United States Senate
COMMITTEE ON APPROPRIATIONS

TESTIMONY
Thursday, April 3, 2008
Transportation, Housing and Urban Development, and Related Agencies Subcommittee

Panel II: Future Outlook and Budgetary Needs for AMTRAK.

Witnesses:

The Honorable Joseph H. Boardman
Administrator, Federal Railroad Administration

The Honorable Donna McLean, Chairman of the Board
National Railroad Passenger Corporation-AMTRAK

Mr. Alexander Kummant, President & CEO
National Railroad Passenger Corporation-AMTRAK

Mr. David Tornquist
Assistant Inspector General
United States Department of Transportation

Mr. Joel M. Parker
International Vice President & Special Assistant to the President
Transportation Communications International Union

Statement of
The Honorable Joseph H. Boardman
Federal Railroad Administrator
Before The
Subcommittee on Transportation, Housing and Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
April 3, 2008

Chairman Murray, Ranking Member Bond, I appreciate the opportunity to appear before you today on behalf of Secretary of Transportation Mary Peters and the Bush Administration to discuss the President's budget proposal for fiscal year 2009 as it relates to the Federal Railroad Administration (FRA) and Amtrak.

This budget request continues to support the Administration's commitment to ensuring that the Nation's rail transportation system is safe, secure, and efficient. The requested $1.1 billion will sustain and advance FRA's mission to improve railroad safety, while providing valuable resources to ensure the continuation of intercity passenger rail operations.

As you are aware, safety remains FRA's single most mission essential activity and strategic performance objective. The FY 2009 request includes $185 million in funds to directly support the agency's core safety assurance, oversight and enforcement activities, to achieve our goals of preventing and reducing railroad accidents and incidents and contributing to the avoidance of serious hazardous materials incidents in rail transportation. Included within FRA's safety budget is $1.2 million to expand the implementation of the Close Call Confidential Reporting Pilot (C3RP) program. This initiative allows FRA to more effectively leverage its resources by expanding its partnership with industry to promote risk reduction programs on the nation's railroads.

With regard to FRA's Railroad Research and Development activities, the FY 2009 request includes $34 million to support our Railroad Safety efforts. Of note are new initiatives that fund research in the area of "level boarding" to support further access and compliance with the Americans with Disabilities Act; the development of new Joint Bar Inspection technology; and procurement of a high-speed ultrasonic rail flaw detection system.

By far, the largest portion of FRA's FY 2009 request provides $900 million in financial assistance for intercity passenger rail services. This total includes $800 million in direct subsidies to Amtrak and $100 million to expand the current $30 million Intercity Passenger Rail Grant Program that was appropriated for the first time in FY 2008. In total, this funding level will support continued intercity passenger rail service, while Amtrak's management team continues to make progress in reshaping the company. This funding level encourages Amtrak to continue to undertake meaningful reforms and control spending.

The Administration remains steadfast in its desire to improve the manner by which intercity passenger rail services are provided. This, of necessity, also includes improvements to how Amtrak provides such services and laying the groundwork for the States to have a stronger role in determining the important characteristics of services that they support financially and for the participation of other entities in the provision of intercity passenger rail service under contract to States and/or Amtrak.

The FY 2009 budget request marks part of a multi-year effort to reduce, and eventually eliminate, federally funded operating subsidies for Amtrak. Overall, this level of subsidy is appropriate as it provides Amtrak continuing incentive to more effectively manage costs, rationalize its services, and pursue innovations. It also expands State support for intercity passenger rail, thus putting more of the decisions on what should be operated with public subsidies in the hands of those who know best what intercity passenger needs exist and how best to meet those needs.

Amtrak Capital Grants

The request includes $525 million in direct Federal subsidies for Amtrak capital costs. This amount allows Amtrak and its State partners to continue to address the most pressing investment needs on the Northeast Corridor infrastructure as well as essential equipment investments.

Intercity Passenger Rail Grant Program

In addition, the budget includes the aforementioned $100 million to expand the new Intercity Passenger Rail Grant Program, which awards competitive grants to States to finance the cost of State driven capital improvement priorities associated with intercity passenger rail services. This program encourages State involvement in planning and decision-making for intercity passenger rail service, allowing them to identify where mobility needs justify public investment. Additionally, State involvement in planning and decision-making helps prioritize infrastructure improvements, such as stations, and lets States assure connectivity to other forms of transportation supporting intermodalism within the State. State involvement in funding intercity passenger rail service also provides an added discipline on Amtrak to continually seek ways to provide the highest quality of service. A "Notification of Funds Availability" for this program was published in the *Federal Register* earlier, and we anticipate awarding the first grant under this program later this Fiscal Year.

Amtrak Efficiency Grants

The Administration's request also includes $275 million for operating expenses that are to be made available to Amtrak as they demonstrate and achieve efficiencies. Under this account, the FY 2009 request proposes establishing a new competitive pilot program that would allow the Secretary to test the viability of using non-Amtrak operators on selected routes to provide passenger rail services.

Rail Line Relocation & Improvement Program

Finally, I'd like to offer a brief update on the Rail Line Relocation and Improvement Program. As you know, just over $20 million was appropriated for this new program in FY 2008. FRA is taking aggressive steps to implement the program, and has developed regulations governing its implementation. These regulations are currently being cleared within the Administration. We expect to issue them this spring, with the first grant awards under the program beginning in FY 2009.

I appreciate your attention and would be happy to answer questions that you might have.

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TESTIMONY

OF

DONNA McLEAN
CHAIRMAN, BOARD OF DIRECTORS
AMTRAK

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES

OF THE

SENATE COMMITTEE ON APPROPRIATIONS

THURSDAY, APRIL 3, 2008

Good morning Chairman Murray, Senator Bond, and members of the Committee. Thank you for the opportunity to testify before your committee this morning. My name is Donna McLean, and I am the Chairman of the Board of Amtrak, a position I assumed in November 2007. I was confirmed as a member of the Board of Directors in late July of 2006. Prior to that, I worked as Chief Financial Officer of the Department of Transportation and as the Assistant Administrator for Financial Services at the Federal Aviation Administration. Presently, I work as a consultant and an adjunct professor, and I am based here in Washington, DC.

The Amtrak Board of Directors is a seven-person body, and includes the Secretary of Transportation; currently, five of those seats are filled and two are vacant. I would like to thank the Senate for the recent confirmation of our new board members, Nancy Naples O'Neill of New York and Thomas C. Carper of Illinois. As Chairman, I envision the Board functioning as a governing body, one that provides a combination of oversight and guidance to ensure that the company is working toward the attainment of its strategic objectives. The Board should be in the business of setting goals and monitoring and assessing performance. The day-to-day management of the company and the setting of specific policies within the overarching framework of our strategic goals are going to be the responsibility of Alex and our Executive Committee.

We are currently refining our corporate strategy. We have had a provisional strategy since last summer, and it is included in the business plan we have just published, since it guided the development of our FY 2008 budget. Currently, we are developing a strategy that is multi-year but provides detailed and specific guidance for the next five years. Our strategic priorities must reflect the dual nature of Amtrak, which combines the goals of a private company with the obligations of a public service provider.

<u>Measuring Success at Amtrak</u>

To succeed, this company must be a safe, convenient and affordable transportation choice for travelers. We recognize that we can't be everywhere, and we know that there are markets where we will not have a competitive advantage. But where we do provide service, it must be professionally operated and as responsive as possible to the needs of the traveling public.

So how do we measure success? As Amtrak's management team and I have been working on our multi-year strategic plan, this is the central question that the Board and I have to answer. As Alex will report, our ridership and ticket revenue numbers are increasing in almost all of our markets. That is success, right? Amtrak's corporate debt is decreasing, which is also good. Our operating subsidy needs are increasing. But at the same time, our subsidy per passenger mile is declining. Our FY 07 on time performance was around 82.3 percent in the Northeast Corridor and our share of the air/rail market has also improved, but our capital needs are growing. Our average on-time performance on our long distance train routes in FY 07 varied from a low of 10.2 percent to a high of 86.2 percent.

The good news is we do a pretty good job of tracking and collecting the basic data we need to inform our analysis. The real challenge is going to be analytical – we are going to need to produce answers that matter to us and are useful to other stakeholders. In other words, we are going to have to do some thinking about what we want to know, why we want to know it, and what it's telling us about consumer demand, about the health of our business, and about our internal efficiency. We will have to rely on some additional measurements such as:

- Operating ratio
- Revenue per available seat-mile
- Cost per available seat-mile
- Load factor
- On-time performance
- Customer satisfaction indices
- Partner (state and commuter authority) satisfaction
- Employee satisfaction
- Safety ratio
- Ridership growth

These measures will be key components of both our day-to-day operations and for planning for the long term.

In my written statement I am submitting several charts and graphs that will give you a better understanding of some of the metrics that we rely on to monitor our performance. It is important for you to know that I am asking the questions of the Board, the management, and the employees of Amtrak – how do we measure ourselves? How can we best position ourselves for the future, and how can we meet the growing demand for our services, given our challenges? As we set out to define success at Amtrak, we will strive to be increasingly transparent in all areas of our business. I feel very strongly that it is our highest responsibility to provide information to Congress and our other stakeholders, and that information should be clear, easy to understand, and transparent.

Intermodal Connections

As we strive to provide a service that is increasingly transparent and successful, as transportation providers, we have a couple of important competitive advantages that we can offer travelers that increase their range of choices. We are trying to think of travel not just in terms of a rail trip, but in terms of the passenger's journey. People don't wake up at 5 in the morning to ride an Amtrak train; they wake up early to get to a meeting in Philadelphia which they just happen to do via Amtrak. We must take into consideration the passengers' need to get to and from the train station, a need that intermodal planners will need to satisfy if we are to provide those essential and convenient connections.

In FY 2007, Amtrak carried 56 percent of what we call the "New York to DC air-rail" market – the people who either flew or took the train. That number has been trending generally upward since 2000, when we had 37 percent of the market share. The *Acela* service has been a big contributor to our market share growth. We believe our market advantage is three fold; our service is frequent and reliable; our service is between city centers; and our stations include intermodal connections to the subway, bus, or taxi. That intermodal connection is key to getting our passengers to their final destination.

This is an important advantage – and one that is not limited to the Northeast Corridor. The Bureau of Transportation Statistics recently studied the connectivity of intercity rail and airport facilities, and concluded that while only 34.5 percent of airports in the 48 contiguous states included connectivity with another mode of mass transportation, about 54.3 percent of intercity rail stations did. I think that's an important statistic. The ability to offer travelers a range of choices is vital to Amtrak's appeal, and we consider the development of those connections to be a high priority. This connectivity is currently most marked on the East and West Coasts. This is a pattern not just associated with the Northeast Corridor, but in California, Washington, and Oregon, over 85 percent of the stations have some kind of connectivity, usually bus service. That's a real benefit to travelers, and we want to work on developing that elsewhere.

And as road congestion grows, I think the ability to travel without having to drive a car is going to be increasingly popular, and we need to be poised to provide consumers with that alternative. We are particularly interested in the possibility of offering connections to airports, and we currently have direct connections with five airports: Newark, Baltimore-Washington International, Burbank, Oakland, and Mitchell Field in

Milwaukee. While these are all traffic feeders for Amtrak, they offer the promise of an essential component of an intermodal national transportation policy – the prospect of a system that allows the various modes to provide the transportation services that maximize the consumer's utility.

In conclusion, I hope that you are satisfied with the knowledge that Amtrak is moving forward with a strategic vision that should make sense to most people who understand Amtrak's mission. Our strategy will provide a realistic assessment of what we can do as a transportation provider, of the opportunities we see, and of the types of events and trends that could be obstacles to success. We are committed to measuring our performance, continuous improvement, and defining the true meaning of success. And each step of the way, we will do our level best to provide the transparency that is essential to the policymakers, taxpayers, and passengers that provide the resources for Amtrak's nationwide service.

This concludes my opening statement. I will be happy to answer any questions you might have.

TESTIMONY

OF

ALEX KUMMANT
PRESIDENT AND CHIEF EXECUTIVE OFFICER
AMTRAK

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES

OF THE

SENATE COMMITTEE ON APPROPRIATIONS

THURSDAY, APRIL 3, 2008

Good morning, Madame Chairwoman, and thank you for the opportunity to testify before your committee this morning on Amtrak's financial needs for FY09. As you may know, FY07 finished as a strong year for Amtrak, and FY08 has gotten off to a good start as well. We set an annual ridership record of 25.8 million passengers, the largest in the company's history. We had record summer months and a record Thanksgiving, which are important indicators of the traveling public's preferences and confidence. Our ridership and revenue for FY08 have also been strong; we carried 11.7 percent more riders between the beginning of the fiscal year and the end of February than we carried in FY07, and those riders brought us 14.8 percent more revenue. Finally, we have concluded agreements with most of our unions after years of negotiations. Of the unions before our recent PEB, the members of 9 groups ratified their tentative agreements on March 10, one additional group has ratified an agreement, and we expect the remainder to be complete soon. These agreements follow the recommendations of the Presidential Emergency Board in providing wage increases and retroactive pay to our employees, and our employees will also be making contributions to health care.

With this performance as background, I think it's safe to say that passenger rail service has a bright future. To help shape the next few years, Amtrak is focusing its efforts on a set of key strategic priorities. We are working on increasing revenue, reducing costs, and improving both trip times and systemwide on-time performance. We are also in the process of developing a comprehensive plan for equipment procurement in the coming years; the acquisition of additional equipment is a small component of the FY09 capital request, but we expect it to grow as our electric engines and Amfleet cars approach the end of their useful lives. We are also working with a number of states to develop and augment short-distance corridor operations. We are, however, quickly bumping up against the limits of our existing equipment capacity at a time when states are seeking new service. To address this problem, we are going to need to begin a new equipment procurement cycle.

To realize these strategic priorities, Amtrak will continue to require a certain core level of operating assistance and capital investment from the Federal government. In FY09, Amtrak will need a total of $1.671 billion in Federal assistance. Of this total, $506 million will be required to meet operating costs, $801.4 million will be invested in capital projects, $19 million will be required for the funding of Amtrak's Office of the Inspector General, and $345 million will be spent on debt service. All of these numbers represent increases over our FY08 spending levels, and I will give you some background on them. We have provided additional detail in our FY09 legislative and grant request, which I would ask to have made a part of the record.

We foresee significant cost inflation in several important areas in FY09. The most significant costs will be increases in wages, benefits, and fuel. Wage increases will be a byproduct of the labor agreement, and will add about $27 million to the FY09 budget, but the largest single category of cost increases is going to be benefits. This is principally a reflection of the growing cost of health care. We expect our total benefits costs to rise by $50 million in FY09, and the expenses associated with medical treatment and drugs are at the core of it. We expect that the cost sharing provisions in our labor agreements will to some degree restrain medical cost growth, but that growth is still going to be substantial.

I think it's also important to mention at this point that we have a single additional expense that will come due in FY09. As you may know, from 2002 until early this year, this company and many of its unions were unable to agree on the terms of contracts for our employees. In November 2007, the Administration appointed a Presidential Emergency Board (or PEB) under the terms of the Railway Labor Act to hear the dispute and recommend a settlement, which it did in early January. The management of Amtrak has accepted this recommendation, as have nine of our labor groups; we expect that groups whose ratifications and negotiations are ongoing will likewise accept the contract pattern the PEB recommended. The recommended agreement pattern included a pair of lump sum retroactive payments to Amtrak's employees to effectively extend the raises it offered back to the beginning of the negotiating period, and Amtrak accepted the recommendation. Amtrak believes at this time that it has the financial wherewithal to meet our FY08 wage and retroactive pay obligations, as well as its wage obligations in FY09 and FY10. However the 60% (or $114 million) of the one time "back pay" payment the PEB recommended be made in FY09 is noted separately in the FY09 grant request summary table on page 3 of the leg and grant request, and is not contained in Amtrak's FY09 operating costs. The PEB was aware that Amtrak did not have the means to pay the additional $114 million and recommended that the decision to fund this amount lies with Congress.

To fund our FY09 capital programs, Amtrak is asking for a total of $801.4 million. Of this total, we intend to use $506.9 million to pay for ongoing "state of good repair" (or SOGR) programs dedicated to the rehabilitation of our plant and equipment. In addition to meeting day to day SOGR requirements, we are undertaking an ambitious capital program in FY08. The replacement of the lift span on the Thames River Bridge in New London, Connecticut will be the centerpiece, and we are planning a large scale repair "blitz" on our New England Division in June to undertake repair and replacement work on the electric catenary, several interlocking plants, and a host of smaller projects. We intend to continue our capital investment program effort in FY09, when our program to replace the lift span on the Niantic River Bridge will hit its stride. Big projects like lift bridge replacement are expensive but enduring – we expect the completed span to last for a lifetime. Though we have an aging fleet, we will also be spending significant capital on bringing it into SOGR.

We are also working to comply with the Americans with Disabilities Act, and our 2009 budget includes $68.5 million for that effort. ADA compliance is going to be a significant challenge, and Amtrak is seeking an extension of the current compliance deadline of July 26, 2010, because, even if we had the regulatory guidance and resources to comply, it would still be impossible to achieve compliance by that date. Amtrak is fully focused on making its service accessible, and we are pursuing compliance under the terms of the ADA, but we will need additional time to accomplish that. New rules proposed nearly two years ago by the DOT would materially change the standards for compliance under the Act with respect to station platform level requirements, would add millions of dollars to the compliance cost, and would deprive that aspect of compliance of any clarity and certainty. Even under the current law, Amtrak will need more time and more resources to achieve full ADA compliance.

On the whole, I think our projections for the upcoming year are responsible, realistic, and attainable. There are a lot of points that must be considered, and the rising costs of fuel, which now hovers at $4.00 a gallon and health care and the condition of the economy will all have a bearing on our plans. We're going to need new equipment, both to modernize our fleet and have equipment available for expansion. But from where I sit, the leading indicators continue to trend in the right direction. I believe there is a latent demand for intercity passenger rail service in the United States. In the coming year we will work to inform this discussion and to meet the expectations and needs of our customers. Let me conclude by saying we are going to have some big opportunities ahead, and we will need a strong, skilled and well-trained workforce with high morale if we're going to make the most of them. To that end, these new labor agreements will help. I appreciate all of the hard work our employees put in every day, sometimes in difficult or trying situations, and I am glad that we have been able to conclude a workable settlement and trust that our employees will embrace it. I also want to thank our Board of Directors, and particularly Donna, for their ongoing support and their wise counsel.

This concludes my opening statement. I will be happy to answer any questions you might have.

Before the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies
Committee on Appropriations
United States Senate

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Amtrak's Future Outlook and Budgetary Needs

Statement of

David Tornquist
Assistant Inspector General
Rail and Maritime Program Audits and Economic Analysis

U.S. Department of Transportation, Office of Inspector General

Chairman Murray, Ranking Member Bond, and Members of the Subcommittee:

I appreciate the opportunity to present the views of the Office of the Inspector General on Amtrak's Fiscal Year (FY) 2009 financial needs and the future of intercity passenger rail. My statement today will draw upon the work we have ongoing for your subcommittee on Amtrak's financial performance and labor agreement costs, its efforts to achieve operating reform savings, and the causes of its on-time performance (OTP) problems, as well as other work we have ongoing on Amtrak's capital plan.

Despite Recent Progress, Amtrak Still Faces Challenges. Once again, Amtrak's 2007 ridership and ticket revenue records set new records. Amtrak also improved its OTP on about two-thirds of its routes, implemented an expanded capital program, and continued to pay down its debt. In addition, the labor agreement now in the ratification process holds the promise of allowing both Amtrak management and employees to focus on the business of running a passenger railroad.

At the same time, Amtrak is seeking to increase its Federal subsidy by 35 percent in a very difficult budget environment while continuing to incur unsustainably large and potentially growing operating losses. We believe Amtrak can do more to minimize its costs and dependence on Federal subsidies and that its spending initiatives need to make a demonstrable contribution to its bottom line.

Amtrak Requires a Modest FY 2009 Funding Increase. We believe that Amtrak's FY 2009 legislative and grant request understates Amtrak's likely FY 2009 revenues, overstates its costs, and ignores its significant cash balance. As a result, we believe that Amtrak needs $475 million in FY 2009 for operations, $675 million for capital, and $266 million for debt service. Furthermore, the FY 2009 share of retroactive wages included in the pending labor agreement[1] can be accommodated within Amtrak's projected cash balances without additional appropriations.

Our recommended operating grant level would allow Amtrak to operate a nationwide system. When combined with Amtrak's likely increase in FY 2009 revenues, our recommendation would cover an approximately 3.5 percent increase in Amtrak's operating expenses. Regarding these revenues, we believe that Amtrak's forecast is understated because it was arbitrarily reduced below the levels projected by its econometric models. The expense forecast is likely overstated because it includes the cost of significant hiring in FY 2008 and 2009

[1] This agreement would grant full retroactive pay raises back to 2002 to all agreement employees onboard on December 1, 2007. The payment would be split, with 40 percent being paid in FY 2008 and 60 percent in FY 2009.

and other cost increases which Amtrak need not incur, and no additional operational reform savings.

Table 1. Federal Appropriations					
($ in millions)	***FY 2007***	***FY 2008***		***FY 2009***	
	Appropriated	Appropriated	Forecasted Use	Request	Recommend
Operating	$485	$475	$454	$525	$475
Capital	495	565	564	801	675
Debt service	277	285	285	345	266
Retroactive wages for labor settlement				114	0
Total	**$1,257**	**$1,325**	**$1,303**	**$1,785**	**$1,416**

Source: Amtrak data and OIG analysis.

The $675 million for capital would allow Amtrak to fund legal, safety, and security requirements and continue to make progress towards a "state of good repair". The $266 million for debt service is the minimum needed to fund Amtrak's FY 2009 debt obligations. Amtrak's proposal to pay off debt early is linked to a plan to borrow funds in the future for rolling stock replacement. However, significant issues still need to be resolved regarding states' willingness to pay the full costs of state services not covered by ticket revenues which may impact the overall demand for new rolling stock.

Finally, Amtrak could fund the unbudgeted $114 million in FY 2009 retroactive wage costs and $11.3 million in other planned pay–related costs within its anticipated $269 million end of FY 2008 cash balance. The resulting $119 million cash balance would be less than Amtrak's preferred $150 million level, but consistent with the $103.9 million cash balance that would have resulted in FY 2007 from Amtrak's spending decisions.

Achieving Reliable On-Time Performance Could Substantially Improve Amtrak's Finances. We recently reported that improving OTP to 85 percent on all routes outside the Northeast Corridor in FY 2006 would have generated a net gain of $136.6 million for Amtrak. However, there is little agreement between Amtrak and the host railroads on whose track Amtrak operates regarding the cause of this poor OTP, and, therefore, no consensus on how to improve it.

In work we have ongoing at the request of this subcommittee, we have found that Amtrak trains are delayed by insufficient track capacity; host railroad operating practices, including dispatching; and external factors beyond the host railroads' control, such as weather and derailments. Amtrak's data on delays does not allow us to quantify the relative share each cause contributes to delay. Disagreement also exists regarding the precise nature of Amtrak's right to "preference over freight transportation in using a rail line, junction, or crossing".[2] We believe the issue of improving Amtrak's OTP can best be addressed through collaboration between Amtrak, the host railroads, and the executive branch which balances the enforcement of rights with incentives for cooperation. The state capital matching grant program can play an important role in this effort.

Reauthorization Remains Key to Amtrak's Long-Term Outlook. As we have testified previously, we believe that Amtrak's long-term outlook would be improved through a reauthorization that focused on three goals: (1) continuous improvements in the cost-effectiveness of services provided, (2) devolution of the power to determine those services to the states, and (3) adequate and stable sources of Federal and state funding.

Absent a reauthorization, it will continue to fall to the Appropriations Committee to maintain fiscal discipline at Amtrak while providing the tools to improve their performance. At the same time, as we reported last year in our audit of the Amtrak Board's activities, the Board plays a key role in setting a strategic direction for Amtrak within the statutory parameters set by Congress. The Board and Amtrak management currently are developing a new strategic plan, which, if accompanied by implementation plans, will be very helpful in guiding Amtrak's decision making.

I will now discuss these issues in greater detail.

Despite Recent Progress, Amtrak Still Faces Challenges

Operating Losses

Amtrak ended FY 2007 with a net operating loss of $1.0 billion and a cash operating loss, excluding interest and depreciation, of $486.3 million.[3] Amtrak currently projects a cash operating loss of $454.3 million in FY 2008,[4] $21 million below its original budgeted loss, and $525 million in FY 2009. The increase in

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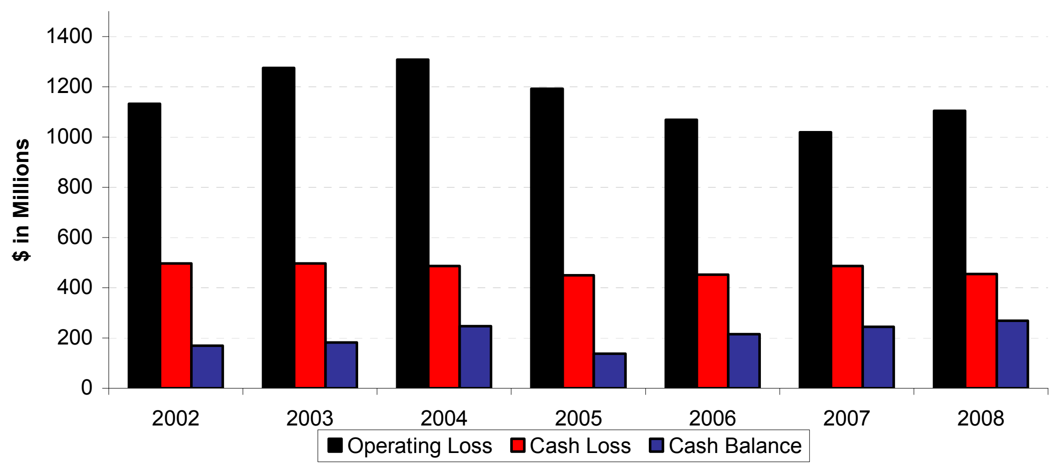
2 Section 24308c of Title 49 of the United States Code.

3 Amtrak's FY 2007 cash operating loss includes $190 million in accrued expenses from the pending labor settlement.

4 Amtrak originally budgeted for a $475 million cash operating loss in FY 2008. However, based on actual revenues and expenditures through January, this loss has been revised downward by $21 million to $454.3 million.

FY 2009 is due largely to fuel, benefits, and labor settlement costs, and the impact of a projected economic slowdown on revenues.

Figure 1. Amtrak's Operating and Cash Losses and Cash Balances



Note: Cash loss is measured on an earnings before interest, taxes and depreciation basis.

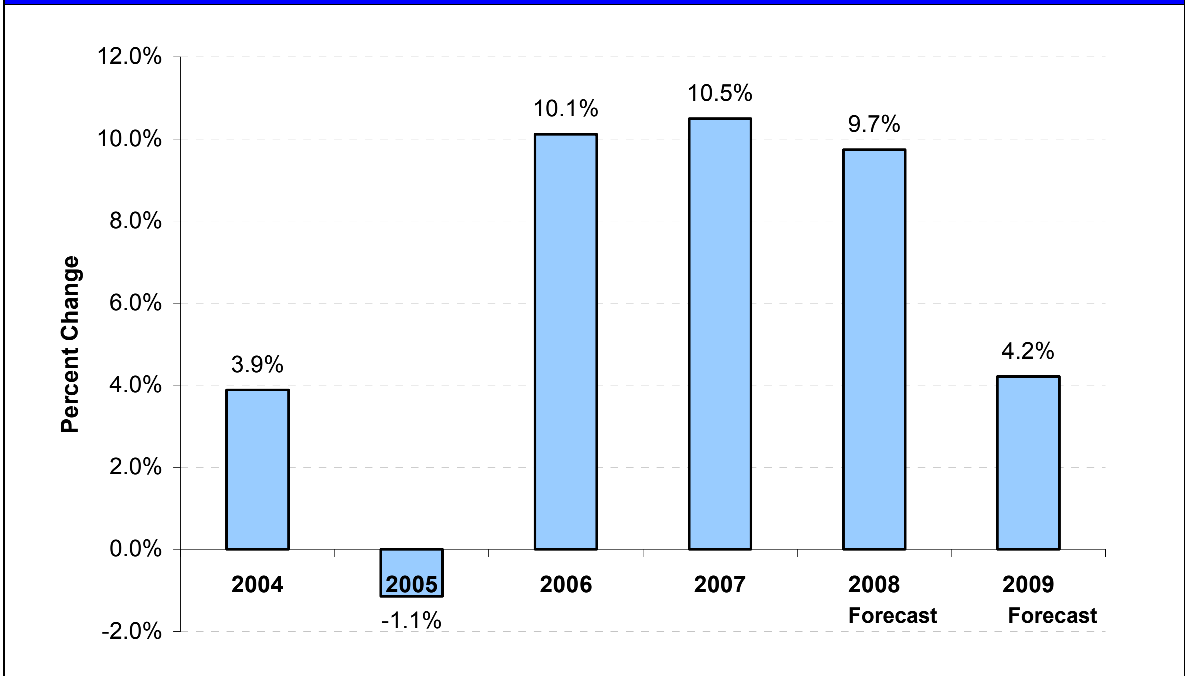
Source: Amtrak.

Based on the information available today, we believe Amtrak could manage with $475 million for its FY 2009 operating subsidy instead of the $525 million requested. We differ with Amtrak's estimates of likely FY 2009 revenues, expenses, and operating reforms. Our recommended operating grant level would provide Amtrak with an increase of almost $100 million and cover an approximately 3.5 percent increase in operating expenses as a result of likely revenue increases. We strongly urge the Subcommittee to reexamine Amtrak's funding requirements after Amtrak completes its more detailed, bottom up budget projection in July.

We are concerned about the seemingly arbitrary manner in which Amtrak management revised its FY 2009 revenue estimates developed using their econometric models to reflect a potential recession. While we understand the desire to be conservative in light of economic uncertainty, we believe that the tight budget environment calls for a more scientific and supportable approach to revenue forecasting.

In this regard, we note that both the Federal Reserve's Federal Open Market Committee and the Blue Chip consensus forecast call for economic growth in FY 2009 at a level commensurate with that in FY 2007, not a decline as Amtrak projects. Growth in the gross domestic product, a measure of overall economic activity, began to slow in 2007, and projected to slowdown further in 2008 before picking up in 2009. Despite the current slowdown, Amtrak's FY 2008 passenger related revenues are projected to be $170 million above FY 2007 and $71 million above the level Amtrak originally projected in its FY 2008 budget.

Figure 2. Amtrak's Passenger Related Revenues



Source: Amtrak.

In addition, we believe that Amtrak should take a more restrained approach regarding expenditures given the large uncontrollable cost increases Amtrak anticipates for wages, benefits, and fuel costs. Amtrak's budget estimates anticipates hiring about 200 employees which might be aggressive considering the tight budget environment. Finally, since Amtrak forecasts its FY 2008 cash operating loss will be about $21 million below the amount it used as a starting point to build its FY 2009 request, its FY 2009 expenses are likely to be less than reflected in Amtrak's budget request.

Finally, Amtrak anticipates achieving no savings from operating reforms in FY 2009. Amtrak saved $61.3 million from operating reforms in FY 2006, $52.8 million in FY 2007, and anticipates saving $40.3 million in FY 2008. The current estimate of FY 2008 savings is just half of the amount Amtrak originally anticipated it would save. The Amtrak Board of Directors, in the FY 2008 Action Plan, established as one of its seven corporate goals, to "contain cost growth through productivity and efficiency improvements". We strongly support this goal and believe it should be reflected in the FY 2009 budget.

As shown in Table 2, Amtrak anticipates achieving $17.0 million in FY 2008 savings through revenue enhancements and $23.3 million through expense reductions. The revenue enhancements include improvements to both *Acela* and long-distance services and additional food and beverage sales. The expense reductions include reducing energy costs, increasing use of credit cards on-board trains, and implementing several productivity improvements in Amtrak's Environment, Transportation, Mechanical, and Engineering departments. Through January, Amtrak has achieved $6.3 million of these projected savings.

Table 2. Amtrak's FY 2008 Cost Savings From Reform

($ in millions)	**Annual**	**Budget YTD**	**Actual YTD**	**YTD Variance**
Revenue Enhancements	**$17.0**	**$4.5**	**$4.4**	**$(0.1)**
Food and Beverage	0.9	0.9	0.5	(0.4)
Overhead Functions	2.4	0.4	0.4	0.0
Customer Service	1.3	0.4	0.9	0.5
Marketing and Sales	1.8	1.2	0.2	(1.0)
NEC Operations	7.6	1.4	2.3	0.9
Long Distance Services	3.2	0.2	0.2	0.0
Expense Reductions	**23.3**	**5.3**	**1.9**	**(3.4)**
Mechanical	(7.2)	(2.1)	(1.7)	0.4
Overhead Functions	11.0	0.7	(0.1)	(0.8)
Customer Service	17.7	6.2	4.9	(1.3)
Ongoing Efficiencies	1.8	0.5	(1.2)	(1.7)
Total	**$40.3**	**$9.8**	**$6.3**	**$(3.5)**

Columns may not sum due to rounding.
Source: Amtrak.

Labor Settlement Costs

Amtrak anticipates the FY 2008 and FY 2009 cost of the labor agreement currently in the ratification process will be $412.2 million for both the operating and capital accounts. As shown in Table 3, Amtrak's estimate of $148.9 million in FY 2008 costs includes $52.4 million for the prospective FY 2008 pay raise, $94.4 million for the FY 2008 share of the retroactive FY 2002-2008 pay raise, and $2.1 million for management pay raises to supervisors to maintain an appropriate pay differential relative to their employees. The $263.3 million in FY 2009 costs include $117.4 million for the prospective FY 2009 pay raise, $141.6 million for the FY 2009 share of the retroactive pay raise, and $4.3 million for management pay raises.

We believe that Amtrak does not require a separate $114 million appropriation in FY 2009 to cover the partial costs of the retroactive wages resulting from the pending settlement ratification. Based on actual revenues and expenditures through January, Amtrak forecast that its cash balance at the end of FY 2008 would be $268.7 million. According to Amtrak, paying off the unbudgeted labor settlement costs would reduce this cash balance to $118.7 million. While this cash balance is below the $150 million level Amtrak stated they prefer to have on hand, it is 14 percent more than the $103.9 million cash balance that would have resulted in FY 2007 from Amtrak's spending decisions. Amtrak is currently refining these estimates as it determines the amounts due on an employee-by-employee basis.

Table 3. Estimated Labor Settlement Costs

($ in millions)	Due in FY 2008	Due in FY 2009	Total
Retroactive Wage Payment (2002-2008)	$94.4	$141.6	$236.0
Management Pay Raise	2.1	4.3	6.4
Prospective Pay Raises	52.4	117.4	169.8
Total	**$148.9**	**$263.3**	**$412.2**

Source: Amtrak.

Capital

Amtrak's infrastructure continues to suffer from the effects of years of underinvestment, and its estimated backlog of infrastructure projects needed to attain a "state of good repair"[5] is $4.8 billion. The $675 million recommended for capital would allow Amtrak to fund legal, safety, and security requirements and continue to make progress to achieving a "state of good repair".

Amtrak initiated a new capital planning process in FY 2008 that prioritizes capital projects across different departments. We believe this planning process is an important step forward. As it matures, we would like to see greater reliance on return on investment analyses for projects, when appropriate. This analysis would facilitate the comparison and prioritization of projects and would demonstrate how projects contribute to meet Amtrak's business goals, i.e., increasing ridership and revenues, reducing costs, improving OTP, and reducing trip times.

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[5] Amtrak uses a component life cycle replacement approach to defining "state of good repair". Amtrak defines being in a "state of good repair" when each of its infrastructure assets is maintained and replaced within the design life of that component.

Debt Service

The $266 million for debt service is the minimum needed to fund Amtrak's FY 2009 obligations. This amount reflects Amtrak's minimum debt payment schedule adjusted for Amtrak's pre-payment of the $21 million on its Railroad Rehabilitation and Improvement Financing (RRIF) loan. Amtrak's proposal to pay off debt early is based on the economic benefits of paying off higher interest debt and a desire to reduce its overall debt burden to facilitate new borrowing in the future for rolling stock replacement.

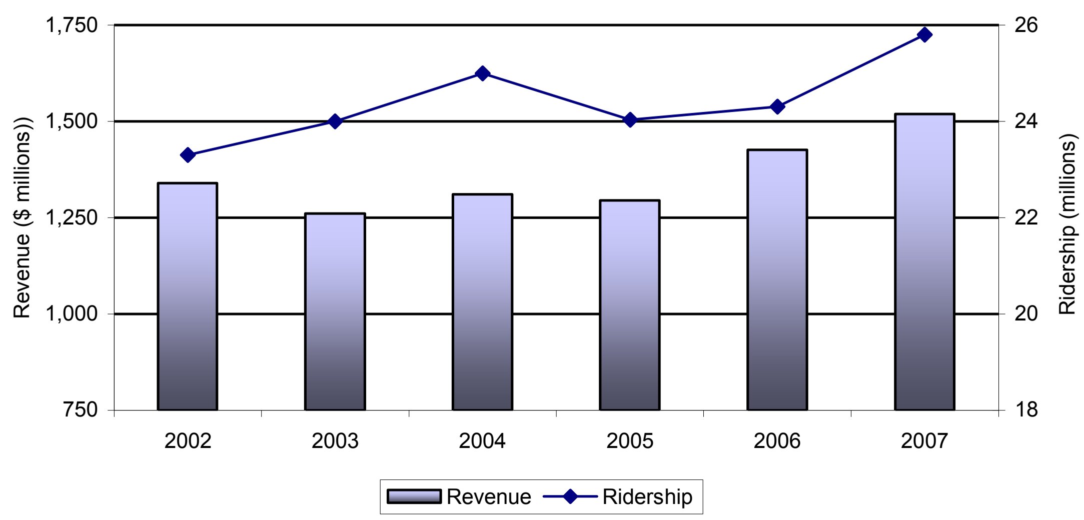
We have previously testified that from an economic standpoint, the taxpayer would benefit by the Federal government paying off Amtrak's $3.3 billion in long term debt and capital lease obligations. Currently, this debt is being paid off with Federal appropriations. Because portions of Amtrak's debt were financed at higher interest rates than what the Federal government can borrow, it would be less costly for the Federal government to payoff the entire debt at once. However, in this tight budget environment, we believe Amtrak has higher funding priorities at this time than repaying debt, such as infrastructure investment.

In addition, significant issues still need to be resolved which will affect Amtrak's rolling stock needs. In particular, Amtrak needs to develop a more equitable method of charging states for state corridor services and determine whether the states will pay the fully allocated operating costs and, over time, a growing contribution to capital costs for new and existing service. In addition, the higher labor rates resulting from the pending labor agreement will increase state costs and may affect their willingness to pay for current services, let alone expand into new services. The impact these issues will have on states' demand for new service and the need for additional rolling stock needs to be incorporated into a comprehensive fleet plan.

Revenue and Ridership

Passenger revenues increased to a peak level of $1.52 billion in FY 2007, primarily as a result of revenues from *Acela* service that were $56.7 million above budget projections. Amtrak attributed increases in *Acela* revenues and ridership to reduced trip times, improved OTP, deteriorating airline service, increased highway congestion, and higher gasoline costs. Systemwide ridership increased to 25.8 million in FY 2007. For the first 4 months of FY 2008, passenger revenues were $71.1 million higher than the same period in FY 2007, supported by strong demand for corridor trains, particularly for *Acela* and *Regional* services. Ridership grew 11.2 percent during this period.

Figure 3. Amtrak Passenger Revenue and Ridership



Source: Amtrak.

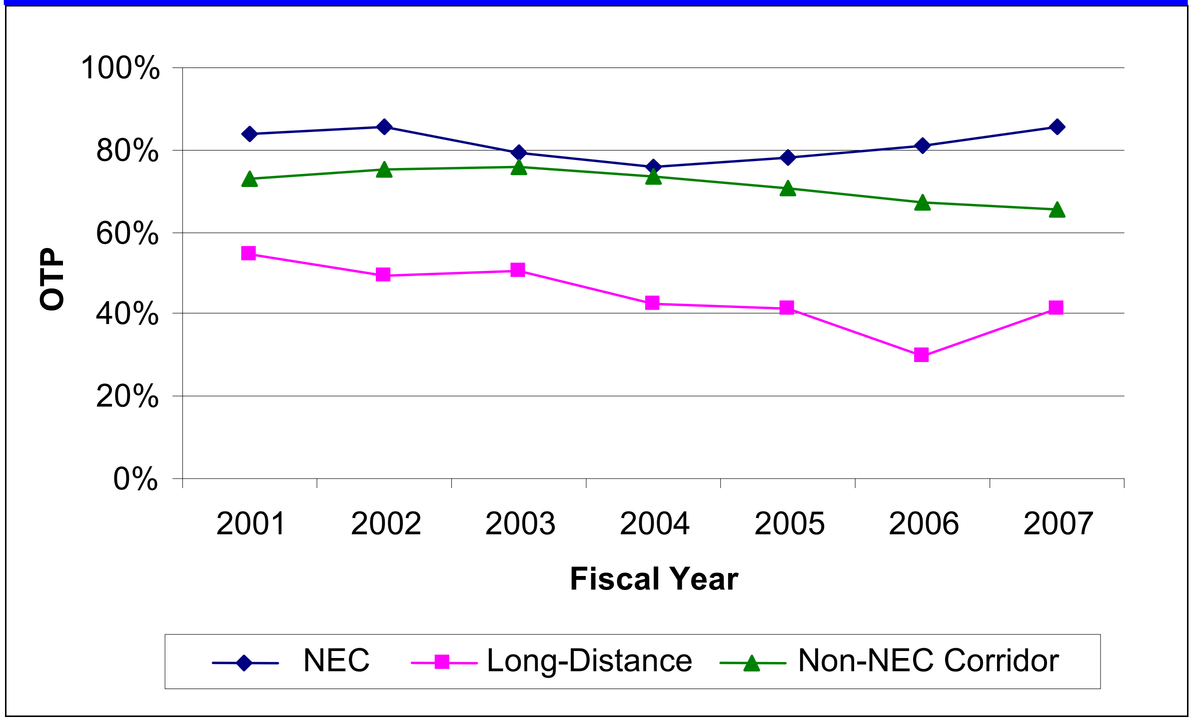
Achieving Reliable On-Time Performance Could Substantially Improve Amtrak's Finances

Amtrak's OTP had been declining steadily since FY 2002, from 77 percent to 68 percent in FY 2006. However, the OTP increased in FY 2007 to 69 percent and to 72.7 percent through January 2008. In FY 2006, average OTP across Amtrak's long-distance routes was only 30 percent. For Amtrak's corridor routes, average OTP was much higher, but still only 67 percent (excluding the NEC). In FY 2007, the OTP of a number of long-distance routes increased substantially, but only enough to raise the average for long-distance routes to 42 percent. Through January 2008, long-distance OTP increased to 59.7 percent.

We recently reported that improving OTP to 85 percent on all routes outside the Northeast Corridor (NEC) in FY 2006 would have generated a net gain of $136.6 million for Amtrak. This total net gain includes increased Amtrak revenues of $111.4 million and reduced fuel and labor costs of $39.3 million. Revenue would increase as customers become more confident in Amtrak's ability to arrive on time. Labor expenses would be reduced in part by fewer overtime hours required to staff late trains. Fuel costs would also fall with a reduction in delays as less time would be spent idling or accelerating and decelerating. The improved OTP would also require an increase in net performance payments paid to the host railroads. We estimated these would total $14.1 million. Achieving an OTP of 75 percent outside of the NEC in FY 2006 would have generated a net gain of $122.1 million and an OTP of 100 percent would have generated a net savings of

$136.4 million. This latter estimate reflects higher performance payments that exceed the revenue increase and cost reductions.

Figure 4. Average OTP of Amtrak Routes



Source: Amtrak.

However, there is little agreement between Amtrak and the host railroads on whose track Amtrak operates regarding the cause of this poor OTP, and, therefore, no consensus on how to improve it. In work we have ongoing at the request of this subcommittee, we have found that Amtrak trains are delayed by insufficient track capacity; host railroad operating practices, including dispatching; and external factors beyond the host railroads' control, such as weather and derailments. The available data does not allow us to quantify the relative share each cause contributes to delay.

The capacity of the freight rail network is insufficient to handle the mix of fast (passenger and inter-modal freight) and slow (bulk commodity freight) trains operating according to different business models, i.e., scheduled versus unscheduled or loosely scheduled service. In this network, passenger trains frequently catch up with slower moving freight trains, or other passenger and commuter trains. In addition, most Amtrak trains outside the NEC operate over single tracks with bi-directional traffic, which requires trains to be held on sidings until they can pass each other. Capacity is also reduced by temporary speed restrictions, or slow orders.

Host railroad operating and dispatching practices also can delay Amtrak trains. Dispatch operations are focused on maintaining network fluidity, sometimes at the expense of Amtrak's OTP. It is difficult to determine how individual dispatching decisions impact delays simply by observing day-to-day dispatching operations. Nevertheless, we found certain practices intentionally delay Amtrak trains. In addition, a lack of management attention by a host railroad to Amtrak's performance can increase delays. Amtrak and the host railroads largely attribute recent OTP improvements on the *Auto Train* and other Florida services, the *California Zephyr*, *Crescent*, *Capitol Limited* and *Lake Shore Limited* trains to more focused and cooperative management efforts. Each of these root causes contributes to Amtrak's delays, often in combination with each other. As delays accumulate, it can be difficult to separate the relative impact from each other.

Disagreement also exists regarding the precise nature of Amtrak's right to "preference over freight transportation in using a rail line, junction, or crossing".[6] Amtrak views the legislation as granting an absolute right to run unimpeded on the freight network and, as such, considers all freight train interference a violation of its right of preference. In Amtrak's view, host railroads need to proactively manage operations on their rail lines to avoid interference-related delays. The host railroads we met with did not offer us a legal definition of preference, but generally viewed their responsibility to grant preference relative to their ability to manage congestion levels and maintain "fluidity" in the overall system.

We believe the issue of improving Amtrak's OTP can best be addressed through collaborative interactions between Amtrak, the host railroads, and the executive branch which balances the enforcement of rights with incentives for cooperation. The state capital matching grant program can play an important role in this effort in terms of providing an incentive to freight railroads for cooperation. In addition, the quarterly reporting requirements regarding host railroad OTP Congress established last year will also focus the Department and host railroad management's attention on this issue.

Reauthorization Remains Key to Amtrak's Long-Term Outlook

As we have testified previously, we believe that Amtrak's long-term outlook would be improved through a reauthorization that focused on three goals: (1) continuous improvements in the cost-effectiveness of services provided, (2) devolution of the power to determine those services to the states, and (3) adequate and stable sources of Federal and state funding.

[6] Section 24308c of Title 49 of the United States Code.

Absent a reauthorization, it will continue to fall to the Appropriations Committee to maintain fiscal discipline at Amtrak while providing the tools to improve their performance. At the same time, as we reported last year in our audit of the Amtrak Board's activities, the Amtrak Board of Directors plays a key role in setting a strategic direction for Amtrak within the statutory parameters set by Congress. The previous Board set a strategic direction for Amtrak with its April 2005 *Amtrak Strategic Reform Initiatives and FY 2006 Legislative Grant Request*. However, this plan's broad long-term objectives were not fully translated into a detailed plan with outcomes, milestones, and performance measures. As a result, the Board and Amtrak management lacked a comprehensive standard against which to evaluate how Amtrak's day-to-day activities are addressing the Board's strategic vision for Amtrak.

The current Board and Amtrak management are developing a new strategic plan, which if accompanied by implementation plans, will be very helpful in guiding Amtrak's decision making.

Madam Chairman, this concludes my statement. I would be happy to answer any questions at this time.

WRITTEN STATEMENT OF
JOEL PARKER
INTERNATIONAL VICE PRESIDENT AND
SPECIAL ASSISTANT TO THE PRESIDENT
TRANSPORTATION COMMUNICATIONS UNION

BEFORE THE
SENATE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT AND RELATED AGENCIES

April 3, 2008

Thank you for your invitation to testify this morning about Amtrak's budgetary outlook, and specifically about the recent labor settlements on Amtrak and their impact on Amtrak's financial needs.

I am testifying on behalf of the Transportation Communications Union, TCU, an affiliate of the International Association of Machinists. TCU is the union which represents the most workers on Amtrak, approximately 7,500 Clerks, Carmen, On-Board Service Workers, Mechanical Supervisors, Maintenance of Way Supervisors, and Product Line Supervisors.

I have served as lead negotiator for TCU on several contracts with Amtrak since 1984. In the just-completed bargaining round I served as spokesman for a coalition of Shopcraft unions, which included the International Brotherhood of Electrical Workers, the International Association of Machinists, the Transport Workers Union and TCU. I was also the lead witness for all eight unions that were before Presidential Emergency Board 242.

I want to begin by thanking this Subcommittee for its historic support for Amtrak funding. The members we represent have had to endure the uncertainty of working for a company whose survival was never assured beyond the upcoming year. Every year we faced a serious attempt to underfund Amtrak, or in the case of the current Administration, to zero fund it. This funding uncertainty not only fostered job insecurity and concomitant low morale, but also was a direct contributor to the unprecedented nadir in collective bargaining that marked the last eight years on Amtrak.

The Administration has attempted every year to dismantle Amtrak by starving it of the federal resources it needs or pursuing risky privatization initiatives. Through those efforts the White House demonstrated its complete lack of understanding of the importance of Amtrak to our national economy and our competitiveness. It also demonstrated the Administration's disregard for the growing transportation needs of cities and states that are on the front-lines of addressing major congestion and environmental challenges. And by pursuing a reckless funding plan for Amtrak every year, the Bush Administration exacerbated Amtrak's already enormous backlog of much needed equipment, infrastructure and safety and security upgrades.

Fortunately, each year this Subcommittee has stepped to the plate and funded Amtrak at levels adequate to keep a national system running. You have done this even though Congress as a whole has failed to pass an authorization bill since 2002. For that steady support I again want to thank you on behalf of all of the men and women we represent.

I am especially appreciative of you, Madame Chair, for calling an early hearing last year to highlight the plight of Amtrak employees who had worked for up to eight years without new contracts and a general wage increase. And I want to thank you and your committee colleagues for including forceful Report Language in last year's appropriations bill that called on Amtrak to negotiate fair and equitable collective bargaining agreements.

Amtrak's accomplishments have been remarkable given its year to year funding scramble for survival. Ridership records continue to be set, and service levels continue to improve. This is largely due to the dedication and professionalism of Amtrak workers, who have refused to let adverse working conditions and terribly bitter labor negotiations deter them from their work of making sure train sets, even terribly antiquated ones, run safely and efficiently, and that service to the passenger be of the highest caliber possible.

But year to year funding can never be the real answer to this nation's need for a technologically advanced coast to coast rail passenger system. The greatest obstacle to Amtrak's long term success is the absence of a permanent funding source. At this time of soaring gas prices, energy dependence, and the need for environmentally friendly modes of transportation, there is a growing public consensus that Amtrak can play a major positive role in all three areas. Amtrak President Alexander Kummant has laid out an exciting vision of growth in those markets where Amtrak service is now woefully inadequate but where the demand for decent speed rail passenger service clearly exists. To realize that vision will take consistent investment and planning, which is contingent on long term funding certainties.

That is why TCU and the rest of rail labor wholeheartedly endorses a multi-year funding plan that provides no less than $2 billion a year with adequate allocations for both capital and operating needs. We will work with Senators and House Members to achieve long-term financial stability permitting Amtrak and its workers to produce the first-class national rail passenger system Americans deserve.

It is our sincere hope that the Senate and House will not only fund the current needs of Amtrak including the costs associated with newly signed collective bargaining agreements, but will adopt a multi-year blueprint for a truly national Amtrak system. Hopefully, a congressional blueprint for Amtrak will:

- provide multi-year federal funding of at least $2 billion a year;

- restructure and pay-down Amtrak's debt, which is a product of 30 years of under-funding and neglect;
- reform the make up of Amtrak's Board to include a rail labor member and to ensure it is comprised of strong advocates of the company and its mission; and
- fund critically important security and safety upgrades.

But while we work to see a long term authorization passed, we must necessarily also focus on making sure Amtrak receives an adequate appropriation to not only fund next year's operations, but also to live up to the settlement terms of the just-negotiated contracts that ended an unprecedented eight years of negotiations without a strike. On the first count, TCU and rail labor support the $1.8 billion for FY 2009 that the House and Senate Budget Committees provided. On the second, we strongly urge the Senate to appropriate an additional $114 million that is needed to fulfill the economic terms of the recent contracts.

It is to that issue that I will devote the balance of my testimony.

To understand the need for the additional $114 million, it is first necessary to understand why negotiations dragged on for eight long years, why a Presidential Emergency Board appointed by President Bush overwhelmingly decided on recommendations that were largely consistent with labor's proposals, and why the unions agreed to allow Amtrak to pursue additional funding to meet its contractual obligations rather than striking when the law permitted.

Negotiations for contracts opened on January 1, 2000. From almost the first day, Amtrak stated that no contract was possible without far-reaching, unprecedented concessions. In the eight years that followed, Amtrak never wavered from that position. While making take-it-or-leave-it demands that it knew the unions would never voluntarily accept, Amtrak also pronounced another departure from traditional bargaining: it would never agree to a dime of back pay. Under this strategy, the longer negotiations dragged on, the more money Amtrak saved. Amtrak had no incentive to compromise to reach a negotiated deal. As months turned into years, the ever-growing amount of back pay due itself became an obstacle to settlement.

Under the Railway Labor Act, there is no time limit to negotiations. The parties cannot resort to self-help until released by the National Mediation Board (NMB). Repeated requests over the years by several of the unions for release from mediation were opposed by Amtrak, and ignored by the NMB.

Finally, on October 18, 2007, almost eight full years since bargaining began and in some cases seven years after the NMB had assigned mediators to the disputes, the NMB proffered binding arbitration to the eight unions who were then in mediation. (Four unions had elected not to be in mediation and they were therefore not subject to the proffer of arbitration.) The involved unions were: the Brotherhood of Maintenance of Way Employes – Teamsters; the International Brotherhood of Electrical Workers; the International Association of Machinists & Aerospace Workers; the Brotherhood of

Railroad Signalmen; the Joint Council of Carmen, comprised of the Transport Workers Union of America and TCU; the American Train Dispatchers Association; the National Conference of Firemen & Oilers/ Service Employees International Union; and two ARASA (Supervisors) crafts of TCU.

After the involved unions all rejected the proffer of arbitration, President Bush, on November 28, 2007, created Presidential Emergency Board (PEB) 242. Under the Act, the Board had thirty days to investigate the dispute and issue non-binding recommendations, after which there would be a thirty day cooling off period at the end of which the parties would be free to exercise self-help.

President Bush appointed the following individuals to serve on the PEB: as Chairman, Peter Tredick; as Members, Ira Jaffe, Joshua Javits, Annette Sandberg, and Helen Witt. Four of the five had previously served on other PEB's appointed by President Bush. Chairman Tredick had served as Chairman of PEBs 240 and 241, which made recommendations in 2007 to settle disputes on Metro North Commuter Railroad and several of its unions. Joshua Javits and Helen Witt were former Chairmen of the National Mediation Board, appointed by President Reagan. Annette Sandberg had been an official in the Department of Transportation under President Bush.

The Board held three days of hearings in December, 2007, at which the parties fully presented their positions. All eight unions presented a common position to the Board.

The Board issued its Report to the President on December 30, 2007.

The Report for the most part recommended the proposals for settlement that had been advanced by the unions. It advocated adoption of the wage terms of the last two national freight railroad settlements to cover the period January 1, 2000 through December 31, 2009. Wages would be increased by approximately 28% over the ten year period, or about 2.6% a year. As in the freight agreements, employee health insurance contributions would be retroactively increased from zero to $166 a month this year, and $200 a month by the end of the agreement. Employees would also have to pay significantly higher copays for doctor visits and prescription drugs, and deductibles were also increased. Wages would be paid retroactively to the dates the increases in the freight contracts were effective, to be offset by retroactive health insurance contributions and COLAs already paid. There would be no changes in work rules.

To address Amtrak's argument that Congress had not appropriated enough funds to allow them to pay retroactive wages, the Board recommended two divergences from the national freight agreements. First, it recommended that the back pay component of the settlements be paid in two installments: 40% at the time of signing, and the remaining 60% one year later. Secondly, the Board limited back pay to employees in service with Amtrak on December 1, 2007, the day the Board was established. By doing so, the Board eliminated all employees who had retired or died between January 1, 2000 and December 1, 2007 from receiving any compensation for the work they had performed. The Board stated it did this in response to Amtrak's inability to pay argument as a way to "reduce somewhat the cost of the retroactivity pay…" (P. 40 of Report of PEB 242).

Upon issuance of the Board Report, negotiations between Amtrak and each of the eight unions immediately commenced, and contracts were reached with each union on January 18, 2008. The contracts followed almost to the letter the recommendations of the PEB. However, there was one significant departure. Amtrak insisted that it could not agree to the second back pay payment until sufficient funds were appropriated by Congress. In order to avoid a strike, which would have been legally permissible on January 30, 2008, the unions agreed to a contingency provision. Under that provision, the 60% second retroactive payment would be due one year from the first retroactive payment, which will occur within sixty days after contract ratification. If Amtrak determined that it lacked the money to pay that installment, it would notify the unions and, after a sixty day negotiation and cooling off period, the unions would be free to strike.

All of the contracts involving the eight unions before the PEB have now been ratified by their memberships. The four unions who also had not reached agreements since 2000 but were not before the PEB have also reached agreements that mirror the Board's recommendations. Those contracts have either been ratified or are in the process of being ratified. Three crafts (clerks, on-board service workers, and product line supervisors) reached agreements in 2003 for the period January 1, 2000 through December 31, 2004, but are without agreements for the period 2005 through 2009. They are now in negotiations with Amtrak, and I am confident agreements will be reached in the immediate future.

In summary, then, what has been the most difficult and contested negotiations in Amtrak's history are finally on the verge of being resolved with a fair outcome. Only one outstanding issue remains, and that is payment of the second back pay installment. Amtrak estimates that it requires an additional specific appropriation of $114 million to be able to pay that second back pay installment.

I am here today on behalf of all of rail labor to urge this Subcommittee, and Congress as a whole, to bring this bargaining round to a fair conclusion by appropriating the $114 million to allow Amtrak to fulfill its back pay obligation to its employees.

As Congress considers this request for appropriation, I believe certain facts should be front and center. First, the agreements reached with Amtrak are modest in their terms. 2.6% a year in wages is by no means an extravagant settlement. The $114 million needed for back pay covers an eight year period, which amounts to less than $15 million a year.

Most importantly, the contract is the product of recommendations by a well-respected group of neutral experts, none of whom could be accused of harboring a pro-labor bias or background. They were guided by the evidence before them, and concluded there could be no rationale for Amtrak workers to be paid less than their counterparts in the rail industry simply because the company they worked for received public subsidies.

The Board adopted the traditional pattern for Amtrak workers – the national freight agreements.[7] In doing so, the Board noted that had it looked at contracts of rail workers that worked for other subsidized carriers, namely commuter rail workers, its recommendations on wages would have been significantly higher.[8]

As to the prolonged nature of negotiations, the Board found the blame lay squarely at Amtrak's door. "… the evidence paints a fairly clear picture that places much greater responsibility on Amtrak for the failure to ink a deal over the prolonged period since December 31, 1999, than on the Organizations." (P. 37 of Report of PEB 242.)

In fashioning its recommendations, the Board noted the "tremendous gains in productivity in recent years by the employees represented by the Organizations." (P. 30 of Report of PEB 242.)

On the back pay issue, the Board unequivocally wrote, "We are persuaded that, in this case, nothing short of full retroactivity is fair and equitable and appropriate to begin to restore to employees the lost wages that resulted from their inability to obtain a successor Agreement over the unprecedented eight year period that these employees have continued to work without a new agreement. Even an award of full retroactivity will result in Amtrak having had the benefit of an interest-free "loan" of the pay that would have been granted on an ongoing basis if the Freight or other applicable pattern had been timely incorporated as part of an Agreement." (P. 38 of Report of PEB 242.)

Because Amtrak could not credibly point to collective bargaining settlements in the rail industry, freight or commuter, to justify its no back pay position, it relied principally on an argument that it simply could not afford to pay retroactive wages without jeopardizing its operations.

Amtrak failed to mention that not once over the course of the eight years had it asked Congress to appropriate money to fund an eventual settlement, including back pay. In the absence of such a request, I submit it was disingenuous for Amtrak to suggest that Congress' failure to appropriate such money in advance as evidence of congressional intent that Amtrak workers should work for lower wages than comparable workers in the rail industry.

In fact, the PEB cited this very Committee as evidence that Amtrak's arguments on this score were remiss. On page 11 of their Report, the Board wrote that "the Senate

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[7] "There is no dispute that … the Freight Agreements have served over the years as the historical pattern referenced for establishment of wages, benefits, and working conditions, at Amtrak." (P. 14 of Report of PEB 242)

[8] The Board found that if the freight pattern was not used as the basis of settlement, "One would then be compelled to more closely examine similarities between Amtrak's operations and those of Commuter Rail and Urban Transit in which wages and benefits are significantly higher." (P. 23 of Report of PEB 242)

Committee on Appropriations recently noted that most of Amtrak's employees have gone more than seven years (now 8) without a general wage increase, and that consequently many craftsmen have fallen further and further behind craftsmen conducting identical work for freight and commuter railroads. This report went on to state that 'Amtrak's failure to reach a labor settlement is not a result of inadequate Federal funding.'"

The PEB also referenced your counterpart committee in the House who in 2007 reported that "Amtrak's wages, in many cases, are well below market…"

Labor did not rely on those reports to make our economic case to the PEB. The facts of the wage comparisons spoke for themselves. But the reports did demonstrate that underpayment of Amtrak workers was not necessarily congressional intent, as Amtrak tried to suggest.

But in fashioning what they considered a fair settlement based on traditional comparators such as pattern settlements in the industry, wages paid for comparable work, and economic trends such as inflation, the Board did in effect punt one part, albeit a small part, of the settlement to Congress: the second back pay installment.

In doing so, the Board wrote that its "role is to find a fair and reasonable basis for agreement. We must consider traditional factors relevant to the collective bargaining process but cannot tailor those recommendations to a prediction of Congressional action. We are cognizant of the political and financial constraints facing Amtrak, and have recommended adoption of contractual terms that are reflective, in part, of those realities. But we agree with PEB 234 (the last Amtrak PEB) that Congress should be informed of the "true cost" of Amtrak's service. It is then for Congress to determine whether to provide the funding necessary for passenger train service." (P. 11 of Report of PEB 242.)

Labor believes that it was never Congressional intent to base Amtrak's survival on having Amtrak workers endure substandard wages and working conditions. Just as Amtrak suppliers, vendors and contractors expect to be fully compensated, Amtrak workers deserve to be treated fairly, and to not have to discount their labor as the price of keeping a national rail passenger service funded.

Now the decision is squarely in Congress' hands. Appropriating the $114 million will bring this round of bargaining to a long overdue conclusion. Failure to appropriate will foment another year of labor unrest, at the end of which once again Amtrak workers will have to contemplate a strike as the only legal means to obtain the settlement that the Board recommended and to which Amtrak agreed.

Amtrak admits that the lion's share of the settlements is payable based on current and anticipated funding action – that is, Amtrak is not requesting additional funds to pay the wage increases over the ten year life of the agreement, nor the 40% of the back pay due payable in 2008. The only piece that Amtrak says it requires additional funding is for the 60% back pay component payable in 2009, which Amtrak calculates as $114 million.

All of labor on Amtrak strongly urges this Subcommittee, and Congress as a whole, to appropriate that additional $114 million.

There is one other issue I would like to address before concluding. I mentioned before that in an attempt to reduce the amount of back pay due, the PEB recommended that employees who retired and the estates of employees who died between January 1, 2000 and December 1, 2007 would not be eligible for any back pay. All of the unions vigorously disagreed with this recommendation, but Amtrak would not agree to ignore it without funding to pay for it. Amtrak estimates the cost of funding the back pay for retired and deceased employees as between $13 and $14 million. We do not have the data necessary to verify those figures, so for purposes of this discussion I will rely on them as accurate.

We believe that it is extremely unfair that these employees who contributed so much to Amtrak's success be arbitrarily excluded from any consideration for the time they worked during the seven year period. Amtrak didn't even propose this as a resolution. The Board came up with it out of thin air, arbitrarily picking the date of its appointment as the cut-off date for back pay. Its only stated reason was to reduce costs. Many of the affected workers had been there from Amtrak's creation. Excluding them is both inequitable and bad public policy. As a result of this action, their railroad retirement annuities were permanently reduced. We don't believe that Congress ever intended that retirees be treated in such a manner. For an additional $13 to $14 million, this unfair situation could be rectified. We urge Congress to give it serious consideration.

In conclusion, it is time to move beyond the bitter labor relations of the past eight years. That will be impossible until the issue of funding the second back pay installment is resolved, since a lack of resolution will throw the parties back into impasse and a possible strike. We believe that it was never congressional intent to embark on such a course, and past Amtrak management used it as a smokescreen to justify their confrontational agenda.

But we believe that there are valid reasons for optimism going forward. Amtrak President Alex Kummant has said he wants to establish a new partnership with Amtrak workers and their unions. He was not there when Amtrak's bargaining strategy was devised. Nor were most of the current Board of Directors. Amtrak unions wholeheartedly seek a cooperative relationship with Mr. Kummant and his management team. We want to work together to strive for the best possible service to the riding public and the expansion of service to new areas and along existing routes so that Amtrak fulfills its promise as a major transportation alternative. Working together, we can accomplish so much for the public good.

It is time to embark on that positive journey, and to put the strains of the past behind us. That must begin with fulfillment of the contractual terms just agreed to, which includes the second back pay installment. I urge Congress to appropriate the necessary $114 million to finally bring this round to a fair and equitable conclusion. Thank you.