

1 EXECUTIVE COMMITTEE MEETING  
2 THURSDAY, NOVEMBER 2, 1995  
3 U.S. Senate,  
4 Committee on Finance,  
5 Washington, DC.

ORIGINAL

6 The meeting was convened, pursuant to notice, at  
7 10:14 a.m., in room SD-215, Dirksen Senate Office  
8 Building, Hon. William V. Roth, Jr., Chairman of the  
9 Committee presiding.

10 Also present: Senators Chafee, Grassley, Hatch,  
11 Pressler, Murkowski, Nickles, Gramm, Moynihan, Baucus,  
12 Pryor, Rockefeller, Breaux, Conrad, and Graham.

13 Also present: Lindy L. Paull, Staff Director and  
14 Chief Counsel; Joe Gale, Minority Staff Director and  
15 Chief Counsel.

16 Also present: Thomas G. Hohenthauer, Deputy Chief  
17 of Staff, Senate Committee on Commerce, Science and  
18 Transportation; George McDonald, Deputy Budget Director,  
19 Congressional Budget Office; John Patterson, Budget  
20 Analyst, Congressional Budget Office; and Glen Kohl, Tax  
21 Legislative Counsel, Treasury Department.

22 Also present: Ken Kies, Staff Director, Joint  
23 Committee on Taxation; and Brig Gulya, Tax Counsel,  
24 Majority.

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1 OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S.  
2 SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

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5 The Chairman. I would like to thank everyone for  
6 coming back to the Committee so soon.

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8 Senator Moynihan, we have got a lot to accomplish  
9 today. First, we need to direct our attention to  
10 S. 1318, the AMTRAK and Local Rail Revitalization Act of  
11 1995. This legislation was referred to us by the  
12 Commerce Committee. We are pleased, of course, that we  
13 have the Chairman of the Commerce Committee here, as well  
14 as a Member of our Finance Committee. We will call upon  
15 him later.

16 Upon completing our business concerning S. 1318, we  
17 do need to take up several Finance Committee  
18 administrative matters, and these are listed on the  
19 agenda.

20 As you know, the Senate Commerce Committee reported  
21 out the AMTRAK legislation on October 12. That  
22 legislation contained several tax provisions, so Senator  
23 Moynihan and I requested its referral for what worked out  
24 to be 15 days. Those 15 days began on October 19 and  
25 expire this Friday. So unless we address S. 1318, the  
bill will return to the Senate Calendar as originally

1 reported out by the Commerce Committee.

2 Because of important tax provisions that must be  
3 addressed in this legislation, it is necessary that we  
4 take it up today.

5 Now as a Senator living along the Northeast  
6 corridor, I cannot stress how important it is that we  
7 have intercity rail service. As someone concerned not  
8 only about the environment, but about traffic congestion,  
9 especially in the Northeast, where we lack the land and  
10 resources for new roads, I am a strong proponent of  
11 AMTRAK.

12 I have an extended statement, Senator Moynihan, as  
13 to why I think rails are particularly important, but I  
14 would just include my statement on that aspect as if  
15 read.

16 [The prepared statement of Senator Roth appears in  
17 the appendix.]

18 Just let me say that these are important milestones.  
19 But, like all public transportation systems, AMTRAK is  
20 still dependent on Government support. The Commerce  
21 Committee, in Title X of its legislation, includes six  
22 tax provisions to help AMTRAK modernize and become  
23 competitive towards privatization in five years.

24 While these six provisions are important, Finance  
25 has jurisdiction over taxation, of course, and not the

1 Commerce Committee. However, for the most part, I  
2 believe that the Commerce Committee legislation is indeed  
3 good, but I propose that we drop the six tax provisions  
4 so that they do not slow up consideration of the  
5 intercity rail legislation.

6 The fact is that we on the Finance Committee all  
7 know the problems of reporting tax bills outside of  
8 reconciliation. However, because these tax provisions  
9 are vital, we need to report out a separate companion  
10 bill containing the most important tax provision, which  
11 will be outlined in detail by staff after our opening  
12 statements.

13 Let me conclude by saying that if Congress hopes to  
14 privatize AMTRAK in the next five years, and if we  
15 support continued intercity passenger rail service,  
16 service that is vital to both rural and urban areas, we  
17 will vote in favor of this recommendation.

18 Senator Moynihan, and Members of the Committee, I  
19 would like to explain two modifications. Concerns have  
20 been expressed about options 1 and 2 of the bill, and  
21 about the impact of the transfer of the one half cent of  
22 gasoline taxes from the mass transit account to the new  
23 Intercity Passenger Rail Trust Fund on the surplus that  
24 currently exists in the mass transit account.

25 To address these concerns, options 1 and 2,

1 exempting from Federal income tax incentive payment for  
2 on-time service, and allowing tax-exempt private activity  
3 bonds to have been issued for the benefit of AMTRAK have  
4 not been included in my Mark with the money redirected  
5 into the Intercity Passenger Rail Trust Fund.

6 I am striking these provisions, or have eliminated  
7 them, because I believe that we would set an unintended  
8 precedent and, therefore, need further review before we  
9 act upon them.

10 I also propose that the transfer of one half cent of  
11 taxes be suspended for any fiscal year to the extent the  
12 cash balance in the mass transit account is not at a  
13 level to cover the current year's appropriation from the  
14 account. The concept is that the surplus in the account  
15 should never fall below the current year's appropriation,  
16 so this would guarantee that the mass transit account  
17 will always have a surplus to cover current spending.

18 So with that, I turn the microphone over to you,  
19 Senator Moynihan.

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1 OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S.  
2 SENATOR FROM NEW YORK

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5 Senator Moynihan. Mr. Chairman, I think these are  
6 good changes in a good bill.

7 I would simply note that in the 1991 Highway Act--  
8 Senator Chafee will recall--we declared that the  
9 interstate highway system was finished. It had then  
10 taken a lot longer and cost much, much more than we had  
11 ever thought, but it was done. So instead of passing a  
12 highway bill, we passed the Intermodal Surface  
13 Transportation Act, calling for a balance in Federal  
14 efforts away just from highways and just from automobiles  
15 towards rail and other modes of transportation, for which  
16 the extranalties, as economists say, are very real.  
17 Someone in New York, Rhode Island or Delaware would  
18 recognize this right away.

19 I very much approve this bill, and I thank the  
20 Chairman for his courtesy and for the improvements he has  
21 made.

22 The Chairman. Thank you, Senator Moynihan.

23 Senator Chafee?

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1 OPENING STATEMENT OF HON. JOHN CHAFEE, A U.S. SENATOR  
2 FROM RHODE ISLAND

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5 Senator Chafee. Thank you, Mr. Chairman.

6 First, I want to echo what Senator Moynihan said.  
7 He was the leader in the effort that we made in the so-  
8 called Ice T. That was a piece of legislation which was  
9 exactly what Senator Moynihan described. Senator Baucus  
10 obviously was there at the time.

11 It was an intermodal transportation bill. It was  
12 not just to build new highways, or widen existing  
13 highways. It was to get people from point A to point B  
14 in the most efficient way, looking at it from our point  
15 of view here, where we are collecting money and how can  
16 we spend it most efficiently for the whole nation.

17 Mr. Chairman, I am for this legislation. I am glad  
18 that we are doing something to assist AMTRAK.  
19 Particularly in the area you and I come from, this is an  
20 environmentally sound method of transporting individuals.  
21 So I hope that the bill will be kept clean, free of  
22 extraneous materials. I know that is your effort here.  
23 And that we move on.

24 I will say that I hope we will get a chance later on  
25 to look at the gasoline tax as it affects intercity bus

1 companies. We are giving relief to the airlines; we are  
2 giving relief to the railroads--that is, AMTRAK--and I  
3 think we have got to consider whether this is really fair  
4 to continue to impose the gasoline tax on intercity  
5 buses.

6 I know we cannot deal with that today. I think you  
7 are right in keeping this bill clean.

8 Thank you.

9 The Chairman. Thank you, Senator Chafee.

10 Normally, in this Committee, the pattern has been to  
11 call upon Members in the order that they appear. I  
12 violated that rule here, Senator Grassley. So today, if  
13 you do not mind, I will just go back and forth.

14 Senator Grassley. Do not worry about it.

15 The Chairman. In the future, we will follow the  
16 general rule.

17 Senator Grassley. If we only violate the rules in  
18 this Committee once, that is a pretty good record.

19 The Chairman. Thank you.

20 Senator Baucus?

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM  
2 MONTANA

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5 Senator Baucus. Thank you very much, Mr. Chairman.

6 I am very pleased to be associated with this bill.

7 I have got to tell you that in rural parts of America,

8 transportation is diminishing; it is a bigger problem,

9 and it is closing us out more from the rest of the world.

10 I see my colleague from South Dakota, and I am sure he

11 will agree, as well as my colleague from North Dakota. I

12 am sure he will agree as well.

13 AMTRAK is one example. AMTRAK has been cut down now

14 to four days a week. It did have daily service. The

15 restriction of airline service, particularly essential

16 air service is causing a commuter problem. Remote

17 America, the heartland, is being more and more cut away

18 from the urban parts of our country.

19 It makes eminent sense to me that half a cent of the

20 gasoline tax, which is due in 1996 to go to deficit

21 reduction, go instead to AMTRAK. Strike that. A half

22 cent was due to go to the Mass Transit Trust Fund. The

23 Mass Transit Trust Fund already has a surplus of about \$5

24 billion to \$6 billion. It has for a long time. That is

25 money that is not being spent. One half cent to the Mass

1 Trust Fund is not going to mean more money for mass  
2 transit. It just is not going to happen.

3 But one half cent to AMTRAK does mean help to  
4 AMTRAK. That is going to happen. That means that people  
5 along the high line in my State, in communities like  
6 Glasgow, Wolf Point, Cutbank, Browning, Glacier, are  
7 going to get service. Folks who do not know Montana very  
8 well have a hard time understanding this, but this means  
9 a lot to people in Northern Montana because it is  
10 virtually the only transportation they have. Senior  
11 citizens trying to get to Glacier Park, for example.  
12 There are a constant number of opportunities like this.

13 So I just want to thank you, Mr. Chairman, for  
14 pushing this legislation. It means a lot; it is fair.  
15 If there is any change on down the road, I think it could  
16 be along the lines that Senator Chafee made, and that is  
17 intercity buses because if airlines get a break, they do  
18 not have to pay the tax. It just seems to me that we  
19 ought to give a little comity here at the appropriate  
20 moment to make sure that intercity buses do not have to  
21 pay the same tax too. But that is a matter for another  
22 day.

23 Today it is AMTRAK. And I very much appreciate what  
24 we are doing.

25 The Chairman. Just let the record show that I very

1 much understand and appreciate the problem of space in  
2 Montana.

3 Senator Baucus. Thank you, Mr. Chairman. I know  
4 you do because, in a certain sense, you are a fellow  
5 Montanan. On certain days I appreciate that.

6 Members of the Committee may not all know this, but  
7 the Chairman and I graduated from the same high school.

8 The Chairman. The same year. [Laughter]

9 Senator Baucus. In Helena, Montana.

10 In fact, the Chairman also has a son--or is it a  
11 daughter--going to law school in Montana?

12 The Chairman. My son.

13 Senator Baucus. That is right, a son going to law  
14 school in Montana. So we feel that we have a little  
15 extra connection here with the Chairman.

16 Thank you, Mr. Chairman, for your understanding of  
17 our problems.

18 The Chairman. Senator Grassley?

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1 OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.  
2 SENATOR FROM IOWA

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5 Senator Grassley. Before I forget it, I want to  
6 associate myself with the last point that Senator Chafee  
7 made about intercity buses. That was something that was  
8 on my mind during our mark-up of the reconciliation bill.  
9 It was not possible at that particular time, so I hope  
10 that if this bill is successful, that makes even better  
11 the case for intercity buses.

12 I am pleased that the Finance Committee has exerted  
13 jurisdiction over this bill. There clearly are tax  
14 provisions in the bill, and the Committee clearly has  
15 jurisdiction over these provisions and ought to look at  
16 it.

17 I also agree that these provisions should be  
18 stripped from the bill, and the bill itself sent to the  
19 floor without any tax-related provisions.

20 Without an appropriate vehicle from the House, it  
21 would not be possible, as I understand it, to proceed  
22 with this legislation beyond this mark-up. I feel very  
23 uncomfortable having legislation sitting around like that  
24 because of all the other tax matters that could be added  
25 to it.

1           Where do we go from here after the mark-up? The  
2 Chairman does not have to answer this now, but maybe he  
3 can sometime. Just what are our intentions? Is it to  
4 get the bill included in the reconciliation, or some  
5 follow-up legislative successor? I do not think this  
6 seems possible to me. And then I have also heard about  
7 offsets that would be used. I understand that the  
8 corporate-owned life insurance might be one possible  
9 offset.

10           This Senator worked with the Chairman and the  
11 Committee to achieve a whole category of things that we  
12 called corporate welfare savings, to apply them towards  
13 deficit reduction. I hate to see those things eaten up  
14 if that is one of the offsets that could be used because  
15 I think then at that point, if that money is not going to  
16 be used for deficit reduction, I want to use it for  
17 Medicare or Medicaid savings.

18           Another point I would make, Mr. Chairman, is that  
19 there have not been hearings held by the Finance  
20 Committee on this. I have had a chance to visit with  
21 people in my State about their opinions on some of these  
22 things, but there are broad policies here that go beyond  
23 just helping AMTRAK.

24           So I think it would be very essential to have not  
25 only AMTRAK, but certain Governor+s and/or their State

1 departments of transportation, mass transit providers,  
2 intercity buses and other highway users when we are  
3 talking about tapping that money from its original  
4 purpose. It seems to me that these people have a right  
5 to be heard on a proposal such as this because it does  
6 have an effect upon them, especially as funds would be  
7 diverted from the Trust Fund.

8 Further, I am concerned that there are no  
9 restraints. This is probably more important to me than  
10 anything. On the use of funds being proposed for the  
11 five States that do not have AMTRAK service, these funds  
12 would be used for rail transportation, but not restricted  
13 to intercity passenger service. In other words, these  
14 highway trust funds could be used for local rail freight  
15 assistance, which I support as a program, but do not  
16 support the possibility that money for these five States  
17 could be used for this program when maybe my State has an  
18 equal need, but would not be able to have access to that  
19 source of revenue. It seems to me that this is unfair to  
20 the rail users of my State.

21 I would propose that, if the Committee must have  
22 this original legislation, these funds should be  
23 restricted for passenger rail use only. If these States  
24 want rail passenger service, then that is what the funds  
25 should be used for. They should not be available for

1 other uses. That would be treating some States more  
2 fairly than others.

3 The proposal states that the new Rail Trust Fund  
4 would not be subject to appropriation. So I have to ask  
5 why should AMTRAK be treated differently from highways or  
6 mass transit with regard to Congressional control over  
7 the expenditure of money?

8 I am not unsympathetic to AMTRAK because we do have  
9 AMTRAK going through the State of Iowa. I think that  
10 there are many advantages to a national rail system. I  
11 believe that it is not wise to proceed with this proposal  
12 without first having held hearings to fully understand  
13 the implications of this proposal.

14 Thank you, Mr. Chairman.

15 The Chairman. Thank you.

16 Senator Rockefeller?

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1 OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, A U.S.  
2 SENATOR FROM WEST VIRGINIA

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5 Senator Rockefeller. Mr. Chairman, my comments are  
6 simply, number one, I am very glad that we are doing  
7 this. It is kind of refreshing to be doing something on  
8 a nice, clean, bipartisan basis.

9 Second, just for the record, I would just like my  
10 colleagues to know what Senator Baucus was talking about.  
11 If one wishes to go to the capital of West Virginia, the  
12 State's largest city, by air--which we are not  
13 discussing--to be there on Sunday, you have to take a  
14 3:59 p.m. propeller flight. There are no more jet  
15 flights into West Virginia. You have to take a propeller  
16 flight from Dulles Airport in mid-afternoon Saturday.  
17 Otherwise, you will not be in West Virginia on Sunday.

18 The Chairman. I might say that we have no flights  
19 into Delaware. [Laughter]

20 It is not my pleasure to call on the Chairman of the  
21 Commerce Committee, a valued Member of this Committee,  
22 Senator Pressler.

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1 OPENING STATEMENT OF HON. LARRY PRESSLER, A U.S. SENATOR  
2 FROM SOUTH DAKOTA

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4 Senator Pressler. I thank the Members of the  
5 Committee for taking this up. I know many Members have  
6 spoken in praise of this legislation. Very frankly, it  
7 has been somewhat of a headache to me because we do not  
8 have AMTRAK in South Dakota, and also because the  
9 brilliant young staffer who wrote all this, almost to the  
10 day we finished it, resigned to go and run for Congress  
11 in a special election, and I wish him well. But I am  
12 left here to try to explain this.

13 But in any event, we are here. We thank the Finance  
14 Committee for its speedy handling of this. Your staff  
15 has been very speedy.

16 We are trying to take this up in the Commerce  
17 Committee next Tuesday. Although I do not have AMTRAK in  
18 South Dakota, I chair a committee, and most of my  
19 committee members say that I must take a national view,  
20 so I am here. I have my usual statement, in which I say  
21 that since its creation, our taxpayers, including South  
22 Dakotans who have no AMTRAK service, have spent more than  
23 \$15 billion to support AMTRAK. Yet, less than 1 percent  
24 of the traveling public utilize AMTRAK's services. In my  
25 view, this is not an efficient use of Federal dollars.

1           However, I know the Chairman and others on this  
2           Committee strongly support the continuation of a national  
3           rail passenger system. Therefore, I have worked in good  
4           faith with members of the Commerce Committee to report  
5           legislation to fundamentally reform AMTRAK, and require  
6           AMTRAK to eliminate the need for Federal operating grant  
7           funds five years after enactment.

8           The Commerce Committee's bill provides for many  
9           other fundamental reforms, including procurement and  
10          labor reforms, operational reforms, liability reforms,  
11          financial reforms, a sunset trigger mechanism, commercial  
12          diversification and fiscal revitalization.

13          As I mentioned, the bill provides a sunset trigger,  
14          which would lead to the liquidation of AMTRAK if the  
15          AMTRAK Reform Council, which will be established by this  
16          bill, finds that AMTRAK has failed to meet its financial  
17          goals.

18          Specifically, the Council, modeled after the base  
19          closing commission concept, would review and report to  
20          Congress annually on AMTRAK's progress toward eliminating  
21          the need for Federal operating support, based on an  
22          assessment of AMTRAK's success or failure at the end of  
23          three years, at which time the Council would submit a  
24          plan to Congress for AMTRAK's continuation or  
25          liquidation.

1           In short, AMTRAK must be able to bring its equipment  
2           and other facilities up to a state of good repair if it  
3           is to have a chance to meet the goal of eliminating  
4           Federal operating subsidies and avoid liquidation.

5           The Commerce Committee determined that a dedicated  
6           funding source for AMTRAK was an essential element for  
7           AMTRAK's long-term survival. If Members of this  
8           Committee have alternative approaches, I am, of course,  
9           very eager to listen.

10           So that is where I come out on it. I thank you and  
11           your staff very much for your speedy work. I guess there  
12           was a request by my committee that it be done in so many  
13           days. We should have left more days. But your staff has  
14           been overworked and under duress getting this done, and I  
15           thank you and your staff very much.

16           The Chairman. Well, you are correct. We have a  
17           15-day limitation as to when we have to act. That, of  
18           course, is what is driving this legislation.

19           Senator Conrad?

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1 OPENING STATEMENT OF HON. KENT CONRAD, A U.S. SENATOR  
2 FROM NORTH DAKOTA

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5 Senator Conrad. Mr. Chairman, I appreciate the  
6 work that has gone into addressing this question of  
7 Finance Committee jurisdiction.

8 I find myself having conflicting feelings about the  
9 bill. I understand that our role is to just deal with  
10 the finance provisions. But there are other provisions  
11 of this bill that I think are going to have to be worked  
12 on on the floor.

13 I must say that I really wonder what position this  
14 legislation is going to be in if the reconciliation bill,  
15 that has the corporate-owned life insurance in it, moves  
16 before this bill does. Where does that leave the  
17 financing for this legislation? Do we not have a problem  
18 with respect to timing and the fact that the revenue from  
19 the corporate-owned life insurance provision has already  
20 been used in the reconciliation bill?

21 So I know that some of these other provisions were  
22 struck that were in the original substitute. I think  
23 that makes sense. But I must say that I am concerned  
24 about where we are left when we see the corporate-owned  
25 life insurance being used in two places as a funding

1 mechanism. I will be interested to hear the Chairman's  
2 view of that.

3 The Chairman. Thank you, Senator Conrad.

4 Senator Murkowski?

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1 OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S.  
2 SENATOR FROM ALASKA

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5 Senator Murkowski. Thank you, Mr. Chairman.

6 I have some concerns about Title VIII of this bill,  
7 which I do not think have been introduced.

8 I happen to be Chairman of the Energy and Natural  
9 Resources Committee and along with Senator Bennett  
10 Johnston, Ranking Member of the committee, we have  
11 directed a letter of concern to Senator Pressler,  
12 specifically on Title VIII.

13 Now, it is important to recognize that, under our  
14 interpretation, this would allow AMTRAK to become an  
15 electric utility, exempt from all Federal laws, all State  
16 and local laws, including tax laws, as well as State  
17 sitting laws. It would allow AMTRAK to basically get  
18 into the wheeling business. That happens to be under our  
19 jurisdiction.

20 The purpose of Title VIII is in reality to give  
21 AMTRAK an unfair competitive advantage so that it can  
22 generate revenue by skimming the cream from existing  
23 utilities. That is going to result in a hue and cry out  
24 there that we should all consider the ramifications. It  
25 could also result in higher electrical bills for tens of

1 millions of residential customers.

2 This has moved with no hearings relative to the  
3 application of Title VIII and what it would do to put  
4 AMTRAK in the utility business.

5 The Committee's action here today gives AMTRAK a  
6 significant amount of money--some \$700 to \$800 million a  
7 year I think--and that would seem to me to eliminate the  
8 necessity of having Title VIII in the AMTRAK bill. If we  
9 are going to give them \$700 to \$800 million, why do we  
10 allow them to become an electric utility on top of it?

11 If you read this carefully and make some inquiries,  
12 you find that AMTRAK's estimated revenues are somewhere  
13 between \$30 and \$50 million. And I am inclined to think  
14 that is a very, very low and unrealistic estimate  
15 because, under this title, AMWAR has the capabilities to  
16 go anywhere in the United States with no restrictions,  
17 and become a competitor in the utility business with no  
18 tax implication.

19 Senator Rockefeller. AMWAR?

20 Senator Murkowski. Not AMWAR. I wish it were.  
21 AMTRAK. Did I say AMWAR? Well, you know what is on my  
22 mind then. [Laughter]

23 That is a real icicle slip.

24 So I would urge my colleagues to think of the  
25 ramifications associated with Title VIII. I am really

1 concerned about the bill making any progress with this in  
2 it.

3 I know that the referral to this Committee is only  
4 with respect to Title X. Other parts of the AMTRAK bill  
5 contain tax provisions. I guess Title VIII makes private  
6 companies that joint venture with AMTRAK tax exempt. But  
7 we are opening up a very significant loophole. It is my  
8 understanding that to pay for this legislation this bill  
9 would require funds to be withdrawn from the new account,  
10 to be paid for under the Pay/Go Budget Act.

11 Accordingly, the finance legislation pays for the  
12 AMTRAK deal using the revenues generated from closing  
13 down the interest deduction on corporate-owned life  
14 insurance. That is the same revenue raiser we used in  
15 reconciliation. I would ask the staff if that  
16 interpretation is correct.

17 Ms. Gulya. Yes, sir.

18 Senator Murkowski. That is correct. Thank you.

19 Thank you, Mr. Chairman.

20 Senator Nickles. Mr. Chairman?

21 The Chairman. I think Senator Graham comes next.  
22 Then we will get to you.

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1 OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM  
2 FLORIDA

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5 Senator Graham. Thank you, Mr. Chairman.

6 Mr. Chairman, I have a couple of comments that I  
7 think set the context for consideration of this bill.  
8 First, we are dealing with a proposal to transfer 2-1/2  
9 cents of gasoline tax, essentially, from deficit  
10 reduction to spending accounts--2 cents to the highway  
11 fund and one half cent either to mass transit or to  
12 AMTRAK.

13 My calculations are that over the next 7 years that  
14 will be more or less \$25 to \$30 billion. I question  
15 whether, at this juncture, with our focus on how we are  
16 going to balance the Federal budget, this is a timely  
17 proposition to be diverting that significant amount of  
18 deficit reduction to spending accounts. That is point  
19 number one.

20 Point number two is the issue of Federalist. I want  
21 to declare at this point that I am a Reaganite.  
22 President Reagan, in 1981--and I remember it well--when  
23 he advocated new Federalism, he essentially drew a  
24 distinction between what he considered to be those  
25 programs that affected the mobility of the American

1 people, which he thought were national responsibilities,  
2 and those that affected status of people, which he  
3 thought to be State responsibilities.

4 In that rough allocation, let us recall that  
5 President Reagan advocated a Federalization of Medicaid--  
6 a Federalization of Medicaid--because he recognized that  
7 Medicaid served a mobile American population of some of  
8 our most vulnerable citizens. President Reagan advocated  
9 that transportation, on the other hand, be returned to  
10 the States, to be their responsibility.

11 Now we, 15 years later, have forgotten the legacy of  
12 Ronald Reagan, and we have just reversed his priorities.  
13 We are turning Medicaid back to the States and we are  
14 increasing the Federalization of transportation, exactly  
15 the opposite of what President Reagan--I believe wisely--  
16 counseled us to do in 1981.

17 So, both in terms of deficit reduction and in terms  
18 of which programs are appropriately Federal programs, and  
19 which programs are State programs, I think we have got it  
20 wrong in this proposal which has, of course, nothing to  
21 do with the issue that is before us, which is whether if  
22 we decide that we are going to continue with this program  
23 of diverting money from deficit reduction to spending  
24 accounts, we ought to change the spending account for one  
25 half a cent from mass transit to AMTRAK.

1           On that limited point, if we get there, I frankly  
2 think that it probably makes more sense, if there is  
3 going to be a Federal role in transportation, for the  
4 Federal role to be expressed in AMTRAK, which is an  
5 interstate system, as distinct from local transit  
6 authorities, particularly in the context that local  
7 transit authorities, as the Chairman and the Ranking  
8 Member have indicated, have a fairly significant surplus  
9 in the mass transit account today. And there are  
10 provisions in this legislation to protect that surplus.

11           So my concerns are at a more fundamental level,  
12 whether it is wise to make this 2-1/2 cent diversion  
13 under any basis. And is it wise for us to adopt an anti-  
14 Reagan policy of sending Medicaid to the States, while we  
15 Federalize transportation, and disregard his advice that  
16 we recognize that Medicaid serves a national population,  
17 and that transportation is more appropriately a State  
18 responsibility?

19           The Chairman.    Senator Nickles?

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1 OPENING STATEMENT OF HON. DON NICKLES, A U.S. SENATOR  
2 FROM OKLAHOMA

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Senator Nickles. Mr. Chairman, if I might ask staff, I am a little bit confused by some of the comments that have been made, if they would bring me up to date on present law?

9

10

Of the 4.3-cent tax that was enacted in 1993, was 2-1/2 cents of that for deficit reduction?

11

12

13

Ms. Gulya. No, sir. There is a 4.3-cent tax. And this legislation before you today has absolutely nothing to do with that 4.3-cent tax.

14

Senator Moynihan. And you did not vote for it.

15

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Senator Nickles. That is correct. I remember that.

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Ms. Gulya. Under 1990 law, there was a 2-1/2-cent tax that went to deficit reduction. As of October 1 of this year, that 2-1/2 cents now gets put into the Highway Trust Fund. Of the 2-1/2 cents, 2 cents goes into the highway account, and one half cent would go into the mass transit account. That is the half cent we are talking about today.

24

25

Senator Nickles. Wait a minute. So in 1990, the 2-1/2 cents was for deficit reduction?

1 Ms. Gulya. It was.

2 Senator Nickles. But under the 1990 law, it said  
3 by sometime in 1995 or 1996?

4 Ms. Gulya. Beginning October 1, 1995. So just  
5 this past October 1.

6 Senator Nickles. All right. Then, of that 2-1/2  
7 cents, one half cent goes to mass transit?

8 Ms. Gulya. Right. The mass transit account of the  
9 Highway Trust Fund. And 2 cents goes to the highway  
10 account.

11 Senator Nickles. To the highway account. All  
12 right. Now the highway account, that is appropriated  
13 dollars, is it not?

14 Ms. Gulya. Well, yes.

15 Senator Nickles. Those are earmarked, but they  
16 have to be appropriated before they can be spent?

17 Ms. Gulya. Yes.

18 Senator Nickles. This half cent for mass transit  
19 under this proposal would not be appropriated. Is that  
20 correct?

21 Ms. Gulya. No. The trust fund would be set up  
22 with some money going in there. But the way we are  
23 trying to use this offset, that offset piece would be  
24 direct spending. Anything else would have to be  
25 appropriated.

1           Senator Nickles. Well, I am not sure I totally  
2 understood that. As I read this, and looking at the  
3 statement, it said that the half cent would not be  
4 subject to appropriation.

5           Mr. Kies. There is a portion of the half cent that  
6 would go into the account that would be direct spending.  
7 That amount would be \$131 million in 1996, and then it  
8 would be around \$660 million for each of the next four  
9 years, for a total of \$2.803 billion. So that amount of  
10 it would be direct spending. The other amount would be  
11 subject to appropriation.

12           Senator Nickles. That was my question. And that  
13 is kind of my point, Mr. Chairman. I happen to be from a  
14 State that does not have AMTRAK. I would like to have  
15 AMTRAK. We have some money directed towards States that  
16 do not have AMTRAK service, which I think is long  
17 overdue. We have been contributing to the system, but we  
18 have had no benefit.

19           But I do question the wisdom. Maybe it is because I  
20 was on the Appropriations Committee for so many years  
21 that I question the wisdom of setting it up as an  
22 entitlement, not as an account that should be  
23 appropriated.

24           I am not going to offer an amendment. I just raise  
25 that concern. I think it is significant, and it somewhat

1 ties into what Senator Graham was talking about, although  
2 we are talking about a half cent. Concerning the money,  
3 I would frankly like to see some of the money instead of  
4 having it go to mass transit, which is benefiting  
5 primarily some large cities. At least if it goes to  
6 AMTRAK, it does have some national significance, and  
7 would help some States that are without service or  
8 possibly underserved.

9 I would also like to echo some of the comments that  
10 were made. I question the wisdom of the offset, using  
11 corporate-owned life insurance, when that money is  
12 already called for in the reconciliation package, and it  
13 is my guess that it will be part of the reconciliation  
14 bill.

15 Thank you, Mr. Chairman.

16 The Chairman. Senator Gramm?  
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1 OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM  
2 TEXAS

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5 Senator Gramm. Well, Mr. Chairman, let me say that  
6 it is hard for me to imagine a proposal that more flies  
7 in the face of what the 1994 election was about than the  
8 proposal that is before this Committee.

9 This is a proposal to create in essence an  
10 entitlement for a Government entity. It at least  
11 partially takes funding for AMTRAK out of the  
12 appropriations process, which is exactly the reverse of  
13 everything that reconciliation was about and everything  
14 that the message of the election was about.

15 It is funded by a revenue source that has absolutely  
16 nothing to do with transportation. It is funded by a  
17 revenue source that, in fact, we have already used. It  
18 allows the appropriations process to continue forward and  
19 breach what would be the 602(b) allocations by using this  
20 trust fund concept.

21 I am not unsympathetic to the Northeast corridor of  
22 AMTRAK. I think it is the part of the system that  
23 clearly has ridership, that clearly benefits the public,  
24 and that it would clearly survive in any kind of  
25 privatization mode if we went about it in a reasonable



1 and rational manner.

2 I have AMTRAK in my State, and it has a terrible  
3 problem in that it does not have the ridership to support  
4 it. I think we all have to ask ourselves a question  
5 regarding this very difficult problem when we are dealing  
6 with something that is as popular as the Northeast  
7 corridor. And that is, is this the direction we should  
8 be moving in? Does it make sense to take a revenue  
9 source that we have already used to reduce the deficit  
10 and apply it here? And is this really the wave of the  
11 future, creating new entitlements when we just finished a  
12 debate on eliminating them?

13 So for that reason, while I believe I understand the  
14 motivation of this, for all of these reasons and a lot  
15 more, I have to oppose this bill.

16 Thank you, Mr. Chairman.

17 The Chairman. With the concurrence of Senator  
18 Moynihan ----

19 Senator Moynihan. Yes, sir, Mr. Chairman.

20 The Chairman. I would now like to make a motion to  
21 report out S. 1318, without the revenue provisions  
22 contained in Title X.

23 Senator Moynihan. I second the motion.

24 The Chairman. All those in favor signify by saying  
25 aye.

1 (A chorus of ayes)

2 The Chairman. Opposed, nay.

3 (A chorus of nays)

4 The Chairman. The ayes have it.

5 I now make a motion to report out legislation  
6 described as the Chairman's recommendation, which  
7 transfers one half cent of the gasoline tax from the mass  
8 transit account to the new Intercity Passenger Rail Trust  
9 Fund. The legislation will include the modifications  
10 referred to earlier today.

11 All those in favor ----

12 Senator Graham. Mr. Chairman?

13 The Chairman. Yes.

14 Senator Graham. Would an amendment be in order?

15 The Chairman. Because we have a quorum present,  
16 could we go ahead and vote it out, and then subject it to  
17 any amendments?

18 Senator Graham. But I would like to offer the  
19 amendment if we could. It is a fairly straightforward  
20 amendment. It should not take too long to dispose of it.

21 The Chairman. Could we do that after we vote it  
22 out, subject to any amendments adopted?

23 Senator Graham. Well, my preference would be to  
24 take the amendment up first.

25 The Chairman. You say it is your preference.

1       Would it be all right if we go ahead, subject to your  
2       amendment?

3           Senator Graham.   Well, my preference would be to  
4       offer the amendment now.  And the amendment is a  
5       straightforward amendment.  I will have to just describe  
6       it verbally since we do not have legislation before us.  
7       But it is to repeal that portion of the 1990 Act which  
8       provided that for fiscal year 1996, that the 2-1/2 cents,  
9       which is currently designated for deficit reduction,  
10      would be transferred 2 cents to the Highway Trust Fund  
11      and one half cent to the Mass Transit Trust Fund.

12           And I would like, if I could, Mr. Chairman to ask a  
13      question.

14           Senator Nickles.   What did you say, Bob?  What is  
15      your amendment?

16           Senator Graham.   To repeal the 1990 provision which  
17      provided that, beginning in fiscal year 1996, 2-1/2 cents  
18      which is currently utilized for deficit reduction would  
19      be transferred 2 cents to the highway trust fund and one  
20      half cent to the Mass Transit Trust Fund.  Leave it for  
21      deficit reduction.

22           Senator Nickles.   I thought you said you wanted 2  
23      cents to go to the highway trust ----

24           Senator Graham.   No.  I want to leave the 2-1/2  
25      cents in the same status that it has been from 1990 up

1       until fiscal year 1996, which is that it goes for deficit  
2       reduction, and repeal the provision in the 1990 law that  
3       would have caused that 2-1/2 cents to have gone back to  
4       spending accounts.

5             And, Mr. Chairman, I would like to ask a question if  
6       I could. This would be a question to our colleague,  
7       Senator Gramm, as well as to the staff. We were  
8       operating under the Gramm-Rudman-Hollings deficit  
9       reduction program in 1990, were we not?

10            Senator Gramm.     Nineteen ninety?

11            Senator Graham.    Yes.

12            Senator Gramm.     Yes.

13            Senator Graham.    What was the Gramm-Rudman-Hollings  
14       trend line from 1990 forward into the decade? What did  
15       it contemplate would be the decline in the annual deficit  
16       over the years of the 1990s?

17            Senator Gramm.     Well, we thought we had the  
18       protection by the Supreme Court of the retriggering  
19       mechanism, as you will recall, in 1987, and rewrote the  
20       targets. The trend of the deficit from 1985 under the  
21       bill until 1989, in the middle of the year when the S&L  
22       bailout was down. It came up in 1990. President Clinton  
23       suspended Gramm-Rudman in his first official act as  
24       President. But the trend would have been downward, had  
25       it been kept in effect.

1           Senator Graham.   Is it correct to say that the  
2   reason fiscal year 1996 was selected as the year when the  
3   2-1/2 cents would move from deficit reduction into  
4   spending accounts was because, by fiscal year 1996, under  
5   Gramm-Rudman we should have reached a balanced budget?

6           Senator Gramm.   Senator Graham, I do not recall  
7   that as being the case.   I was not for the tax.   I  
8   thought if we were going to have it, it ought to go to  
9   the trust fund.   But I cannot say that that was the case.  
10   I just do not recall that.

11          Senator Nickles.   Mr. Chairman?

12          The Chairman.    Senator Nickles.

13          Senator Nickles.   Mr. Chairman, I would like to ask  
14   staff because my staff told me they thought the impact of  
15   your amendment would not actually have a reduction in  
16   deficit.   In other words, right now, under present law,  
17   the money is supposed to go towards deficit reduction.

18          Mr. Kies.    No.   Under current law, effective  
19   October 1 of this year, it goes into the Highway Trust  
20   Fund.   That 2-1/2 cents goes into the Highway Trust Fund.  
21   That is a consequence of a 1993 Act change.

22          In 1990, the 5 cents was enacted to expire on  
23   October 1 of this year.   In 1993, the law was changed to  
24   continue that 2-1/2 cents and, effective October 1, 1995,  
25   to dedicate it to the Highway Trust Fund.   So that is

1 to dedicate it to the Highway Trust Fund. So that is  
2 where the money goes right now.

3 Senator Nickles. It goes to the Highway Trust  
4 Fund. So if Senator Graham's amendment would pass, you  
5 would have the money continue towards deficit reduction?

6 Mr. Kies. Correct.

7 Senator Nickles. So it would, in effect, reduce  
8 the deficit or not?

9 Mr. Kies. No. Because, for scoring purposes, it  
10 is just treated as a revenue of the Federal Government.  
11 So it would not change the way it is recorded for deficit  
12 calculation.

13 Senator Gramm. But it changes the spending caps  
14 that are available under the Trust Fund.

15 Mr. Kies. No. The amounts in the Trust Fund have  
16 to be appropriated. So the money goes into the Trust  
17 Fund, and then it is subject to whatever appropriations  
18 are made. But it does not change the spending caps.

19 The Chairman. Senator Chafee?

20 Senator Gramm. Just a minute. I would like to  
21 conclude that. So the impact of Senator Graham's  
22 amendment would not be to reduce the deficit?

23 Mr. Kies. Well, it would not affect scoring of the  
24 deficit because it is treated as revenue in either event.  
25 It would not permit it to be available for appropriation

1 if it never went into the trust fund. That is true.

2 Senator Chafee. See if I understand this. When  
3 the money goes into the Trust Fund, it is income to the  
4 Government, just as it would be if it had been set aside  
5 in so-called deficit reduction?

6 Mr. Kies. Correct.

7 Senator Chafee. So the only difference here is,  
8 under Senator Graham's amendment, it would not be  
9 available for appropriation. Whereas, by going in the  
10 Trust Fund, it is available for appropriation.

11 Mr. Kies. That is correct.

12 Senator Chafee. So he, in effect, would lock up  
13 the 2-1/2 cents. I think that is his proposal. Would  
14 that be in perpetuity, or just for 1996, Bob, Senator  
15 Graham?

16 Senator Graham. I would propose to repeal the  
17 provision of the 1990, as amended in 1993, law which  
18 provides that in fiscal year 1996 that the 2-1/2 cents  
19 would move from deficit reduction into the spending  
20 accounts. I would not set a time frame on that.

21 Frankly, it was my recollection--and I defer to my  
22 colleague, who knows this better than anybody--that the  
23 1996 date was not arbitrarily selected, but was intended  
24 to coincide with a point in time at which we thought we  
25 would, in fact, have eliminated the Federal deficit.

1 Obviously, we have not accomplished that objective.

2 My own sense would be that we ought to continue to  
3 put this 2-1/2 cents into an account that is not  
4 available for spending until we have achieved our  
5 objective of balancing the Federal budget, which we hope  
6 will be in the year 2002. Maybe this would be a present  
7 that we could give to the nation in the year 2002, upon  
8 accomplishing that objective of a balanced budget. I do  
9 not think we ought to be eating our cake in 1996 when,  
10 clearly, we are so far away from accomplishing the  
11 objective of a balanced budget.

12 The Chairman. I would like to proceed, if we  
13 could, with a voice vote on this.

14 Senator Grassley. I want to know the practical  
15 effect of his amendment. If it is adopted, does that  
16 take out the funding mechanism for the proposal by  
17 Senator Roth?

18 Mr. Kies. Yes, it would effectively do that.

19 The Chairman. Can we call for a vote? Those in  
20 favor, signify by saying aye.

21 (A chorus of ayes)

22 The Chairman. Those opposed, nay.

23 (A chorus of nays)

24 The Chairman. The nays have it. The amendment is  
25 not agreed to.



1 I now make a motion to report out legislation as  
2 described ----

3 Senator Moynihan. Mr. Chairman, I do not know that  
4 we have agreed to your second proposal.

5 The Chairman. That is what I am going to do,  
6 Senator.

7 Senator Conrad. Mr. Chairman, before we vote on  
8 that, could I just understand, is the corporate-owned  
9 life insurance part of your second proposal?

10 The Chairman. Yes, that is correct.

11 Senator Conrad. How do we justify using the same  
12 money twice, in just two weeks?

13 The Chairman. Well, unfortunately, the timing of  
14 this mark-up forces us to come up with a revenue raiser.

15 Senator Moynihan. We have got to learn to  
16 economize; use money twice. [Laughter]

17 Senator Pressler. Mr. Chairman?

18 The Chairman. Can we proceed?

19 Oh, Senator Pressler?

20 Senator Pressler. This is going to be very, very  
21 brief. I just cannot resist saying this. The author of  
22 this section, Title VIII, is a staunch conservative in  
23 the U.S. Senate. And if I see Senator Lott this morning,  
24 I am going to say that I thought we should rename his  
25 section "Advanced Extracreative Revenue Enhancement by a

1       Staunch Fiscal Conservative." [Laughter]

2           The Chairman.   Now I make a motion to report out  
3       legislation described as the Chairman's recommendation,  
4       which transfers one half cent of the gasoline tax from  
5       the mass transit account to the new Intercity Passenger  
6       Rail Trust Fund. This legislation will include the  
7       modifications agreed to today.

8           Senator Moynihan.   I second the motion.

9           The Chairman.   Those in favor of reporting out this  
10       legislation, signify by saying aye.

11           (A chorus of ayes)

12           The Chairman.   Opposed, nay.

13           (A chorus of nays)

14           The Chairman.   The ayes have it. The legislation  
15       is reported out.

16           Senator Grassley.   Mr. Chairman?

17           The Chairman.   Subject to amendment.

18           Senator Grassley?

19           Senator Grassley.   Mr. Chairman, I offer an  
20       amendment that would simply make the money that would be  
21       automatically expended subject to annual appropriation.

22           Members of the Committee, my amendment would do away  
23       with the provision that would have the X number of  
24       dollars, whatever amount it is that would be  
25       automatically expended, subject to annual appropriation

1 by Congress, just like the Mass Transit Trust Fund is,  
2 and is the Highway Trust Fund.

3 The Chairman. Well, I would have to oppose this  
4 amendment because it effectively would nullify the  
5 purpose of this legislation.

6 Senator Grassley. How does it do that, Mr.  
7 Chairman?

8 The Chairman. Well, it makes it subject to  
9 appropriations. Whereas, under the legislation, AMTRAK  
10 does have the right to spend the funds that are set forth  
11 in the \$2.8 billion.

12 Senator Moynihan. If I could say, Mr. Chairman,  
13 the singular fact is that this is for capital  
14 improvement. You have to know you have the money, or you  
15 cannot get started.

16 The Chairman. And that, in turn, is true.

17 Senator Grassley. Well, under that argument, the  
18 whole highway system in the United States is a capital  
19 improvement. The entire highway system is a capital  
20 improvement, since 1956.

21 That argument that this is a capital improvement  
22 does not give any credence whatsoever to the  
23 justification for bypassing the discipline that  
24 Congressional appropriation is supposed to bring to the  
25 expenditure of money.

1           We have found that one of our major budget problems  
2           in this country is directly related to the fact that we  
3           have got so much of the budget on automatic pilot. This  
4           eliminates the automatic pilot. This is why, in 1995, we  
5           have to reconcile \$725 billion to get to a balanced  
6           budget.

7           And you may have a lot of support for the  
8           expenditure of a new program. But it seems to me that at  
9           the very least you ought to want to expend the money in a  
10          financially sound way, and particularly with the power of  
11          the purse being recognized, so we do not continue to  
12          exacerbate a problem that has gone on and on for how many  
13          decades--4 or 5 decades?

14          Senator Gramm.    Mr. Chairman?

15          The Chairman.    Yes.

16          Senator Gramm.    Mr. Chairman, I will not belabor  
17          it. I agree with everything Senator Grassley said. I  
18          fear his amendment makes too much sense to be given  
19          serious consideration, but I strongly support it and  
20          intend to vote for it.

21          Senator Nickles.   Mr. Chairman?

22          The Chairman.    Yes.

23          Senator Nickles.   I did not know that Senator  
24          Grassley was going to have this amendment, but I  
25          mentioned that one of the problems that I had with this

1 is that we were creating an automatic spending program,  
2 or entitlement program, which in my opinion should be  
3 subject to appropriations. We only appropriate one-third  
4 of the budget. Two-thirds of the budget is actually set  
5 up by entitlement. I think that is a mistake. I think  
6 we should appropriate every dollar in spending.

7 We do appropriate the mass transit funds right now,  
8 and we do appropriate the highway funds. I think that we  
9 should likewise appropriate these funds. So I think  
10 Senator Grassley has a good amendment.

11 Senator Grassley. I would hope that we learn from  
12 the mistakes of the past. This whole 10 months of this  
13 calendar year, every legislative process that the  
14 Republican Majority has put in place has been directed  
15 towards correcting the mistakes of the past, getting to a  
16 balanced budget, and having Congress make tough decisions  
17 to bring fiscal sanity to our process.

18 The Chairman. Well, let me point out that the  
19 direct spending is only temporary. What we are seeking  
20 to do is to prepare AMTRAK for a privatization at the end  
21 of five years. I think that is the purpose of the  
22 Commerce legislation.

23 Senator Grassley. I do not find fault with the  
24 direction towards privatization, but I think if you  
25 wanted to make your point a basis for ignoring the fiscal

1 discipline of my amendment, then we ought to have in this  
2 legislation a date when this will be privatized. Because  
3 if we do not put in a date for privatization, we are not  
4 going to have any certainty as to when it is going to  
5 happen, and we are just going to roll this over into the  
6 future and continue the same course of action.

7 The other alternative to a date of privatization is  
8 to have an annual review by the Appropriations Committee  
9 of this money, so that we know that we are headed in the  
10 direction of this money being used for a purpose that is  
11 going to lead to a calendarization of privatization.

12 The Chairman. I now call for a vote on the  
13 Grassley amendment.

14 Those in favor, signify by saying aye.

15 (A chorus of ayes)

16 The Chairman. Opposed, nay.

17 (A chorus of nays)

18 Senator Grassley. Then I ask for a roll call.

19 The Chairman. A roll call has been requested.

20 The Clerk. Mr. Dole.

21 The Chairman. Aye, by proxy.

22 The Clerk. Mr. Chafee.

23 Senator Chafee. No.

24 The Clerk. Mr. Grassley.

25 Senator Grassley. Aye.

1           The Clerk.   Mr. Hatch.  
2           The Chairman.  No, by proxy.  
3           The Clerk.   Mr. Simpson.  
4           The Chairman.  No, by proxy.  
5           The Clerk.   Mr. Pressler.  
6           Senator Pressler.  No.  
7           The Clerk.   Mr. D'Amato.  
8           The Chairman.  No, by proxy.  
9           The Clerk.   Mr. Murkowski.  
10          The Chairman.  Aye, by proxy.  
11          The Clerk.   Mr. Nickles.  
12          Senator Nickles.  Aye.  
13          The Clerk.   Mr. Gramm, of Texas.  
14          Senator Gramm.  Aye.  
15          The Clerk.   Mr. Moynihan.  
16          Senator Moynihan.  No.  
17          The Clerk.   Mr. Baucus.  
18          Senator Moynihan.  No, by proxy.  
19          The Clerk.   Mr. Bradley.  
20          Senator Bradley.  No response.  
21          The Clerk.   Mr. Pryor.  
22          Senator Moynihan.  No, by proxy.  
23          The Clerk.   Mr. Rockefeller.  
24          Senator Moynihan.  No, by proxy.  
25          The Clerk.   Mr. Breaux.

1 Senator Moynihan. No, by proxy.

2 The Clerk. Mr. Conrad.

3 Senator Conrad. No.

4 The Clerk. Mr. Graham, of Florida.

5 Senator Graham. Aye.

6 The Chairman. Mr. Dole votes aye by proxy and Mr.  
7 Murkowski votes aye by proxy.

8 The Clerk. Ms. Moseley-Braun.

9 Senator Moynihan. No, by proxy.

10 The Clerk. Mr. Chairman.

11 The Chairman. No.

12 The Clerk. The ayes are 6, the nays 13.

13 The Chairman. The amendment does not carry.

14 I would now like to turn to some administrative  
15 matters before the Committee.

16 I would like to make the following three  
17 appointments. Unless there is an objection, I would  
18 appoint Senator John Chafee to be a member of the Joint  
19 Committee on Taxation.

20 Two, I appoint the distinguished Senator from New  
21 York, Senator D'Amato, to be the new Subcommittee Chair  
22 of the Subcommittee on Long-Term Growth, Debt and Deficit  
23 Reduction.

24 Senator Moynihan. Mr. Chairman, is the Senator  
25 from Rhode Island no longer distinguished? [Laughter]



1 Senator Chafee. I was just going to say that I  
2 thought these were outstanding appointments. [Laughter]

3 The Chairman. The Chair stands corrected. Not  
4 only is he distinguished, but he is the Honorary  
5 Senator--Honorable Senator, not honorary.

6 Senator Moynihan. Honorable, Honorable.

7 Senator Chafee. We had better quit while we are  
8 ahead here.

9 The Chairman. Yes.

10 And I am happy to appoint our newest Member of the  
11 Finance Committee, Senator Gramm ---- [Laughter]

12 Objection is heard.

13 ---- from Texas to the following three  
14 subcommittees: Taxation, International Trade and Social  
15 Security.

16 Senator Moynihan. God have mercy.

17 The Chairman. If there are no other matters ----

18 Senator Moynihan. I so move, Mr. Chairman, and I  
19 ask for a voice vote.

20 The Chairman. All those in favor, signify by  
21 saying aye.

22 (A chorus of ayes)

23 The Chairman. Opposed, nay.

24 (No response)

25 The Chairman. The ayes have it.

1           There being no other matters before us, I adjourn  
2 this meeting. Thank you for attending.

3           Senator Moynihan. Thank you, Mr. Chairman.

4           [Whereupon, at 11:12 a.m., the meeting was  
5 concluded.]

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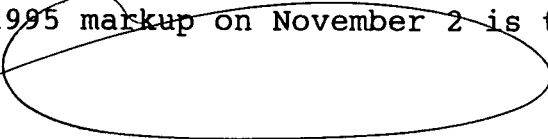
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November 16, 1995

MEMORANDUM

FOR: GAIL GALVAN  
FROM: ANNETTE GUARISCO   
SUBJECT: AMTRAK STATEMENT

Attached for inclusion in the record for the Amtrak and  
Local Rail Revitalization Act of 1995 markup on November 2 is the  
statement of Senator Dole. 

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STATEMENT OF SENATOR DOLE  
ON THE AMTRAK AND LOCAL RAIL REVITALIZATION ACT OF 1995  
SENATE FINANCE COMMITTEE MARKUP  
NOVEMBER 2, 1995

MR. CHAIRMAN, AMTRAK PROVIDES AN IMPORTANT SERVICE TO THIS COUNTRY. KEEPING AMTRAK FUNDED UNTIL THE TRANSITION CAN BE MADE TO COMPLETE INDEPENDENCE FROM THE GOVERNMENT IS THE ONLY SENSIBLE WAY TO WEAN AMTRAK OFF FEDERAL SUBSIDIES.

THE BILL BEFORE THIS COMMITTEE, S. 1318, MAKES SOME IMPORTANT STEPS IN THE RIGHT DIRECTION. HOWEVER THIS BILL ALSO CONTAINS MANY FLAWS WHICH WILL NEED TO BE ADDRESSED AT A LATER TIME. FOR EXAMPLE, I QUESTION WHETHER A FEDERALLY-SUBSIDIZED AMTRAK SHOULD BE ALLOWED TO BEGIN COMPETING WITH THE PRIVATE ELECTRIC INDUSTRY.

THE TAX PROVISIONS IN THIS BILL WILL ENCOURAGE AMTRAK'S MODERNIZATION, MAKING IT MORE EFFICIENT AND COST-EFFECTIVE. THE BILL WILL HELP BRING AMTRAK ONE STEP CLOSER TO SELF-SUFFICIENCY.

I DO, HOWEVER, WANT TO EXPRESS MY OPPOSITION TO USING THE CORPORATE-OWNED LIFE INSURANCE PROVISIONS FROM THE SENATE BUDGET RECONCILIATION BILL AS THE REVENUE OFFSET FOR THE AMTRAK BILL. IN MY VIEW, APPROPRIATE GRANDFATHER RELIEF FROM REPEALING THE COLI RULES IS STILL BEING DEVELOPED. I AM HOPEFUL THAT A BETTER APPROACH TO COLI THAN IS IN EITHER THE HOUSE OR THE SENATE BUDGET BILLS WILL EMERGE IN THE CONFERENCE AGREEMENT.



CONGRESSIONAL BUDGET OFFICE  
U.S. CONGRESS  
WASHINGTON, D.C. 20515

June E. O'Neill  
Director

November 3, 1995

Honorable William V. Roth, Jr.  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 1318, the Amtrak and Local Rail Revitalization Act of 1995.

Enacting this bill would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

  
for June E. O'Neill

Enclosure

cc: Honorable Daniel Patrick Moynihan  
Ranking Minority Member

# CONGRESSIONAL BUDGET OFFICE

## COST ESTIMATE

November 3, 1995

1. **BILL NUMBER:** S. 1318
2. **BILL TITLE:** Amtrak and Local Rail Revitalization Act of 1995
3. **BILL STATUS:**

As ordered reported by the Senate Committee on Finance on November 2, 1995.

4. **BILL PURPOSE:**

In general, the bill would restructure Amtrak's operations and reauthorize federal subsidies for Amtrak. Specifically, the bill would try to decrease Amtrak's reliance on federal operating subsidies by decreasing its costs and increasing its revenue. This goal would be supported by several provisions:

- allowing Amtrak to contract out for services--a practice that is prohibited under current law--rather than provide them internally;
- terminating the requirement that Amtrak's route discontinuances and additions comply with established criteria and requiring Amtrak to give states a 180-day notice before discontinuing routes, rather than a 90-day notice as currently stipulated in law;
- terminating the requirements that Amtrak provide commuter service in areas specified in law (referred to as section 403 (d) service) and subsidize certain passenger rail routes that are requested by states (referred to as section 403(b) service);
- prohibiting cross-subsidization between Amtrak, freight railroads, and commuter rail authorities on the Northeast Corridor starting two years after enactment of the bill;
- restricting labor protection, including limiting severance pay, from 6 years to 6 months for Amtrak employees;
- establishing new procedures for settling punitive or exemplary damages claimed against Amtrak;
- allowing Amtrak to purchase electricity without being regulated by the state utility commissions;

- allowing Amtrak to use the Northeast Corridor's electrical lines to transfer power between electrical utility companies; and
- establishing an Amtrak Reform Council, which would determine the fate of Amtrak, subject to a Congressional veto. If the council determines that Amtrak cannot provide passenger rail service throughout the country and operate without federal operating subsidies in five years, the Secretary of Transportation would have to carry out a plan, developed by the council, to liquidate Amtrak within five years.

The bill contains other provisions that would affect federal outlays. These provisions would:

- transfer all the unexpended funds appropriated for the Northeast Corridor Improvement Project to Amtrak so that Amtrak can earn interest on these funds until they are expended;
- transfer all subsidies to Amtrak upon appropriation so that Amtrak can earn interest on these funds until they are expended;
- forgive the Union Station Redevelopment Corporation from repaying about \$5 million of outstanding loan balances;
- authorize appropriations over the next four years totaling \$2.5 billion for Amtrak operating and capital grants, \$800 million for Northeast Corridor grants, and \$200 million to guarantee Amtrak loans;
- authorize an annual appropriation of \$25 million to assist freight railroads for fiscal year 1996 and each year thereafter; and
- change the conditions under which the federal government would guarantee loans for freight railroads.

The bill also contains tax provisions that would:

- exempt Amtrak passengers and clients from paying state and local taxes and fees;
- reduce Amtrak's tax liability for railroad retirement and unemployment if funds are appropriated for the Secretary of Transportation to make these payments; and
- reaffirm the tax-exempt status of commuter railroads.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

The following table summarizes the impact this bill would have on federal spending. Over the next five years this bill would increase direct spending by \$4 million and authorize additional appropriations totaling \$3.5 billion.

(By fiscal year, in millions of dollars)

	1995	1996	1997	1998	1999	2000
<b>CHANGES IN DIRECT SPENDING</b>						
<b>Estimated Budget Authority</b>						
Northeast Corridor Transfer	--	--	--	--	--	--
Amtrak Grant Transfer	--	--	--	--	--	--
Union Station	--	4	--	--	--	--
<b>Total</b>	--	4	--	--	--	--
<b>Estimated Outlays</b>						
Northeast Corridor Transfer	--	330	-203	-87	-30	-10
Amtrak Grant Transfer	--	219	-162	-57	--	--
Union Station	--	4	--	--	--	--
<b>Total</b>	--	553	-365	-144	-30	-10
<b>SPENDING SUBJECT TO APPROPRIATIONS</b>						
<u>Spending Under Current Law</u>						
Budget Authority <sup>a</sup>	1,004	750	--	--	--	--
Estimated Outlays	983	882	371	146	31	10
<u>Proposed Changes</u>						
Authorization Level <sup>b</sup>	--	372	1,107	1,107	798	145
Estimated Outlays	--	337	1,095	1,107	798	165
<u>Spending Under this Bill</u>						
Authorization Level <sup>a</sup>	1,004	1,122	1,107	1,107	798	145
Estimated Outlays	983	1,219	1,466	1,253	829	175

a. The 1995 and 1996 levels are the amounts appropriated for those years.

b. The 1996 authorizations are the amounts authorized less appropriations. The 1996 appropriations bill has recently been cleared by the Congress.

The costs of this bill fall within budget function 400.



6. BASIS OF ESTIMATE:

Direct Spending. Under current law, CBO estimates the unexpended balance for the Northeast Corridor Improvement Project will be \$585 million at the start of fiscal year 1996; these funds will be transferred to Amtrak as bills come due. This bill would transfer these balances to Amtrak upon enactment so that Amtrak can earn interest on the funds until they are expended. The transfer would not increase outlays over time but would cause outlays to occur earlier than they would have otherwise. CBO estimates that \$330 million of the unexpended balances that would be expended between 1997 and 2000 under current law would be expended in 1996 if this bill is enacted.

Similarly, the bill would allow Amtrak to receive and earn interest on any unexpended funds from its operating and capital appropriation for 1995 and 1996. CBO estimates that the funds transferred would total \$831 million, but \$612 million of these funds would be expended in 1996 under current law anyway. Therefore, only \$219 million of outlays would be shifted from 1997 and 1998 to 1996 because of these provisions.

The cash management principles outlined in Title 31 of the United State Code requires an entity to pay the federal government any interest that it earns with federal money. It is unclear to CBO if these two transfer provisions supersede Title 31. For the purpose of this estimate, CBO assumes that the bill's provisions would supersede Title 31, and therefore, we do not project any payments from interest to the federal government.

CBO estimates that forgiving the \$5 million loan that the Union Station Redevelopment Corporation owes the federal government would entail a subsidy cost of \$4 million. Under the Credit Reform Act of 1990, the cost of forgiving a loan is the net present value of expected repayments. Based on information from the Federal Railroad Administration, CBO expects that \$5 million would be repaid under current law over the next five years.

Authorization of Appropriations. For purposes of this estimate, CBO assumes that the full amounts authorized would be appropriated at the start of each fiscal year. The authorization levels include the amounts specified in section 701 for Amtrak and section 902 for local rail freight assistance and the amounts estimated for section 504 for the railroad retirement and unemployment tax payments. CBO estimates that the railroad retirement and unemployment payments would be about \$120 million annually. If this bill is enacted, the outlay rates for Amtrak grants and Northeast Corridor grants would increase to 100 percent because the bill would allow Amtrak to receive all the funds up front in order to earn interest on them. However, it is unclear if this provision supersedes the cash management principles outlined in Title 31 of the United States Code. For the purpose of this estimate, CBO assumes

that the bill's provisions would supersede Title 31, and therefore, we do not project any payments from interest to the federal government.

The bill would authorize appropriations of \$50 million each year for fiscal years 1996 through 1999 for the cost of guaranteeing loans to Amtrak. Based on information provided by Amtrak, CBO projects that the loans to Amtrak guaranteed by the federal government would be disbursed over three years. The amount of loan guarantees that \$50 million of subsidy funds would support is very uncertain for Amtrak. Because Amtrak is in financial trouble and these guaranteed loans would likely be subordinated to existing debt, the probability of default would be very high.

The estimated outlays for local rail freight assistance are based on the historical rates of spending for this program. CBO estimates that the operations of the Amtrak Reform Council would cost the federal government between \$300,000 and \$500,000 per year. Finally, the modifications to the conditions under which loan guarantees would be given to freight railroads would decrease the federal government's protection against defaults and increase the cost to the federal government if loan guarantees are provided in the future.

Possible Amtrak Liquidation. Subject to a Congressional veto, this bill would direct the Secretary of Transportation and Amtrak to liquidate Amtrak if the Amtrak Reform Council finds that Amtrak cannot provide passenger rail service throughout the country without an operating subsidy in five years. Under current budgetary treatment, Amtrak is not a federal entity, and its operations are not included in the budget beyond the operating and capital subsidies that it receives. If liquidation were to occur, the federal government could obtain receipts from the preferred stock that it owns and the lien it has on the right of way for the Northeast Corridor; however, CBO believes that obtaining significant receipts is extremely unlikely. Alternatively, it is possible that the courts would decide that Amtrak is a federal entity and is liable for any of Amtrak's outstanding liabilities. This bill however, would reduce one of the potentially largest liabilities--labor protection. For the purpose of this estimate, CBO assumes operations will continue.

#### 7. PAY-AS-YOU-GO CONSIDERATIONS:

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting this bill would shift outlays from fiscal years 1997 through 2000 to 1996. In addition, the bill would increase direct spending by \$4 million by forgiving a loan to the Union Station Redevelopment Corporation. The following table summarizes CBO's estimate of the bill's pay-as-you-go effect.

(by fiscal year, in millions of dollars)

	1996	1997	1998
Change in outlays	553	-365	-144
Change in receipts		Not applicable	

**8. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:**

Most sections of the bill affecting state and local governments (primarily commuter authorities) would make it more expensive for them to provide rail service within their jurisdictions. To the extent that state and local governments choose to maintain current levels of commuter service, these provisions would shift costs from Amtrak to local authorities. CBO is unable to predict the likelihood or magnitude of any resulting costs at this time. The bill would preempt local and state governments from collecting sales taxes on interstate services provided by Amtrak. The bill does not impose any new enforceable duties on state and local governments.

Section 102 of the bill would prohibit Amtrak from submitting below-cost bids to provide certain services for local governments and commuter authorities. There is no such prohibition in current law. To the extent that Amtrak would have made below-cost bids on future contracts, state and local transportation authorities would have to pay more for contracted services. This provision would apply primarily to Amtrak's seven commuter rail contracts, which generated \$270 million in revenues in fiscal year 1994. Because it is unclear whether Amtrak actually does bid below cost on contracts, CBO cannot estimate the effect this change would have on commuter authorities.

Section 201 of the bill would end the requirement that Amtrak continue to provide special commuter transportation under section 403(d) of the Rail Passenger Service Act. Under current law, Amtrak must provide this service as long as the short-term avoidable loss on a route does not exceed a specific threshold. According to Amtrak officials, all 403(d) services currently run by Amtrak either cover their short-term avoidable losses or are already fully supported by states. Therefore, this change would not shift any costs to state or local governments.

Sections 203 and 204 of the bill would end Congressional review of changes to Amtrak's route and service criteria and end additional route requirements. State and local governments would face higher costs if they decided to pay for the provision of any services that Amtrak discontinued as a result of these changes. We currently have no information on which routes, if any, Amtrak would discontinue if these changes were to become law. Furthermore, we cannot estimate how states and local

governments would respond to Amtrak's decisions. Therefore, CBO cannot estimate the budget impact of these changes.

Section 205 of the bill would end the requirement that Amtrak consider applications from state and local governments to provide or continue to provide services under section 403(b) of the Rail Passenger Service Act. Currently, Amtrak may approve such applications if the applicants agree to pay a certain share of short-term avoidable losses or capital costs that Amtrak incurs by providing the services. This section also would allow Amtrak to end agreements reached prior to the enactment of this change. In fiscal year 1993, Amtrak absorbed approximately \$82 million in losses on services of this kind. Amtrak officials say that losses have been smaller since then, because some state and local governments have agreed to bear larger shares of the costs. If Amtrak renegotiated all agreements that are currently generating losses, the costs shifted to state and local governments would be somewhat less than \$82 million annually. State and local governments would not be compelled to continue these services, however.

Section 207 of the bill would affect the way Amtrak charges other carriers and commuter authorities for services it provides on its Northeast Corridor right-of-way. Amtrak estimates that, in total, this change would increase commuter authority payments from about \$60 million to about \$90 million annually. In discussions with CBO, officials of commuter authorities noted that the actual increase in payments could be substantially different from this estimate, because it would be determined by separate negotiations with each of the commuter authorities.

Section 507 of the bill would exempt Amtrak's passengers and customers from most state and local taxes, fees, or charges, whereas current law exempts only Amtrak and its subsidiaries. This section would prohibit new state or local taxes of any kind on Amtrak services. An April 1995 Supreme Court ruling upheld the right of states to place unapportioned sales taxes on interstate bus tickets. This ruling could be used to justify state taxes on Amtrak's interstate passenger tickets and possibly on its interstate mail or freight transportation services. Therefore, this change would preempt state and local taxing authority and would foreclose a potential source of state and local revenues. In fiscal year 1994, Amtrak collected about \$830 million from ticket sales and about \$60 million from mail and express services.

Section 615 would allow states to enter into interstate compacts to retain existing intercity passenger rail services or create new services. These compacts could finance their activities by issuing notes or bonds. This change would make it easier for states to provide any services discontinued by Amtrak.

Finally, Section 803 of the bill would make it easier for Amtrak to raise revenue through the sale or transmission of electric power. Commuter authorities might be able to buy electricity from Amtrak more cheaply than they currently purchase it

from electric utility companies, although it would be difficult to estimate the amount of savings that would occur.

9. ESTIMATE COMPARISON: None.

10. PREVIOUS CBO ESTIMATE:

On September 20, 1995, CBO transmitted a cost estimate of this bill as ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 20, 1995. This estimate reflects changes made by the Senate Committee on Finance. The Committee on Finance struck Title X of the bill, which included most of the bill's tax provisions, including the transfer of 0.5 cents per gallon of the federal gasoline tax to Amtrak.

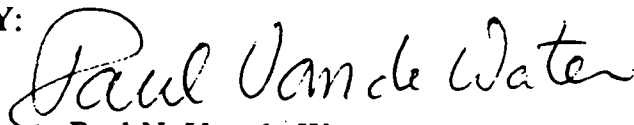
In addition, the Congress has cleared the 1996 transportation appropriations bill for the President's signature. Therefore, we have estimated how much outlays from 1996 Amtrak appropriations would be accelerated. Finally, the version of S. 1318 that the Senate Committee on Commerce, Science, and Transportation gave CBO for preparing its cost estimate is slightly different than the version of the bill that was reported. The version we received did not include the provision that would forgive the \$5 million loan that the Union Station Redevelopment Corporation owes the federal government.

11. ESTIMATE PREPARED BY:

Federal Cost Estimate: John Patterson (226-2860).

State and Local Cost Estimate: Pepper Santalucia (225-3220).

12. ESTIMATE APPROVED BY:



Paul N. Van de Water  
Assistant Director  
for Budget Analysis



*gnee*

CONGRESSIONAL BUDGET OFFICE  
U.S. CONGRESS  
WASHINGTON, D.C. 20515

June E. O'Neill  
Director

November 17, 1995

Honorable William V. Roth, Jr.  
Chairman  
Committee on Finance  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 1395, the Intercity Passenger Rail Trust Fund Act of 1995.

Enacting this bill would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

*Paul Van de Water*  
for June E. O'Neill

Enclosure

cc: Honorable Daniel Patrick Moynihan  
Ranking Minority Member

**CONGRESSIONAL BUDGET OFFICE****COST ESTIMATE**

November 17, 1995

1. **BILL NUMBER:** S. 1395
2. **BILL TITLE:** Intercity Passenger Rail Trust Fund Act of 1995
3. **BILL STATUS:**

As reported by the Senate Committee on Finance on November 3, 1995.

4. **BILL PURPOSE:**

S. 1395 would:

- establish an Intercity Passenger Rail Trust Fund from which funds would be appropriated;
- transfer 0.5 cents per gallon of the federal gasoline tax (an estimated \$3.6 billion over the next five years) from the Mass Transit Account of the Highway Trust Fund to the Intercity Passenger Rail Trust Fund;
- appropriate \$2.8 billion for capital grants for intercity passenger rail service in fiscal years 1996 through 2000; and
- disallow interest deductions for corporate-owned life insurance.

5. **ESTIMATED COST TO THE FEDERAL GOVERNMENT:**

S. 1395 would appropriate \$2.8 billion for capital grants for passenger rail service over the next five years and would increase federal income taxes by \$2.9 billion by disallowing interest deductions for corporate-owned life insurance. The following table summarizes CBO's estimate of the bill's budgetary impact.

(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000
<b><u>Additional Revenues</u></b>					
Federal Income Tax Receipts <sup>a</sup>	134	372	594	802	966
<b><u>Change in Direct Spending</u></b>					
Budget Authority	131	663	667	670	672
Estimated Outlays	79	431	586	668	671

<sup>a</sup> Estimate provided by the Joint Committee on Taxation.

The costs of this bill fall within budget function 400.

#### 6. BASIS OF ESTIMATE:

For the purposes of this estimate, CBO assumes that the bill will be enacted before January 1, 1996.

**Revenues.** The Joint Committee on Taxation provided the estimate of how much federal income taxes would increase under the bill's provision disallowing interest deductions for corporate-owned life insurance. A similar provision is included in the conference version of H.R. 2491, the Balanced Budget Act of 1995. If H.R. 2491 is enacted before S. 1395, then these additional revenues shown above would not be attributed to this bill.

**Direct Spending.** The bill would specify amounts of new budget authority for each year from 1996 through 2000. The outlay estimates are based on the historical spending pattern for Amtrak's capital grants when funds are available to be spent at the start of the fiscal year. Over the last several years, Amtrak's capital grants have not been available for obligation until July 1. This restriction would not apply to the funds that would be appropriated by S. 1395.

**Possible Reduction of Receipts Transferred.** S. 1395 includes a provision that would reduce the amount of gasoline tax receipts transferred from the Mass Transit Account to the Intercity Passenger Rail Trust Fund if estimated outlays from the Mass Transit Account for a year exceed the "available funds" in that account for that



year. The term "available funds" could be interpreted in a number of different ways. For example, it could mean:

- (1) the cash balance at the beginning of the year plus expected revenues for that year,
- (2) the cash balance at the beginning of the year plus expected revenues for that year, less the amounts necessary to cover future-year outlays from funds previously made available through appropriations acts, or
- (3) the cash balance at the beginning of the year plus expected revenues for that year, less the amounts necessary to cover future-year outlays from funds previously made available through authorizing acts.

If the term "available funds" is interpreted as either of the first two possible definitions, the full 0.5 cents per gallon of federal gasoline tax receipts would be transferred in fiscal years 1996 through 2000 under CBO's baseline projections. However, if the last definition applies, the amount of funds to be transferred would be reduced in some years. For the purposes of this estimate, CBO assumes that all authorized amounts would be transferred for each year from 1996 through 2000 without any reduction. If the transfer were to be reduced for any year, the timing and the amount of any reduction would depend on future authorizing and appropriations acts that will determine future spending from the Mass Transit Account. If the transferred amount is reduced by a sufficiently large sum (about \$100 million or more) in any of the next five years, the estimated amounts of direct spending shown in the above table would also be reduced.

Programs funded out of the Mass Transit Account have a two-phase funding procedure. First, authorizing legislation provides an initial funding level in the form of contract authority. Then, annual appropriations acts limit the amount of this contract authority that can be obligated in a given year. Contract authority that is not available for obligation in one year because of an obligation limitation carries over to the next year. Under CBO's baseline projections, adjusted for 1996 appropriations action, the amount of contract authority made available for mass transit programs would be about \$5 billion a year between fiscal years 1997 and 2000 while the projected obligation limitations would limit obligations to about \$3 billion a year. If the 0.5 cents per gallon of federal gasoline tax receipts (between \$700 million and \$800 million a year) is transferred to the Intercity Passenger Rail Trust Fund, the remaining annual revenues for the Mass Transit Account would be about \$3 billion, which would cover spending under the annual obligation limitations. If more than \$3 billion a year of contract authority were to become available for obligation, cash balances would gradually be drawn down.

The transfer of funds under S. 1395 would increase the likelihood of triggering the Rostenkowski rule within the next five years. The Rostenkowski rule was established to prevent a funding shortfall. It would require a reduction in the amount of contract authority that could be made available for spending if the end-of-year cash balance in the Mass Transit Account and one year of future revenues are insufficient to cover the account's end-of-year balance of unexpended contract authority. Depending on both the interpretation of the bill and future authorizing and appropriations legislation that affect mass transit spending, the rule could be triggered around or after fiscal year 2000 if S. 1395 is enacted.

**7. PAY-AS-YOU-GO CONSIDERATIONS:**

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting S. 1395 would increase both receipts from federal income taxes and direct spending, as shown in the following table.

(by fiscal year, in millions of dollars)

	1996	1997	1998
Change in outlays	79	431	586
Change in receipts	134	372	594

**8. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:**

Each state that does not receive intercity passenger rail service from Amtrak—Maine, South Dakota, Oklahoma, Alaska, and Hawaii—would be eligible to receive up to 1 percent of the funds appropriated from the Intercity Passenger Rail Trust Fund for use toward capital improvements in intercity rail service. This would amount to approximately \$6 million per year for each of these states under the funding levels provided in this bill.

**9. ESTIMATE COMPARISON: None.**

**10. PREVIOUS CBO ESTIMATE:**

On September 20, 1995, CBO transmitted a cost estimate of S. 1318, the Amtrak and Local Rail Revitalization Act of 1995, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 20, 1995. That bill includes a provision that would transfer the 0.5 cents per gallon of federal gasoline tax receipts directly to Amtrak. S. 1395 would instead transfer the funds to the Intercity


Passenger Rail Trust Fund and then appropriate \$2.8 billion to Amtrak and states that do not receive Amtrak service for capital improvements for intercity passenger rail service.

11. ESTIMATE PREPARED BY:

Federal Cost Estimate: John Patterson (226-2860).

State and Local Government Cost Estimate: Karen McVey (225-3220).

12. ESTIMATE APPROVED BY:

  
for Paul N. Van de Water  
Assistant Director  
for Budget Analysis