

CRS Report for Congress

Amtrak: Budget and Reauthorization

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Summary

Amtrak was created by Congress in 1970 to provide intercity passenger railroad service. It operates approximately 44 routes over 22,000 miles of track, 97% of which is owned by freight rail companies. It runs a deficit each year, and requires federal assistance to cover operating losses and capital investment. Without a yearly federal grant to cover operating losses, Amtrak would not survive as presently configured. The crux of the public policy issue facing Congress has been succinctly stated by the Department of Transportation Inspector General (DOT IG): “To create a new model for intercity passenger rail, a comprehensive reauthorization that provides new direction and adequate funding is needed. The problem with the current model extends beyond funding — there are inadequate incentives for Amtrak to provide cost-effective service; state-of-good-repair needs are not being adequately addressed; and states have insufficient leverage in determining service quality options, in part because Amtrak receives Federal rail funds, not the states.”

During the last three Congresses, Amtrak policy was stalemated and no consensus could be reached on what kind of passenger rail system to fund. Congress failed to endorse Amtrak’s strategy of maintaining its full current network while restoring its infrastructure to a state of good repair. In the 109th Congress, the Administration and Amtrak had presented proposals for “reform.”

Appropriations. The Consolidated Appropriations Act, 2008 (P.L. 110-161), provided \$1.325 billion in grants to Amtrak plus \$30 million to the states in a new matching grant program for passenger rail-related capital improvements. For FY2009, the President is requesting \$900 million for Amtrak, which is the same amount the Administration requested and \$455 million less than Congress appropriated last year. Amtrak is requesting \$1.671 billion, which is \$316 million more than Congress appropriated last year. Amtrak’s request does not include \$114 million in “back pay” for some of Amtrak’s union employees, one of the recommendations of Presidential Emergency Board 242, which was recently appointed to resolve a labor dispute.

Reauthorization. Amtrak’s authorization expired in December 2002. Reauthorization issues in the 110th Congress include Amtrak’s funding level, the size of its network, the introduction of competition for routes, and Amtrak restructuring. As Congress once again considers Amtrak reauthorization, the range of options for passenger rail include (1) providing higher levels of funding to support an expanded passenger rail system; (2) providing funding for operating and maintaining the current system; (3) focusing available resources on providing service only to those corridors that can be justified on economic grounds; (4) reducing Amtrak funding and eliminating much of the present passenger rail network; (5) eliminating funding for Amtrak and reorganizing passenger rail service in the United States. Various combinations of the above options are also possible. Senators Frank R. Lautenberg and Trent Lott introduced an Amtrak reauthorization bill, the Passenger Rail Investment and Improvement Act of 2007 (S. 294) on January 16, 2007, and the Senate passed this bill with amendments on October 20, 2007. This report will be updated.

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Amtrak: Budget and Reauthorization

Background and Analysis

Amtrak — officially, the National Railroad Passenger Corporation — is the nation’s only provider of intercity passenger rail service. Amtrak is structured as a private company, but virtually all its shares are held by the United States Department of Transportation (DOT). Amtrak was created by Congress in 1970 to maintain a minimum level of intercity passenger rail service, while relieving the railroad companies of the financial burden of providing that money-losing service. Although created as a for-profit corporation, Amtrak, like intercity passenger rail operators in other countries, has not been able to make a profit. During the last 35 years, federal assistance to Amtrak has amounted to approximately \$30 billion.¹

Amtrak’s approximately 19,000 employees operate trains and maintain its infrastructure. The company operates approximately 44 routes over 21,000 miles of track. Most of that track is owned by freight rail companies; Amtrak owns about 625 route miles of track.² The section it owns — the Northeast Corridor (NEC) — includes some of the most heavily used segments of track in the nation. Amtrak “is distinctly a minority user on certain portions of the NEC. By far, the greatest volume of NEC traffic is represented by” commuter and freight trains.³ Amtrak operates corridor routes (covering distances under 400 miles) and long-distance routes (over 400 miles in length). Some of Amtrak’s corridor routes are supported in part by assistance from the states they serve. Amtrak also operates commuter service under contract with state and local commuter authorities in various parts of the country.

Although Amtrak’s FY2005-FY2009 Strategic Plan calls for more than \$8 billion in federal assistance over five years, Congress has thus far declined to provide the requested funding. Amtrak’s annual appropriation has been \$1.3 billion since FY2003, enough to keep the system operating, but not enough to prevent the deferral of some significant maintenance projects. Although short of the funding required to accomplish Amtrak’s strategic vision, Amtrak has resisted reorganizing the system. According to the DOT IG, Amtrak would need about \$2 billion a year to restore the system to a state-of-good-repair and develop corridor service or \$1.4 billion simply

¹ GAO, *Intercity Passenger Rail: National Policy and Strategies Needed to Maximize Public Benefits from Federal Expenditures*, GAO-07-15, November 2006, p. 11.

² Amtrak. *National Fact Sheet*, September 2006.

³ Amtrak. *Annual Report to Congress*. February 17, 2005. p. 3.

to keep the system from falling into further disrepair.⁴ More fundamentally, the DOT IG has stated that a new federal intercity passenger rail strategy is needed:

The current model for providing intercity passenger service continues to produce financial instability and poor service quality. Despite multiple efforts over the years to change Amtrak's structure and funding, we have a system that limps along, is never in a state-of-good-repair, awash in debt, and perpetually on the edge of collapse. In the end, Amtrak has been tasked to be all things to all people, but the model under which it operates leaves many unsatisfied.⁵

The President's FY2006 budget proposal requested no money for Amtrak. The Administration did request \$360 million for the Surface Transportation Board to support commuter rail services that depend on Amtrak, in the event that Amtrak ceased operations during FY2006: "With no subsidies, Amtrak would quickly enter bankruptcy, which would likely lead to the elimination of inefficient operations and the reorganization of the railroad through bankruptcy proceedings."⁶ While the Administration had issued veto threats against the FY2006 DOT appropriations bills that provided funds for Amtrak without significant reforms to Amtrak's structure and operations, the President signed a \$1.315 billion appropriation for Amtrak (H.R. 3058; P.L. 109-115). While the Administration requested \$900 million for Amtrak in fiscal years 2007, 2008, and again for 2009, it continues to seek major changes in the organizational structure of intercity passenger rail service in this country (see below).

On November 3, 2005, the GAO released a report that was highly critical of Amtrak's management and performance.⁷ On November 9, 2005, Amtrak's President and CEO, David Gunn, was fired by Amtrak's Board of Directors. Gunn was opposed to some of the more far reaching restructuring proposals sought by the Administration and the Amtrak Board, such as splitting the infrastructure component and the operating component on the Northeast Corridor (NEC) into two separate entities. On September 28, 2006 Amtrak's new CEO, Alex Kummant, testified before the House Railroads Subcommittee that he was committed to operating a national system of trains and that he believed long-distance trains were an important part of the nation's transportation network.⁸ He also testified that the fastest growing service was in rail corridors between city pairs of 300-500 miles and that developing these corridors was going to be the driving force of Amtrak's future. Amtrak has demonstrated that rail can play a significant role in intercity passenger travel in certain corridors. Slightly more people travel by train than fly between New York City and Washington, D.C.,

⁴ Statement of Mark Dayton, DOT IG, before the Senate Committee on Appropriations Subcommittee on Transportation, Treasury, the Judiciary, Housing, and Urban Development, and Related Agencies, *Intercity Passenger Rail and Amtrak*, March 16, 2006, CC-2006-026, p. 11.

⁵ Dayton, Statement, March 16, 2006, p. 3.

⁶ *Budget of the United States, FY2006*, p. 243.

⁷ GAO, *Amtrak Management: Systemic Problems Require Actions to Improve Efficiency, Effectiveness, and Accountability*, GAO-06-145, October 2005.

⁸ Testimony of Alex Kummant, President and CEO of Amtrak, House Committee on Transportation and Infrastructure, Subcommittee on Railroads, September 28, 2006.

while slightly fewer people travel by train than fly between New York City and Boston.⁹

Federal Oversight of Amtrak

Congress has included provisions in Amtrak's recent appropriations, beginning in FY2003 (P.L. 108-7; 117 STAT 11), intended to bring greater transparency to Amtrak's finances and to increase DOT's control over Amtrak's use of its appropriation. Amtrak is required to submit a Strategic Plan to Congress, updated annually, and is prohibited from making expenditures not programmed in the Strategic Plan without advance notice to Congress. Amtrak is also required to submit a monthly financial statement to Congress. Also, Congress changed the way Amtrak receives its funding; the funding no longer goes directly to Amtrak, but is allocated to the Secretary of Transportation, who makes quarterly grants to Amtrak. Amtrak is required to submit grant applications to DOT for each route to receive this funding.

Finances

Amtrak runs a deficit of over a billion dollars each year. Virtually all of Amtrak's 44 or so routes lose money but the long-distance routes lose the most.¹⁰ According to the DOT IG, "in 2004, long-distance trains cumulatively incurred operating losses of more than \$600 million (excluding interest and depreciation)."¹¹ By his calculation, eliminating long-distance service will reduce operating losses by about \$300 million, far too little to make Amtrak profitable. In congressional testimony, the DOT IG stated that long distance trains accounted for only 15% of total intercity rail ridership and that 77% of long-distance train passengers traveled along only portions of the routes, not end-to-end trips. Trips mostly ranged from 500-700 miles, slightly longer than corridor trips.¹² The IG estimated that Amtrak could realize "annual operating savings of between \$75 million and \$158 million, and an additional \$79 million in planned annual capital expenditures that could be avoided" by eliminating the highly-subsidized sleeper class service from its long-distance trains.¹³ Sleeper class service includes a sleeping room and prepaid meals in the train's dining car; coach class passengers on long-distance trains sleep in their seats on overnight trips, and usually buy food in the train's lounge car. On October 10, 2006, the DOT

⁹ Amtrak's FY2009 Budget Request, p. 12.

¹⁰ Only Amtrak's signature 'high-speed' service on the Northeast Corridor, the Acela, and its companion Metroliner service, consistently earn more than their operating costs. However, the annual maintenance cost of the Northeast Corridor dwarfs the operating profit generated by Acela and Metroliner service.

¹¹ Testimony of Kenneth Mead, DOT IG, *Reauthorization of Intercity Passenger Rail and Amtrak*, Senate Committee on Commerce, Science, and Transportation, Subcommittee on Surface Transportation and Merchant Marine, April 21, 2005, p. 6.

¹² *Ibid.*

¹³ DOT IG. *Analysis of Cost Savings on Amtrak's Long-Distance Services*. CR-2005-068. July 22, 2005. p. 2, 9.

IG reported that Amtrak has begun restructuring sleeper class service and expects to save up to \$20 million in FY2007 from this restructuring.¹⁴

In addition to its annual deficit, Amtrak has major liabilities due to deferred maintenance and accumulated debt. Lacking money to complete all its capital repair and maintenance projects, Amtrak has deferred many maintenance projects. This has led the DOT IG to observe that Amtrak's continued deferral of maintenance increases the risk of a major failure on its system. Amtrak has an estimated \$6 billion in backlogged capital maintenance needs, of which about \$4 billion is needed on the NEC.¹⁵ These include replacement of aging bridges, signal equipment, and catenary (the power source for the Northeast Corridor trains), improvements to tunnels and track, repair of wrecked equipment, and overhaul of aging equipment. The IG has criticized some of the capital spending choices Amtrak has made, such as refurbishing sleeper cars instead of replacing aging bridges. The Amtrak Reform Council and the DOT IG have both estimated that Amtrak requires around \$1.5 - \$2 billion in federal operating and capital support annually.¹⁶ This is a higher level of federal funding than Amtrak has ever consistently received.

In recent years Amtrak has stopped borrowing, trimmed its workforce, and cut its expenses, while at the same time achieving increases in ridership. However, the cuts in expenses have been small relative to Amtrak's annual deficit, and increases in ridership have been relatively modest as well. In this context, the DOT IG has observed that "it is difficult to see how Amtrak can achieve further reductions within its Federal operating subsidy without addressing state-supported routes, route restructuring, and labor contracts."¹⁷ Amtrak did not gain any flexibility in work rules in its latest labor agreement. While Amtrak competes with freight and commuter railroads to retain its workforce, it competes with the airlines (on its corridor routes) in terms of labor productivity.

Amtrak's internal options for significantly reducing its annual deficit in the short term are limited. Its two major cost categories are the operating losses of the long-distance trains and maintenance costs of the Northeast Corridor. Reducing the size of its system could, in the long run, significantly reduce Amtrak's deficit and the long-run cost to the Federal Government, although Amtrak would still run a short-term deficit even if it eliminated all its long-distance trains, because of severance payments to employees. Additionally, the costs of maintaining the Northeast Corridor would remain, whatever the fate of long-distance service. Amtrak interprets 49 U.S.C. 24701

¹⁴ DOT IG, *Fourth Quarterly Report on Cost-Savings Accrued by Amtrak Operational Reform*, October 10, 2006, CC-2006-068, p. 9.

¹⁵ GAO, *Intercity Passenger Rail: National Policy and Strategies Needed to Maximize Public Benefits from Federal Expenditures*, GAO-07-15, November 2006, p. 18.

¹⁶ The Amtrak Reform Council was created by the Amtrak Reform and Accountability Act of 1997 to recommend improvements to Amtrak and to draw up a new policy for intercity passenger rail service. While acknowledging the structural aspects of Amtrak's deficit, both the Reform Council and the DOT IG have also been critical of Amtrak's management, as have the Government Accountability Office and other observers.

¹⁷ DOT IG, *Fourth Quarterly Report on Cost-Savings Accrued by Amtrak Operational Reform*, October 10, 2006, CC-2006-068, p. 10.

to require it to provide service nationwide, which it takes to mean service that spans the nation, rather than service in different parts of the nation. Thus, Amtrak is unlikely to eliminate or restructure long-distance routes without explicit direction from Congress. Many Members of Congress continue to support a nationwide Amtrak network.

Although Amtrak's ridership has grown slightly from FY2005 to FY2006, Amtrak's on-time performance has declined, due at least in part to the postponement of maintenance work, each year — from 74.1% in FY2003 to 67.8% in FY2006. Amtrak ridership increased by 276,000 passengers (from 24.031 million to 24.307 million) from FY2005 to FY2006, but declined by 747,000 passengers between FY2004, when ridership was over 25 million, and FY2006. It appears unlikely that Amtrak could increase its revenues enough to eliminate its deficits. Total passenger and non-passenger revenues increased by \$130 million from FY2005 to FY2006, but only increased by \$140 million from FY2004 to FY2006. Amtrak has narrowed its operating loss by \$61 million, from \$1.221 billion in FY2005 to \$1.160 billion in FY2006. Its cash operating loss (which excludes interest and depreciation) narrowed from \$584 million to \$545 million.¹⁸

Appropriations

The Consolidated Appropriations Act, 2008 (P.L. 110-161), provided \$1.325 billion in grants to Amtrak plus \$30 million to the states in a new matching grant program for passenger rail-related capital improvements. Of the \$1.325 billion total, \$475 million was provided for operating grants, and \$850 million was provided in capital and debt service grants.

For FY2009, the President requests \$900 million for Amtrak, which is the same amount the Administration requested and \$455 million less than Congress appropriated last year. The \$900 million includes \$525 million in capital grants, \$275 million in operating efficiency incentive grants, and \$100 million to continue the state matching capital grant program. Under this program, a state or states could apply for these grants for up to 50% of the total cost of a capital project, provided that the project is on a route that requires no operating subsidy or the state or states are willing to provide the operating subsidy. The project must also be included in the Statewide Transportation Improvement Plan at the time of application. The Administration also proposes establishing a new pilot program to test the feasibility of allowing potential competitors of Amtrak to operate trains on selected routes. The budget request reflects the Administration's position on Amtrak, and states,¹⁹

The Administration expects Amtrak to be run more like a business, with the goal of addressing the nation's mobility problems in a cost-effective way. The Budget proposes to reduce unjustified operating subsidies. The Administration's position is that the Federal government should focus on strategically investing capital rather than allocating scarce resources to operating inefficient trains that fail to solve pressing transportation challenges facing the Nation.

¹⁸ Amtrak. *Monthly Financial Report, September 2006 and September 2005*, various tables. Data in these reports are unaudited.

¹⁹ *FY2009 FRA Budget Justification*, n.p.

For FY2009, Amtrak is requesting \$1.671 billion, which is \$316 million more than Congress appropriated last year. This amount includes \$525 million in operating subsidies, \$801 million in capital spending, and \$345 million for debt service. To justify its operating budget request, Amtrak notes increasing fuel costs, increasing health care costs, and increases in wage costs as a result of a recent bargaining agreement reached with some of Amtrak's unions. As per this labor agreement, Amtrak's budget request does not include \$114 million in "back pay" that was recommended by the President Emergency Board.²⁰ Amtrak's budget request notes a continuing problem with cracking of concrete ties on the Northeast Corridor, and notes that while the contractor is contractually obligated to replace many of the defective ties, it does not cover substantial labor costs associated with replacement. The request also notes that the average age of Amtrak's coach fleet is 24 years and the average age of its locomotive fleet is more than 15 years, and thus replacing rolling stock is a high priority for the railroad.

Amtrak Reauthorization

Amtrak's previous authorization expired in December 2002. The Amtrak Reform and Accountability Act of 1997 (P.L. 105-134; 111 Stat. 2570) authorized Amtrak for the period December 1997 through December 2002. It required that Amtrak operate without federal operating assistance after 2002; this was not accomplished. Since then, reauthorization of Amtrak has been stalled by disagreement over the future of U.S. passenger rail policy. Although numerous bills were introduced in the 108th and 109th Congresses and various approaches have been advanced, Congress has thus far been unwilling either to provide Amtrak with the level of funding that it has requested or to require an Amtrak restructuring that would be consistent with the level of funding that it has been willing to provide. Since 2002, Congress has essentially reached a stalemate with respect to Amtrak. During the 108th and 109th Congresses, it was unable to reauthorize Amtrak or to reach a consensus on what kind of passenger rail system it would be willing to fund. It failed to endorse Amtrak's strategy of maintaining its full current network while restoring its infrastructure to a state of good repair or to provide the funding that would have allowed that strategy to be executed by Amtrak.

As Congress once again considers Amtrak reauthorization, the range of options for passenger rail include (1) providing higher levels of funding to support an expanded passenger rail system; (2) providing funding for operating and maintaining the current system; (3) focusing available resources on providing service only to those corridors that can be justified on economic grounds; (4) reducing Amtrak funding and eliminating much of the present passenger rail network; (5) eliminating funding for Amtrak and reorganizing passenger rail service in the United States. Although various combinations of the above options are possible, the DOT IG has concluded that the 'status quo' option is unsustainable and that federal funding for Amtrak of between \$1.4 billion and \$1.5 billion would be necessary to prevent cuts in service, but would not be enough to restore the system to a state-of-good-repair nor permit investment in new corridor development. In regard to Amtrak reauthorization, the DOT IG urged Congress to consider the following three points: (1) without competition, Amtrak has

²⁰ See *Report to The President by Emergency Board No. 242*, Washington, D.C., December 30, 2007.

few incentives, other than the threat of budget cuts or elimination, for cost control; (2) states rather than Amtrak should decide where and how intercity passenger rail service is provided; and (3) the federal government must be willing to provide adequate funding (but not directly to Amtrak) to bring the infrastructure into a state-of-good-repair.²¹

In the 110th Congress, Senators Frank R. Lautenberg and Trent Lott introduced an Amtrak reauthorization bill, the Passenger Rail Investment and Improvement Act of 2007 (S. 294) on January 16, 2007. This bill would authorize a total of \$3.3 billion for fiscal years 2007 through 2012 in operating grants to be administered by the DOT to Amtrak and \$6.3 billion in capital grants over the same years. Of the \$6.3 billion in capital grants, a certain percentage of this amount, ranging from 3% in FY2007 to 33% in FY2012, would be directed to states rather than to Amtrak. The bill would also allow states to use operators other than Amtrak to provide rail service on particular routes, thus potentially opening up competition for Amtrak. The bill creates a capital match program for a state or group of states for the purpose of providing new or improved intercity rail service. The federal share of this program would be 80%. While the bill repeals the requirement that Amtrak become financially self-sufficient, it does require Amtrak to reduce operating subsidies by 40% over the life of the bill.

S. 294 was approved (with amendments) by the Committee on Commerce, Science, and Transportation on April 25, 2007, and was passed (with amendments) by the full Senate on October 20, 2007. During Senate floor debate, among the amendments rejected was an amendment to limit the per-passenger subsidy amount on Amtrak routes and an amendment to increase the number of routes to be made available for competitive bid. Amendments accepted included an amendment to require Amtrak to publish annual revenue and cost amounts for each route, an amendment giving additional consideration to states with limited Amtrak service when considering new routes, and an amendment expressing the sense of Congress of the need to maintain Amtrak as a national passenger rail system.

During the 109th Congress, the Bush Administration introduced a proposal, the Passenger Rail Investment Reform Act (H.R. 1713 in the 109th Congress) that would restructure Amtrak, splitting it into three functionally independent entities: (1) a corporate entity that would oversee Amtrak restructuring and manage residual responsibilities, including specifically Amtrak's legal right of access to other railroads; (2) a pure passenger rail operating company; and (3) an infrastructure management company. That bill would have provided for the establishment of an interstate compact to operate the Northeast Corridor. Members of the proposed compact included all of the states and the District of Columbia that constitute the NEC. The proposal would have also given states greater decision-making authority with respect to provision of rail service and capital improvements; it also would have required a state matching contribution (of 50%) for capital projects that qualify under planning and other criteria for federal assistance. The bill also would have phased out operating subsidies for long-distance trains, opened routes to competition, and

²¹ Statement of Mark Dayton, DOT IG, before the Senate Committee on Appropriations Subcommittee on Transportation, Treasury, the Judiciary, Housing, and Urban Development, and Related Agencies, *Intercity Passenger Rail and Amtrak*, March 16, 2006, CC-2006-026, pp. 9-10.

authorized buyouts for current employees. The Administration bill called for an annual appropriation of “such sums as necessary” to accomplish the reforms specified in the bill. At a February 2007 hearing on Amtrak, Federal Railroad Administrator, Joseph H. Boardman, reiterated the Administration’s plan to restructure Amtrak and stated that “our overall assessment of S. 294 is that it does not include enough meaningful reforms.”²²

Amtrak’s proposal, issued in April 2005, outlines a series of initiatives that would leave Amtrak as a single integrated entity. Unlike the Administration proposal, the Northeast Corridor infrastructure would not be split from operations. Amtrak has also proposed state matching contributions for capital projects, but unlike the Administration’s 50/50 match, Amtrak recommends a state match of 20%, with a federal contribution making up the remaining 80%. In terms of long-distance routes, Amtrak “continues to believe that these trains play a valuable role, including [1] serving as a foundation of a future rail development program; [2] forming the basis for, and connections to, emerging state-supported corridors; and [3] providing an important transportation link for many under-served rural communities and regions across the country.”²³ To achieve this, Amtrak is requesting continuing “limited” federal operating and equipment support. Amtrak’s initiative also includes a pilot project on one state-supported route by 2007. Amtrak has stated that it “would cooperate fully in providing any requested services — but those services would be provided on a full cost basis consistent with any future competitive environment for rail services.”²⁴ Amtrak has also requested “labor flexibility,” which would require all intercity passenger rail operators be subject to the same labor law; allow Amtrak’s labor contracts to terminate at expiration; and transition all new intercity passenger rail employees out of the Railroad Retirement system into Social Security, with a possible 401(k) option. Amtrak has also requested federal funding for debt service payments or the elimination of Amtrak’s debt burden. Amtrak is working on a revision of its multi-year strategic plan.²⁵

²² Testimony of David Laney, Chairman, Amtrak Board of Directors, House Committee on Transportation and Infrastructure, Subcommittee on Railroads. *Amtrak Strategic Initiatives*. June 12, 2007.

²³ Amtrak. *Amtrak Strategic Reform Initiatives and FY06 Grant Request*. April 2005. p. 25.

²⁴ *Ibid.*, pp. 25-26.

²⁵ Amtrak, *Fiscal 2008 Grant and Legislative Request*, February 15, 2007, p. 9.