

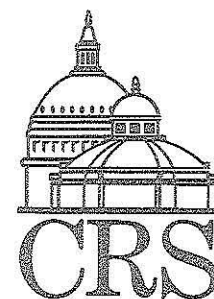
CRS Report for Congress

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Amtrak Reauthorization: S. 738

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SUMMARY

This CRS report compares current law and S. 738, the Amtrak Reform and Accountability Act of 1997. The bill would authorize funding for Amtrak through the year 2002. Amtrak has been appropriated funds for FY1997 (that ends September 30, 1997) although authorization of appropriations to Amtrak expired on September 30, 1994.

The bill was introduced on May 14, 1997, by the Chairman of the Senate Commerce Committee, Subcommittee on Surface Transportation and Merchant Marine, and the bill was referred to that committee. The committee amended and passed the bill on June 26, 1997. This CRS report uses the version of the bill passed by the committee.

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Side-by-side Comparison of Current Law and S. 738

The major provisions of current law are summarized in the left column and corresponding provisions of S. 738 are summarized in the right column. It is important to note that current law would continue in force if S. 738 were enacted, except to the extent that S. 738 would repeal or amend current law. For example, Amtrak has authority to acquire property by eminent domain, and S. 738 would not affect that authority.

Current Law

Authorization of appropriations (§ 24104): Authorization of appropriations for Amtrak expired on September 30, 1994, although appropriations have continued to be made.

Findings, purpose, and goals (§ 24101; all § references are to title 49 of the U.S. Code): Lists 8 findings,

S. 738

Authorization of appropriations (sec. 301) for operating expenses, capital expenditures, and payments for railroad retirement, is as follows:

- \$1.138 billion for FY1998
- \$1.058 billion for FY1999
- \$1.023 billion for FY2000
- \$0.989 billion for FY2001
- \$0.955 billion for FY2002

In general, no funds are authorized thereafter, although payment of retirement benefits and some other things are provided for.

Findings, purpose, and goals (sec. 2): does not amend § 24101

one purpose, and 11 goals, including, for example, the first finding, that states that "Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and the other areas of the United States."

Eminent domain (§ 24311): Provides that Amtrak can acquire property needed to provide intercity rail passenger service, under certain conditions.

Basic system (§ 24701): Amtrak shall provide intercity rail passenger service within the basic system.

Improving rail passenger transportation (§ 24702): Contains provisions regarding a plan to improve transportation, State and local speed restrictions, high-speed rail transportation development, and routes connecting corridors.

Notice of discontinuance (§ 24706(a)): Requires 90-day notice of intent to discontinue service.

Cost and performance review (§ 24707): Requires route reviews, financial requirements; performance standards, cost limitations; revenue goals; and conductor reports.

Special commuter transportation (§ 24708): Provides for special commuter transportation by Amtrak under certain conditions.

International transportation (§ 24709) provides for Amtrak to

except as noted below under the caption "Minimizing federal aid."

Eminent domain: S. 738 has no provision on eminent domain, so the Rail Passenger Service Act of 1970 (P.L. 91-518, Oct. 30, 1970, 84 Stat. 1327, the Act that created Amtrak) as amended, regarding eminent domain would not be affected by enactment of S. 738.

Basic system (sec. 101): Makes no substantive change to basic system requirements of § 24701.

Improving rail passenger transportation (sec. 101): Repeals § 24702.

Notice of discontinuance (sec. 101): Requires 180-day notice of intent to discontinue service.

Cost and performance review (sec. 101): Deletes § 24707.

Special commuter transportation (sec. 101): Repeals § 24708.

International transportation: S. 738 has no provision regarding in-

develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico.

Route and service criteria (§ 24703): Provides criteria for route discontinuances and route additions.

Transportation requested by States, authorities, and other persons (§ 24704) is provided by Amtrak when the requester commits to pay half the capital cost and at least 45 percent of the short term avoidable loss the first year and at least 65 percent of the short term avoidable loss thereafter, with some exceptions contained in § 24104(a).

Routes recommended for discontinuance (§ 24705): This relates to routes the Secretary of Transportation recommended for discontinuance pursuant to section 4 of the Amtrak Improvement Act of 1978.

Amtrak commuter (Chapter 245 of title 49 of the U.S. Code): Authorizes Amtrak to create a wholly-owned subsidiary to operate commuter service. Such an entity has not been created.

Amtrak authority to offer bus service (§ 24305(d)) is not restricted to that which is directly related to Amtrak rail service.

Coordinating bus and Amtrak service: We find no provisions to encourage coordination between bus and Amtrak service in the Rail Passenger Service Act of 1970 as amended.

ternational transportation and these provisions in the Rail Passenger Service Act of 1970 as amended would not be affected.

Route and service criteria (sec. 103): Repeals § 24703.

Transportation requested by States, authorities, and other persons (sec. 105) retains § 24704 and expands it to allow requests from the private sector, separately or in combination with requests from States and others.

Routes recommended for discontinuance (sec. 104): Repeals § 24705.

Amtrak commuter (sec. 106): Repeals Chapter 245 of title 49 of the U.S. Code. Trackage rights for commuter service would continue.

Amtrak authority to offer bus service (sec. 107) is restricted to bus service that is "through service" for Amtrak rail passengers.

Coordinating bus and Amtrak service (sec. 108) is encouraged.

Contracting out (§ 24312(b)): Prohibits contracting out by Amtrak (except for food and beverage service provided on Amtrak trains) if it would result in laying off any Amtrak employees.

Amtrak employee protective arrangements and severance benefits are provided by § 24706(c) when service is discontinued, or when it is reduced to fewer than 3 round trips a week.

Punitive damage caps: We find no provisions on this topic in the Rail Passenger Service Act of 1970 as amended.

Minimizing federal aid: § 24101(d) states that, in order to maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property, Amtrak is "encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies."

An independent financial assessment of Amtrak's funding needs through the year 2002 is not a requirement under the Rail Passenger Service Act of 1970 as amended. § 24315, captioned reports and audits, requires Amtrak to provide

Contracting out (sec. 121): Deletes § 24312(b) without prejudice to Amtrak's ability to contract out for food and beverage service on Amtrak trains. The bill provides a mechanism for resolving collective bargaining issues regarding contracting out.

Amtrak employee protective arrangements and severance benefits (sections 141 and 142) under current law are extinguished, including all provisions of Appendix C-2 to the National Railroad Passenger Corporation Agreement signed July 5, 1973.

A procedure is provided for determining Amtrak employee protective arrangements and severance benefits through collective bargaining, arbitration, and decisions by the National Mediation Board.

Punitive damage caps (sec. 161) are set at two times compensatory damages or \$250,000, whichever is greater.

Minimizing federal aid (sec. 201) adds at the end of § 24101(d) the following: "Amtrak shall prepare a financial plan to operate within ... [its authorized appropriations].... Commencing no later than the fiscal year following the fifth anniversary of enactment of [S. 738], Amtrak shall operate without Federal operating grant funds...."

An independent financial assessment (sec. 202) of Amtrak's funding needs through the year 2002 shall be completed by a private sector entity selected by the Secretary of Transportation within 90 days of receiving the contract. The Depart-

Congress with an annual report of operations, and a general and legislative annual report.

The Secretary of Transportation is required to report on the effectiveness of Amtrak in meeting the requirements for a balanced transportation system.

An independent certified public accountant shall audit the financial statements of Amtrak each year.

The Comptroller General may conduct performance audits of the activities and transactions of Amtrak, and a report of each such audit shall be submitted to Congress.

An Amtrak Reform Council: The evaluation mechanism in the Amtrak Act as amended is stated above under the caption "An independent financial assessment."

Amtrak restructuring or liquidation is not provided for under the Rail Passenger Service Act of 1970 as amended.

ment of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. The Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment meets the requirements of this section. The report shall be presented to the Amtrak Reform Council and others.

In any fiscal year (subsequent to one year from enactment of this Act) for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the one summarized in the last paragraph. The report shall be sent to Amtrak, the Department of Transportation, and specified committees of Congress.

An Amtrak Reform Council (sec. 203) is established to evaluate Amtrak's performance and make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms.

The Council shall submit an annual report to Congress. The report shall assess Amtrak's progress, shall make recommendations for improvements, and shall recommend changes in law it believes to be necessary or appropriate, if any.

Amtrak restructuring or liquidation (sec. 204): Within 120 days of enactment of this Act, the Comptroller General shall submit a report to Congress identifying financial and other issues associated with an Amtrak bankruptcy. The report shall include an analysis of the implications of such a bankruptcy

on the federal government, Amtrak creditors, and the Railroad Retirement System.

The Amtrak Reform Council is required to notify the President and Congress if at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 (summarized under the heading "Minimizing federal aid"), the Council finds that Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201, or if Amtrak will require operating grant funds after the fifth anniversary of enactment of the bill.

Within 90 days of making such notification, the Council shall submit to Congress an action plan for a restructured and rationalized national intercity rail passenger system, and Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

If, within 90 days after Congress receives the plans in the last paragraph, an Act to implement a restructured and rationalized intercity rail passenger system does not become law, then Amtrak shall implement the liquidation plan after modification as may be required to reflect the recommendations, if any, of the Inspector General of the Department of Transportation and the General Accounting Office.

Interstate rail compacts: We do not find in the Rail Passenger Service Act of 1970 as amended, a provision regarding interstate rail compacts for Amtrak service, or a

Interstate rail compacts (sec. 410) are facilitated in their formation, operation, and eligibility to use Federal highway funds to provide intercity rail passenger service.

provision for use of highway funds for Amtrak.

Amtrak's board of directors are appointed under provisions of § 24302. S. 738 would not change those provisions materially, except as indicated.

Amtrak's board of directors (sec. 411) would replace the 2 positions selected by the holders of the preferred stock of Amtrak with one individual with technical expertise in finance and accounting principles, and one individual selected as a representative of the general public. These 2 positions are held by representatives of freight railroads who donated equipment and provided funding to Amtrak when it began in 1971.

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