eligible to manage projects, except in the NEC, and only there with the agreement of the participating states;

(d) Effective oversight arrangements be in place; and

(e) All funds, including both state contributions and bond proceeds, be under the control of the Independent Trustee and cannot be borrowed by Amtrak or otherwise be entangled with Amtrak's internal finances.

The overall impact of these changes would be to convert the original bills, which appeared to be very simple instruments for providing blanket authority without a well-defined program objective or adequate restrictions for Amtrak to issue Bonds (based on Amtrak's exclusive comparative advantage of having about $5 billion in NOL tax carryforwards), to a bill designed to ensure that the Bonds would be used to fund the infrastructure improvements necessary to develop the FDHSRCs. The Council staff believes that a better approach would be to start with a programmatic bill designed effectively to fund the infrastructure improvements needed for the FDHSRCs and then to meld onto it any tax provisions that might be best-suited to finance the corridor development program.

The Council clearly stated in its First Annual Report that it believed that Amtrak was trying to perform too many functions to the detriment of its ability to operate a truly effective intercity passenger train operating company, and that, accordingly, major responsibilities in such areas as infrastructure improvement should be left to others. This view undergirds our assessment of the proposed Bond legislation.

ATTACHMENT II

REPLICATION OF JOINT COMMITTEE ON TAXATION ANALYSIS OF REVENUE ESTIMATE OF THE HIGH SPEED RAIL INVESTMENT ACT OF 2000

($ MILLIONS)

Calculated Interest Rates Assuming Bonds Interest Payments Of 20% Of Annual Amounts In First Year Bonds Are Issued

Fiscal Year	Bonds Issued	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
		6.50%	6.50%	6.75%	6.55%	6.55%	6.57%	6.58%	6.59%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%	6.60%
2001	1,000	13	65	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2002	1,000		13	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2003	1,000			14	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2004	1,000				13	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2005	1,000					13	66	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2006	1,000						13	66	66	66	66	66	66	66	66	66	66	66	66	66	66
2007	1,000							13	66	66	66	66	66	66	66	66	66	66	66	66	66
2008	1,000								13	66	66	66	66	66	66	66	66	66	66	66	66
2009	1,000									13	66	66	66	66	66	66	66	66	66	66	66
2010	1,000										13	66	66	66	66	66	66	66	66	66	66
Federal	10,000	13	78	149	210	275	342	408	474	541	607	660	660	660	660	660	660	660	660	660	660
Cumulative Federal		13	91	240	449	724	1,066	1,474	1,948	2,489	3,097	3,757	4,417	5,077	5,737	6,397	7,057	7,717	8,377	9,037	9,697
State	2,000	200	200	200	200	200	200	200	200	200	200										

Federal For Selected Periods Of Time	
2001-2005	724
2001-2010	3,097
2001-2030	13,195

TOTAL FEDERAL AND STATE COST IN NOMINAL DOLLARS OF SUPPORTING $10 BILLION OF HIGH-SPEED RAIL INVESTMENT (HSRIA) BONDS	
2001-2005	1,724
2001-2010	5,097
2001-2030	15,195

Calculation Of Net Present Value Cost At 6.5% Cost Of Capital For HSRIA Bonds Using Joint Committee On Taxation Methodology For Full 30 Year Period Bonds Are Outstanding

	NPV @ 6.5%																				
Federal	5,292	13	78	149	210	275	342	408	474	541	607	660	660	660	660	660	660	660	660	660	660
State	1,436	200	200	200	200	200	200	200	200	200	200	0	0	0	0	0	0	0	0	0	0
Total	6,730	213	278	349	410	475	542	608	674	741	807	660	660	660	660	660	660	660	660	660	660

Calculation Of Net Present Value Cost At 6.5% Cost Of Capital For Direct $1 Billion Grants Funded 80% Federally With 20% Matching By States

	NPV @ 6.5%																				
Federal	5,470	160	800	800	800	800	800	800	800	800	800	640	0	0	0	0	0	0	0	0	0
State	1,368	40	200	200	200	200	200	200	200	200	200	160	0	0	0	0	0	0	0	0	0
Total	6,838	200	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	800	0	0	0	0	0	0	0	0	0

Additional Net Present Value Cost (Assuming a 6.5% Cost Of Capital) Of Direct Grants Versus HSRIA Bonds To Federal Taxpayers

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Total Additional Nominal Dollar Cost of HSRIA Bonds over 30 Year Life Versus Direct Grants

Federal	5,195	[Assuming Federal Grants of $800 million per year for 10 years]
State	0	[Assuming State Grants of $200 million per year for 10 years].
Total	5,195	

The CHAIRMAN. Thank you, Mr. Chairman. We have a vote on. I suggest we take a brief recess and go vote and come right back.

[Recess.]

The CHAIRMAN. The Committee will reconvene. I thank the witnesses for their patience while we went over and had a vote.

Our next witness, and our next-to-last witness, is Mr. Joseph Vranich. Welcome, Mr. Vranich.

STATEMENT OF JOSEPH VRANICH, IRVINE, CA

Mr. VRANICH. Thank you, Mr. Chairman. Good morning to you and your colleagues. I appreciate the opportunity to testify before you today.

I am accompanied here by Mr. Anthony Haswell, who is seated in the audience. He founded the National Association of Railroad Passengers in 1967. In 1970 he hired me to be its executive director, and Mr. Haswell is an attorney who is occasionally referred to as the father of Amtrak. He is here, and he agrees with the overall thrust of my testimony.

Although this marks the 31st year that I have been a proponent for rail service, I am now embarrassed to admit that I worked to create Amtrak. I served as a member of the congressionally chartered independent Amtrak Reform Council, a post I was appointed to by the Senate Majority Leader on February 24, 1998.

Amtrak has made performing the oversight functions unduly difficult, if not impossible for the Amtrak Reform Council. As such, I believe the Council is unable to effectively fulfill the oversight role that Congress intended for it, and that there is no realistic prospect it will be able to do so in the foreseeable future. Thus, I resigned my position effective July 10 of this year.

Amtrak has obstructed the Council regarding several very important issues. How is Amtrak spending its $2.2 billion Taxpayer Relief Act funding? The Council is required to turn a report in to the Congress about that. What is the revenue and cost picture for Amtrak's freight program? They call it express. I call it freight, because it slows the trains down.

Another issue is what steps Amtrak is taking to improve productivity? Again, the Council is required to present a report to Congress on that. These issues are covered in detail in my prepared testimony, which includes a chronology of when we asked Amtrak questions and the questions Amtrak either inadequately responded to or did not respond at all.

I would like to say something about procedures. In the Council, we understand the sensitivity of delving into Amtrak's affairs. The Council established procedures to ensure against the public disclosure of information that is a trade secret, or commercial or financial information that is privileged or confidential. Council members voluntarily signed ARC-developed confidentiality agreements. Amtrak declined to accept those and demanded that members sign an Amtrak-written confidentiality agreement.

All Council members signed the second agreement. Despite the Council's good faith demonstration that proper safeguards were in place, Amtrak nevertheless declined to provide germane or timely information in many cases.

Incidentally, one of the questions I was dealing with is, what is your rate of return on these capital projects that you have that you are financing out of the Taxpayer Relief Act? Amtrak basically told me, we do not calculate that for most of our projects.

I want to volunteer that when I worked in Amtrak's public affairs department, which admittedly was some time back, it was back in the 1970's, I was a member of what was called the Passenger Service Committee. We reviewed capital projects based on estimated rates of return, and we recommended projects to the board of directors for approval. It is beyond belief that Amtrak's large bureaucracy in the 1990's and now 2000, one that relies extensively on computer accounting systems, is unable to produce data that Amtrak's much-smaller staff without computers compiled in the 1970's.

I have been a high-speed rail proponent for many, many years. Regarding the High-Speed Rail Investment Act, Amtrak is torturing the English language to redefine what constitutes a high-speed train. This is most pronounced for trains in the Southeast, Midwest, and West, where after money is spent most of the trains will still run at rather ordinary speeds. Hence, the legislation will do virtually nothing to bring about true high-speed trains, demonstrating once again that Amtrak's management and organizational culture are poorly suited to develop truly advanced train systems.

One of the arguments for high-speed rail is that we can divert passengers from air travel to trains, thereby freeing up slots at congested airports. But after upgrading, Amtrak trains will still be insufficient to the task of competing with air travel. This is outside of the Northeast Corridor.

Also, Amtrak may spend funds on routes that are excessively long, such as Washington, DC, to Jacksonville, Florida, where there is no way, no way, not now and not ever, that even the fastest high-speed trains could compete with air travel. No executive I have ever met on a single high-speed rail operation overseas, and I have met many, many of them, not one of them has ever proposed a route that long at 753 miles, where high-speed rail's effectiveness basically falls after a distance of 300 miles.

For these reasons, Amtrak's claim that this bill will help ease aviation congestion is unscrupulous. I doubt that the program will result in the elimination of a single flight from our busy air system, and incidentally I noticed an earlier comment about a number of organizations supporting this bill, and Amtrak's long listing.

One place is the city of Grand Forks, North Dakota. With all due respect to the people of that fine community, it boggles my mind that they would endorse a high-speed rail bill, because North Dakota does not have the population density of a route like Tokyo-Osaka, or Berlin-Hamburg, or any of these places where high-speed rail plays a role. So I can only wonder and imagine what kind of representations were made to the city of Grand Forks to get them to sign on as an endorser to this legislation.

Cost estimates are virtually nonexistent for these upgrades. I have been involved in private proposals for high-speed rail. We hold private companies up to excruciatingly painful standards when they develop high-speed rail proposals, but we are creating a standard here for Amtrak that is excessively loose. We have no cost estimates. We have no rate of return calculations. We have no credible estimates of ridership or revenue that will result from this bill. The conclusion I have reached is that the bill should not pass.

I would like to conclude by saying that I think Congress should take a closer look at Amtrak and demand real accountability on a number of scores, and while I offer a number of legislative recommendations which are outlined in my full testimony, I would highlight one here.

One recommendation is that I think Congress, in amending the ARAA the next time, should establish penalties for Amtrak's failure to cooperative with the Amtrak Reform Council.

Mr. Chairman, that concludes my testimony. I will be happy to answer your questions. Thank you.

[The prepared statement of Mr. Vranich follows:]

PREPARED STATEMENT OF JOSEPH VRANICH, IRVINE, CA

Good morning, Mr. Chairman and distinguished Members of this Committee. My name is Joseph Vranich and I appreciate the opportunity to testify before you regarding Amtrak. Because of time limitations, I will summarize my prepared testimony.

I have no employer or client involved in transportation today. Thus, I speak as an independent voice. I am accompanied here by Mr. Anthony Haswell, who is seated in the audience. He founded the National Association of Railroad Passengers in 1967. In 1970, he hired me to be its executive director. Mr. Haswell is an attorney who for many significant reasons is referred to as the "father of Amtrak." He agrees with the overall thrust of my testimony.

Although this marks the 31st year that I have been a proponent for rail service, I am now embarrassed to admit that I worked to create Amtrak.

- The Amtrak I and others envisioned would design a flexible system attuned to contemporary need and demand, adjusting and fine-tuning its services to carry people where they are willing to travel by train. But we do not have that with today's Amtrak.
- The Amtrak we envisioned would be demonstrating leadership in bringing about true high-speed trains to America. But we do not have that with today's Amtrak.
- The Amtrak we worked to create would be one that would give passengers priority over freight. But we do not have that, either.

Instead, what we have is an underperforming Amtrak that remains a candidate for liquidation.

My most recent relevant position was as a member of the Amtrak Reform Council, a post I was appointed to by the Senate Majority Leader on February 24, 1998. When I was appointed, Senator Trent Lott said, "The ARC will ensure that Amtrak spends the taxpayers' money wisely. The Council's first loyalty will be to the American taxpayer." Note the responsibilities under the Amtrak Reform and Accountability Act of 1997 (ARAA), subsection 203,

> Amtrak shall make available to the Council all information that the Council requires to carry out its duties . . . . The Council shall (A) evaluate Amtrak's performance; and (B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms . . . . In making its evaluations and recommendations . . . the Council shall consider all relevant performance factors, including . . . management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations . . . . Amtrak shall report quarterly to the Council (A) the savings realized as a result of the [new labor work-rules] agreement and (B) how the savings are allocated.

Amtrak has made performing such tasks unduly difficult if not impossible for the Amtrak Reform Council. As such, I believe that the Council is unable to effectively fulfill the oversight role that Congress intended for it, and that there is no realistic prospect that it will be able to do so in the foreseeable future. Thus, I resigned my position effective July 10th of this year.

I will summarize the facts regarding Amtrak obstructionism on several major issues—its so-called income tax refund, its freight program, and Amtrak productivity.

- *Amtrak's "Income Tax Refund":* Congress in the Taxpayer Relief Act ordered the IRS to provide Amtrak with a $2.2 billion "tax refund"—even though Amtrak has never paid federal income taxes. The ARAA, Section 209 states, "The Amtrak Reform Council shall report quarterly to the Congress on the use of amounts received by Amtrak under section 977 of the Taxpayer Relief Act of 1997." I was appointed by former Council Chair Christine Todd Whitman to assemble information for such reports. While Amtrak provided lists of capital projects, Amtrak routinely failed to provide rates-of-return for such projects despite repeated requests. I was not surprised by GAO's February report that stated Amtrak reports to the ARC are "less useful than they could be in helping the Council comply with its responsibility to monitor Amtrak's use of Taxpayer Relief Act funds."

- *Freight:* To accommodate freight (which Amtrak refers to as "express") shipments, Amtrak has added time to its schedules, making trips longer for passengers. The ARC has asked Amtrak to provide the costs of its freight program, not just its revenues, and Amtrak Chairman Tommy Thompson assured me on September 24, 1998—2 years ago—that Amtrak would cooperate. Also since then Amtrak has asserted to the media that freight is "contributing to the bottom line." This is a worthy goal, but unfortunately, freight profit-loss information has not been provided, so the truth of Amtrak's claim cannot be verified. Amtrak has not been forthcoming on this issue in any respect. Absent evidence to the contrary, its highly probable taxpayers are subsidizing shippers who move freight on Amtrak, including major corporations like Campbell's Soup and United Parcel Service. If true, that is an outcome never envisioned by people who worked to create a rail system for passengers.
- *Productivity:* Amtrak has misled the Senate by stating that it has improved workforce productivity. Up until my July departure, Amtrak had provided no factual support for assertions that the 20 percent increase in wages after new labor agreements were signed in 1997 will be offset by work-rules savings. Moreover, despite ARC reporting requirements, Amtrak failed to answer many questions about the subject. Based on information that can be gleaned from public reports, it appears that Amtrak's productivity dropped in 1999 compared to prior years on 2 key measurements—passengers per employee and passenger-miles per employee. In that last measurement, productivity was lower than every year of the previous ten years.

These examples regarding Amtrak's stonewalling of the ARC are more fully explained in my complete testimony, including a chronology of when we asked Amtrak questions to which Amtrak was non-responsive. (Attachment 1.)

No one really knows the full public cost of running Amtrak today. Senator Wayne Allard was justified to say recently in floor debate: "I have grown increasingly skeptical about what is going on with Amtrak. It seems they found a way to pick up government subsidies all over the place." He is correct. Known federal subsidies to Amtrak will soon exceed $24.3 billion. But excluded from Amtrak reports are the costs of numerous public programs that help finance Amtrak or shift Amtrak expenses to the books of other agencies such as the Federal Railroad Administration, the Federal Transit Administration and the Treasury Department. The most notable of these is the federal bailout of more than $1 billion in Amtrak government-guaranteed loans, the cost of which is carried on the Treasury Departments books. (Attachment 2.)

Amtrak's pride in its new ridership record is not cause for celebration but cause for alarm. I say that because during this all-time record year of travel, Amtrak will be breaking a level set in 1988—twelve years ago. This means Amtrak's ridership growth is anemic during the biggest travel boom in the history of our country. Indeed, its ridership figures are an indictment of Amtrak's non-responsiveness to the changing travel marketplace. As food for thought, on Memorial Day weekend, U.S. commercial aviation carried well over 12 million passengers—which means in just one holiday weekend airlines carry more than half the number of people who board Amtrak during the entire year. Amtrak's market share routinely drops, and today, according to the Eno Transportation Foundation, Amtrak holds only six-tenths of one percent of the travel market. (Attachment 3.)

Amtrak is violating the law that requires it to run *modern* rail passenger service when it adds trains that are slower than trains were decades ago. On April 15, Amtrak began running the *Lake Country Limited,* which takes 3 hours and 20 minutes to travel from Janesville, Wisconsin, to Chicago. The old Chicago & North Western Railroad connected Janesville with Chicago an hour-and-a-half faster when Harry Truman was President in 1952. The press reports traffic on the train has averaged 11 people per day in each direction. In Indiana, Amtrak added a train whose schedule is 3 hours slower than a pre-Amtrak train was on the same route when Calvin Coolidge was President in 1926. Meanwhile, I know this Committee has spent considerable time lately on airline performance, and I believe Amtrak on-time performance deserves the same attention. In this testimony I am revealing for the first time the completed results of my review of Amtrak scheduling practices. Amtrak may boast that it's enjoying its "best on-time performance in 13 years," but the facts show Amtrak performance outside of the Northeast is in shambles. Amtrak now inserts very long periods of time just before checkpoints where on-time performance is calculated. If Amtrak performance were measured at the stop before an official checkpoint, Amtrak's on-time statistics would be far worse than official reports indicate. Amtrak employs this practice to a degree unprecedented in the railroad business. Amtrak's method goes way beyond anything found in aviation today, so it's possible that the airlines—even with terrible airport delays this summer—had a better on-time record than Amtrak did outside of the Northeast. (See Attachment 4.)

As one who has testified before Congress in support of the *Acela Express* program, I am pleased that the *Acela Express* will soon begin operations. The train is a needed improvement that I welcome because it will offer many amenities and quicker train travel. Im disappointed, however, with management of the project. The *Acela Express* is 3 years behind schedule. It is clear from Amtrak promises that the first *Acela Express* was to have been delivered in April 1996 and begin carrying passengers after a year of testing. My complete testimony quotes Amtrak's words verbatim about the delivery schedule to begin in 1996. Moreover, I'm dissatisfied with the *Acela Express* schedules. For perspective, the New Haven Railroads *Merchants Limited* connected New York with Boston in 4 hours flat in 1950. They did that without the benefits of today's electrification east of New Haven, tilt-train technology and advanced signaling systems. I also question the degree of liability facing the U.S. Government as a result of a $1 billion loan for the *Acela Express* from the Canadian government, the details of which remain secret. To my knowledge, the ARC was never informed of the loan, the uses to which it was put, principal amount owed, interest rate, repayment schedule, or other terms and conditions. I must ask—are the *Acela Express* trains serving as collateral? We don't know. There is much we don't know about this financial arrangement. (See Attachment 5.)

Regarding the High Speed Rail Investment Act (S.1900/H.R.3700)—Amtrak has become zealous in torturing the English language to "re-define" what constitutes a "high-speed" train. This is most pronounced for proposed trains in the Southeast, Midwest and West where after money is spent the trains will still operate at rather ordinary speeds. Hence, the legislation will do virtually nothing to bring about high-speed trains. The bill simply turns over more responsibility to Amtrak, whose management and organizational culture are poorly suited to develop truly advanced train systems. Amtrak has taken seven years to design, build and test the *Acela Express* while other countries have completed such projects in only 4 years. One of the arguments for high-speed rail is that we can divert passengers from air travel to trains, thereby freeing up slots at congested airports. But the funds in this bill, once spent, will result in trains insufficient to the task of competing with air travel. The resulting passenger diversion rate from air would be so small that I doubt a single flight would be removed anywhere in our aviation system. Also, Amtrak may spend a portion of the funds on routes that are excessively long, such as Washington, D.C. to Jacksonville, Florida, where there is no way—not now, not ever—that even the fastest high-speed trains could compete with air travel. No executive I've ever met on a single high-speed rail operation overseas has ever proposed a route that long, at 753 miles, when high-speed rails effectiveness falls after a distance of 300 miles. For these reasons, Amtrak's claim that this bill will help ease aviation congestion is unscrupulous. Moreover, my understanding is the cost of the legislation will be more than what Amtrak claims. I note that the Heritage Foundation issued a report on August 28 describing the federal government's implicit interest payments, concluding that "The loss of tax revenues to the U.S. Treasury would total $16 billion if interest rates remain unchanged at 8 percent." With Amtrak's financial record, it's doubtful that Amtrak will ever repay those bonds. I view the bill as a way to create another method to bury subsidies to Amtrak in the ledgers within the Treasury Department, similar to what was done in the 1980s when Amtrak defaulted on more than $1 billion in government-guaranteed loans. Finally, by reinforcing Amtrak's *de facto* monopoly, the bill is harmful to those imaginative folks in the private-sector who have expressed interest in developing high-speed rail in the United States. To effectively plan market-sensitive high-speed train systems, a new direction is needed to include participation by regional agencies, private businesses and joint ventures in innovative, imaginative public-private partnerships. Finally, I ask you to consider that the Amtrak Reform Council, the GAO, and the DOT Inspector General have all faulted Amtrak for not having the proper capital planning in place. It is unreasonable to fund Amtrak-style high-speed rail when we don't even know what Amtrak's project costs will be. (See Attachment 6.)

In conclusion, Amtrak will likely require billions of additional tax dollars to stay alive. Congress should take a closer look at Amtrak and demand real accountability. Congress should consider investigating inappropriate Amtrak actions and establish penalties for Amtrak's failure to cooperate with the Amtrak Reform Council. Congress should amend the ARAA to tighten reporting requirements on Amtrak financial issues. In the interests of passengers, Congress should pass a "Truth in Scheduling" provision to require Amtrak trains to be on time more often in more cities it serves, not just at the cities that serve as "checkpoints" for the purposes of calculating on-time performance. Finally, Congress should refuse to pass the so-called High Speed Rail Investment Act because it will not bring about high-speed trains. The bill will help bail out Amtrak during another financial crisis, a reasonable conclusion considering that Amtrak is awash in red ink now and remains a candidate for liquidation. (Attachment 7.)

Mr. Chairman, that concludes my testimony. I will be happy to answer your questions. Thank you.

Attachment 1: Amtrak's Lack of Cooperation with the ARC

I believe that the Amtrak Reform Council is unable to effectively fulfill the oversight role that Congress intended for it, and that there is no realistic prospect that it will be able to do so in the foreseeable future. I say this because Amtrak has resisted providing information in significant areas—impairing the Council as it attempted to carry out its statutory duties.

The Council's right to information is unconditional as to nature and time frame, subject only to the requirement that trade secrets, etc. be kept confidential. Understanding the sensitivity of delving into Amtrak's affairs, the Council established procedures to ensure against the public disclosure of information that is a trade secret or commercial or financial information that is privileged or confidential. Council members voluntarily signed ARC-developed confidentiality agreements. Amtrak declined to accept those confidentiality agreements and demanded that members sign an Amtrak-written confidentiality agreement. All Council members signed the second agreement. Despite the Council's good-faith demonstration that proper safeguards were in place, Amtrak nevertheless declined to provide germane or timely information.

Amtrak's IRS "Income Tax Refund" Expenditures Were Unexplained

The Council has a statutory responsibility to monitor Amtrak expenditures from its tax return of $2.2 billion authorized by Section 977 of the Taxpayer Relief Act of 1997 (TRA). The legislative intention of Section 977 was to make significant amounts of funding available so that Amtrak could make investments in high-priority, high-return capital projects that would facilitate Amtrak's ability to operate without federal operating subsidies.

Amtrak first resisted providing information to the Council after the ARC's first chair, New Jersey Governor Christine Todd Whitman, directed the start of an evaluation as to how Amtrak was spending the unique and unprecedented subsidy.

The question was whether Amtrak was using TRA funds for the kinds of high-priority, high-return investments that will help its bottom line. The ARC asked Amtrak what the projected rates of return are per project financed. This is a common practice on freight railroads, where officials rank which capital improvements—track and signal work, new yards or closing of old ones, bridge replacement, curve straightening, congestion elimination, and so forth should receive funding from the current year's budget allocation based on rate of return. In general, it could be assumed that Amtrak's financing of high rates-of-return projects would be a healthy practice, but investment in low rates-of-return projects would indicate a poor practice.

Obtaining such useful information from Amtrak about its TRA disbursements was an odyssey that failed. The following chronology represents my personal interactions on this issue:

May 26, 1998: The Amtrak Reform Council holds its first meeting.

July 6, 1998: At an ARC meeting, Amtrak indicated that the first TRA quarterly report was being prepared for submission to the Council. The ARC Chairman appointed me and one other member to review the upcoming Amtrak report and prepare a draft ARC report to Congress for consideration by the full Council.

July 31, 1998: Amtrak submitted "Making Investments in America's Passenger Rail System: Amtrak's Quarterly Report on TRA Funding." The report is replete with phraseology stating that Amtrak is making a "wise investment" of its resources and that funds are being committed for "high rate-of-return" projects that were selected after "rigorous evaluation."

Date Uncertain: Shortly thereafter I asked Amtrak to substantiate its assertions by providing rates-of-return for TRA-funded capital projects. Amtrak asserted that it doesn't compile such data. Which statement is the ARC to believe? This statement or the one on July 31? I again requested Amtrak to provide TRA rates-of-return.

August 31, 1998: Recognizing that rates-of-return would not be forthcoming, I decided to look at the "bigger picture" by requesting a route-by-route summary of the extent to which operating losses are expected to drop because of TRA-financed projects. My question was: On which routes will TRA funding induce reduced costs and increased revenue? Amtrak's reply was non-responsive.

September 17, 1998: At an ARC meeting, I reported that Amtrak failed to provide appropriate responses to requests for information and said I believed that ARC was in no position to issue a report to Congress that could be responsive to the statute. The ARC had no staff during this period, and it was difficult for the Councils citizen-volunteers to proceed. I said that I would continue, time permitting, to try to obtain data for a later report to Congress.

September 24, 1998: In a meeting between the ARC and several members of the Amtrak Reform Board, I indicated to Amtrak Chairman Tommy Thompson, Vice Chairman Michael Dukakis and CEO George Warrington that Amtrak's responses thus far have been inadequate. I also introduced the subject of concern over possible financial losses in Amtrak's new freight program and asked Amtrak to provide the Council with a profit-loss statement. Governor Thompson promised that proper answers will be provided, a promise that was never kept.

October 1, 1998: In a telephone call, several Amtrak representatives agree to provide data on these topics in a follow-up letter.

October 21, 1998: A representative of the Federal Railroad Administration provides added perspective regarding the TRA issue, but admits that he also is unable to quantify rates-of-return on TRA-financed capital items.

Late 1998: I concluded that Amtrak either does not have or will not provide key pieces of measurement regarding TRA expenditures. Missing was the degree to which performance of each route is enhanced by TRA expenditures, an important consideration because, for Amtrak to reach operational self-sufficiency, routes in addition to Boston-Washington must become profitable to offset routes that will continue to lose millions of dollars annually. I've asked Amtrak to identify any route that TRA expenditures will help move into the black and illustrate with a timeline when each such route will reach the break-even point. Amtrak failed to respond.

Because of Amtrak's non-responsiveness, I lay squarely at Amtrak's doorstep the resulting inability of the Council to meet its statutory obligation to file reports to Congress on TRA funding. The limited documentation Amtrak did provide fails to demonstrate the economic benefits of its capital projects or how they will help Amtrak reach self-sufficiency.

Continuing a search for adequate information, by early 1999 I voluntarily reviewed (or re-reviewed) numerous Amtrak documents, namely:

- Strategic Business Plan, FY1998–FY2000, dated September 23, 1997
- FY 1998 Capital Budget, November 5, 1997
- FY 1998 Proposed Addendum to the Capital Budget, February 3, 1998
- FY 1999 Amtrak Legislative Report and Federal Grant Request, February 13, 1998
- Capital Plan Summary Presented to ARC, April 24, 1998
- Amtrak's presentation to ARC, May 26, 1998
- FY 1998 Third Quarter Business and Financial Performance Report, July 31, 1998
- FY98 Capital Projects Funded by Federal Funds, submitted to ARC on Sept. 16, 1998
- Capital Investment Summary submitted to ARC on October 7, 1998
- Strategic Business Plan, FY1999–2002, submitted to ARC on October 19, 1998

In doing so I discovered a few hints of capital-related data. For example, route-specific "internal rates of return" can rank from a high of 121 percent (for rerouting Florida trains) to a low of 5 percent for acquiring a parking facility (which adjoins the Providence station). But such limited information was gleaned from my voluntary effort, not because Amtrak was forthcoming. Moreover, if Amtrak doesn't calculate rates-of-return, as it asserted to the ARC, how could some of these reports contain estimated rates-of-return?

Indicators are absent in the above-listed reports regarding which investments will help convert money-losing routes into profitable ones or at least vastly improve their financial performance. This is a significant concern. In Fiscal Year 1997, Amtrak operated 18 routes that endured fully allocated losses exceeding $20 million per route. Moreover, if upcoming labor negotiations cause costs to increase, a logical question is the wisdom of spending capital on low rate-of-return projects where cost increases outstrip the savings attributable to the capital projects.

Amtrak's roadblocks and issuance of conflicting information was telling. I concluded that Amtrak lacks diligence in funding high rate-of-return projects and high market-growth opportunities and wants to avoid scrutiny on the method by which it does select projects. It seemed to me that Amtrak doesn't want its current practices to be well known or understood.

Skepticism abounds regarding Amtrak's financial decision-making. Consider the independent assessment of Amtrak conducted in 1997 by the Working Group on Inter-City Rail. It found among other deficiencies that Amtrak's subsidies "are not directed to activities of maximum benefit." That statement could easily be applied to how Amtrak commits TRA funding and possibly explains why Amtrak stonewalled ARC requests for information.

When the ARC was finally able to hire a small staff to review Amtrak's capital spending, the staff concluded, and the Council approved for publication in its January 24, 2000, report "A Preliminary Assessment of Amtrak" this statement:

> Based on preliminary information, significant amounts of the TRA funds are being borrowed temporarily for maintenance expenditures rather than being immediately invested by Amtrak in high priority, high return capital projects necessary to achieve the improvements in financial performance initially anticipated when Section 977 of the TRA was enacted. If these temporary loans are not repaid, such expenditures for maintenance (which are permitted under the TRA) will likely result in the need for increased capital investment funding by the federal government and others in the future. In addition, Amtrak has not produced a long-term capital expenditure plan for several years. The Council, the Congress, and other governmental agencies need Amtrak's long-term capital expenditure plan to carry out their statutory obligations.

On February 29, 2000, the GAO in its report "Amtrak Needs to Improve Its Accountability for Taxpayer Relief Act Funds" examined TRA funding with different objectives and reported:

> Amtrak's quarterly reports to the Amtrak Reform Council on its use of Taxpayer Relief Act funds do not fully disclose the extent to which Amtrak has used these funds for equipment maintenance. As a result, these reports are less useful than they could be in helping the Council comply with its responsibility to monitor Amtrak's use of Taxpayer Relief Act funds. . . the reports do not fully disclose how TRA funds are actually used once they are deposited into Amtrak's general cash account . . . . Amtrak reviews and approves capital improvement projects to determine that the projects qualify under TRA. However, it does not determine whether individual expenses incurred and paid are allowable under the act. We find Amtrak's lack of review of expenditures troubling because, without such a review, Amtrak does not have reasonable assurance that TRA funds are spent in accordance with the law.

Incidentally, when I was in Amtrak's Public Affairs Department in the 1970s and served on the Passenger Service Committee, we reviewed capital projects based on estimated rates-of-return and recommended projects to the Board for approval. It is beyond belief that Amtrak's large bureaucracy in the 1990s, one that relies extensively on computer accounting systems, is unable to produce data that Amtrak's smaller staff without computers compiled in the 1970s.

Amtrak estimates that it will need in excess of $4 billion in federally provided capital over the next 5years. Amtrak identifies the $2 billion in TRA funding as a "first step" toward obtaining $4 billion through the appropriations process. But Amtrak does not deserve an additional $4 billion in subsidies when Amtrak has failed to justify how it is spending the $2.2 billion "income tax-refund" it has already received.

For Two Years Amtrak Has Failed to Provide Costs of its Freight Service

Since starting freight operations Amtrak has claimed "success"—but always citing only the program's revenues, not startup costs or operating costs. Freight income/expense is a major issue because Amtrak claims freight can help make it profitable. The ARC has urged a transparent accounting of the revenues and expenses so that the claim can be substantiated, a request Amtrak has ignored. Amtrak asserts to the ARC it cannot as yet separate freight expenses from mail expenses and create a freight profit-loss statement. (Who remains in a line of business for more than 2 years without knowing its financial performance?) Yet Amtrak claims to the news media that freight is making a "positive contribution" to the bottom line. How can this information exist for media purposes but not the Amtrak Reform Council?

If the ARC is to meet its mandate to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms, then the ARC must understand the extent of profit or loss incurred in this service. In a meeting on *September 24, 1998,* I asked Amtrak Chairman Tommy Thompson to insure Amtrak provides the ARC with information to help determine the effect of carrying freight on Amtrak's bottom line. Gov. Thompson promised that Amtrak would cooperate, yet these questions were not answered—at least not prior to my resignation in July, 2000.

A recent report indicates that Washington State apple growers are considering shipping via Amtrak. If Amtrak's program is making a "positive contribution," why it is necessary to ask legislators in Olympia to spend $500,000 in state funds and seek up to $10 million in federal funds to buy refrigerated cars to ship apples on Amtrak? This is evidence suggesting that Amtrak's freight program is unprofitable and is subsidized by federal and state taxpayers.

Amtrak's new *Kentucky Cardinal* exists primarily to carry United Parcel Service (UPS) package freight from Louisville to Chicago. It is possible that this train is losing money, which would mean that public funds intended for passenger travel are subsidizing UPS. When rail advocates worked to create Amtrak, none of us intended to create subsidies for private shippers.

Questions About Productivity Were Unanswered

It appears that Amtrak has misled Congress about improvements in workforce productivity. According to press accounts, Amtrak said in a hearing on November 7, 1997, that pay raises negotiated that year would be paid for by more efficient operations. But no data has been submitted to the ARC to substantiate Amtrak's claim. In fact, in 1999 Amtrak productivity worsened on 2 measures that were available to the Council—Riders Per Employee, which at 854.2 was lower than in six of the previous ten years, and Passenger Miles Per Employee, which at 211,681 was lower than *every* year of the previous ten years.

It should not be assumed that productivity refers only to employees represented by labor unions. Anecdotal evidence suggests that Amtrak's management is overstaffed and contributes to Amtrak's lack of efficiency gains. Such observations gained credibility when the GAO reported in a May 2000 report:

> Amtrak attempted to reduce its management staff in 1994 and 1995 by offering management employees early retirement and buyouts to leave the company. As a result of these buyouts and early retirements, Amtrak's management staff declined by a total of about 15 percent between 1994 and 1995. But, by 1999, the number of management employees was almost the same as it was in 1994.

The Council is charged with evaluating Amtrak's efficiency and its progress in achieving productivity improvements. Section 203(g)(2)(C) of the ARAA provides that in making its evaluation and recommendations, "the Council shall consider all relevant performance factors, including . . . management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations."

The Council must monitor Amtrak work-rule savings and include an assessment of such savings in its annual report to Congress. Note how specific the requirement is under Section 203(g)(3): "If after January 1, 1997, Amtrak enters into an agreement involving work-rules intended to achieve savings with an organization representing Amtrak employees, then Amtrak shall report quarterly to the Council—(A) the savings realized as a result of the agreement; and (B) how the savings are allocated."

Note also the specificity of Section 203(h): "Each year . . . the Council shall submit to the Congress a report that includes as assessment of (1) Amtrak's progress on the resolution of productivity issues; or (2) the status of those productivity issues, and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate."

The Council's duties are clear, yet Amtrak failed to provide needed and relevant information to ARC'S questions. According to the Council's January report to Congress:

Amtrak's responses to the Council's request to date essentially consist of copies of:

- recently negotiated labor agreements;
- management summaries of various work-rule changes in the agreements;

- recent examples of productivity analyses regarding: (i) the Amtrak Reservations Centers (1995), (ii) benchmarking Amtrak maintenance-of-way productivity against the rail transit industries (1998), and (iii) determining Amtrak's maintenance cost for diesel locomotives (1997) (for which the outside contractor needed to restate Amtrak's financial accounting system reports with its own estimates); and
- statements regarding certain identified savings from various work-rule changes in recent agreements; and various factual data regarding the Amtrak labor force.

Amtrak also submitted to the Council a "FY 1999 Report on Productivity Improvements and Work Rule and Cash Savings," which provided a set of numbers on a quarter-by-quarter basis for FY1999 . . . . The report stated a total of $19.5 million in "productivity improvements and work rules and cash savings" for FY1999 [but the data] arguably may not satisfy the statutory criteria of ARAA Section 203(g)(3). The current format of Amtrak's report does not clearly show how the savings are allocated and provides no analysis of how the numbers were calculated.

That was a non-confrontational way of saying that Amtrak failed to document its claim that 20 percent of recent wage increases will be offset by work-rules savings; failed to substantiate that it has a methodology in place to measure productivity; failed to provide any productivity analyses that Amtrak or a consultant for Amtrak has conducted; and failed to clarify whether Amtrak has performed any studies regarding cost savings in the area of contracting out.

On a positive note, as reported in the ARC's January report, Amtrak has achieved some work-rules changes in recent agreements that have the potential to bring cost savings. Such changes include contracting out of Amtrak's entire Commissary operations, extension from 4 hours to six hours of the period before a second engineer must be added to a locomotive, flexibility in establishing district gangs in the Bridge & Building and Electric Traction sub-departments, and increased management flexibility to establish Construction Gangs working outside normal starting times on the Northeast Corridor.

The ARC has been stymied in its attempt to review the facts regarding these issues. I note with interest this passage from the GAO's May 2000 report: "Amtrak does not have measures of labor productivity for its lines of business (e.g., intercity passenger service, commuter service) that would allow it to better manage its labor costs."

Attachment 2: Full Public Cost of Amtrak Is Unknown

Federal Amtrak Subsidies Soon to Exceed $24.3 Billion

No one really knows the full public cost of running Amtrak. Amtrak's financial reporting system does not fairly represent to government officials or taxpayers its condition or level of subsidies. Meanwhile, Amtrak's financial losses continue. For the first three quarters of fiscal year 2000, its operating loss grew to $710.9 million from the prior year's figure of $705.1 million. Although not Amtrak's worst performance, it is nonetheless an increase over the prior year and a far cry from Amtrak's glowing picture of its finances.

Consider the methods employed that artificially reduce Amtrak's self-reported subsidy totals and mask the extent of its financial condition:

- Amtrak benefits from a taxpayer-sponsored windfall. Although Amtrak has never paid a penny in income taxes, Congress ordered the IRS to give Amtrak a $2.2 billion "tax refund." Amtrak has been using the funds in part to repay a portion of what I've been told was $1.6 billion in debt to the private capital markets, and in part as an investment in high-yield, interest-bearing accounts. Thus, the "income tax refund"—money Amtrak did not "earn" in the true business sense—is reducing Amtrak debt costs and increasing interest income, a balance-sheet sweetener of monumental proportions that has nothing to do with its commercial activity as a passenger railroad.
- Amtrak now inflates income by counting many public subsidies as "revenue" in its annual report, something it hasn't done through most of its history. For example, the GAO testified before a House Committee on October 28, 1999, that Amtrak records a portion of its unearned "income-tax refund" made available by the Taxpayer Relief Act as revenues.
- Amtrak has created the appearance of lower operating losses by shifting almost a half a billion dollars in maintenance costs to its capital account, according to the GAO.

The GAO report issued in May 2000 entitled "Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs" stated that "Amtrak's losses have remained high: In 1999, its net loss—revenues minus expenses—was about $900 million." The DOT Inspector General has estimated that Amtrak will incur more in cash losses than Amtrak suggests. The DOT Inspector General and the GAO have found that Amtrak is unlikely to meet a legal requirement of zero operating subsidies by the end of fiscal year 2002.

Dispute About How to Monitor Amtrak's Performance

Section 203(g)(2)(B) of the ARAA prescribes that the Amtrak Reform Council shall consider all relevant factors in evaluating Amtrak's performance, including "appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system *based on generally accepted accounting principles.*" [Emphasis added.] According to the Legal Counsel to the ARC, the statute provides for no other standard than generally accepted accounting principles. The GAAP principles comprise the criteria normally used to measure the financial performance of for-profit corporations, which Amtrak—under the law—was established to be.

Amtrak, however, wants to exclude depreciation and certain other costs as operating expenses for purposes of measuring operating self-sufficiency. Amtrak wants to treat progressive equipment overhauls as a capital instead of an operating expenditure. If Amtrak's contentions are accepted, there would be no standard in place to ensure that Amtrak becomes operationally self-sufficient by Fiscal year 2003 and that taxpayers no longer subsidize Amtrak operations after that date.

This issue has concerned several oversight bodies:

- The ARC stated in its January report that "The accounting standard specifically referred to in the Council's statutory mandate, GAAP, is, both logically and under current law, the method by which Amtrak's performance is measured." An opinion by the ARC's Legal Counsel concluded that "Both GAO and DOT/IG have publicly noted their view that under the ARAA, Amtrak operating expenses as defined under GAAP, such as progressive overhauls, cannot be federally funded after Fiscal year 2002 regardless of how such operating expenses were funded in the past."
- The DOT Inspector General stated before a House Committee on March 4, 1999: "Regardless of the type of federal grants Amtrak receives or how Amtrak is permitted to spend them, Amtrak will have to cover all of its operating expenses (except for excess payments for RRTA) in Fiscal year 2003 from non-federal sources. In other words, maintenance of equipment and maintenance of way expenses would, under current law, no longer be eligible for federal funding in 2003. That is the mandate from ARAA, and it is the standard we are using to gauge Amtrak's financial viability in our assessments."
- The GAO report to this Committee in July 1999 entitled "Amtrak's Progress in Improving Its Financial Condition Has Been Mixed" said Amtrak "disagreed with our inclusion of expenses for progressive overhauls in our discussion of Amtrak's progress in achieving operational self-sufficiency . . . . As discussed in our report, generally accepted accounting principles consider progressive overhaul expenses to be operating expenses [and] we conducted our review from January 1999 through June 1999 in accordance with generally accepted government auditing standards."

My view is that if Amtrak's financial performance were truly positive, Amtrak would have no need to redefine operating expenses as a device to lower its perceived losses; would have no need to request treatment that is prohibited in corporations throughout America; and would have no need to further impair the public's understanding of Amtrak's true costs and subsidies.

Backdoor Subsidies Increasing

In July, Senator Wayne Allard said in a floor debate: "I have grown increasingly skeptical about what is going on with Amtrak. It seems they found a way to pick up government subsidies all over the place." His doubts are justified as Washington has been masterful in masking the depth of Amtrak subsidies.

I'm unable to recall when an independent oversight body or public agency last tabulated and presented for public scrutiny the full public cost of running Amtrak, but it may have been a GAO report in the early 1980s or late 1970s. That report was prior to the start of numerous programs that finance Amtrak or artificially lower Amtrak's costs by shifting expenses to the books of other agencies such as the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA) or the Treasury Department.

Excluded from Amtrak's annual reports, and congressional testimony is a sum of the costs of numerous publicly funded programs that assist in financing Amtrak, as follows:

Federal Funding Not Included in Amtrak Subsidy Totals

- FRA Grants—Amtrak benefits from grants for train stations, historic building restorations, grade crossing improvements, studies and technology development.
- FTA Grants—2 examples are a grant of $18.7 million to Pennsylvania to purchase coaches for Amtrak and $3.5 million to Vermont to start a train to Rutland. FTA grants also help pay to build or improve Amtrak stations.
- TIFIA Federal Credit Assistance (a new program): Amtrak is seeking a $29 million direct loan in 2001 to finance a $120 million plan to rehabilitate existing locomotives for its *Acela Regional* service in the Northeast Corridor. This is under the 2-year-old Transportation Infrastructure Financing and Innovation Act program administered by the DOT.
- Other federal funds—some states like California rely on Congestion Mitigation & Air Quality funds to support Amtrak.
- Federal job-training funds have benefitted Amtrak in several locations, such as a $500,000 grant to Amtrak to retain a reservations office in Philadelphia.
- Unknown Risk Loan—In 1996, an agency of the Canadian government issued a loan to help finance the *Acela Express,* the principal of which remains outstanding. Without knowledge of the details of this loan, the degree to which American taxpayers hold liabilities to repay the loan's principal, interest or penalties in a default is unknown.
- For many years Amtrak failed to list funds received through guaranteed loans. Amtrak never repaid $880 million in loans received between 1971 and 1975, and that obligation, plus more than a quarter of a billion dollars in interest, was paid by the FRA on Amtrak's behalf. For evidence of this continuing taxpayer obligation, the 1983 Amtrak annual report contains this disclosure: "On September 30, 1983, Amtrak had borrowed under notes payable to the Federal Financing Bank up to its maximum federal guaranteed loan authority of $880,000,000. On October 5, 1983, this obligation, plus $239,635,000 in accrued interest, was paid on Amtrak's behalf by the Federal Railroad Administration, and a new note in the amount of $1,119,635,000 was executed as of that date between Amtrak and the U.S. Government. The note matures on November 1, 2082, and will be renewed for successive 99-year terms. Interest is payable only in the event of prepayment or acceleration of the principal."

It is generally understood that since 1970 Congress has appropriated more than $23.2 billion to Amtrak. But if the $1.1 billion note to cover Amtrak's loan default is added (which is rarely done because it wasn't an "appropriation"), the federal government's expenditures total at least $24.3 billion. (State operating and capital subsidies total at least $2 billion for a total of at least $26 billion in public funding.) But the true cost of subsidizing Amtrak if we include all programs is unknown.

Table A: History of Federal Subsidies/Grants/Loans to Amtrak
(All dollar figures in millions)

Fiscal Year	Operating Funds	Excess R.R. Retirement	General Capital	Bos-Wash Capital	Lump Sum	IRS "Tax Refund"	Totals
71/72	$ 40.0						$ 40.0
73	$ 170.0						$ 170.0
74	$ 146.6		$ 2.5				$ 149.1
75	$ 276.5						$ 276.5
76	$ 357.0		$ 114.2				$ 471.2
TQ	$ 105.0		$ 25.0	$ 50.0			$ 180.0
77	$ 482.6		$ 93.1	$ 225.0			$ 800.7
78	$ 561.0A		$ 130.0	$ 425.0			$ 1,116.0
79	$ 625.0A		$ 150.0	$ 479.0			$ 1,254.0
80	$ 670.4		$ 191.0	$ 362.0			$ 1,223.4
81	$ 709.2		$ 187.1	$ 350.0			$ 1,246.3
82	$ 522.4	$ 36.0	$ 176.6	$ 170.0			$ 905.0
83	$ 561.2	$ 44.0	$ 94.2	$ 115.0			$ 815.0
84	$ 562.1	$ 56.0	$ 98.3	$ 100.0			$ 816.4
85	$ 551.7	$ 76.0	$ 52.3	$ 27.6			$ 707.6
86	$ 500.7	$ 88.0	$ 2.0	$ 12.0			$ 602.7
87	$ 468.5	$ 112.0	$ 26.3	$ 11.2			$ 618.5
88	$ 413.6	$ 121.0	$ 46.2	$ 27.5			$ 608.3
89	$ 410.6	$ 144.0	$ 29.4	$ 19.6			$ 603.6
90	$ 388.1	$ 133.0	$ 83.6	$ 24.4			$ 629.1
91	$ 343.1	$ 144.8	$ 132.0	$ 179.0			$ 798.9
92	$ 331.0	$ 138.2	$ 175.0	$ 205.0			$ 861.2
93	$ 351.0	$ 146.0	$ 190.0	$ 204.1			$ 891.1
94	$ 351.7	$ 150.5	$ 195.0	$ 225.0			$ 922.2
95	$ 392.0	$ 150.0	$ 230.0	$ 200.0			$ 972.0
96	$ 285.0	$ 120.0	$ 230.0	$ 115.0			$ 750.0
97	$ 222.5	$ 142.0	$ 303.0B	$ 175.0			$ 842.5
98	$ 345.0	$ 142.0	$ 250.0	C		$ 1,091.8	$ 1,728.8
99					$ 571.0	$ 1,091.8	$ 1,662.8
2000					$ 521.0		$ 521.0
Loans			$1,119.6D				$ 1,119.6
Totals	$ 11,043.8	$ 1,955.5	$ 4,706.0	$ 3,751.7	$ 1,092.0	$ 2,183.6	$ 24,283.5

Sources: *Background on Amtrak,* Amtrak Annual Reports, Amtrak Finance Dept., GAO, DOT Inspector General, ARC
TQ - Transition Quarter as Federal fiscal year changed from July 1 to Oct. 1.
A - Includes appropriations of $25 million in 1978 and 1979 for partial repayments of government-guaranteed loans.
B - Includes of $80 million for "high speed rail" in 1997.
C - Amtrak combined Boston-Washington capital request with General Capital.
D - In the 1970s, Congress gave Amtrak guarantee authority to borrow $880 million in a government-guarantee loan program. Amtrak stated in 1983 that it would not ever be likely to repay the debt, and $880 million in debt plus $239.6 million in interest owed to the U.S. Treasury's Federal Financing Bank was repaid through an appropriation to DOT of $1,119,635,000.
Note - The GAO states that with inflation Amtrak has received more than $29 billion in real 1995 dollars. This is understated because of failure to include principal and interest for loans as identified in Footnote D, uncalculated state and local subsidies, and subsequent federal subsidies.

Attachment 3: Amtrak's Growth Is Anemic Despite a Travel Boom

As one who has promoted train travel for many years, Im pleased that more people are riding trains today. However, Amtrak is greatly exaggerating its success in building ridership. The Amtrak Reform Council's January report stated: "During a decade when the American economy and most of its transportation system have expanded in an unprecedented manner, Amtrak's ridership has remained virtually unchanged."

Amtrak Traffic Level Is a Sad Tale

Amtrak's new ridership record is hollow because during this all-time record year of travel Amtrak will only be breaking a level set in 1988—twelve years ago. In 1999, which Amtrak also boasts of being "highly successful," Amtrak carried 21.5 million passengers, a million passengers lower than it projected in a report to Congress, only 400,000 above the previous year, and the same number it carried in 1988. Also in 1999, Amtrak usage totaled 5.3 billion passenger-miles, 500 million passenger-miles lower than it projected in a report to Congress and a number equal to or lower than that in 8 of the last 10 years.

In testimony before a House Committee on October 28, 1999, the GAO observed that "in fiscal year 1997, fewer than 100 passengers, on average, boarded Amtrak intercity trains and connecting buses per day in 13 states." Although Amtrak will set a record in fiscal year 2000, it is still true that usage remains very light at many points on Amtrak's route system.

Amtrak Ridership Growth Is Vastly Inferior to That of Aviation

On Memorial Day weekend, U.S. commercial aviation carried well over 12 million passengers—which means in just one holiday weekend airlines carry more than half the number of people who board Amtrak during the entire year. The gap continues to worsen for Amtrak despite serious airline and FAA problems. In Amtrak's first full year of operation, 1972, Amtrak carried an average of 45,500 passengers a day. In 1999, more than a quarter-century later, it stood at only 58,900 daily. Meanwhile, the number of U.S. airline passengers has more than tripled, from 524,100 daily in 1972 to 1,740,800 daily in 1999. (If airline traffic reaches a projected 670 million this year, the daily air travel count will total 1,835,600.)

Population Rises But Amtrak's Usefulness Falls

The U.S. population in 1972, Amtrak's first full year of operation, was 209.9 million. The Census Bureau population estimate as of September 18, 2000, is 275.8 million—up 65.9 million. The vast majority of these additional 65.9 million people aren't riding Amtrak. Amtrak's insensitivity to marketplace messages is why Amtrak's share of the intercity travel market is lower than ever—six-tenths of one percent and still falling.

Projections Doubtful

Amtrak representations to this Committee about future ridership should be evaluated in the light of history. In 1998 Amtrak told Congress its fiscal year 1999 ridership would reach 22.5 million—but it turned out that its traffic was a million passengers lower. This is a long-running problem. A GAO study in 1979 looked at earlier Amtrak reports to examine ridership estimates. GAO found that in 1974 Amtrak filed with Congress a projection that ridership in 1979 would be a stunning 37 million (it turned out to be 18.7 million passengers). In 1975 Amtrak downgraded the estimate to 29.2 million passengers (it turned out to be 17.4 million passengers). Amtrak's estimates about future ridership deserve great skepticism.

When ridership estimates are off, so are revenue estimates, and this inaccuracy is a continuing problem. In 1995 testimony to Congress, the GAO stated that Amtrak's financial problems have accelerated, and one reason is that "Amtrak overestimated passenger revenues by $600 million from 1991 through 1994."

On this very day we are hearing from the DOT Inspector General who has found in his latest assessment that under certain circumstances Amtrak's cash loss would be about $1.4 billion more than it projects over the 5-year period, 2000 through 2004.

Table B: Amtrak Versus Aviation Ridership

Year	U.S. Census Population Estimate (millions)	Airline Revenue Passengers (millions)	Amtrak Passengers (millions)	Amtrak '99 Plan Estimate (millions)	Amtrak Passenger-Miles (billions)	Amtrak '99 Plan Estimate (billions)
1972	209.9	191.3	16.6		3.0	
1973	211.9	202.2	16.9		3.8	
1974	213.9	207.5	18.7		4.5	
1975	216.0	205.1	17.4		3.9	
1976	218.0	223.3	18.2		4.2	
1977	220.2	240.3	19.2		4.3	
1978	222.6	274.7	18.9		4.0	
1979	225.0	316.9	21.4		4.9	
1980	227.2	296.9	21.2		4.6	
1981	229.5	286.0	20.6		4.8	
1982	231.7	294.1	19.0		4.2	
1983	233.8	318.6	19.0		4.2	
1984	235.8	344.7	19.9		4.6	
1985	237.9	382.0	20.8		4.8	
1986	240.1	418.9	20.3		5.0	
1987	242.3	447.7	20.4		5.2	
1988	244.5	454.6	21.5 *		5.7 *	
1989	246.8	453.7	21.4		5.9 *	
1990	249.5	465.6	22.2 *		6.1 *	
1991	252.2	452.3	22.0 *		6.3 *	
1992	255.0	475.1	21.3		6.0 *	
1993	257.8	488.5	22.1 *		6.2 *	
1994	260.3	528.8	21.8 *		5.9 *	
1995	262.8	547.8	20.7		5.5 *	
1996	265.2	581.2	19.7		5.0	
1997	267.8	594.7	20.2		5.2	
1998	270.2	612.9	21.1		5.3 *	
1999	272.7	635.4	21.5	22.5	5.3	5.8
2000	275.8	670.0 est.				

* means Amtrak's 1999 ridership was equal to or lower than such years
Airline passenger traffic statistics from Bureau of Transportation Statistics
Amtrak passenger traffic statistics from *Background on Amtrak* and Amtrak annual reports

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Attachment 4: Amtrak Expands Network of Poor, Slow Trains

New Amtrak Trains Are Slower than 1926, 1952 pre-Amtrak Trains

Prospects for success on new and proposed Amtrak routes in most of the nation are bleak. For example, Amtrak's new *Kentucky Cardinal* is inferior to the equivalent service provided by the Pennsylvania Railroad 70 years ago. Amtrak's 12-hour Chicago-Jeffersonville, Ind., (near Louisville) schedule is 3 hours longer than it took our great-grandparents to ride a 1926 "milk run" on the same route, which was pulled by a steam locomotive and served nearly every village along the way. This is why I have called this Amtrak train—one of the slowest in the world—a "Conestoga Wagon With Lights." This train is driven by Amtrak's desire to carry UPS parcel freight, and the passenger accommodations are but a fig leaf to provide Amtrak with legal cover behind which it expands freight operations.

On April 15, Amtrak began running the *Lake Country Limited*, which takes 3 hours and 20 minutes to travel from Janesville, Wisconsin, to Chicago. The Chicago & North Western train in 1952 connecting Janesville with Chicago was an hour-and-a-half faster. The media reports traffic on the train has averaged 11 people per day in each direction. Amtrak plans to add a train from Fond du Lac, Wisconsin, to Chicago on a 3 hour, 39 minute schedule. Its 1952 predecessor was an hour faster.

New Slow Trains Violate Amtrak Law

Amtrak's assertion that millions of new travelers will climb aboard such slow trains is bogus. I believe that the *Kentucky Cardinal, Lake Country Limited* and the proposed Fond du Lac services are illegal because they violate Amtrak's statutory mandate to provide *modern* rail passenger service, 49 USC Sec. 24101 (a)(1)(b). What is "modern" about trains that are slower than trains on the same routes were in the 1950s, 1940s, and earlier?

Amtrak Priority Should Be to Fix System of Late-Running Trains

While Amtrak employs resources to start new trains, its existing services outside of the Northeast Corridor have terrible on-time performance records. As a member of the Council facing significant policy issues, I was little inclined to pursue Amtrak's poor operating practices.

My inclination changed, however, when Amtrak Chairman Tommy Thompson sent a letter to the Council in 1999 asserting that on-time performance was 80 percent and "still ahead" of airline performance. The claim was false as many long-distance trains in the Midwest and West were routinely running 2 or more hours behind schedule.

Next came a press statement that Amtrak has "the best on-time performance in 13 years." I knew the statement was untrue because of information coming in from around the nation about late-running Amtrak trains. As a former consumer-group leader, I was motivated to conduct my own review of Amtrak scheduling practices.

I determined that Amtrak reports its trains as being far more punctual than they really are on virtually every route outside of the Northeast Corridor. Amtrak abuses what used to be a modest railroad practice to put extra minutes ("fat") into its timetables for "scheduling cushion." Amtrak inserts very long periods of time just before "checkpoints" where on-time performance is calculated. If Amtrak on-time performance were measured at the stop before an official checkpoint, Amtrak's record would be much worse than official reports indicate. In fact, the performance figures would be devastating. Amtrak employs this dishonest practice on a sweeping basis.

It is highly likely that the airline industry—despite very serious delays—had an on-time performance record this summer that was superior to that of Amtrak outside of the Northeast. One reason is that the time added near the end of a flight schedule is nowhere near the time inserted by Amtrak. Also, an aircraft doesn't serve 20 communities a day, arrive an hour or more late at 19 of them as Amtrak does, and be considered punctual because it eased through "fat" in the end of the schedule and was on-time only at the checkpoint. (Amtrak generally defines on-time for short-distance trains as arriving within 10 minutes of schedule and for long-distance trains as arriving within 30 minutes of schedule.)

In an August 31, 1999, ARC meeting, I provided a preliminary analysis of Amtrak's misleading performance figures to the Council with Amtrak representatives in attendance. I had 3 purposes in introducing the subject—to alert the ARC of the extent to which Amtrak presents misleading figures to the Council; to possibly discuss the revenue loss that Amtrak suffers as a result of misleading travelers; and to question whether Amtrak has undue overtime expenses if employees work hours conform to scheduled train times instead of their actual late arrivals. It turns out that concerns about such expenses are justified considering these findings in GAO's May 2000 report:

> Amtrak incurs a fairly high amount of overtime to provide its services, which may suggest some level of inefficiency in its utilization of its labor force. From 1995 to 1999, overtime represented, on average, about 11 percent of Amtrak's total employee hours worked. The amount of overtime hours also increased steadily during this period—from about 4.2 million hours in 1995 to about 6.3 million hours in 1999 . . . . Amtrak did not know specifically why overtime had increased.

The ARC took no action, but I was hopeful that exposing the issue would dampen Amtrak's enthusiasm for this deceptive practice. Unfortunately, it did not as excessive "fat" remains in schedules and Amtrak continues to issue statements regarding on-time performance that lack credibility.

Please refer to the table below. I will reference the first train listed to illustrate the point. Amtrak's eastbound *Sunset Limited* routinely takes 45 honest minutes when running over the 32-mile stretch of track from Los Angeles to Pomona, California. No on-time performance calculations are made on this train at this point. In recent years, however, Amtrak has added extra time to the westbound schedule from Pomona to the Los Angeles "checkpoint" so that it now takes 1 hour and 57 minutes for the run—more than twice as long as the eastbound counterpart. Hence, passengers suffer the inconvenience of waiting for late westbound *Sunset Limited* trains in one community after another but official reports will show their train listed as "on time."

Amtrak's long-distance on-time record of 61 percent for Fiscal year 1999 (a poor enough figure in itself) is simply not credible. The figure represents performance at about 32 checkpoints across the country, yet Amtrak served 510 stations. If we subtract these and other checkpoints we have about 470 non-checkpoint stations where trains could run an hour or more late yet be reported by Amtrak as being "on time."

Traditionally the pre-Amtrak railroads did allow a modest amount of additional time for trains at the end of their runs to allow a little bit of cushion to make up time. In 1952, to cite just one example, the Santa Fe's westbound *Grand Canyon* took 54 minutes between Chicago and Joliet, but eastbound took only 4 minutes longer. The minor schedule difference on the private railroad system was typical for that time. But over the years Amtrak has added prior-to-checkpoint "fat" to schedules to a degree unprecedented in the railroad business.

Virtually every European and Japanese railroad schedules trains as expeditiously on final "checkpoint" segments of routes as they do on originating legs.

Table C: Schedule "Fat" Permits Misleading Performance Reports

Amtrak Train(s)	"Checkpoint" Segment Where Calculation is Made for On-Time Performance	Miles	Best Time When On-Time Statistics Are *NOT* Calculated (Outbound Schedule) (1997-2000)	Time When On-Time Statistics *ARE* Calculated (Inbound Schedule)	Amtrak's Added "Fat" in Schedules
Sunset Limited	Pomona, Cal.-Los Angeles	32	45"	1' 57"	1' 12"
Sunset Limited	Schriver, La.-New Orleans	55	1' 25"	2' 30"	1' 05"
Southwest Chief	Naperville, Ill.-Chicago	28	36"	1' 36"	1' 00"
Texas Eagle	San Marcos-San Antonio	54	1' 40"	2' 39"	59"
City of New Orleans	Hammond, La.-New Orleans	52	1' 03"	2'	57"
Three Rivers	Hammond, Ind.-Chicago	16	29"	1' 25"	56"
San Francisco Zephyr	Naperville, Ill.-Chicago	28	34"	1' 29"	55"
San Francisco Zephyr	Martinez-Emeryville	25	11"	1' 05"	54"
Capitol Limited	Hammond, Ind.-Chicago	16	30"	1' 23"	53"
Pennsylvanian	Hammond, Ind.-Chicago	16	29"	1' 19"	50"
Southern Crescent	Slidell, La.-New Orleans	37	53"	1' 35"	42"
Empire Builder	Edmonds, Wash.-Seattle	18	32"	1' 12"	40"
Sunset Limited	Bay St. Louis-New Orleans	57	1' 12"	2' 51"	39"
Ann Rutledge	Alton, Ill.-St. Louis	27	40"	1' 18"	38"
Lake Shore Limited	Hammond, Ind.-Chicago	16	32"	1' 09"	37"
Cardinal	Dyer, Ind.-Chicago	29	1' 12"	1' 48"	36"
Empire Builder	Red Wing-Minneapolis	46	1' 04"	1' 39"	35"
Southwest Chief	Fullerton-Los Angeles	26	40"	1' 14"	34"
International	Lapeer-Port Huron	45	48"	1' 19"	31"
Coast Starlight	Tacoma-Seattle	40	56"	1' 25"	29"
Coast Starlight	Glendale-Los Angeles	5	18"	45"	27"
Wolverine	Hammond-Chicago	16	27"	54"	27"
Lake Shore Limited	Back Bay-South Station	1	5"	32"	27"
Illini	Homewood-Chicago	24	1' 10"	1' 36"	26"
Illini	Du Quoin-Carbondale	20	14"	40"	26"
Empire Builder	Glenview-Chicago	18	24"	50"	26"
Heartland Flyer	Gainesville-Fort Worth	68	1' 20	1' 46"	26"
Texas Eagle	Alton-St. Louis	27	44"	1' 09"	25"
Cascades	Seattle-Edmonds	18	51"	27"	24"
San Joaquin	Wasco-Bakersfield	26	27"	51"	24"
Pacific Surfliner	Grover Beach-San Luis Obispo	9	21"	45"	24"
Heartland Flyer	Norman-Oklahoma City	20	25"	49"	24"
Cardinal	Manassas-Washington	32	54"	1' 18"	24"
Empire Builder	Vancouver, Wash.-Portland	10	27"	50"	23"
City of New Orleans	Homewood-Chicago	24	45"	1' 08"	23"
Empire Service - 3 trains	Buffalo-Niagara Falls, NY	23	35"	58"	23"

Ann Rutledge	Joliet-Chicago	37	50"	1' 12"	22"
Illinois Zephyr	Naperville-Chicago	28	35"	57"	22"
Silver Meteor	Hollywood-Miami	13	24"	46"	22"
Ethan Allen Express	Fair Haven-Rutland	14	22"	44"	22"
Northeast Direct	Worcester-Boston	44	59"	1' 20"	21"
Capitol Limited	Rockville-Washington	17	22"	42"	20"
Silver Palm	Hollywood-Miami	13	24"	43"	19"
Illinois Zephyr	Macomb-Quincy	56	48"	1' 06"	18"
State House	Alton-St. Louis	27	45"	1' 03"	18"
Capitols - #729 & 733	Santa Clara-San Jose	7	12"	29	17"
Cascades	Albany, Ore.-Eugene	43	43"	59"	16"
Silver Star	Hollywood-Miami	13	28"	44"	16"
Piedmont	Cary-Raleigh	9	13"	28"	15"
Vermonter	Essex Jct.-St. Albans	24	30"	45"	15"
Maple Leaf	Yonkers-New York	14	24"	38"	14"
Capitols - #727 & 731	Emeryville-Oakland	5	10"	24"	14"
Capitols - 3 trains	Davis-Sacramento	13	19"	33"	14"
Adirondack	St. Lambert-Montreal	8	13"	26"	13"
Pere Marquette	Hammond-Chicago	16	27"	40"	13"
Piedmont	Kannapolis-Charlotte	27	28"	40"	12"
State House	Joliet-Chicago	37	50"	1' 02"	12"
Capitols - #723 & 725	Santa Clara-San Jose	7	12"	24	12"
Ann Rutledge & K.C. Mule	Independence-Kansas City	10	19"	29"	10"
Cascades - 3 trains	Tacoma-Seattle	40	38"	48"	10"
Cascades - 3 trains	Vancouver, Wash.-Portland	10	18"	28"	10"
Pacific Surfliner 11 trains	Solana Beach-San Diego	28	33"	Range 34"-49"	Range 10" - 1"
Hiawatha Service 5 trains	Glenview-Chicago	18	22"	Range 28"-31"	Range 10" - 6"

Calculations made only on trains that run five days or more per week.
Schedule comparison shown only when 10 minutes or more have been added to schedules.

Attachment 5: Acela Express Now 3 Years Behind Schedule

I'm in a difficult position in speaking about the *Acela Express* because I've worked for high-speed rail in America since my first report on the subject was published in 1969, I've testified in favor of appropriations to Amtrak for the *Acela Express* and the train is a welcome and needed improvement. Yet I am disappointed by this train's many delays and remain unconvinced by Amtrak's explanations.

Amtrak's decision to develop the *Acela Express* was a mistake. Amtrak should have purchased off-the-shelf technology, like the Swedish-Swiss X2000, which Amtrak had successfully tested in the early 1990s. The specifications could have been altered to meet U.S. rail safety standards, the trains would have been built in this country, and Americans could have been riding high-speed trains for several years now.

When The *Washington Post* exposed *Acela's* design flaws last year, Amtrak announced a "six-month delay" in service. In fact, the *Acela Express* has experienced delays that are far more significant. Perhaps the extent of delays are unrecognized because the facts are difficult to locate in information databases—the name of this train has been changed from *Metroliner* to *American Flyer* and now *Acela Express.*

Following are Amtrak's own words regarding delivery dates for the *Acela Express.*

Chronology of Delivery Delays Since Projected April 1996 Date

May 19, 1993: Amtrak initiates procurement of high-speed trainsets, stating in news release number ATK–93–24, "To pre-qualify, a firm must demonstrate that it . . . possesses the necessary resources to deliver 2 complete trainsets by April 1996 and the remainder of the trainsets within 2 years thereafter . . . . With completion of the New York-Boston improvement program in 1997, Amtrak plans to operate 16 high-speed Metroliners each business day between Boston, New York and Washington, with trip time between Boston and New York in less than 3 hours."

November 3, 1993: New train slips a bit to middle of 1996. Amtrak stated in news release number ATK–93–57 that "Amtrak plans to award a contract by the middle of 1994 with the first trains being delivered 2 years later."

March 17, 1994: The program slips to early 1997. Amtrak testifies before a House Committee that "Two advance versions of the trainsets are expected in early 1997 for testing. The remaining 24 trainsets will then go into production, with the final trainset arriving in 1999."

October 6, 1994: Amtrak reiterates 1997 for first train. Amtrak announced in news release number ATK–94–83 that "The 26 high-speed trains will attain top speeds of 150 miles per hour and serve become [sic] Amtrak's Northeast Corridor *Metroliner Service* fleet of the 2lst century . . . . The procurement award is expected in early 1995 with delivery of 2 test trains in 1997 and the remainder during 1998 and 1999 . . . . It is expected by the year 2000 that more than 3 million additional passengers will be attracted to the service." This document also reiterates promises made by Amtrak many times that New York-Boston travel time will be reduced to "under 3 hours." But the latest *Acela Express* Boston-New York travel time estimates are between 3 hours and 10 minutes and 3 hours and 20 minutes, depending on the frequency of stops.

November 21, 1995: Associated Press, reports on *Acela Express* delays: "The race to build America a new generation of fast passenger trains is running late . . . . Two years ago, Amtrak said it hoped to award the contracts in early 1994."

March 15, 1996: Associated Press reports that Amtrak selected the consortium to build the trains, which will "go into service by 1999." The report of the 1999 delivery date fails to reference prior delays and the mistake goes unnoticed. Newspapers across the country run a photo of a model of the *American Flyer.*

March 11, 1998: Amtrak reiterates the 1999 date but refers to 2000 for completion of delivery. Amtrak CEO George Warrington testifies before a House Committee that "Five trainsets will be delivered in late 1999, with the remaining 13 by July 2000."

March 10, 1999: Amtrak Chairman Tommy Thompson, in testimony before a Senate committee, reiterates the 1999 date, saying, "Amtrak will phase in the Northeast Corridor's high-speed rail program late this year."

September 2000: Amtrak indicates that the *Acela Express* launch is "late October" after a year of announcing "early Summer," then "mid-August," then "sometime in September."

The Unknown Cost of Acela Express Delays

Amtrak has repeatedly said that *Acela Express* revenues will enhance its bottom line but by what amount is unclear. Amtrak gave an estimate of $125 million to the Council as the expected annual revenue. Next, Amtrak CEO George Warrington said before a House Committee on March 11, 1998: "This new service will add, at a minimum, $150 million in revenues when fully deployed." Further confusing are reports in a November 1999 *Trains* magazine and subsequent *Washington Post* and Associated Press stories stating that Amtrak expects the trains to contribute another $180 million in income.

Which Amtrak number should we believe—$125 million, $150 million or $180 million? Whatever the figure, when I served on the Council we questioned Amtrak as to how it will make up the revenue shortfall. Amtrak stated that it would implement a combination of cost avoidance and revenue enhancements that will offset the expected loss in *Acela Express* revenue in fiscal year 2000. No details were forthcoming as to how Amtrak will accomplish that.

Prior to the latest delays, the DOT Inspector General's 1999 and 2000 assessments of Amtrak examined the reasonableness of Amtrak 5-year projections for the Northeast Corridor and estimated passenger revenues to be significantly lower than Amtrak's estimate. The differences are, in part, because the IG calculates the diversion of passengers from air and automobile travel to the *Acela Express* trains at a lower rate than does Amtrak.

For the record, a 3 hour and 10-to-20 minute Boston-New York *Acela Express* schedule, while good, isn't the "grand leap" needed for high-speed rail to be truly air-competitive. To put Amtrak's best train in historical perspective:

- The *Acela Express* can operate at 150 miles per hour between New York-Boston, but will run that fast on only 52 of the route's 231 miles.
- Japan's first Bullet Trains, which are now in museums, offered faster trip times in the 1960s than Amtrak's *Acela Express* will offer in 2001.
- In 1950 the New Haven Railroad's *Merchants Limited* linked New York-Boston in 4 hours without the benefits of full electrification, tilt-train technology and advanced signaling systems. For Amtrak's *Acela Express* to run only about 45 minutes faster after Amtrak has spent billions of dollars on the project is an example of Amtrak's inability to bring truly air-competitive high-speed rail service to America.

Terms & Liabilities of Acela Express $1 Billion Loan Remain Secret

Questions arise as to the degree to which Amtrak has publicly disclosed *Acela Express* costs to oversight bodies and taxpayers. It appears that Amtrak may have been unduly induced by an agency of the Canadian government to select *Acela Express* equipment manufactured by the Canadian-based Bombardier Corporation in preference to more proven technologies such as the X2000, which Amtrak had tested with great success in the early 1 990s. According to an *Ottawa Citizen* story on March 18, 2000, "The federal Export Development Corp. (EDC) secretly loaned $1-billion to the deficit-plagued U.S. railroad agency Amtrak while the Chretien government sharply cut passenger rail funding in Canada. The money allowed the U.S. government-owned Amtrak to side-step a congressional cap on capital grants . . . The loan package has been a closely guarded secret. As of the end of 1998, the $1-billion was still owing. Officials from Bombardier and Amtrak declined to disclose details about the deal. Details of the EDC-Amtrak loans are not disclosed in EDC annual reports or financial statements . . . ."

While there is nothing inherently improper with a Canadian government loan, the secrecy has induced the sense that Amtrak has something to hide. I question whether this transaction has potentially handed U.S. taxpayers a $1 billion liability.

To my knowledge, the ARC was never informed of a loan from the Canadian government, the uses to which it was put, the principal amount owed, the interest rate, the repayment schedule, other terms and conditions, or its effect on Amtrak's financial condition. Are the *Acela Express* trains serving as collateral? We don't know. There is much we don't know about this loan.

Congress should insist upon greater transparency regarding this loan and the liabilities it imposes upon the public treasury in a liquidation proceeding. This issue of transferability of Amtrak liabilities to taxpayers is a serious one, especially as Amtrak would become a candidate for a "complete liquidation" should the Council find that Amtrak will fail to meet its goal of operating self-sufficiency by the end of fiscal year 2002 (i.e., after September 30, 2002).

In 1997, prior to the *Acela Express* loan, Amtrak claimed that liquidation costs could range between $10 and $14 billion. A GAO March 1998 study entitled "Issues Associated With a Possible Amtrak Liquidation" pointed to uncertainties in estimating Amtrak's potential liquidation costs, saying, "Should Amtrak's financial condition force it to file for bankruptcy, it must do so under chapter 11 of the Bankruptcy Code." The GAO was unable to confidently estimate Amtrak's likely liquidation costs but did state: "In our opinion, the United States would not be legally liable for secured or unsecured creditor' claims in the event of an Amtrak liquidation. Therefore, any losses experienced by Amtrak's secured and unsecured creditors would be borne in full by the creditors themselves or their insurers. Nevertheless, we recognize that creditors could attempt to recover losses from the United States."

As far back as March 18, 1985, the GAO issued an opinion that "legitimate differences of opinion exist with respect to questions about the rights and obligations of the United States in the event of an Amtrak bankruptcy."

Attachment 6: High-speed Bond Bill Is Seriously Deficient

Acela Express Delays Warrant Bringing Private Sector Into High Speed Rail

Amtrak has taken seven years to design, build and test the *Acela Express* while passenger railroads in other countries have completed such projects in only 4 years. Amtrak has taken seven years to upgrade existing infrastructure, while other nations build all-new high-speed tracks and put them into operation in 4 years. (Japan, France and Spain have performed such feats in that time.)

The *Acela Express* symbolizes Amtrak's inability to launch truly modem railroad passenger service in a timely fashion. Amtrak's management and organizational culture are poorly suited to building and operating truly advanced train systems. This bill reinforces Amtrak's *de facto* monopoly in intercity rail, which is sure to have a chilling effect on new entrants that would otherwise emerge. Should our country ever build advanced-technology, high-speed trains on other routes, we should give priority to regional agencies, public-private partnerships and joint ventures over Amtrak participation.

Amtrak's Claim That It Will Ease Aviation Congestion Is Unscrupulous

Amtrak is overselling its high-speed rail program to lead the public to think its future trains will be as speedy as the spectacular high-speed lines found overseas. The German railroad's objective for high-speed trains is that they provide travel "twice as fast as the automobile, half as fast as the airplane." Amtrak won't come close.

One of the arguments for high-speed rail is that we can divert passengers from air travel to trains, thereby freeing up slots at congested airports. But that's doubtful on Amtrak's best line. While the *Acela Express* will be faster than current train service, and indeed the train will lure air travelers, the number who will shift to rail remains a question. The DOT Inspector General's 1999 assessment took issue with Amtrak revenue forecasts, stating that $154 million in Northeast Corridor passenger revenues through 2002 is "at risk of not materializing because of lower-than-forecasted diversion of passengers from air and automobile travel to the new *Acela Express* service."

Amtrak's zeal to torture the English language to "re-define" what constitutes a "high-speed" train is most pronounced for its trains in the Southeast, Midwest and West. Amtrak "high-speed" trains in many cases will offer travel times that will be no faster than passengers found in the 1950s and earlier. Such trains won't be able to compete with the speed of air travel. Thus, after billions are spent from the High Speed Rail Investment Act, I believe that the resulting passenger diversion rate from air would be very small. I doubt a single flight would be removed anywhere in our aviation system.

Amtrak may also spend a portion of the finds on routes that are excessively long (e.g., Washington, D.C. to Jacksonville, Florida) where there is no way—not now, not ever—that even the fastest high-speed trains could compete with air travel. No executive I've ever met on a single high-speed rail operation overseas has ever proposed a route that long, at 753 miles, when high-speed mail's effectiveness falls after a distance of 300 miles. The bill is a major step backward because it seriously misleads the American people, will institutionalize Amtrak's second-rate planning, and will inhibit development of the kind of fast corridor train service America needs on selected high-population-density corridors.

Objectionable Features Regarding Goals, Finances

Passage of the bill is unjustified because the bill is deceptive in its promise to Americans and contains objectionable features. I say this because the funds will not necessarily go to build high-speed rail systems, the costs will be higher than Amtrak claims, taxpayers will be left liable for another Amtrak bailout, and the bill establishes a conflict-of interest regarding the Secretary of Transportation. Addressing these issues:

- Cost estimates are virtually nonexistent for the projects this bill would find. Appropriate estimates need to be in place to permit proper consideration of granting Amtrak access to billions of dollars through still one more federal support mechanism. The legislation does not deserve passage on this point alone. Consider what the Amtrak Reform Council, GAO and DOT Inspector General have stated:

  GAO, in the report issued in May of this year entitled "Amtrak Will Continue to Have Difficulty Controlling Its Costs and Meeting Capital Needs," stated that Amtrak has not prepared a multi-year capital plan since 1997 and Amtrak has not yet developed cost estimates for developing high-speed rail corridors outside the Northeast.

  ARC, in its "Preliminary Assessment of Amtrak" issued in January, stated: "Amtrak has not produced a proposed long-term capital expenditure plan for several years . . . A corporation such as Amtrak, however, should have prepared and updated a long-term capital expenditure plan on an annual basis as part of its strategic business planning process and overall corporate management. The GAO and the DOT IG have repeatedly identified in reports and in Congressional testimony the need for Amtrak to prepare a long term capital expenditure plan for management purposes that will allow appropriate federal officials to make informed decisions concerning Amtrak. The Council also needs a long-term capital expenditure plan for Amtrak (updated at least annually as part of Amtrak's strategic business planning process) to carry out its statutory obligations

DOT IG Office, it its report "2000 Assessment of Amtrak's Financial Performance and Requirements," issued on September 19, 2000, stated: "Amtrak must develop a realistic plan for addressing long-term capital needs. Amtrak has historically prepared a 1-year capital plan that reflects a level of spending commensurate with its expected annual appropriation. Amtrak needs a well-developed long-term plan that identifies all capital needs, their costs, their timing, and priority."

- The financial package is premature because Amtrak is under a congressional mandate to prove it can operate without federal subsidies by September 30, 2002, and the Amtrak Reform Council is far from completing its evaluation of

Amtrak's performance. Considering that Amtrak was a candidate for bankruptcy merely 3 years ago, concerns about Amtrak's financial stability should not be taken lightly.

- Proponents claim that the cost of the bill in the form of tax credits in lieu of interest payments will total $2.3 billion. My understanding is that's misleading because 20-year bonds are permissible. It's likely that as late as 2010 Amtrak will issue bonds that will expire in 2030. The cost of the legislation will probably be more than double what Amtrak claims, or more than $4.6 billion if Amtrak is "successful." I note that the Heritage Foundation issued a report on August 28 describing the federal government's implicit interest payments, concluding that "The loss of tax revenues to the U.S. Treasury would total $16 billion if interest rates remain unchanged at 8 percent."
- By transferring tax-credit costs from Amtrak's books to Treasury Department ledgers, the bill creates massive subsidies to Amtrak that again will be "off-book" for Amtrak. Such deception frees Amtrak to again claim financial "success" despite the continuing drain on taxpayers.
- Amtrak claims that the proposal is sound because finding will be managed by an independent trustee and repayment will be assured by a guaranteed investment contract. But it appears that these measures apply only to the 20 percent state share, not the 80 percent federal share. Thus, the preponderance of the funds would remain at risk. Is that a prudent process considering Amtrak's dismal fiscal history and flirtations with bankruptcy?
- The bill grants the Transportation Secretary authority to prescribe regulations about how certain financial transactions are reported to the public even though the Secretary sits on the Amtrak Board of Directors and holds Amtrak fiduciary responsibilities. This is an obvious conflict of interest.

The inescapable conclusion is that the bill is a stage-setter for another multi-billion-dollar federal bailout of Amtrak in future years. With hindsight as a guide, it is virtually impossible that Amtrak will be able to pay off bond principal and interest. The GAO has observed several times that Amtrak has a history of not meeting its financial goals. Bailouts have occurred with Amtrak's government-guaranteed loans, as explained previously. The $2.2 billion IRA-sponsored "income tax refund" is a partial bailout, because a portion of the funds is being used to pay off Amtrak debt incurred before the TRA was passed. No justification exists to pass the High Speed Rail Investment Act in its present form.

Attachment 7: Proposed Congressional Actions

Congress is justified in undertaking the following:

Initiate Investigations

- Investigate Amtrak's misleading comments to Congress on labor/management productivity. The best method to accomplish this is probably through a GAO study. This is extremely important considering that employee costs are the largest single element in Amtrak's operating costs, according to various studies.
- Investigate Canada's $1 billion *Acela Express* loan by requiring Amtrak to supply the still-secret details of the loan to this Committee. Congress should know the uses to which the funds were put, the amount of principal and interest, the potential liability to the U.S. government in a default, whether the *Acela Express* trains serve as collateral for the loan, and other terms and conditions that may be germane.
- Determine for public view the true extent of Amtrak's continuing costs to the public. Accomplish this through a GAO study to quantify all direct and indirect, past and current federal subsidies. The review should include all liabilities buried in U.S. Treasury accounts for past taxpayer-financed bailouts of Amtrak.

Establish Penalties for Failure to Cooperate With Amtrak Reform Council

- Direct Amtrak to supply timely, accurate and germane responses to inquires from the Amtrak Reform Council and establish penalties for failure to do so.

Amend ARAA to Tighten Reporting Requirements

- Require Amtrak to annually submit to Congress the source for all new loans, the purpose of the loans, the terms and conditions of such loans, the collateral for such loans, and the interest and principal obligations incurred, repayment schedule, and amount paid during the year. The objective is not to dampen Amtrak loan activity but to increase transparency and knowledge of real and potential liabilities regarding Amtrak-incurred debt.

- Require Amtrak annual reports to clearly identify current subsidies as subsidies and identify the source of all subsidies. The objective should be issuance of reports that forthrightly explain the true extent of Amtrak's revenues, costs, losses and subsidies.
- Require Amtrak to publish monthly on-time performance figures on a route-by-route basis. This would restore a statutory Amtrak requirement in place in the 1970s (in the Rail Passenger Service Act, Amtrak's enabling legislation) and is commensurate with government practice today regarding the commercial airline industry.

Amend ARAA to Require Truth in Scheduling by Amtrak

- Require Amtrak to establish consumer-friendly train arrivals and departures by readjusting schedules so that non-checkpoint communities are as likely to be served by punctual trains as official checkpoint communities where on-time performance is calculated.

Decline to Pass High-Speed Rail Investment Act

- Decline to pass the High Speed Rail Investment Act, a bill that will not bring about high-speed trains in the Southeast, Midwest and West and will open taxpayers to future liabilities totaling billions of dollars. To effectively plan market-sensitive high-speed train systems, a new direction is needed to include participation by regional agencies, private businesses and joint ventures in innovative, imaginative public-private partnerships.

The CHAIRMAN. Thank you. Mayor Kaine, I would ask your indulgence for a couple of minutes. Senator Kerry would like to respond to the testimony of Senator Allard concerning an issue that affects his State, and if you would indulge Senator Kerry just for a few minutes while he responds, I would like to recognize Senator Kerry, and I thank you for your indulgence, mayor.

STATEMENT OF HON. JOHN KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, thank you, and I apologize, Mr. Mayor. I thank you, also. I had not intended, frankly, to stay here this long because of other conflicts, and I have to get on a plane and leave the city momentarily, and so I appreciate the intervention, and I appreciate my Chairman and his characteristic courtesy.

I want to comment on 2 things, if I may, but let me first say something, and I kind of hesitate to say this but I am going to say it, because I think that many of us in the Senate are increasingly frustrated by the way it sometimes works around here.

I am the Ranking Member of the Subcommittee which Chairman Allard testified about today, and I regret to say that I had no notice or awareness whatsoever that this testimony would take place today. We learned only of the potential that it might by seeing the witness list, and I do not believe that is the way the U.S. Senate is supposed to work, number 1. It certainly is not the way I operated as Chairman of the Subcommittee when I was Chairman, nor will it be the way I will operate in the future, should that happen again.

Second, it is really a kind of one-sided representation that just has no relationship to the facts that were presented to our Committee in the context of our hearings, and I would ask unanimous consent, Mr. Chairman, that the text of the exchange with Bay State between myself and a person representing the company that the graph showed had 116 million differential be made a part of the record.

The CHAIRMAN. Without objection.

Senator KERRY. I would ask unanimous consent that a letter from Bay State to the employees of the MBTA also be made a part of the record.

I would ask unanimous consent that a letter to me regarding the eleventh-hour invitation to the one person who was allowed to testify to the contrary regarding the MBTA contract problems also be made a part of the record.

[The information referred to follows:]

Senator KERRY. Thank you, Mr. Chairman.

I have a copy of one of those letters that was sent and would ask that it be put in the record.

The CHAIRMAN. It will be put in the record.

Senator KERRY. In this letter, outside of the negotiating process, knowing that there is a union there, let me just clarify. Mr. Stoetzel, you did run the commuter rail system at the B&M for a period of time. Correct?

Mr. STOETZEL. Yes, back in the mid-1980s. I was the general manager when it was operated by the Boston & Main Railroad prior to Amtrak taking it over in 1987.

Senator KERRY. And I gather in fact that one of the prime people with the MBTA who was in charge of this contracting process used to work for you. Is that right?

Mr. STOETZEL. There are actually several who were with me in Amtrak.

Senator KERRY. So you've had a relationship with those people at the MBTA who have been part of this process.

Mr. STOETZEL. Several years ago.

Senator KERRY. Moreover, you have had a knowledge of the existence of 13 (c). This is not a surprise to you, is it?

Mr. STOETZEL. No.

Senator KERRY. And in fact, Bay State Transit—I've heard somebody—I think the Chairman said this company applied for a contract.

What is the company? Is this a company that has employees today?

Mr. STOETZEL. It has about ten employees today.

Senator KERRY. At the time of the contract, I gather it had about 2 employees. Is that correct?

Mr. STOETZEL. Yes, roughly.

Senator KERRY. So you have 2 employees and you're bidding $116 million below anybody else to do something that you have no work force to do.

Mr. STOETZEL. But you're bidding that on the basis of experience and on the basis of several other contracts, and on the basis of a very defined scope of work with the intent of hiring the work force.

Senator KERRY. Sure, if the work force you're going to hire is the existing work force, if they want to work for you.

Mr. STOETZEL. It's very similar to the situation that Amtrak was in when they took it over from B&M in '87. And they had no work force and they hired from the existing work force.

Senator KERRY. It had a name then. It's called union-busting, and it has a name today. It's called union-busting. That's fundamentally—the program here is that you're going to come in and change the contract and get out from under. That's essentially how you lower the costs. Most of these employees understood that. They saw that—when we talk about better benefits and better wages, et cetera, it's my understanding that that offer was only made last month. Is that accurate?

Mr. STOETZEL. No. The first offers were made in September.

Senator KERRY. Were the first offers better?

Mr. STOETZEL. The first offers—the difference between the first and second offers was slight and between the second and third, they've changed.

Senator KERRY. I don't believe the first offers had specific numbers, did they?

Mr. STOETZEL. They had a wage range for the different positions. They didn't have specific——

Senator KERRY. Mr. Moneypenny, did they have specific offers?

Mr. MONEYPENNY. It said comparable. I can give you the package. It said comparable.

Senator KERRY. Comparable. But were there any—what was the understanding of the workers with respect to that offer?

Mr. MONEYPENNY. That you would have to give up your—you would have to go in alone, you would have no one to negotiate on your behalf.

You would have to accept whatever this offer was, which was not explained to you. That you would have to have—and this really enraged our people—you would have to have a background investigation conducted upon you by this company with 2 employees.

If you worked 25 years at that job, and if you have, you worked for several different railroads. You worked for the Penn Central. You worked for the B&M. You worked for Amtrak.

You would have to have these 2 individuals, whoever they were, do a background investigation to see if you were fit for the job that you already had.

That's what our people saw.

And let me just correct one thing that Mr. Stoetzel said. There's a big difference between when Amtrak took over in '87 and what these folks tried to do.

Amtrak negotiated collective bargaining agreements with each and every one of the unions before they took over. And that's what these folks could have done.

The difference is that they probably couldn't have done it for $175 million.

Senator KERRY. That's really the bottom-line issue here. What was the real cost of trying to run the transit system, recognizing that you had in existence since 1964 a relationship where the federal government said that if federal dollars are expended on this system, there's a certain expectation as to the relationship between the corporate entity and the people who work there.

Now, listen. I understand. We're all looking for cost savings. And none of us—I'm not sitting here suggesting that any kind of featherbedding practice or inappropriate numbers ought to be protected.

That's not what I'm suggesting. And I don't think you are, Mr. Moneypenny.

I think the question is, is there going to be a legitimate bargaining process that is respected so that people don't feel that their rights are being trampled.

Am I correct?

Mr. MONEYPENNY. And there's a practical reason for this, Mr. Chairman.

The only place you get to be a railroad worker is on the railroad. It's not like we're going to get rid of your widget-makers and bring our widget-makers in.

Mr. Stoetzel and the people he represents know darn right well, if it's not our folks, there aren't any other folks to do this work.

It's not like you have hundreds of railway workers around the country waiting to go to work.

And I hear what you said, Mr. Chairman. Some of them are cleaners. I cleaned cars for 5½ years myself. It's a good way to make a living. And these people, they don't break the bank on what they make.

But there are also hundreds of highly skilled people who are very good at what they do. And to try and bring in a work force of hundreds of strangers and say, go ahead and run the commuter rail service, is an invitation to disaster.

Senator KERRY. Mr. Stoetzel, let me ask you—and I don't want to be unfair to either side here.

Why has there not been the sort of direct kind of negotiation that Mr. Moneypenny is talking about?

Mr. STOETZEL. Again, Bay State was attempting to hire a work force—

Senator KERRY. But one by one, by picking them off. Not with the union.

Mr. STOETZEL. We had made elaborate plans to interview every single member of the existing work force, offer positions. And however they chose to organize, that would be the entity with whom we would deal.

Bay State has been very consistent in that approach throughout.

Senator KERRY. That's outside of the law. The law required a different process.

Let me read from your letter. Your letter says—here's an individual letter received by a worker who knows he or she is represented by somebody to bargain for them. You've sent letters to their family.

Here's what it says.

I am writing to you the third time to invite you to apply for a position with Bay State Transit Services to perform mechanical services for the MBTA.

And then you go through a brief summary of these events.

On October 28th, the rail unions met with the MBTA to begin the negotiation.

Then you come down—what does all this mean to you?

First, the rail unions and the MBTA have agreed to a process that will protect your rights under the 13(c) agreement.

But if it really were protecting their rights under the 13(c) agreement, you'd be negotiating with the union, not writing them individually.

Second, you say to them, applying for employment with Bay State will not affect your rights.

In fact, the contrary may be true. Failure to apply for employment with Bay State could negatively impact your rights to 13(c) benefits.

Now that's a threat.

Mr. STOETZEL. That was our understanding from the MBTA. And there was later an MBTA letter to the employees saying the same thing.

Remember, we're not a party to this 13(c) agreement. That's what we were told.

BAY STATE TRANSIT SERVICES
November 8, 1999

I am writing to you for the third time to invite you to apply for a position with Bay State Transit Services to perform mechanical services for the MBTA. Bay Suite Transit Services recognizes that the change in contractors for mechanical services at the MBTA may be causing uncertainty for you and your families. Several recent events have clarified the situation to your benefit and may assist you in your decision to consider employment with Bay State Transit Services. Below is a brief summary of these events:

- On October 28, the rail unions met with the MBTA to begin negotiation of an implementing agreement that may be required by the 13(c) agreement. This started a defined process that the MBTA and the rail unions will follow to resolve any 13(c) issues.
- On November 3, a 3-judge panel of the Suffolk Superior Court heard arguments from your rail unions, MBTA and Bay State regarding an injunction to prohibit Bay State and the MBTA from soliciting or hiring current employees involved in the mechanical services. On November 4, the 3-judge panel unanimously denied the rail unions' request for a preliminary injunction because, among other things, the rail unions failed to establish a likelihood of success on the merits of their claims. Bay State is now free to continue its recruitment efforts.
- During the hearings, the MBTA stipulated in court that current employees involved in the mechanical services would nor forfeit or waive any of their 13(c) rights by applying for or accepting employment with Bay State. MBTA and the rail unions also agreed to expeditiously submit certain 13(c) issues to arbitration, if necessary.

What does all this mean to you? First, the rail unions and the MBTA have agreed to a process that will protect your rights under the 13(c) agreement. Applying for employment with Bay State will not affect your rights. In fact, the contrary may be true—failure to apply for employment with Bay State could negatively impact your rights to 13(c) benefits.

Second, Bay State's contract with the MBTA requires us to give priority consideration of employment to the current employees. More importantly, there is a sincere desire on the part of Bay State to hire as many of the current employees as possible. We have established an employment process that will ensure fair consideration and treatment for all applicants.

We understand that you may still have many unanswered questions. We have included an information package that briefly describes positions available and wages and benefits. Other questions can be addressed during your interview.

We understand that there were concerns that our previous offers to apply and be interviewed did not provide sufficient time for you to respond. Therefore, we are extending the deadline for receipt of applications until November 30, 1999. The acceptance of an employment offer from Bay State now will not affect your current employment. You will continue in your present position until Bay State begins providing services on March 1, 2000.

Bay State Transit Services recognizes that you are an integral part of the past and future success of the MBTA commuter rail service. Please give us the opportunity to convince you that employment with Bay State can be a rewarding long-term experience. We look forward to the receipt of your completed application (additional copy enclosed) so that we may schedule your interview.

Sincerely,

RAYMOND V. LANMAN,
President.

O'DONNELL, SCHWARTZ & ANDERSON, P.C.
April 24, 2000

Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

Dear Senator Kerry:

I was asked by my Rail Labor clients to provide you with background information in connection with a hearing regarding the Section 13(c) transit employee protection program being held tomorrow by the Committee on Banking, Housing and Urban Affairs. Although the hearing will address 13(c) protections in the context of the overall Federal Transit grant program, the Committee was prepared to receive testimony from witnesses who will present only one side of a dispute between the Rail Unions and the Massachusetts Bay Transportation Authority ("MBTA") concerning MBTA's plan to change the contractor for its maintenance of equipment work from Amtrak to Bay State Transit Services, Inc. Unfortunately, a formal attempt (see attached) by the Transportation Trades Department, AFL–CIO (TTD), to include, in addition to the Amalgamated Transit Union, both TTD and a Rail Labor representative among the witnesses scheduled to appear, was denied. But then today, at the eleventh hour, an invitation was issued to Charlie Moneypenny, International Representative of the Transport Workers Union.

It is most unfortunate and, frankly, unfair that my clients were not given the opportunity to properly prepare for tomorrow's hearing to present their side of the story and to respond to whatever charges or complaints are levied against the Rail Unions and their members by the MBTA and its contractor, Bay State Transit Service. The Rail Unions are not sure of the nature and scope of the Committee's concerns, but they have some familiarity with questions that have been raised regarding this dispute. As such, on short notice I am providing you with this quick letter that briefly addresses certain questions that have been raised and that may resurface tomorrow.

Question 1. On what basis could the Department of Labor and Department of Transportation find MBTA ineligible for federal funds?

Answer. Every grant agreement between MBTA and FTA since May 29, 1997 was subject to a condition that META bind its contractors to its "13(c) Agreement" with the Rail Unions. The Department of Labor imposed that requirement for eligibility for FTA funds in what became "Attachment A" to its certifications pursuant to former Section 13(c) (now Section 5333(b)) after full opportunity for briefing by MBTA and the transportation unions. MBTA opposed the requirement but the Department of Labor rejected MBTA's arguments. After May 27, 1997, MBTA applied for and received a number of FTA grants all subject to the Attachment A requirement that provided:

> The MBTA will ensure that any person, enterprise, body, or agency, whether publicly or privately owned, which shall undertake the management and/or operation of the system and/or provision of services, or any part or portion thereof, under contractual arrangements of any form with the MBTA, its successors or assigns, *shall agree to be bound by the terms of the December 10, 1974 Section 13(c) Agreement, as supplemented,* and accept responsibility with the MBTA for full performance of those conditions, and *as a condition precedent to such contractual arrangements, the MBTA, its successors or assigns, shall require such person, enterprise, body or agency to so agree.*

Again, it must be noted that this requirement was added to DOL certifications after a proceeding in which MBTA had the opportunity to submit argument to the DOL. Its arguments were rejected in the letter that promulgated Attachment A. The requirement was then imposed in every FTA grant after May of 1997. MBTA continued to apply for and receive federal funds while committing that it would comply with the DOL certifications, including Attachment A, even though MBTA opposed imposition of the requirement.

However, MBTA did not bind its proposed new mechanical service contractor, Bay State Transit Services, Inc., to the 13(c) Agreement. In litigation before the Massachusetts courts, MBTA and Bay State both argued that Bay State was not a party to the 13(c) Agreement, was not bound by the 13(c) Agreement and had no contractual obligations to the Rail Unions and their members pursuant to the 13(c) Agreement. The Massachusetts courts made findings of fact consistent with those assertions. Indeed, those findings were a significant part of the reasoning behind the courts' refusal to grant injunctive relief sought by the Rail Unions under the 13(c) Agreement.

In short, the FTA grant agreement expressly and unequivocally required that MBTA bind its contractors to the 13(c) Agreement as a condition precedent to that agreement, and MBTA clearly violated that agreement and indeed admitted that it did not comply with that requirement after committing to it in order to receive millions of dollars in FTA grants.

Question 2. Did MBTA have an opportunity to provide information regarding this dispute to the Departments of Labor and Transportation before any decision was made?

Answer. After the Rail Unions wrote to the Departments of Labor and Transportation, the Departments wrote to MBTA on December 17 and 20, 1999, stating that it appeared MBTA had not complied with the Attachment A requirement based on the State Court decision; and they requested an explanation from MBTA.

MBTA preemptively addressed issues raised by the Rail Unions with a letter to the Secretary of Transportation on December 17, 1999, *3 days before the December 20 letter was actually sent by the DOT.* Then, MBTA responded with a 5 page letter dated December 30, 1999. MBTA responded to the Department of Labor's inquiry with a 5page letter dated December 30, 1999.

Thus, it is clear that MBTA had ample opportunity to provide information as well as argument on the issues before any conclusion was reached by the Departments.

Question 3. Was the MBTA procurement process a legitimate competitive procurement process?

Answer. There are substantial issues as to whether there even was a truly fair, competitive and legitimate procurement procedure in this case. It appears that MBTA did not factor in to the weighing of bids the likely costs of employee protections if the Bay State bid was accepted as opposed to the Amtrak bid. Since this is essentially a labor services contract, any savings that might flow from a lower bid would necessarily come from reduced labor costs, thus implicating employee protection payments. Indeed, MBTA and Bay State acknowledged that Bay State plans to reduce the current work force by 130 or more employees. However, it does not appear that MBTA gave any consideration to those costs when it concluded that the Bay State bid would result in net savings of $116 million. A formal request to MBTA under FTA Circulars 4220,1B, IC and 1D for disclosure of information pertaining to the procurement process and the weighing of bids was never answered by MBTA.

Additionally, from the time that Bay State was selected, the Rail Unions, members of the Massachusetts Legislature and others have asserted that the Bay State bid was unrealistically low and that MBTA would be required to pay more than what Bay State originally bid in order to provide the same level of service now provided by Amtrak. MBTA never provided any information that would demonstrate Bay State's ability to provide the same level of service at the price of the bid. It appears that Bay State based its figures on the employee to rail car ratios on other commuter railroads and not on actual staffing projections for the MBTA shops. Among other things, such an analysis ignores the fact that MBTA has no central yard for the storage of its entire car fleet. This means that certain economies of scale available to other commuter rail operations are not available to the MBTA operation. This also means that MBTA must disperse its cars to outlying locations and keep workers at those locations to service and maintain the equipment. An example of the mechanical staffing implications of the MBTA system is that because local noise and air pollution concerns the cars stored at outlying points may not "idle" at night, but instead must be turned off; this requires that workers be available at these locations the next morning to perform necessary tests before trains go into service. In any event it is clear that Bay State's staffing numbers were not based on actual plans for staffing particular locations with certain numbers of employees for certain shifts at specific locations. Efforts by the State legislature and the Unions to ascertain the basis for Bay State's staffing plans were rebuffed.

Recent events have only amplified the concerns of those who questioned the validity of the Bay State bid. It has been reported that many of the cost overruns on the Big Dig and Transitway projects have been due to un-budgeted payments to contractors who were awarded contracts based on low bids, but later sought supplements after beginning work.

Question 4. Is there federal authority regarding the manner in which a workforce is hired or which union represents them?

Answer. Among the employee protections guaranteed by Section 13(c), current Section 5333(b)(2) are (A) "the preservation of rights, privileges and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise" ; (B) "the continuation of collective bargaining rights", and (E) "assurances of priority of reemployment of employees whose employment is ended or who are laid off". These protections are implemented by the Department of Labor and negotiated agreements such as the 13(c) Agreement between the Rail Unions and MBTA. The 13(c) Agreement requires an implementing agreement concerning the selection forces and assignment of employees. And Attachment A to the recent DOL certification requires that Bay State be bound to the 13(c) Agreement.

Morever, the Department of Labor's letter promulgating Attachment A actually stated that one reason why it was necessary that contractors be bound by the 13(c) Agreement was that "if the applicant is not the direct provider of services, it cannot directly ensure continuation of collective bargaining rights, preservation of existing collective bargaining agreements, or priority of reemployment. Thus, in order to carry out these statutory requirements, the MBTA must require that any entity which undertakes the management and/or operation of the system and/or provision of services be bound by the protective arrangements."

Question 5. Did the Department of Labor inform MBTA that it would withhold FTA certifications because MBTA and Bay State had not guaranteed that Bay State would not change existing collective bargaining agreements, hire all existing workers or recognize existing unions?

Answer. The Department of Labor merely said that unless MBTA bound Bay State to the 13(c) Agreement as required by Attachment A, MBTA would be ineligible for future certifications. The DOL action dealt only with the refusal of MBTA to bind Bay State.

Question 6. Why did negotiations between MBTA and the Rail Unions break down?

Answer. The Unions told MBTA that a pre-condition of any agreement would be that MBTA bind Bay State to the 13(c) Agreement as required by Attachment A. The Unions raised the Attachment A issue continually and at the outset of negotiations with MBTA. The Unions had serious problems with a number of positions taken by MBTA but they said that they would be willing to negotiate to attempt to resolve those issues; however they said they would not negotiate about something that MBTA was legally required to do, and that was fundamental to the entire process of negotiating an agreement involving a change in contractor.

Question 7. Were there legitimate questions regarding the "technical capacity" of Bay State?

Answer. There were substantial questions as to the ability of MBTA and Bay State to provide safe and adequate service. Bay State has no experience whatsoever in providing mechanical services for a commuter rail operation, and its parent corporations have no experience in providing such services for a major commuter rail operation. While the parent corporations have experience in providing services to freight railroads, they do not have experience with a major passenger operation. One of Bay State's parent corporations has experience with a small commuter rail operation, and that operation was cited as deficient in a number of areas in a FRA study several years ago. Additionally, as is noted above, the Bay State staffing plan on its face raises serious questions about its technical capacity. Furthermore, MBTA and Bay State so alienated the existing work force that there are substantial questions as to whether Bay State would have been be able to put together a work force with the requisite skills, experience and FRA certifications.

Question 8. Did the Rail Unions attempt to communicate with Bay State regarding their concerns?

Answer. On May 18, 1999 the Rail Unions wrote to Bay State's parent corporations advising them of the 13(c) Agreement, the history of their dealings with MBTA and the Unions' position regarding the applicability of the 13(c) Agreement and its requirements to a change from Amtrak to Bay State. On June 3, 2000 the Rail Unions wrote to MBTA regarding the 13(c) Agreement and the obligation of MBTA and Bay State to continue employee benefits such as Railroad Retirement (a copy of that letter was sent to Bay State). On September 8, 2000 the Rail Unions wrote to MBTA noting that MBTA had for over 2 months failed to provide promised information regarding Bay State's planned operations, the content of Bay State jobs, Bay State's intended plans for selection for employment and wages and terms of employment, and MBTA and Bay State views as to employee rights under the 13(C) Agreement; a copy of that letter was sent to Bay State.

Question 9. Did MBTA and Bay State make job offers to the Amtrak workers?

Answer. No. Bay State sent Amtrak shop employees solicitations for them to apply for *consideration for employment* with Bay State. The letters did not offer any jobs, indicate that the recipients would have any right to jobs, describe jobs that would be available, describe procedures by which employees would be considered for jobs, describe how Bay State would determine whether an Amtrak employee was qualified for a job, or describe an appeal process over denial of a job. Essentially, Bay State would pick and choose among the Amtrak employees in accordance with criteria established by Bay State. MBTA sent a letter to the Rail Unions, saying that, under a "priority of employment" all current Amtrak employees who "apply in a timely manner" would be "interviewed and considered for employment before Bay State hires any potential employees from the general public." Flowever, Bay State would make the sole determination of applicant qualifications and there would be no appeal from any determination it makes. MBTA said Bay State believed that it would not be covered by the Railroad Retirement Act, would not deal with the Rail Unions, and would not assume any current collective bargaining agreement covering maintenance of equipment workers.

Many Amtrak workers responded to Bay State by noting that Bay State had not actually made job offers, that they had rights under the 13(c) Agreement and that their unions would represent them. MBTA sent letters to Amtrak employees urging them to apply for consideration for employment with Bay State, but also threatening them that if they did not apply, they could lose both job opportunities and entitlement to any financial benefits under the 13(c) Agreement in connection with a change from Amtrak to Bay State.

Question 10. What did MBTA and Bay State actually offer in the form of priority of employment to the Amtrak workers?

Answer. In July of 1999 MBTA said it meant only a right to be interviewed, but then said it meant a right of hiring for "qualified" employees". When the Unions asked about who would decide whether current workers are "qualified", how that determination would be made, and what rights employees would have to appeal "disquaiifications", MBTA could not answer. Nor could MBTA answer the most basic questions about the number ofjobs that would be available with Bay State, the type of shop jobs Bay State would have, or whether operating employees who move the trains in the yard and track, signal and building maintenance employees would be included in a Bay State operation.

At the end of October, 1999, MBTA said that Bay State jobs would all be called "maintainer" jobs in which all employees could be assigned all shop functions, and that Bay State would contract-out coach cleaning work. Under the so-called "priority of employment", all current Amtrak employees who "apply in a timely manner" would be "interviewed and considered for employment before Bay State hires any potential employees from the general public". Bay State would make the sole determination of applicant qualifications and there would be no appeal from any determination it makes. MBTA and Bay State never told the Unions how prior experience and seniority in a craft would be considered in evaluating applicants. For example they could not explain how a twenty year machinist, a fifteen year electrical worker and a 22 year sheet metal worker would be evaluated for the same job. The employment applications sent out by Bay State made it clear that actual job offers would be complete on standards and terms dictated by Bay State. Ultimately, it became clear that there were no objective standards, no set processes and no appeal mechanisms in the employment mechanism envisioned by MBTA and Bay State. There also would be no Union and employee negotiations about, or even input into that mechanism; there would be only unilateral discretion vested in Bay State.

Question 11. Was there reason for MBTA and Bay State to feel surprised by the Attachment A requirement?

Answer. MBTA had litigated the Attachment A issue and should have been fully familiar with its terms. All post-May 1997 FTA grants to MBTA were subject to this requirement. Additionally the Rail Unions brought the Attachment's requirements to MBTA's attention by letter dated July 13,1999. This letter was sent to MBTA in connection with negotiations with the Unions the planned change in contractor and was in part a request for information about Bay State's plans Since MBTA was conveying information about employment with Bay State to the Unions, Bay State should have seen this letter even if a copy was not sent directly to Bay State.

The Rail Unions feel that any inquiry into the issues that have arisen in their dispute with MBTA and Bay State should have allowed the Unions ample opportunity to prepare remarks arid to respond to questions and to claims made by MBTA and Bay State Since they were not given a meaningful opportunity to present their side of the story, the Rail Unions appreciate the opportunity that you have provided us to briefly address some of the key issues involving this matter.

Sincerely,

RICHARD S. EDELMAN,
Counsel for the Rail Unions.

Senator KERRY. If I might also say for the record here, Bay State was a nonexistent entity. Bay State Transportation Services did not exist in Massachusetts, or Bay State Transit Services, prior to its bid on this particular occasion, and it bid, indeed, a differential between it and Amtrak, but may I point out to my colleagues there were only 2 employees.

Two employees bid to undertake to provide commuter rail services, and they had no experience in doing that in our State. In fact, there were substantial questions as to the ability of the MBTA and Bay State to provide safe and adequate service to the 60,000 people who use our rail every single day.

Bay State had no experience whatsoever in providing mechanical services for a commuter rail operation. Its parent corporation had no experience whatsoever in providing services for any major commuter rail operation, and while the parent corporation had experience in providing services to freight railroads, they had no experience with a major passenger operation.

One of Bay State's parent corporations had experience with a small commuter rail operation, and that operation was cited as deficient in a number of areas in an FRA study a number of years ago.

Bay State's staffing plan, on its face, raised serious questions about its technical capacity, and let me simply share with my colleagues what they did. They planned basically to break the union, and to violate section 13(c) and other standards by which negotiations take place.

Now, you may not like negotiating with a union. You may not like some of the outcomes, but the law is the law, and they basically tried to circumvent the law, and in a letter that I have now placed in the record they actually wrote directly to employees, and this is their third letter.

They say, "I am writing to you for the third time to invite you to apply for a position with Bay State Transit Services to perform mechanical services for the MBTA," and then in a subsequent paragraph they say, "what does all this mean to you," and then they define what the rail union's position is, which is not an appropriate negotiating procedure, and they say, "Applying for employment with Bay State will not affect your rights. In fact, the contrary may be true—failure to apply for employment with Bay State could negatively impact your rights to 13(c) benefits." That is a direct threat to the employees about what their status might be.

This was a complete violation of negotiating standards of federal law. The court upheld the position of Amtrak, and I resent the notion that we are going to have some drive-by shooting in a hearing of the U.S. Senate to try to attack a contract when the facts are completely different from what we know here today, not to mention of what it has done in the context of senatorial courtesy. Mr. Chairman, I am frustrated and angry at this kind of approach, which has no place in the workings of an institution like this.

A second point I want to make, this debate over Amtrak is also increasingly becoming more and more frustrating. You know, I have been here 16 years now, and most of those years on this Committee, not all of them, but I have heard people come in here and attack and attack and attack Amtrak and, indeed, there are reforms necessary. I have never sat here and been resistant to the notion that we cannot improve, and that there are not some bad practices, and that there has not been some mismanagement here and there.

But to suggest that a governor with the qualities of Governor Thompson, who I think is the longest, now, elected governor in his state, and has had a remarkable record for efficiency, and other governors like Michael Dukakis and others who have a reputation for competency and concern, are not moving this thing toward a responsible status, is, I think, number 1 unfair, and number 2, discourteous.

Second, when you analyze——

The CHAIRMAN. Senator Kerry, I recognized you to respond to Senator Allard. I would be glad to debate you, particularly when you are casting some aspersions on the people that as Chairman of this Committee I rely on more than anybody else, and that is the General Accounting Office and the Inspector General, so I would be glad to debate this with you, but I thought you asked to be recognized in order to respond to Senator Allard.

Senator KERRY. I also said, Mr. Chairman, if I could just say, I did not have the opportunity to have an opening——

The CHAIRMAN. We have to go with the regular order of the appearance of Senators and Senator Wyden was here before you were.

Senator KERRY. Are we going to have openings, Mr. Chairman?

The CHAIRMAN. No. I have deviated from the normal procedure so that you could respond to Senator Allard. I am glad to hear that. If you would like to then wait your turn and have an opening statement——

Senator KERRY. Unfortunately I cannot be here.

The CHAIRMAN. Unfortunately I cannot account for your personal schedule, but we have to go with the rules of the Committee.

Senator KERRY. Mr. Chairman, fine, I will abide by the rules of the Committee and submit a statement for the record.

[The prepared statement of Senator Kerry follows:]

PREPARED STATEMENT OF HON. JOHN KERRY, U.S. SENATOR FROM MASSACHUSETTS

Mr. Chairman, thank you for holding this hearing today. I think we have a good opportunity to learn that Amtrak is doing well, and remains firmly on its glide path toward operating self-sufficiency. As you well know, in 1997, we negotiated, we reached a compromise, and every member of the United States Senate agreed, by unanimous consent, to provide Amtrak with certain legislative relief and certain amounts of capital funding. In turn, we demanded that Amtrak become operationally self sufficient by the end of fiscal year 2002.

Amtrak will testify that for FY 2000, it will require no more than the planned $362 million in federal support for operating expenses, which is $122 million less than last year. Now, I want to make sure something is very clear. Amtrak will fall short of the revenue it estimated in its strategic business plan. Amtrak is like any other business that will occasionally fall short of the estimated revenue. If we expect Amtrak to run like a private company, we have to expect that occasionally they will suffer setbacks. Mr. Chairman, one of the most respected high technology companies in the country, Intel, just announced that it would not achieve the revenue it predicted earlier in the year. These are normal setbacks that occur in any business, and in this case, such setbacks in no way suggest that Amtrak is not going to satisfy its target date for operational self-sufficiency.

More importantly, Amtrak will also testify that it just had its best summer ever, breaking revenue records and showing steady increases in ridership. It's also seen good results from its new satisfaction guarantee—with 995 customers out of 1000 satisfied with Amtrak's service. Mr. Chairman, I think it is very safe to say that none of our domestic air carriers have a 99.5 percent rate of customer satisfaction. We should be very satisfied with these results.

Nevertheless, while I feel confident that Amtrak will be able to achieve operational self-sufficiency, we still need to do more to ensure that Amtrak has the capital it needs to provide the services its customers demand. I was proud to be an original cosponsor of an outstanding piece of legislation my friend Senator Lautenberg introduced, the High Speed Rail Investment Act, which addresses those needs. There is no shortage of supporters for this bill. In addition to the 54 cosponsors in the Senate, we have endorsements from state governments across the country, editorial boards from California, to Pennsylvania to Texas, and organizations from the Sierra Club to Morgan Stanley.

I hope this bill becomes law this year, because this country needs to develop a comprehensive national transportation policy for the 2lst Century. So far, Congress has failed to address this vital issue. What we have is an ad hoc, disjointed policy that focuses on roads and air to the detriment of rail. The minuscule amount we spend on rail compared to other countries is unconscionable. In 1995, only 4 countries, Tunisia, Hungary, Saudi Arabia and Bulgaria spent less than the US on rail. The amount of federal money spent on aviation in Fiscal Year 2000 is almost ten times what was spent on passenger rail, and the amounts spent on highways almost thirty times as much. Mr. Chairman, if we want one answer as to why our highways are so crowded and our skyways have become just as grid-locked, I think we can turn to the appallingly low level of attention the United States Congress has given to passenger rail. Because of our neglect, people simply cannot use rail to the extent they want to, or should be able to, and are therefore flying or driving on short trips that could and should be taken by train.

Mr. Chairman, I want to address an additional issue which I believe the witnesses may raise today. There has been some attention given to Amtrak's contract with the Massachusetts Bay Transportation Authority for commuter rail maintenance services. Amtrak has been criticized for entering a 3-year contract, and has even been encouraged by members of the United States Senate to shorten the length of the contract. I find it ironic that some individuals who want Amtrak to run more like a business would tell them to enter a contract that would be bad for Amtrak's bottom line.

The extended contract between the MBTA and Amtrak was necessary because the MBTA and Bay State Transit Services were unsuccessful in their attempts to avoid federal labor responsibilities, break the unions that represent the maintenance workers and threaten individual maintenance workers into wage and benefit cuts. Because of these actions, Bay State Transit Services could not find any qualified workers to perform the maintenance work to comply with their MBTA contract. Because Bay State was unable to fulfill its contract, the MBTA asked Amtrak to accept an extension. Only Amtrak was in a position to provide commuter rail maintenance services after that date.

The problems that the MBTA has endured in their attempts to contract out the commuter rail maintenance contract were simply due to their own attempts to avoid compliance with existing federal labor responsibilities. The framework that the federal government, transit agencies and unions have successfully used over the past generation, called "Section 13 C," has preserved transit workers' collective bargaining rights, established sensible rules for negotiations between unions and management, and has preserved the rights of employees who have been adversely affected by changes in the industry. The results of this partnership are clear. Americans now travel more than 38 billion miles on mass transit each year. More than 10 million Americans use mass transit for their daily commute. This growth in mass transit would not have been possible without stable relationship between the unions, transit agencies and the federal government. Future growth in mass transit would be imperiled without this framework—and I am personally committed to preserving the fairness in the transit marketplace that has made that growth possible.

Mr. Chairman, Amtrak is making great strides in moving toward operational self-sufficiency and running more like a business. Congress should not undercut the progress that has been made so far and should give Amtrak the tools it needs to continue moving in the right direction.

I look forward to hearing from the witnesses.

The CHAIRMAN. Thank you very much.

Mayor Kaine.

STATEMENT OF HON. TIMOTHY M. KAINE, MAYOR OF RICHMOND, VA, ON BEHALF OF THE U.S. CONFERENCE OF MAYORS, BOISE, ID

Mr. KAINE. Thank you, Mr. Chairman. My name is Tim Kaine. I am the mayor of Richmond, Virginia. I am pleased to be here today on behalf of the United States Conference of Mayors, which is the bipartisan organization representing 1,100 cities and the mayors of those cities whose populations exceed 30,000.

I also speak on behalf of Mayor Pat Owens of Grand Forks, North Dakota. There was a reference earlier to why would Grand Forks, North Dakota, support this bill, they must have been promised something. They initiated their support of this bill because they are on a feeder passenger rail line to Chicago. They were not arm-twisted to do so.

I would like to tell you briefly why passenger rail matters greatly to America's cities, and why America's mayors strongly support Senate bill 1900. All of you, I know, recognize the growing problem that the country faces as a result of gridlock on our highways and winglock in the air. My 100-mile drive from Richmond this morning took me more than 3 hours.

We have all experienced delays and frustrations that travelers experience in today's overstressed transportation systems, but I would like you to know that we mayors, in addition to experiencing it personally, also have a really critical stake in this transportation issue. It is one of our major preoccupations. That is because we own and operate, together with our county counterparts, nearly all of the airports in the United States, with our county partners we own and operate about 80 percent of the road system in the United States, and either with county counterparts or in regional agencies we own and operate more than 90 percent of the Nation's transit systems, buses, subways, light rails and trolleys.

With this stake in the ownership of these critical transportation venues, mayors from across the Nation and also including a vocal public believe that our future transportation investment decisions must increasingly emphasize passenger rail, and particular intercity passenger rail service. It is an undeniable fact that voters are also coming to this conclusion.

This is why mayors are now saying it is time to take the next step in national transportation policy and restore a balance to our system. We believe this is accomplished by building a third leg to accompany the federal investments in airports and highways to promote this national rail service that can connect in a high-speed fashion between our metropolitan economies.

At the Mayors Conference we have begun to focus on identifying the critical elements of a rail policy for the Nation for this new century, and we are trying to look at ways the Nation can reverse a couple of generations of neglect and inattention to the rail infrastructure both for passenger and for freight needs.

Just 10 days ago in Boise, I joined with more than 50 of my colleagues from around the Nation at the conference's fall leadership meeting. The conference's president, Brent Coles of Boise, Idaho, dedicated a significant portion of this mayors leadership agenda to the issue of rail in America, and the need for additional investment in our infrastructure.

In preparing for these sessions, we looked at what is happening throughout the United States. For example, today in 47 of the 50 largest metropolitan economies there is either plans or construction of new rail projects, be they regionalized or localized. These projects are most commonly light rail or commuter rail projects.

To put these in perspective, I would note that these 50 metro economies account for over 53 percent of the Nation's total economic output, and around the country totally the number of rail starts for projects is astounding, with more than 200 projects underway and another 200 contemplated in more than 30 States.

Local areas are now committing billions of local dollars to rail projects, which makes us all the more concerned about the vitality and strength of the intercity passenger rail linkage. These local rail projects with local bus and intercity bus connections will link passengers to a national rail network and vice versa to form a more seamless transportation system.

Again, what is noteworthy about these programs is the extent of the local investment, which exceeds 50 percent in many of the projects, and shows the level of local commitment. Clearly—we talked about at the mayors' conference this "railvolution" that is now underway in America's cities, and it is largely being driven on a local level. Increasingly, there is an emerging consensus among the mayors that this investment in intercity linkage between these local systems can help us achieve important social objectives, not only economic development, but improve mobility and choice, cleaner air, and smarter growth.

Mr. Chairman, the Nation's mayors have no choice but to focus most of our efforts on the local problems and issues, but we see a powerful linkage between a strong Amtrak, a growing national intercity passenger system, and the long-term viability of our local economies. That is why America's mayors have made this rail system restoration in Senate bill 1900 a top priority.

To put it simply, we are enthusiastic about high-speed rail. We believe that, when fully funded, high-speed rail partnerships that have been formed between Amtrak and some 28 State already will spark a revolution in the 21st Century transportation. High-speed rail will boost the economy's productivity, increase safety, create jobs, and enable our highways and airports to fulfill their potential better, and by connecting downtown business centers served by rail it will help local officials to use high-speed rail and other investments to grow smarter in their regions.

In conversations with our European counterparts, we have been impressed by their accounts of how high-speed rail has helped revitalize their metropolitan economies. We are convinced that high-speed rail will make a big difference to America's cities as well.

I cannot let the occasion pass, in conclusion, without commenting briefly on the strong partnerships between the cities and Amtrak. Today, Amtrak serves 45 of our Nation's 50 largest metropolitan economies, and we see real efforts by Amtrak to work in partnership with local areas. In Richmond, for example, Amtrak has committed to restoring train service to downtown Richmond, a train service that had moved into the suburbs 20 years ago. That is being done in concert not only with our city, but also with our Commonwealth of Virginia.

We see positive trends on revenue and ridership. We are excited about the Acela service which is promised for Richmond and points immediately south of Washington. Thank goodness North America is finally joining the rest of the industrialized world in deploying high-speed trains.

As I know you have gathered from my comments, I believe that the future is bright for rail passenger service in America, but it will take more energy, more commitment, and more investment to deliver the services that the public expects. Most importantly, a balanced transportation system requires you and your colleagues support Senate bill 1900.

Mr. Chairman, again I would like to thank you and the Members of the Committee for allowing me to appear today. I know reference has been made earlier to the endorsements that have been received by Amtrak for Senate bill 1900, and if they have not been offered, I would like the permission of the chair to go ahead and offer these to the Committee.

The CHAIRMAN. Without objection, they will be included in the record if you like, Mayor Kaine.

Mr. KAINE. Thank you. I appreciate that.

[The prepared statement of Mr. Kaine follows:]

PREPARED STATEMENT OF HON. TIMOTHY M. KAINE, MAYOR OF RICHMOND, VA, ON BEHALF OF THE U.S. CONFERENCE OF MAYORS, BOISE, ID

Mr. Chairman and Members of the Committee.

I am Timothy Kaine, Mayor of Richmond, Virginia.

I am pleased to appear here today on behalf of The United States Conference of Mayors, a national bipartisan organization representing mayors of the more than 1,100 cities with a population of 30,000 or more.

I'd like to tell you, very briefly, why passenger rail matters greatly to our cities, and why America's mayors strongly support passage of the High Speed Rail Investment Act, S. 1900.

All of you, I'm sure, recognize the growing problems our country faces as a result of gridlock on our highways and "winglock" at our airports.

All of us have experienced the delays and frustrations associated with our nation's overstressed transportation systems.

But I'd like all the distinguished Members of this Committee to know that we mayors don't just read about these transportation challenges in the newspapers—and we don't just experience it occasionally. We *live* it every single day. It's one of our major preoccupations.

That's because we own and operate many of the nation's airports—and with counties, nearly all of them.

With our county partners, we own and operate more than 80 percent of America's highways and streets.

And, locally or in regional agencies, we own and operate more than 90 percent of the nation's transit systems—buses, subways, light rail and trolleys.

Because we're on the front lines of America's transportation systems, we can't just sit around and wait for others to solve our problems. We have to take the initiative, and must confront these challenges.

Yet, we know that to be successful, we must have partnerships to help move resources to where they are needed.

Mayors from all across the nation, and many others, including a growing and more vocal public, believe that our future transportation investment decisions must increasingly emphasize passenger rail. It is an undeniable fact that the voter is becoming more frustrated with their transportation options.

And, Mr. Chairman and Members of this Committee, I am sure that you would agree that the mayors are particularly attuned to this disenchantment.

This is why mayors are saying that now is the time to take the next step in national transportation policy and restore balance and vigor to our national system. We believe this can be accomplished by building the third leg of the stool: a national rail system that connects between and within our metropolitan economies.

At the mayors' Conference, we have begun to focus on identifying some of the critical elements of a rail policy for the nation as we enter this new century. And, to look at ways this nation can reverse a couple of generations of neglect and inattention to our nation's rail infrastructure, both for passenger and freight needs.

Earlier this month in Boise, I joined with more than 50 of my colleagues from all across the country at the Conference's Leadership Meeting. The Conference's President, H. Brent Coles, the Mayor of Boise, dedicated a significant portion of our agenda to the issue of rail in America and the need for additional investment in this infrastructure.

In preparing for these sessions, we looked at what is happening in throughout the U.S. For example, today, 47 of the 50 largest metropolitan economies are either planning or constructing new rail projects, be it regionwide or more localized systems. These projects are most commonly light rail or commuter rail projects.

To put these areas in perspective, I would note that these 50 metro economies account for more than 53 percent of our nation's total economic output.

And around the country, the total number of rail starts is astounding, with more than 200 projects—and potentially up to 400—in more than 30 states.

Local areas are now committing billions of dollars to local rail projects, which makes us all the more concerned about the vitality and strength of the nation's intercity passenger rail system. These local rail projects, with their local bus and intercity bus connections, will link passengers to a national rail network, and vice versa, to form a more seamless transportation system.

And what's most noteworthy about these investments is the *local share* of the "new start" projects—which, on average, now exceeds 50 percent, showing the level of local commitment to rail investment.

Clearly, there is what we call a "railvolution" that is now underway in America's cities—and it's locally, not federally, driven.

All across America, our voters are demanding more choice and more balance in their transportation systems. More voices—and not just mayors and transit backers—are calling for an expanded national commitment to rail investment.

And, increasingly, there is an emerging consensus that such investment can also help us achieve important social objectives. These include improved mobility and choice, cleaner air and smarter growth.

Mr. Chairman, the nation's mayors have no choice but to focus most of their efforts on local problems and issues. But we also realize that our urban transportation systems are part of a larger network. What the poet John Donne said—"No man is an island, entire of itself"—definitely holds true of our cities and their transportation systems, as well.

We see a powerful linkage between a strong Amtrak, a growing national intercity passenger rail system, and the long-term viability of our local and metropolitan economies.

That's why America's mayors have made "rail system restoration" a top priority, and strongly support the High Speed Rail Investment Act, S. 1900.

To put it simply, we mayors are enthusiastic about high-speed rail. We believe that, when fully-funded, the high-speed rail partnerships that have been formed between Amtrak and some 28 states will spark a revolution in 21st century transportation.

High-speed rail will boost our economy's productivity, increase safety, create jobs, and enable our highways and airports to fulfill their potential.

And by connecting downtown business centers served by rail, it will help local officials to use high-speed rail and other investments to grow smarter in their regions.

In conversations with our European counterparts, we have been impressed by their accounts of how high speed rail has helped revitalize their communities. We're convinced that high-speed rail will make a big difference to America's cities, as well.

Mr. Chairman, I cannot let this occasion pass without commenting on the strong partnerships between our cities and Amtrak.

Today, Amtrak already serves 45 of our nation's 50 largest metropolitan economies. And, we see real efforts by Amtrak to work in partnership with local areas.

We see positive trends on revenue and ridership. And frankly, we're excited—very excited—about the *Acela* service. Thank goodness North America is finally joining the rest of the industrialized world in deploying high-speed trains!

Mr. Chairman, as I'm sure you've already gathered from my remarks, I believe the future is bright for passenger rail in America. But it will take more energy, more commitment and more investment to deliver the services that the public expects.

And, most importantly, a balanced transportation system will require that you and your distinguished colleagues support S. 1900.

Mr. Chairman, once again I'd like to thank you, and the Members of this Committee, for the opportunity to appear before you today.

The CHAIRMAN. Thank you for being here, and thank you for your stewardship of what is one of the most beautiful cities of America. I enjoyed very much visiting there.

Mr. KAINE. We would love to have you any time.

The CHAIRMAN. Thank you, mayor.

Before I begin my questioning, I would like to put this in the context of the concerns of some Members of this Committee. Amtrak was established in 1971. Within 2 years it was going to be self-sufficient. We have spent $23 billion, and again we enacted legislation a short time ago that was again going to free it of all federal subsistence.

There is an argument that can be made that was alluded to by Governor Thompson and other witnesses that perhaps we should have a federally subsidized railroad system in America. I think that debate should be held, but we have the 2 most respected arms of government, at least from this Chairman's point of view, the Inspector General of the Department of Transportation and the General Accounting Office who cast serious, serious doubts on our ability, on Amtrak's ability to achieve the independence that we were assured of when we passed the last bill out, and now another $10 billion is going to be requested to continue what I view as continued subsidization of Amtrak.

I think we should decide either that we will have a federally supported, federal tax dollars even if Amtrak does not run through Arizona any more, or it certainly does not stop there, and for the good of the country my taxpayers should continue to spend their dollars and guarantee billions of dollars worth of bonds, or we should face up to the fact that it is unlikely, at least in the view of the General Accounting Office and the Department of Transportation Inspector General and me that it is very unlikely that financial, true financial independence can be achieved in the timeframe which we were guaranteed just a couple of short years ago in return for another bail-out.

I have forgotten what number bail-out this is since 1971, but it totals to $23 billion since the Congress and the American people were assured in 1971 that there would be financial independence. All these years later, nearly 30 years later, and $23 billion later, it is understandable why some members might be a little cynical about the latest rounds of assurances.

Mr. Carmichael, Governor Thompson, Mr. Warrington, you should be free to weigh in. Do you intend to take any action on the Inspector General's recommendations?

Governor THOMPSON. Mr. Chairman, if I might, first if I could respond to your proposition, we have only been in existence 18 months, the new Amtrak Reform Board. Granted, it has been in existence for 29 years. Granted, we have got $23 billion at the same time that highways are getting $33 billion a year, airports are getting $14 billion a year.

The CHAIRMAN. In all due respect, Governor Thompson, I tried to frame this discussion that there can be an argument, which you are making, for federal subsidization.

Governor THOMPSON. I am not making an argument. I would just like to finish if I might, Mr. Chairman—and $6 billion for mass transit.

When the Reform Board was set up, we were supposed to be authorized about $925 million a year. We have been receiving about $521 million, a little over half of what the authorizers said we should have in order to be self-sufficient. We still developed a glide path, Mr. Chairman, and every year we are going down.

When we started we had a fiscal year infusion of $484, this year $362 million. Next year it is $242 million, the following year it is $189 million, and thereafter we will be, except for the excess retirement aid, which is an obligation that Congress has put upon us and said it would not be included in the operation, we are on that glide path. We are going to make that glide path.

Mr. Mead made some arguments about our previous business plan. We went over those, and we have submitted a new business plan, and the problem we had this year, we have been on that business plan. The first year we made $500,000, the second year it was $8 million, this year we are going to be under that. The reason, we had assumed $150 million of high-speed Acela express. We did not get them. We will be having the first train sets shortly, within the next couple of weeks, and once we put that system in we will make up what we lost this year, and I can assure you we will be on self-sufficiency by the year 2003, fiscal year 2003.

Now, saying that, without the capital, we never—I do not know, I was not involved in the original thing, but capital is something else. We do not have the capital to sustain a growth industry in railroads.

The CHAIRMAN. Governor, I really appreciate your comments. It is the custom in this Committee to answer the questions posed by the Committee. I will repeat my question. What action does the board intend to take on the IG's recommendations?

Governor THOMPSON. We took action last week at our board meeting. We came in with a new business plan. We will submit that business plan to Mr. Mead and to you. In fact, it has been submitted to Mr. Mead, and that business plan takes care of the suggestions he made.

The CHAIRMAN. I thank you. I thank you very much.

Mr. Carmichael, would you like to comment, or Mr. Warrington, either one, in response to the question?

Mr. WARRINGTON. Let me just say this, Senator. I personally have tremendous respect for Phyllis and Ken in particular, and I will tell you that Amtrak and our staff have worked very hard to work very cooperatively with Ken and Phyllis to get all of the facts out on the table, and during the first several years of our existing business plan I will tell you that we met or exceeded——

The CHAIRMAN. Again I would like to have an answer to the question posed by the Chairman, quote, what action does the board intend to take on the Inspector General's recommendations? We have got to have the answers to the questions by the witnesses here. Please, I ask all the witnesses what action does the board intend to take on the Inspector General's recommendations?

Mr. WARRINGTON. Management made specific recommendations to our board of directors, and the board of directors has adopted significant updates and improvements and changes to last year's plan, which is what Ken was working off of, to significantly, reduce the number of undefined plan actions over the next 3 years that we need to achieve. Many have to do with expense. Some have to do with revenue enhancements.

The CHAIRMAN. Thank you. Could you submit in writing for the benefit of the Committee some of the actions that you have taken in response?

Mr. WARRINGTON. We will give you all the details, Mr. Chairman.

The CHAIRMAN. Mr. Carmichael, would you like to respond?

Mr. CARMICHAEL. I will try to, Mr. Chairman.

Ken's report, and in all of these 20-odd years of trying to put together a national rail passenger system the report card is pretty much in that we organized it wrong to start with and it has not been able to accomplish many of the things Congress wanted and that the public wants, and so I cannot help but feel that we can sit here and talk about what to do with these recommendations, but we have got to reorganize Amtrak so that we know what it needs for a national operating system and we also know what it needs for its infrastructure business.

I cannot see any of this information being relevant until we reorganize the business itself, and you instructed us in the creation of this Council that we were supposed to make recommendations to help them be self-sufficient and if they were not, then we were supposed to give you a reorganized plan for the new national system. I just say right now, I do not think they can cut $737 million worth of expenses that Ken was talking about, not without doing some radical reorganization of the corporation right now and coming back to Congress with 2 different requests for funds, one for the infrastructure and one for the operating company, so I do not see any solution right now until they do something like that.

The CHAIRMAN. That is very different from the way the proposal was made to Congress when we passed the last legislation, Mr. Carmichael, a very interesting departure.

Mr. Warrington, how many money-losing routes have been cancelled since Amtrak received the authority to make its own routing decisions?

Mr. WARRINGTON. I do not recall that any significant route reductions have occurred over the past 3 years.

The CHAIRMAN. Have any routes been canceled?

Mr. WARRINGTON. I know routes have been canceled, although our network growth strategy plan, which we unveiled on February 1, did include a significant number of modifications and reroutes to tap into new markets both for passenger business as well as mail and express business.

The CHAIRMAN. As part of the Taxpayer Relief Act of 1997, Amtrak received $2.2 billion to make capital improvements and maintain Amtrak's equipment in intercity passenger rail service. I remember the language very well.

A February report by the GAO said the Amtrak had spent substantial amounts of this funding to cover its cash-flow needs. These funds were actually spent on operating expenses, but Amtrak contends it will repay these expenses. What is the legal authority to borrow from the TRA funds, Mr. Warrington?

Mr. WARRINGTON. We do have legal authority to borrow from the TRA, and over the course of the past, I guess, 2½ or 3 years it has been very clearly articulated in our annual business plan and our

5-year plan, and we have repaid the TRA on schedule as intended in the plan.

The CHAIRMAN. Mr. Mead, do you believe they have the legal authority to borrow?

Mr. MEAD. Yes, I do.

The CHAIRMAN. When does Amtrak expect to stop using TRA funds, Mr. Warrington?

Mr. WARRINGTON. The board of directors last week approved not only our business plan, which deals with many of the issues that Ken has raised, but also our capital plan as a piece of that, and we would expect by the end of this next upcoming fiscal year that all of the TRA funds, the large majority of those funds will have been programmed or expended.

The CHAIRMAN. How much money did Amtrak spend in support of the recent political conventions?

Mr. WARRINGTON. I do not recall spending any money directly in support of the recent conventions. What we did do, which we do with many conventions across the country, is work with visitor and convention bureaus around discounts and promotions related to convention users accessing the sites by train. We did that in both Los Angeles and Philadelphia, but that is a common practice with all conventions in large cities across America, and it is a major revenue-raiser for us.

The CHAIRMAN. A recent *Wall Street Journal* article written by Mr. Jeffrey Krassner writes that he tried to verify Amtrak's claims about its on-time performance in the Boston-New York market. He said when he asked Amtrak for this data, Amtrak spokesmen told him the data was proprietary. How in the world could on-time performance be proprietary?

Mr. WARRINGTON. It is not. I have no idea what that means, and we are very public and very open about the on-time performance of every one of our trains.

The CHAIRMAN. I thank you.

Governor Thompson and Mr. Carmichael, the House companion bill to S. 1900 includes a provision that reaffirms that any Amtrak-issued bonds are backed by Amtrak only, not the U.S. Treasury. Such a provision would uphold current law, which according to 2 rulings by the Comptroller-General, the federal government is not liable for any of Amtrak's corporate obligations. Does the proposal you are working on with the Finance Committee include a similar provision?

Governor THOMPSON. We are all in favor of it, Mr. Chairman. We have no opposition to that.

The CHAIRMAN. Mr. Carmichael.

Mr. CARMICHAEL. I would like to ask Mr. Mates, our economist, to comment on that.

Mr. MATES. The majority of the Members of the Amtrak Reform Council support the freedom of other institutions to also issue bonds.

The CHAIRMAN. Thank you.

Ms. Scheinberg, Mr. Mead argues that it would require about double the $10 billion in bonding that may be achieved through S. 1900 if these requests that Mayor Kaine, or these proposals that

Mayor Kaine wanted included in the record, is that a fair estimate, $20 billion as opposed to the $10 billion they are seeking now?

Ms. SCHEINBERG. The problem, Mr. Chairman, is that nobody knows what the number is. We asked Amtrak that specific question, how much would it cost to develop these high-speed corridors around the country, and Amtrak could not give us an answer. I think $20 billion is a low number. It could be any number. Until people have an estimate, it is pretty hard to say what S. 1900 is going to accomplish.

The CHAIRMAN. Go ahead, Mr. Carmichael.

Mr. CARMICHAEL. I produced a table called Interstate II. We have one interstate system out here that is about 50 miles an hour, and in this country it has an opportunity for a second interstate system.

I was involved back in 1989 to 1992 in the creation of these new 5 high-speed corridors that were introduced in 1991. We have a 43,000 mile interstate system across the country. It is very possible we could have a 20-something thousand miles intercity corridor system across the country. I would say to build a 20-something thousand miles interstate II high speed trains is going to cost several hundred billion dollars, and it is the type of thing, do we want it? These mayors seem to be saying they do want it.

We are so hung-up on Amtrak's failure to achieve what it has done that we are missing the point of what may be evolving here. There may be an opportunity now for a new surface transportation high-speed system across this country, and the corridors are emerging pretty fast. This $10-billion bond is maybe a step in the right direction, but we hope to give you some recommendations in January of how to fund a national rail passenger system, and also how to fund the emerging interstate high-speed systems.

It is evolving. Amtrak is excited about it and trying to do it, but it needs to be approached in a different way.

The CHAIRMAN. And your estimate is several hundred billion dollars?

Mr. CARMICHAEL. That is right, for interstate II, high-speed intercity rail network. The corridors are sitting out there, beautiful corridors going right through the center of all of our cities. The freight railroads are beginning to say, we will work with you. They are doing it right here in Virginia between Norfolk Southern and the State of Virginia, so the stage is being set for this new interstate II system, and for this new high-speed corridor system.

The question is, who is going to help build it? The State DOT's are getting excited about it, and they want to build it. They built the old interstate system, and they are beginning to see the opportunity for building this other one. We have got to figure out how to fund it, and I think the American people want it and Congress is beginning to look at it.

The CHAIRMAN. Well, I believe the taxpayers should have a better estimate than several hundred billion dollars, Mr. Carmichael.

Mr. CARMICHAEL. I agree with that. It is as big as the interstate system.

The CHAIRMAN. Mr. Mead.

Mr. MEAD. My point in saying $20 billion, that is a low-ball, no doubt about it, was to put in context what is going on here. S. 1900 is a $10-billion revenue bond package that goes over a 10-year period, and it does not come close to covering the demands that are going to be made.

With regard to that I would like to make 2 points. First, there are roughly 10 corridors, high-speed corridors, already designated in this country. There are another 8, which will bring the total to 18 high-speed rail corridors in this country. All those 18 will be competing for roughly that $1 billion per year. That is point 1.

Point 2 is Amtrak itself has extraordinary needs that are not classifiable as high-speed rail. So what if S. 1900 is passed, you should count on annual appropriations for Amtrak in addition to the $1 billion in bonding authority per year, and that number I would say would be in the neighborhood of $500 million to $700 million per year in annual appropriations. That includes the excess retirement money that Governor Thompson was speaking about.

The CHAIRMAN. Governor Thompson.

Governor THOMPSON. Thank you, Mr. Chairman. Three quick points. First, I would like to introduce Governor Linwood Holton, who is on the Amtrak board. He got here a little bit late because he missed the on-time performance of our train. He got to the train depot a few minutes late, and it had already left, and I am happy that he is here.

The CHAIRMAN. Welcome, Governor.

Governor THOMPSON. First off, we are in the exercise right now, Mr. Chairman and members, of putting together a 5-year capital plan. We have been working on that for well over a year. We should have that completely developed, I would say, in the next 3 to 4 months. Second, the $1 billion in S. 1900 is for high-speed corridors, the 4 high-speed corridors. Ken Mead is absolutely correct, if there are more high-speed corridors it is going to take more money, but we think we can do what is necessary to get the 4 high-speed corridors up with $1 billion a year.

On top of that, we need other capital needs, there is no question about that, and $500 million to $700 million is an appropriate figure by Ken Mead. We are going to get most of that money from the high-speed things, but we are hoping that Congress will also recognize the need, if we want to develop the kind of railroad, national railroad system that is going to be profitable and is going to be successful we need to infuse capital.

Our biggest problem has been the old equipment and trackage that does not warrant the kind of speeds that we would like to be able to put on them, and so we are improving our equipment, we are using all business techniques in order to do that, and we are doing a much better job than ever before of improving the equipment and the trackage, but capital is badly needed.

The CHAIRMAN. I appreciate very much the job you are doing, and the job Mr. Carmichael is doing, and the job Mr. Warrington is doing. The problem that I have again is—and maybe it is a problem with being here too long—You keep coming back; and every time, this is it, it is over, this is all we need. The last legislation we passed, by 2002, it is over. You are finished. That was the promise in 1971. Here we are, 29 years later. That is the problem.

I do not know if we would have passed the legislation last time if we had had the same testimony that we have today, several hundred billion dollars, at least $500 million, or $700 million for the next X number of years.

I just think that Americans—and you make a strong argument, Mr. Carmichael, for high-speed rail corridors to relieve congestion—anybody who has tried to get on an airplane or has been stuck in traffic lately, recognizes, particularly out in the West Coast, as well as the East Coast, we need to have some kind of finite, definitive answer as to what is going to be needed, and then we can make an informed decision.

No one expected, 2 years after passage, or 3 years after passage of the legislation, another $10 billion in bonding. I certainly did not expect it. Certainly it was never mentioned in testimony before this Committee when we did the bill. Please respond, and then I would like to go to Senator Wyden, or if both of you would like to respond, go ahead, Governor.

Governor THOMPSON. Mr. Chairman, I was not here when it passed.

The CHAIRMAN. I understand, but I was.

Governor THOMPSON. I understand, and I accept your premise. All of the people that I have talked to on previous boards and previous management said there was never any indication that this was going to be for all the capital. Capital was separate. This is operationally self-sufficient.

Now, we can argue about that, and I do not want to argue about it, but that is basically the position taken by Amtrak. We need capital.

The second point is, is the authorizer said we were going to get about $984 million. We have been getting about $521 million. We are getting about half of what we expected under reauthorization.

The CHAIRMAN. I would just like to mention real quick I am told the administration proposed that and Amtrak said that is fine.

Governor THOMPSON. Well, that was fine operationally, but not with capital, and that was the difference. We have always been, and we are so close. We are on the cusp of making it operationally, but we never said we could make it without infusion of capital. We will be able to make 2003 if 1900 does not pass. We are going to make it, but we are not going to have much left over after that. We are not going to have a new railroad. We are not going to be able to have the high speeds. We need the capital in order to grow and be able to deliver to you, Mr. Chairman, the kind of railroad you want and America wants.

The CHAIRMAN. I thank you. I have got to go to Senator Wyden. Can I ask Mr. Carmichael to respond briefly, and then I will go to Senator Wyden.

Mr. CARMICHAEL. Senator, I apologize, but I believe it fits in here correctly. We have got 2 things that are confusing this. One, Amtrak's core business, its core business now is running passenger trains with mail and express on a national system from Boston to San Diego. That is its core business.

The Council would like to know how much capital and money does Amtrak need for its core business. Now, we are confusing something else with this, this infrastructure development. These other corridors that are evolving, they need capital from a different direction and different source, and who is going to build them, and who is going to be in charge of them and have responsibility?

So in my mind, as chairman of the Amtrak Reform Council, I want Amtrak to concentrate on its core business, and I hope my Council will recommend in January a different funding mechanism for these corridors. The corridors are not capital they need. They need capital for the system.

The CHAIRMAN. We will have another hearing in January as soon as you all finish your reports, and perhaps we can get a better handle on the situation then.

Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman, and Mr. Warrington I want to walk through with you the situation in Eastern Oregon, because it illustrates in my view how you continue to play politics with the way these routes are determined, and I want to go very carefully through it, because I find this very troubling, as somebody who has supported Amtrak for 20 years in both the House and the Senate, and sits here this morning, frankly, and finds himself agreeing with much of what the Chairman has said, so I am going to go through this very carefully with you.

In May 1998 the GAO issued a report on the financial performance of the Amtrak routes. What this report essentially showed is that the decision to end the Pioneer in Eastern Oregon in May 1997 was not a decision based solely on financial performance. Governor Thompson sat at that witness table at the last hearing and he agreed with that. He said the GAO was correct, that that was not a decision based on the merits.

Mr. Chairman, I would ask the statement of Mr. Coston be made a part of the record.

The CHAIRMAN. Without objection.

[The information referred to follows:]

PREPARED STATEMENT OF JAMES E. COSTON, ATTORNEY, CHICAGO, IL

Federal Infrastructure Funding: the Key to Success for Railroad Passenger Service

Mr. Chairman, my name is James E. Coston. I am a former Amtrak employee, and between 1980 and 1986 I was the manager of an excursion-train and rail-travel business that was Amtrak's biggest customer. At this time I am an attorney residing and practicing in Chicago, Illinois. On April 4 of this year I was appointed by Senator Daschle to the Amtrak Reform Council. My testimony today represents my personal views as a passenger-rail advocate and should not be construed as reflecting the thinking of the Council, its staff or any of its individual members.

I would like to comment briefly—and, I hope, constructively—on the Inspector General's report that we have been discussing this morning.

The Inspector General has disclosed publicly what most fair-minded and informed passenger-rail advocates have been discussing privately for some time: that Amtrak's capitalization, cash flow and expenses make it extremely difficult for this company to achieve the financial break-even which the 1997 Amtrak Reform and Accountability Act mandates must occur by FY 2003. Amtrak does not have, and never has had, the resources a business requires to perform such a feat. The 1997 Act's insistence on break-even by 2003 amounted to an unfunded mandate: It made stringent demands upon Amtrak, but it did not provide Amtrak—or any other entity—with the resources that had to be there if those demands were to be met.

Why did Congress hand Amtrak this “Mission: impossible?”

I see two reasons:

First, in the closing days of 1997, many members of Congress were angry at Amtrak's management for an ill-advised cost-control program that needlessly eliminated train service in several parts of the country and threatened losses of service in a number of others. The Chicago-to-Portland *Pioneer,* which enabled tourists to view the Blue Mountains of Oregon close up, was discontinued, even though Amtrak managers knew that adding a single car of mail to each departure would add enough revenue to keep the service operating. The Chicago-to-Los Angeles *Desert Wind* was dropped at the same time, ending all Amtrak service to Las Vegas and to the ski-resort country of southwestern Utah.

As a Midwesterner I know that in early 1995 the states of Wisconsin, Michigan and Illinois were forced to turn to their legislatures for millions of dollars in additional subsidies just to keep a token Amtrak corridor service running. Even with those subsidies in place, fares had to be raised, causing ridership levels to plunge after several years of healthy growth.

The effect on Amtrak's relations with Congress was close to poisonous. In the closing days of 1997 Amtrak's board brought in a new management which began to reverse course, but the damage was done: Congress's understandable but unrealistic demands for reform were embodied in law. Only in compliance with that law could Amtrak get on with business.

Second, in 1997 the "Contract with America" was very much in the air in Congress. There was a strong belief among many members that railroad passenger service, along with other programs historically provided by government, could be either privatized or forced into a private-sector model under government ownership. Many members apparently believed that of the 4 basic U.S. transportation modes—highway, inland-waterway, air and rail—one, the rail mode, could operate successfully by the rules of private-sector business while the other three continued to enjoy seven decades of abundant infrastructure funding from the federal government.

In forcing that private-sector model on Amtrak, the 105th Congress compounded an error made by the 91st Congress when it created Amtrak under the Rail Passenger Service Act of 1970.

The big mistake of the 1970 Act was to pretend that railroad passenger service—uniquely in the transportation industry—could survive and grow under the rules of private business. Congress never made this demand on the nation's other transportation modes. Our highways, inland waterways and civil aviation network all were established and funded by government and continue to be supported by massive government investment in their fixed infrastructure and their traffic-control systems. In those modes, only the operation of the common carriers is in the private sector. Government not only supplies and owns the infrastructure, but makes sure as well that the infrastructure is technologically state-of-the art so that the carriers using it operate at the highest possible degree of efficiency and financial performance. This is the meaning of the 3-year, $40-billion funding package that Congress voted in March to enable the Federal Aviation Administration to upgrade its air-traffic control system.

When it comes to intercity rail passenger service, however, government is almost totally absent from funding of infrastructure and is making only the faintest attempts to catch up. So while America enjoys a 21st century highway system and a 21st century civil-aviation network, its railroad tracks cannot support even a 1950s-level of passenger service. In fact, in the state of Illinois we are just now undertaking a set of state-sponsored track-and-signal improvements that in 2 years will enable Amtrak's Chicago-St. Louis trains to reach 110 miles per hour. Yet the fact is that in 1936 passenger trains between Chicago and the Twin Cities were streaking along at speeds as high as 115 miles per hour—behind steam locomotives!

Such are the absurdities that develop when government spends seven decades funding three types of transportation infrastructure while ignoring a fourth—and then attends to the fourth with too little too late. **Let me remind you that as of this date, Congress still has not provided a funding mechanism that explicitly allocates a reliable supply of dollars to the construction and improvement of intercity railroad tracks and their command-and-control systems.**

This is a scandalous omission in a nation obsessed with personal mobility. All of the other modes of transportation have enjoyed dedicated infrastructure funding for many decades:

- Federal dollars for highways have been flowing since the 1921, when Congress made its first commitment to connecting up the nation's cities with hard-surfaced roads .
- Dedicated federal funding for barge canals, locks, dams and navigation aids has been in place since 1917, when President Wilson, using his wartime powers, seized the nation's tiny barge and towboat fleet, established a government-owned barge line and provided the first federal money for a long-term program of waterway improvements.

- Federal dollars for airports and air traffic-control systems have been flowing since 1926, when President Coolidge authorized the Commerce Department to erect beacons so pilots could fly air mail safely at night.
- There are federal dollars for urban and suburban mass-transit systems, and those dollars have been flowing—some might say trickling—since 1964, when President Johnson realized that four decades of cheap federal capital for streets and highways had left the privately owned transit systems and commuter railroads with no means of modernizing or expanding their services.

Yet intercity passenger rail technology, which holds the power to free our nation from its airway and highway gridlock, still has no dedicated infrastructure-funding mechanism of its own. Amtrak has a small budget to operate and market its small fleet of trains and receives periodic capital grants to upgrade the roughly 500 miles of track it owns—most of it in the Northeast Corridor—but the overwhelming majority of the trackage it uses is privately owned freight infrastructure that is not built to passenger-train standards and is in large part inadequate to handle even the freight traffic thrust upon it.

Since the Congress has seen fit to impose a set of private-sector business rules on passenger rail while lifting its competitors on the strong arms of government, let me just share with you a couple of harsh lessons that all private businesses understand.

Lesson number one: If a business is denied access to the capital required to update its technology and make its product competitive, the customers will not come. That has happened to Amtrak. Its trains are too slow so its customers are too few. Its share of the travel market is less than one per cent and dropping. Ridership growth is not strong enough to replenish market share.

Lesson number two: Old technology costs more to operate than new technology, so businesses forced to keep using old technology have higher expenses than their state-of-the-art competitors. They spend more and more to accomplish less and less. This too has happened to Amtrak. This is why the Inspector General has pointed out that even though Amtrak's revenues are rising, its costs are rising faster. Amtrak's "revenue gap" is a direct result of its "infrastructure gap."

One can only speculate how much more effective, efficient, busy and profitable Amtrak would be if its Northeast Corridor infrastructure had access to only a twentieth of the federal funding that has been lavished since the 1930s on its Northeastern competitors: Reagan National Airport, Baltimore-Washington International, Philadelphia International, LaGuardia, Theodore H. Green and Logan airports, to say nothing of the four decades of funding expended on Interstate 95 with all of its incredibly expensive bridges, tunnels, interchanges and feeder highways. Those facilities became efficient people movers because those facilities were funded.

As long ago as 1992, Professor Paul Steven Dempsey of the University of Denver estimated that our civil-aviation and highway infrastructures each represented more than $1 trillion worth of government investment at then current prices. The railroad infrastructure of our country is worth nowhere near that sum. Thanks to 103 years of federal railroad regulation and 83 years of federal capital investment in new infrastructures that compete with rail, the U.S. railroad industry has been conducting a century-long going-out-of-business sale. Double track has been converted to single track, high-speed signal systems designed for passenger trains have been removed, yards have been closed, stations demolished, platforms pulled up and superelevated track that once permitted passenger trains to pass through curves at 80 miles per hour has been leveled to accommodate freight trains traveling at 40 miles per hour. Particularly in the 55 years since the end of World War II, the American railroad industry has been managing for decline by downsizing its physical plant.

Today, the nation's eight-year economic boom has overwhelmed that antiquated plant with freight traffic the railroads cannot handle. Congested main lines and yards are blocking the progress of Amtrak trains and freight trains alike. Even the nation's best railroad track, Amtrak's Northeast Corridor, is basically an adaptation of an 1850s steam-railroad alignment that was upgraded during the 1920s with grade separations, in the 1930s with a partial electrification, and in the late 1990s with electrification of the remaining 150 non-electrified miles. Capital investment in the NEC has been inadequate, intermittent and subject to interminable debate, while capital investment in the parallel highway and civil-aviation systems has been lavish, Continuous and unquestioned.

I know that some Members of this Committee may be under the impression that Amtrak too has benefitted from federal infrastructure investment and will benefit further if Senator Lautenberg's High Speed Rail Investment Act is signed into law.

That is true as far as it goes, but it simply doesn't go far enough. The fact is, the passenger-railroad infrastructure in this country, like the freight-railroad infrastructure on which most of Amtrak's passenger trains run, has been capital-starved for the better part of a century now and is desperately trying to play catch-up against competitors that were given a huge head-start. Senator Lautenberg's bill, while well intentioned, is a drop in the bucket—a pathetic $10 billion stretched over 10 years. It barely acknowledges that the railroad infrastructure problem exists—and Senator Lautenberg is supposed to be one of Amtrak's biggest supporters!

I don't want to sound like a Pollyanna, but it almost looks as if Amtrak's best supporter now is the Inspector General: He's the only one who's had the intestinal fortitude to get up in front of Congress and tell the truth: You can't run efficient, effective, popular, profitable trains on an obsolete, inadequate infrastructure. You can't sell from an empty wagon.

Let me close with this thought: If today's airlines tried to move today's passenger volume using the airports and control towers and radar systems of 1955, the Inspector General would be writing about that industry the way he has just written about Amtrak.

And if today's motor carriers tried to move their 48-foot and 53-foot trailers of merchandise at 80 miles per hour down the 2-lane highways of 1955, that industry too would be the subject of a blistering IG report and some very embarrassing congressional hearings.

Knowing that, should we really pretend to be astonished that our 1955-style passenger rail system is delivering inadequate financial performance?

I challenge the ladies and gentlemen of this distinguished Committee to revisit the subject of America's railroad passenger service not just in a critical light, but in a historical light.

I challenge Congress to trace the problem back to its origins—a 70-year failure to capitalize an effective passenger railroad infrastructure while highways, waterways and airways held a toga party with the federal budget.

And I challenge Congress and the administration not just to trace the problem, but to face the problem, by bringing rail passenger service into the big tent of federal infrastructure financing along with the highways, the waterways and the airways. Our passenger rail system has to look more like America. It has to look more like a federal transportation program and less like a 19th century railroad trying vainly to finance its infrastructure out of its own earnings.

Rail passenger service will not survive, will not grow, will not exploit the full potential of its technology, and will not make its full contribution to the national mobility until it is financed by the federal government at the infrastructure level—as its competitors have been for 70 years.

Mr. Chairman, as a resident of Chicago who flies more than 50,000 miles a year on business, I am acutely aware of the anguish experienced by the hundreds of thousands of travelers who were stranded at O'Hare this summer. As a frequent visitor to Washington, New York and the West Coast, I have frequently found myself cooling my heels in their airline terminals or stuck in traffic trying to reach those terminals. Like millions of other Americans, 1 have learned that our nation is suffering a mobility emergency. And like an increasing number of Americans, including the one who wrote this editorial called "Speedier Trains" in last Thursday's *New York Times,* I know that a well planned, well financed and well managed intercity passenger rail system can alleviate our travel distress. No other industrialized nation is suffering a mobility crisis like the one we are experiencing in the United States. And the reason is that no other industrialized nation has staked its citizens' mobility on air and highway travel alone. Rail is the critical third component, and we have to stop neglecting it.

What we have to do now, Mr. Chairman, is identify the role passenger rail should play in our national mobility system, and then plan, fund and build the kind of passenger-rail infrastructure that will enable our trains to play that role. Our passenger-train system has to look more like America. It has to become a federal transportation program with a predictable and dedicated federal funding source.

Amtrak can be a successful common carrier, but not until it achieves what the other common carriers have enjoyed for most of this century: an up-to-date infrastructure financed by a dedicated federal transportation infrastructure program.

It is time—way past time—for our railroad passenger service to share fully in the federal infrastructure funding that has made the other modes so successful. I hope that the members of the Senate Commerce Committee will attend to that agenda in the next Session.

Thank you.

Senator WYDEN. James Coston states, and I quote, "the Eastern Oregon train was needlessly eliminated." Those were his words, and he goes on to say that it could have been possible, by adding a single mail car, a single mail car, to have turned this into one that would have been a cost-effective run.

Now, a baggage car costs, according to my staff, $300,000. I am not up on the exact cost of a mail car, but do you disagree with what Mr. Coston has said, (a) that the train was needlessly eliminated, which by the way was in line with what Governor Thompson said, and that (b) this could have been effective if a single mail car had been added? Do you disagree with Mr. Coston?

Mr. WARRINGTON. I frankly am not well-enough acquainted with the facts about the economics of one express or mail car on that train and the kind of difference it would make, and I can confirm that subsequent to this, Senator, but my gut tells me that one express car, whether it be a road, rail, or mail car, probably would not make up the difference around the loss that we would be talking about, around a reactivated service. That is what my gut tells me, but I commit to you I will certainly take a look at that, but that does not sound right to me.

Senator WYDEN. Well, I guess I find your answer troubling as well because we have got a proven track record that your agency has played politics with this train. The General Accounting Office said it, Governor Thompson said it, the Amtrak Reform Council said it and you come here and you say, well, I will have to get back to you.

My constituents in Eastern Oregon pay a lot of tax dollars for a national rail system, and you folks are basically saying that if they want rail service in Eastern Oregon they ought to go out and have a bunch of bake sales and see if they can put it together.

I have got those little towns actually levying per-head assessments in order to do their share to be part of the reinvented Amtrak, and I guess my question to you is, when are you going to stop playing politics with my constituents?

Mr. WARRINGTON. I will be as straight as I can, Senator. First of all, I do not play politics with trains. The elimination of the Pioneer preceded me as the president of Amtrak, and I cannot speak to what the basis was for that decision.

I will tell you, though, that generally, in retrospect, all of those eliminations back in 1995 and 1996 ended up costing the company more in lost revenue than we were able to take out in the way of expenses, given the fixed cost nature of the operation. I can tell you that I have committed and we have committed to look at all variations on a restored Pioneer, and as a matter of fact we have concluded that the most promising opportunity, as I think you know, is the Portland to Boise section, which would have about a $6 million loss with depreciation, about $4½ million a year loss without depreciation, and we are very anxious to work with the States of Oregon and Idaho to see if we can bring that service back, but it will require contributions.

I will tell you, over the past 2 years this is a zero sum game for Amtrak. We are under the gun. We have had a discussion here all morning about achieving operating self-sufficiency, and the pressure is on, and as a practical matter, given the fact that it is a zero sum game, in the end we have to have participation by more actors than just Amtrak and the U.S. Congress.

Along those lines, frankly, over the past 3 years we have doubled the level of support from States for the operation of trains across this country from about $50 million a year to almost $110 million a year. I am confident that if we continue to work with the State of Oregon and the State of Idaho—I was out at the U.S. Conference of Mayors meeting a week and a half ago in Boise. There is incredible enthusiasm for that kind of a service, and not unlike elsewhere around this country, there are opportunities to do that.

I see Senator Hutchison here this morning. We had a similar situation, back when the Pioneer was proposed for elimination, on the Texas Eagle, and the State of Texas stepped up and loaned Amtrak $5.1 or $5.2 million, and the service has really turned around, and the contribution level from that service has been extraordinarily positive, and looking forward, given mail and express opportunities not only to Laredo but conceivably to Monterey, it can be an extraordinary winner, but that was jump-started in a time of crisis by Senator Hutchison and the State of Texas.

Senator WYDEN. Well, Mr. Chairman, I would like to get an answer to the question. The GAO said you played politics. Governor Thompson said the train should not have been eliminated. The Amtrak Reform Council said it should not be eliminated. Now you are saying that the only way the people of Oregon are going to get a train is if they, the city and the State legislature, come back with all the money. That is not acceptable if this is to be a national rail system.

I am willing to make all these calls on the merits, and I have told folks in Eastern Oregon that if a train does not compute, if it does not compute, then that is the way it is, and they have met you more than half-way by levying these per-head assessments. We are going to go to the State legislature, but I for one am not going to accept an approach that says, essentially, after the train should not have been eliminated and it was eliminated for political reasons, they should do all the heavy lifting and the federal government should do nothing.

So I guess, you are on your way, and I guess maybe you all are not very interested if you turn somebody who has been a supporter of this agency for 20 years into somebody who is going to continually, at every single opportunity, say it is time to drain the politics out of the way you make these routes.

I think it is very unfortunate, the way you are doing business, and it is on your watch. It is one thing to talk about what was done in the past, but it continues on your watch.

Governor Thompson, did you want to add anything?

Governor THOMPSON. I do not know if I really want to get involved in this. Senator Wyden, I think I said that I was not here, and that may be true, and you may be more correct in saying it. I do not know, I was not here. George Warrington was not there.

I do know that we put in, I think, $600,000 in the study, or 4 or 5 or $600,000 into a study with your office in Oregon and Idaho. Our back is to the wall. We have to be able to be cost-sufficient and all the experts tell us we are going to lose $6 million with depreciation, $4½ million without, and we are trying to figure out a way to come up with a solution, Senator Wyden, for you and for your constituents in Eastern Oregon.

Senator WYDEN. Mr. Chairman, I want to finish with just one point again. You were here saying that you agreed with the GAO when the GAO said it should not have been eliminated, so that is something you said, so now this is your watch, and to tell my constituents again that they should do everything, that as part of a national rail system people in Eastern Oregon send dollars to Washington, D.C. and get nothing in return is unacceptable, particularly absent some evidence that this does not compute.

This area, as you know, Mr. Warrington, is being featured in the *New York Times* constantly as one of the travel meccas of the United States, and yet we have not been able to get you all to even incorporate that into your analysis.

I know the light is on. Thank you, Mr. Chairman.

The CHAIRMAN. As usual, Senator Wyden, in your mild and reticent manner you have made your point, I think very forcefully.

[Laughter.]

The CHAIRMAN. Senator Hutchison.

Senator HUTCHISON. Well, Mr. Chairman, I feel like the Texans at the Alamo at this hearing this morning. I just hope the result is not the same.

Mr. Chairman, there is a lot of discussion about the past with Amtrak and what was the thought in 1971 when it was created, and what was the thought in 1997 when we had the reform act that was passed, but let me say, in relationship to what Governor Thompson has said, that operational self-sufficiency is what we intended with the 1997 act. It would be unrealistic to say, looking at any transportation system, that capital is not going to be part of the starting up of a truly Nation-wide transportation mode.

There is no question that multimodal transportation options are good for all Americans. The citizens of Arizona are paying for capital expenditures in the transit systems of New York and Philadelphia and San Francisco, and we do not question——

The CHAIRMAN. And Phoenix and Tucson.

Senator HUTCHISON. But we do not question that more goes to New York and San Francisco than Phoenix and Tucson. We do not question that.

The CHAIRMAN. Yes, we do. We indeed do, all the time. In fact, that is the reason I voted against the last transportation bill was exactly that.

Senator HUTCHISON. And I hope, Mr. Chairman, in the future that we will look at the potential for a national rail passenger system that is part of the multimodal option available to the people of this country, because I hope it will stop in Phoenix.

The CHAIRMAN. Let me show you the proposal. It goes a lot through Texas, but there is a large portion of America that it does not go through.

Senator HUTCHISON. And the reason, Mr. Chairman, is because we continue to have people who will not let it have the chance, with the right capital expenditures. I think Mr. Wyden——

The CHAIRMAN. These are the proposed ones, Senator Hutchison, not just existing.

Senator HUTCHISON. Mr. Chairman, the Pioneer and the Texas Eagle both got official notice on the same day that they were going to be eliminated. They had the official notice given. I went to bat to get the loan from the Texas legislature. It was not easy. It takes time to get things done. We got it. He tried, they did not get it, and that was the difference.

Now they are further down the line because you have certain requirements for the number of cars that have to be gotten in order to provide the operation into Oregon, and those cars are now servicing the areas that did step up to the plate, but Mr. Chairman, when you look at our aviation system and our highway system you know that to keep up with the growth, and the economic growth in this country, we are going to have to have another mode of transportation.

I would hope that we would have the vision to say yes, we are going to step up to the plate for the capital expenditures. We are starving Amtrak right now. We have an authorization of $1.058 billion for 1999. The appropriation was $600 million. You have heard it now several times that the appropriations have been about half of the authorized level.

You cannot starve the operations and expect to have operations and capital growing. We cannot expect them to succeed with the mandate of the 2003 operational self-sufficiency if we do not give them the chance. This has the potential for a future that is every bit as important as our mass transit system, as our aviation system, and almost as important as our highway systems.

The highway systems are the base, there is no question about it, but when you look at the federal funding by mode of our transportation systems, here is Amtrak since 1982, here is aviation, and here is highways.

Now, I believe it is in our traveling public's interest that we would have another mode of transportation. Right now, it is not truly national. It is not even half what I think it can be, but you know, it takes time. The transit systems are just now coming into being that are feeding into Amtrak, and that is going to add to the convention business.

I applaud what Mr. Warrington is doing in conventions, and I see it in other cities where they go out with convention packages and they say, for two people traveling one person goes free. We can duplicate that for conventions, for sporting events, for tourists, and that is a marketing technique.

Second, the States are beginning to step up to the line, but this takes time. Most State legislators meet biennially. It is going to take time to bring our States into the thinking that rail is a basic mode of transportation that will be a contributor to the system if we do not starve it to death before its time.

So if I could just ask the question of Mr. Warrington, do you see, with these subsidies that are you getting, and I think very creatively with package and express delivery, do you see the time that we will be able to start clearly from not a truly national system today, but if we continue getting those kinds of subsidies from the package delivery and the mail delivery, will we be able to solidify the base we have in place today and go into some of these other places like Oregon, where it would be warranted to have a system put forward if the State legislature will work with Amtrak to do it?

Mr. WARRINGTON. Senator, I am very confident that in 2003 we will be at or very close to achieving our goal of operating self-sufficiency. It is purely a timing matter, the combination of getting our high-speed program launched and, as Governor Thompson said, we expect to take down the first Acela train set next week and put it into service within a month, and then 19 more after that.

The combination of Acela high-speed service in the Northeast and exploding mail and express business across the system in partnership with the freight railroads, continuing to focus on service quality and consistency, which is a big revenue generator for us, and you have seen that over the past summer, and continuing to focus, as Ken and Phyllis have said, on cost structure—which we are religious about entirely, and it is not about trains, it is about back office systems and costs associated with the invisible stuff.

You do not see behind the operation, and there is lots of opportunity that we have clearly identified. We will put all that together, and we will be at or very close to where we need to be by 2003, and the problem will be, we will get there and unless this capital problem is solved between now and then, frankly, it will all be for naught, and we will be wringing our hands about what a disaster we have wrought then over 34 years, or 35 years.

And the prospect of that occurring within the context of extraordinary political pressure and economic pressure all over this country—I travel all over the place, and the thirst for this kind of service and success—and this is about choice and alternatives, practical choices and practical alternatives, across America. There is an incredible thirst for it out all across this country.

The irony will be if we do not solve it as a matter of national public policy, investing in intercity and high-speed rail service in America—we will get at or close to where we need to get to. We will deal with a lot of Ken's issues, but if we do not solve the capital problem it will all be for naught, and we will frankly be spinning our wheels over the next couple of years.

The CHAIRMAN. Senator Hutchison, I have been informed the other side has objected to this hearing, and we were supposed to have stopped about 10 minutes ago. I apologize, but we have to adhere to the rules of the Senate. I was just informed of that. I am sorry about that. We will have another hearing in January, and I would ask the indulgence of my colleagues to allow Senator Cleland at least to make a comment, since he has been here.

Senator HUTCHISON. Absolutely, Mr. Chairman, and I do hope that when we have the future hearings that you will be as relaxed as possible so we can have back-and-forth, because this is obviously a very important issue to you and to many of us, and we need to have all the facts out there on the table.

Thank you.

The CHAIRMAN. Absolutely. Senator Cleland, I apologize. I want to mention, it was over here that the hearing was objected to.

STATEMENT OF HON. MAX CLELAND, U.S. SENATOR FROM GEORGIA

Mr. Chairman, today's hearing has been called in response to the just-released report by the DOT Inspector General on the state of Amtrak's financial performance. The report states, and I quote, "Without major corrective action Amtrak will not achieve operating self-sufficiency in 2003." Today we will have the opportunity to hear more on the report's findings and to hear Amtrak's response.

Let me just say that in poll after poll, Americans support a nationwide passenger rail system and further, they support government contributions to keep that system running. I am amazed over estimates that show that Congress has provided just enough support to keep Amtrak operating at the level of service it has offered for the past 29 years. Since its creation in 1971, Amtrak has received just $23 billion from the Congress, for an average contribution of $790 million a year. By contrast, Western European governments, in just 9 years, from 1980 to 1989, provided $101 billion to their railways. This is more than 4 times what Amtrak has received in the entire 29 years of its history.

In a House hearing this spring, it was pointed out that several States across this country are appropriating funds to make improvements in their passenger rail service, even in the absence of federal matching funds. And no wonder: High speed rail is a viable alternative to 2 of the 21st century's most challenging and frustrating problems, sprawl and traffic congestion.

Mr. Chairman, the promise of high speed rail is critical in my state of Georgia. Why? Because our highways and skyways are approaching gridlock. Today Metro Atlanta has the very worst traffic congestion of any Southern city, and Metro Atlantans drive more miles than drivers in any other part of the country. Hartsfield International Airport, with 78 million passengers, is both the world's busiest airport and the world's most delay-impacted airport. Last year Hartsfield's passengers collectively experienced over 4500 days in lost time. High-speed trains offer another option—and Georgia's commitment to rail is shown in its bottom line: a state budget investment of $45 million next year for passenger rail! And there's more: Georgia is prepared to flex over $300 million from highway funds to passenger rail over the next 4 years.

In closing let me say that we should look hard at providing Amtrak enough money to achieve the goals mandated by Congress: to provide national service and operate at a profit. One of the best ways to do this is to enact the High Speed Rail Investment Act. An investment in high-speed, high-quality rail will benefit commuters across this land by helping our nation change its focus from moving cars to moving people, from promoting sprawl to promoting smart growth. The future of our transportation system, and therefore of our economy, depends on far-sighted national statesmanship. Thank you, Mr. Chairman, and I look forward to hearing from our witnesses.

Senator CLELAND. If I find out who on my side canceled this hearing I am going to wring their neck.

[Laughter.]

Senator CLELAND. Let me just say, I think Amtrak has been caught for the last 29 years in that conundrum, kind of catch-22, that meetings will continue until morale improves.

[Laughter.]

Senator CLELAND. In so many ways we have been starving you and then expecting you to perform, and I think you know the Yogi

Berra comment, that is that when you get to a fork in the road, take it, is true, too.

We are at a fork in the road, there is no question about it, and I think we are, Mr. Carmichael, confusing operations, quote, "subsidies," with legitimate investment and infrastructure. Senator Hutchison is right. What company, what business, private or nonprofit, what entity, what organization would expect to grow, meet new market demand and so forth, without an infusion of capital? Let us face it, that has got to happen.

I just came back from Japan. I was medivacced there 32 years ago, and did not get a chance to spend much time there then, but recently I just got back from Japan. I spent a few days there, talked to Ambassador Tom Foley. We all know that Japan was leveled in 1945, literally. I talked to one serviceman whose father said that he went into Tokyo September 2, 1945, after the signing of the surrender, and nothing was standing in Tokyo but the safes, just the safes.

Now, 55 years later, after the Japanese have made a concerted effort to invest dramatically in their economy, and the things that boost their economy, a tremendous educational system and a massive infrastructure development program, particularly in terms of rail—Ambassador Tom Foley mentioned to me he was invited to a recent test of a magnetic levitation train in Japan that will go 320 miles an hour. Now, they lost the war.

In 1945 we had the finest rail system in the world, in the known universe. Japan lost the war, yet they have a world-class system. We won the war and we are sucking air between Richmond and Washington. I mean, that really does not make sense.

So I think we are at a fork in the road. Most Americans support a nation-wide passenger rail system. They support government contributions, and we have been stingy in many ways to give you enough just to survive.

I want to say Western European Governments have poured 4 times the amount of money into their rail systems that we have. My State is willing to put in well over $30 million a year, and if we bring this plan to fruition here where we bring Amtrak in, the fast trains, 140 miles an hour down through the Carolinas to Macon, Georgia is willing to flex some $300 million in transportation funds your way.

So my State is ready for you to come south. We welcome it, and especially all of those 78 million passengers who sit out on Hartsfield's tarmac for an hour and a half. We are looking for options to ride somewhere on time. At Hartsfield, passengers clocked some 4,500 days in lost time last year, just at the Atlanta airport alone, the busiest airport in the world and yet the most delay-impacted airport in the world.

So I think that we are at a fork in the road. It is time we invested in high-speed, high quality rail, which benefits the commuters across our Nation, that works on the problems of urban sprawl, and is part of our smart growth strategy.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. I want to thank the witnesses, and I apologize that here at the end of the session sometimes these things happen. Hearings are objected to for reasons that have nothing to do with the hearing.

This is a very important hearing. I would emphasize again, after you are prepared to come back before the Congress in January or February and you will notify us we will have another hearing, and Senator Hutchison, it has been the practice of this Committee to have free give-and-take, and I will continue it in this hearing as well, and we would have continued, I am sure, for a long time. It is probably a relief to the witnesses that we are not, but if we not had this hearing objected to——

Senator HUTCHISON. Well, thank you, Mr. Chairman, because I had a number of followup questions, because if you look at the timing of this hearing, I do not feel like we did have a chance to make our case, and it is no fault of yours that the last half did not get the equal time, but at some point we cannot have a legitimate debate on this issue if we do not have both sides.

And I hope that we will be able to settle in your mind and everyone else's the issue of capital needs in order to give them the fighting chance to make that 2003 deadline, and I hope that we do set the base so that we will be able to spread out and have the truly national system that stops in Phoenix, too.

The CHAIRMAN. It will be a cold day in Gila Bend.

STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Thank you. I would like to express my appreciation to the Chair for scheduling this hearing today. I hope it will give us an opportunity to highlight Amtrak's successes as well as focus on the challenges Amtrak faces for the future. This Committee, we should remember, gave Amtrak 5 years to achieve operating self-sufficiency under the Amtrak Reform and Accountability Act of 1997, which was enacted December 2, 1997. The Act contains provisions designed to help Amtrak not require federal operating funds after the end of FY2002.

For many years, I have been a supporter of Amtrak and would like to express my strong support for a national passenger rail system and the need to maintain a passenger rail system which is flexible and possesses the incentives necessary to become self-sufficient.

Today, my home State of Maine is one of only a handful of states in the continental United States that is not served by passenger rail service. I am proud and excited that after a decade of hard work, negotiations, and a bit of heartache, Maine will find itself finally a member of the Amtrak family this spring. I thank Amtrak for working with me over the years to make this service a reality, and I very much look forward to riding the new Boston-Portland train. The State of Maine is also working on plans to upgrade the Boston-Portland line to a high-speed rail service in the future, and also may extend the line even further north to Lewiston-Auburn, Maine and elsewhere.

More than 25 years ago, Congress created Amtrak to consolidate and strengthen our national passenger rail system. Watching the success with which new and higher-speed rail service swept through Europe and the Pacific Rim, we recognized the opportunities that rail service could provide as a part of our overall transportation system.

But today, the Amtrak system remains incomplete and the system faces many challenges. While Amtrak provides rail service throughout this nation, a variety of factors—including lack of investment in the future of rail, and the failure of Amtrak to operate like a business—have combined to keep our national rail system from attracting the type of widespread and popular usage that has marked service in most other modern, industrialized democracies in Europe and Asia.

I believe that if we are to confront our great transportation challenges—including air traffic delays and highway gridlock—an enhanced nation-wide rail network must be part of the solution. And yet, investment in our national passenger rail system has traditionally lagged far behind investment in highways and air travel.

A 1993 CRS analysis of per capita federal spending on transportation noted that while we spend $79 per person for highways and $44 per person on the Essential Air Service subsidy program (under which certain air travel markets are subsidized by the federal government), Amtrak received only $27 per person.

Federal spending on other modes literally dwarfs our investment in rail, and spending on other modes has been increasing over the last 20 years, while spending on passenger rail has remained flat or declined. Meanwhile, the U.S. ranks among the bottom of all major industrialized nations in terms of support for rail travel.

Nonetheless, I do believe that Amtrak must be able to meet the next century as a financially efficient and independent entity. On this, I think we can all agree. And Amtrak has committed to achieving this goal. In this day and age when not just every dollar counts, but every cent, I believe we are rightly placing the burden of proof on Amtrak. Amtrak certainly faces enormous challenges. The GAO and the DOT IG have both identified challenges that I believe Amtrak must overcome in order to become self-sufficient. We must address these issues forthrightly.

But there are some positive signs as well. Moody's Investor Service has issued a high credit rating to Amtrak, based on the expectation that the service would become self-sufficient. Standard and Poors issued a positive report about Amtrak's performance as well. In addition, Amtrak has developed an impressive service guarantee, under which passengers who are not satisfied may receive vouchers for free travel. And Amtrak recently reported that August 2000 capped its best summer ever! Nearly 2.1 million passengers rode Amtrak in August, a 21-year high. As a result, Amtrak set a record for ticket revenue last month.

Amtrak will testify here today that it will indeed achieve operating self-sufficiency by 2003. There are critics who will question the numbers and Amtrak's financial assumptions, and I believe that Amtrak must convince us. After all, as I have said, this Committee put Amtrak on this track in 1997.

This is certainly no time to turn our back on national passenger rail.

So I look forward to working as a Member of this Committee, Amtrak, and others to confront these challenges. Once again, I would like to express my appreciation to the Chair and my thanks to the witnesses for sharing their insights on the current standing and the future of Amtrak.

Thank you.

I thank the witnesses. This hearing is adjourned.

[Whereupon, at 11:50 a.m., the Committee adjourned.]

APPENDIX

UNITED RAIL PASSENGER ALLIANCE, INC.
August 24, 2000

Hon. JOHN MCCAIN,
Chairperson,
Senate Committee on Commerce,
Science and Transportation,
Washington, DC.

RE: AMTRAK

Dear Senator McCain:

Thank you for this opportunity to present the views of the United Rail Passenger Alliance on reorganizing how the United States provides intercity rail passenger service.

The current scheme involves use of a single, monopoly provider, the National Railroad Passenger Corporation, known as Amtrak. Amtrak was formed in 1970 to federalize passenger rail service as part of a successful federal effort to revitalize our railroad industry. Nowhere else, however, does America embrace a monopoly service provider, and Amtrak rail passenger service suffers the same shortcomings as any monopoly: very high costs, limited output, little or no meaningful innovation, and no growth.

Amtrak's output is lower and its service network smaller, and its costs and operating losses are higher, than they were 10 years ago. Amtrak takes in, on average, more than three-quarters of a billion dollars a year in state and federal subsidies and will continue to do so into the indefinite future. Without that subsidy, it would immediately collapse and all of its operations in every market would cease. The rate of subsidization will not change, even if Amtrak reclassifies its losses from one nomenclature to another. The GAO recently reported Amtrak has over $9 billion in immediate, unfunded capital needs. Amtrak's subsidies already total nearly $25 billion over the last 29 years.

For this, we have underutilized but saturation levels of service in the Northeast. where load factors average just 35 percent, and a woefully deficient service in 90 percent of the U.S. Amtrak does not even serve Phoenix or Las Vegas at all. Many huge city pair travel markets have no rail service between them, such as Dallas and Denver, Minneapolis and St. Louis, or Atlanta and Chicago.

This does not have to be.

URPA is convinced we could enjoy steady growth in our national system—on the scale of tripling or quadrupling output in a much larger service matrix—allowing our interregional passenger train network to become—like Conrail—a successful private sector taxpaying business over a five-year transitional period. We can also allow Amtrak to continue to pursue its high speed rail dream in high density corridors, free of the distraction of national markets it clearly does not appreciate or understand.

But we cannot reasonably expect those results from the current organization, which has experienced only 29 years of unrelenting financial failure, and a shrinking national service.

URPA recommends that the National Railroad Passenger Corporation be divided up, on the model of the highly successful breakup in 1984 of AT&T Corp., into a half dozen autonomous rail service providers, spun off from Amtrak as the "Baby Bells" were spun off from AT&T. These would include separate entities to own and operate each of our discrete regional corridor networks, one to take over interregional services, and leaving the Northeast corridor and its Acela program with the current Amtrak company and its management. Each entity could then focus all of its attention on a single business that it understands and values.

Our detailed analysis of Amtrak and our plan for its reorganization are attached.* It shows how the regional corridors will operate as autonomous bodies, how the long distance operation must—and can—grow by a factor of 3 to 5 times today's scale, and how these organizations will be empowered to compete with one another for business. Competition will drive innovation, efficiency and growth in rail passenger service, just as it does elsewhere in our economy. After the brief transitional period, the entity operating the long distance interregional trains like any successful airline will be completely free of any federal operating subsidy of any kind.

We would be pleased to provide additional information if you wish. United Rail Passenger Alliance is an independent public policy research organization focusing on surface passenger transportation systems.

Respectfully Submitted,

ANDREW C. SELDEN,
Vice President—Law and Policy.

PREPARED STATEMENT OF ROSS B. CAPON, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Thank you for the opportunity to present these views. Our non-partisan Association—whose members are individuals—has worked since 1967 towards development of a modern rail passenger network in the U.S.

Recent Amtrak Performance: We are encouraged by ridership and revenue trends of recent years. We are particularly encouraged by the public's warm response to the two Acela Regional Boston-New York-Washington round-trips inaugurated January 31, which include 4-hour Boston-New York running times. This suggests to us that response to the faster new trains, and to more frequent Regional services, will be at the high end of projections. We remain painfully aware that overall ridership would be much higher except for stiff fare increases in 1995–96 to cover budget shortfalls. There is a conflict between the goals of maximizing Amtrak's ability to ease highway and aviation congestion and of reaching operational self-sufficiency.

High Speed Rail Investment Act: We strongly support the High Speed Rail Investment Act (HSRIA) and believe that, far from being inconsistent with the Amtrak Reform and Accountability Act, HSRIA supports the ARAA. The main goal of the HSRIA is to upgrade infrastructure that Amtrak already uses, increasing speeds, reliability and frequency of Amtrak trains and thus improving: their usefulness to the traveling public, their economic performance, and Amtrak's bottom line. The benefits are not limited to short-distance corridor trains, since Amtrak's long-distance trains also use most of the lines to be upgraded.

By virtue of the requirement of a 20 percent state match, states will have considerable control over what investment takes place. We believe that the process through which states determine their willingness to make investments will be a major force to insure that the best projects get priority. This is the exact antithesis of the Amtrak economic nightmares of the 1970s when, for example, a high-speed turbotrain was effectively ordered to the low-speed, low-ridership-potential Washington-Parkersburg, West Virginia, route, and no state contribution was required. (Amtrak service to Parkersburg ended in 1981.)

Although the HSRIA was introduced in November, 1999, just during the late summer of 2000 there has been a flurry of suggestions about ways to "improve" the bill. We do not have strong views on many of these details, only a concern that the revision process not kill the bill as Congress struggles to end its session quickly. It is hard to get 55 senators and 159 representatives to sign onto roughly the same piece of pro-intercity-passenger-rail legislation. If the process must be restarted next year with a substantially different piece of legislation, and with some of the strongest supporters of passenger rail no longer on Capitol Hill, it may be a long time indeed before tangible results are achieved. This delay could mean that any success or near-success Amtrak might have in reaching its "operational self-sufficiency" goal in FY 2003 could be short-lived. Attaining that goal is meaningless if Amtrak "crashes and burns" within a few years for lack of ongoing capital investment.

Alternate Funding Methods: If "substantially different" means a funding source other than bonds, success would be even harder to imagine. Congress has effectively "fire-walled" the regular transportation appropriations process, so that 85 percent of funds are earmarked for highways, aviation and—to a lesser extent—mass transit. The remaining 15 percent is barely enough to accommodate the Coast

*The information referred to has been retained in the Committee files.

Guard, the continued use of general funds for portions of the aviation and mass transit budgets, and “basic” Amtrak funding.

Mode-specific trust funds, combined with the firewalls, bias federal transportation spending towards spending still more on highways and aviation, even in situations where rail could do the job better. It smacks of saying that highway and aviation trust fund dollars belong to the road and aviation lobbies rather than to the people—or that people are “drivers” or “airplane customers” when they are really travelers who use all forms of transportation and, in many cases, wish that good rail service was available in their own country the way it is in many foreign countries they visit.

Obviously, we don’t agree with the firewalls, but that doesn’t change the reality that they exist. Indeed, efforts to maintain intercity passenger rail as the sole surface mode not eligible for Highway Trust Fund spending continue. A 10-year postponement of any opportunity to change that may be the price that passenger rail pays for enactment of HSRIA.

Alternate Organization: The Amtrak Reform Council issued “a staff working paper” on August 22. This paper makes the case for placing Amtrak-owned infrastructure in a separate organization. We doubt the practicality of this, or the benefits of creating a new infrastructure organization with an even greater Northeast bias than Amtrak already has.

Moreover, even in the Northeast, Amtrak does not own the entire corridor. It is unlikely that Metro North would relinquish ownership of its New Haven-New York line any more than Amtrak would want to lose ownership of Amtrak-owned lines. (The Corridor within Massachusetts is owned by that state.)

Outside the Northeast, corridor ownership has begun to move away from the freight railroads. For example, the ex-Santa Fe Fullerton-San Diego line now is owned by the counties. Again, it seems unlikely that present owners would eagerly relinquish ownership to a new national organization of any kind, much less a Northeast-dominated one.

Fundamental financing needs would remain no matter how the industry is organized.

Finally, the suggestion that Amtrak could do fewer jobs better (i.e., be relieved of, for example, infrastructure ownership) seems to be sheer speculation. If there are problems in how Amtrak is managing activities in Chicago or on the West Coast, it does not follow that relieving Amtrak of Northeast infrastructure ownership means these other issues will be handled better.

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