

## **IV. THE COUNCIL'S PROPOSED RAIL PASSENGER RESTRUCTURING PLAN**

The Council's proposal is spelled out in detail below.

### **A. A RESTRUCTURED NATIONAL RAILROAD PASSENGER CORPORATION AS THE FEDERAL PROGRAM MANAGEMENT AGENCY**

- Federal governmental responsibilities for administering the program that provides national rail passenger service should be consolidated in a federal program management entity called the National Railroad Passenger Corporation ("NRPC"). The NRPC would be authorized to exercise the program management and oversight responsibilities currently lodged in the existing NRPC as well as to ensure that the train operations and infrastructure responsibilities of the existing NRPC are properly performed through newly established NRPC train operation and infrastructure companies. The new NRPC would be the legal successor to the existing NRPC.<sup>31</sup> The NRPC's strengthened oversight and program functions would be clearly set forth in its restructured charter.
- The NRPC would be re-chartered as a wholly-owned, independent government corporation generally subject to the District of Columbia Business Corporation Act to the extent not inconsistent with its statutory charter. The NRPC would be responsible for administering, monitoring, planning, and federally funding the national rail passenger program in a role similar to the United States Railway Association's ("USRA's") role in monitoring and funding Conrail's early years of operation. It is anticipated that the NRPC would be able to perform its oversight functions with approximately 50 employees.
- The NRPC would be under the control of a board of directors comprising: (1) ex officio, the Secretary of Transportation and the Secretary of the Treasury; (2) a representative of the freight railroads (probably nominated by the Association of American Railroads (AAR)); (3) a representative of the railway labor organizations; (4) a representative of the investment community; and (5) one representative from each of not less than 7 nor more than 11 regions constructed on the basis of transportation patterns and population, nominated from lists provided to the President by the governors of each region and approved by the Senate. The inclusion of broad regional representation on the board ensures that regional and state preferences regarding intercity rail passenger needs are effectively represented; it would also serve to make the NRPC a more effective buffer against political interference in route and service decisions because board decisions would reflect input across a broad political and regional spectrum.

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<sup>31</sup> The name National Rail Passenger Corporation is retained to make clear that it is intended to be the legal successor to the existing NRPC. Under current law, the NRPC holds Amtrak's statutory right to operate over the lines of freight railroads at incremental cost and with operating priority, and such rights would be retained by the restructured NRPC.

- The NRPC would hold Amtrak's existing statutory franchise to operate over the lines of the freight railroads at incremental cost and with operating priority (“statutory franchise”). The NRPC would have the authority to authorize its train-operating subsidiary (or subsidiaries) to operate under the statutory franchise as well as other approved train operating companies acting on the NRPC’s behalf under competitively-bid franchise contracts. (Amtrak may in fact contract out operations under current law subject to collective bargaining agreements with its employees.)

#### The NRPC’s Legal Authority To Enter Into Franchise Arrangements

Under current law, the NRPC has specific authority to contract out its rail passenger operations to other carriers and entities. 49 U.S.C. 24305(a). Indeed, as originally enacted, the Rail Passenger Service Act of 1970 (“RPSA”) contemplated that Amtrak would contract with the freight railroads for the provision of rail passenger services which would generally continue to be provided by freight railroad employees. See RPSA, secs. 305, 401-402. Although the RPSA was amended shortly after to allow Amtrak to employ directly its own employees and to operate and control directly, to the extent practicable, all aspects of the services it provides (RPSA, sec. 305, codified at 49 U.S.C. 24305 (b)), the law contains no prohibition precluding Amtrak from contracting out operations where “practicality” factors so permit. Moreover, an amended provision in prior law prohibiting contracting out where the result would be a layoff of an Amtrak employee was repealed by the Amtrak Reform and Accountability Act of 1997 (“ARAA”) (and the issue of contracting out left to collective bargaining). ARAA Sec.121.

Under the restructuring recommended by the Council, the NRPC, as Amtrak’s legal successor, would retain Amtrak’s existing statutory track access rights with respect to rail passenger operations. The “practicality” and “collective bargaining” requirements of existing law as applicable to the NRPC’s authority to franchise would be repealed, however, to allow the NRPC to contract out operations at its discretion to its train operating subsidiaries or other carriers pursuant to competitively-bid franchise agreements (with certain labor protections and subject to FRA safety requirements) where financial and service benefits would result. (Under the Council’s proposal, any franchisees awarded contracts would have to negotiate with transferred Amtrak employees under existing collective bargaining agreements before subcontracting out work under the franchise agreements.)

### ***Incremental Cost***

The Rail Passenger Service Act of 1970 created the National Railroad Passenger Corporation, doing business as Amtrak, to relieve freight railroads from the financial burden of operating passenger rail service. A condition for freight railroads' relief from the "public convenience and necessity" regulatory obligation of providing intercity rail passenger service was that the freight railroads would only charge Amtrak incremental cost for passenger trains operating over the freight railroads, and that the freight railroads would continue to provide operating priority to passenger trains (as required under the common law).

The Council's Action Plan specifies that the NRPC would retain the right to pay incremental costs for operating over the tracks of freight railroads, and that passenger trains would retain their statutory (and common law) operating priority.

Arguably the NRPC and freight railroads may be better served if they were required to negotiate passenger train trackage fees and incentives that provide adequate profit incentives to the freight railroads to provide on-time dispatching of passenger trains. However, the Council recommends retaining the current incremental cost and operating priority standards in its Action Plan based on the belief that, without them, the freight railroads would have an unfair position in negotiations with the NRPC over trackage fees.

The Council would note, however, that retaining the NRPC's right to pay incremental costs for trackage fees does not preclude the NRPC and freight railroads from negotiating contracts which specify another trackage fee structure that may be more advantageous to both parties with respect to the long term operation of rail passenger service.

In fact, there is no assurance that incremental cost-based trackage fees will be lower than trackage fees based on average costs. Normally, when excess capacity exists, the incremental cost of running additional trains (freight or passenger) over a track are lower than the fully allocated average cost of all trains running over the track. However, if excess track capacity does not exist, or if the speed of additional passenger trains is so much faster than existing freight trains that all (or most) track capacity is used up accommodating the faster passenger trains, the incremental cost of providing the track capacity needed for rail passenger service may be higher than the average cost of providing track capacity on that route. Federal, state or other contributions to make capital investments to increase track capacity may rectify such situations.

- Federal funding appropriations would be requested and disbursed solely through the NRPC based on Operating Company and Infrastructure Company proposed business plans that have been approved by the NRPC and provided that the Operating and Infrastructure Companies' individual actual performance meets minimum business plan objectives contained in their approved business plans. The NRPC would receive all federal funds,

monitor actual Operating Company and Infrastructure Company performance relative to the companies' respective strategic business plans, and disburse such funds monthly based on each company-proposed business plan. If a company's actual performance deviates from its plans, it would be required to adopt plans of corrective action acceptable to NRPC as a condition precedent to continue receiving funding.

- The NRPC would also handle or offer to handle risk management functions, including bidding and purchasing of insurance, re-insurance and funding of self-insurance (claim deductible) reserves, for the Operating and Infrastructure companies as well as for franchisees under competitively-bid contracts. Such activities would ensure that the Operating and Infrastructure companies and franchisees meet all insurance requirements currently applicable to existing Amtrak operations under the statutory franchise and as may be subsequently modified by law. The NRPC would also establish safety policies and practices, and monitor safety programs (under the general jurisdiction of and consistent with FRA safety regulations) as part of overall risk management to minimize the cost of insurance and self-insured losses.
- The NRPC would ensure that train operations (including mail and express and mechanical shops) and infrastructure would be accounted for separately. To ensure this result, the NRPC would establish separate companies to perform its train operations and infrastructure functions. The NRPC would require that the Operating and Infrastructure companies develop and adopt transparent accounting systems that provide essential business and financial information for the efficient operation of intercity rail passenger service and the management, maintenance and improvement of infrastructure.
- The NRPC would also be specifically authorized to:
  - Design appropriate train operations franchises, the terms for franchises and minimum service requirements and to negotiate and administer franchise contracts;
  - Establish a decision-making framework for evaluating proposed high-speed rail projects;
  - Assist states and regional compacts in designing and evaluating high-speed rail passenger projects using realistic planning assumptions.
  - Establish a decision-making framework for operating other train service, including long-distance routes;
  - Establish a competitive bidding process for franchising train operations and maintenance of the NEC infrastructure;
  - Establish and implement, with its train operating subsidiary, a plan for putting the NEC in a state of good repair; and
  - Ensure that travelers may make reservations through a national reservations system and obtain joint tickets on any of the rail passenger services it authorizes and oversees.

## **B. A SEPARATE CORPORATION TO CONDUCT TRAIN OPERATIONS**

- The NRPC would establish a separate train-operating subsidiary under the effective control and oversight of the NRPC. The NRPC would also establish subsidiary units of the train-operating company to:
  - provide train-operating services over the NEC, other federally designated corridors, other existing short-haul routes, and for inter-corridor long-haul services. The new operating units would be based on logical route systems predicated on revenue and passenger transportation demands and would avoid “cherry-picking” of only the most profitable services.
  - operate mail and express business;
  - operate the locomotive and car repair shops;
  - hold ownership and lease rights to operating equipment; and
  - provide commuter services under contracts with state, regional or local authorities.
- The new train-operating subsidiary would serve as the nation’s intercity rail passenger operator (except as indicated below), perform mail and express business, operate the mechanical shops that conduct heavy repair and rebuilding operations, and own passenger rolling stock. All services would be performed under contracts with the NRPC and/or state or regional authorities. Contracts would include performance standards requiring continuous improvements in performance (cost recovery, customer satisfaction and ridership, for example). These performance standards are intended to help the train-operating subsidiary improve its overall performance to be in a good position to compete with other service providers after the transition period, should franchising be initiated.
- The train-operating subsidiary would be organized as a wholly-owned government corporation under D.C. law. It would have a separate board of directors selected by the NRPC board that would be comprised of business professionals with backgrounds in operation and finance.
- After a transition period (2 to 5 years), the NRPC would have the option of franchising some or all operations and services, including corridor trains, long-haul trains, mail and express service and the Amtrak locomotive and car repair shops. The NRPC train-operating subsidiary would act as fall-back operator if no competitive bids (positive or negative bids) are proffered.
- Pilot projects could be initiated within the first year to franchise (pursuant to competitive bidding procedures) one or several Amtrak routes (e.g., California Corridor Trains, Coast Starlight, and/or the AutoTrain). Franchisees would be authorized by the NRPC to operate

under its statutory franchise. Franchisees would be subject to the same labor (Railway Labor Act (RLA)), Federal Employers' Liability Act (FELA) and railroad retirement laws that Amtrak is currently subject to; current Amtrak train operating employees would be granted hiring preference with the new franchisees to the extent that new hiring is necessary. The Council recommends that in any restructuring, employees follow their work in seniority order with their collective bargaining agreements intact. Agreements would be subject to collective bargaining under the normal provisions of the Railway Labor Act. Labor protection would be provided by the NRPC under the terms of the then-existing collective bargaining agreements applicable to Amtrak employees.

- During the transition period, only the national train-operating company (through its operating units) and franchisees under designated pilot projects would be able to operate under the NRPC statutory franchise. As under existing law, however, regions or states would be free to contract with other operators for specific services outside of the statutory access rights.
- During the transition period, the NRPC would configure the specific corridors or routes that may be subject to competitively-bid franchise arrangements at the discretion of the NRPC. At the option of the NRPC, all corridors and routes could be subject to competitively-bid franchise arrangements (including negative bids) after the transition period, with the NRPC train-operating subsidiary acting as fall-back operator if no competitive bids are proffered.
- Specific corridors or routes that would be subject to franchise arrangements should be selected by the NRPC in a manner that will ensure that routes or corridor services to be provided form part of a rational and viable economic and geographic unit to the maximum extent possible (i.e., the NRPC should not permit "cherry picking" of only the most potentially profitable services).
- Franchisees would provide services under contract with either the NRPC or directly with regions and states for both corridor and inter-corridor services; franchisees would be authorized by the NRPC (with NRPC program oversight and FRA regulation of safety requirements) to operate under the NRPC statutory franchise for the services performed on behalf of the NRPC.
- All franchisees authorized to operate under statutory franchise rights would be subject to same labor (RLA), FELA and railroad retirement laws that Amtrak is currently subject to; current Amtrak train operating employees would be granted hiring preference with new franchisees to the extent that new hiring is necessary. The Council recommends to Congress that in any restructuring, employees follow their work in seniority order with their collective bargaining agreements intact. Agreements would be subject to collective bargaining under the normal provisions of the Railway Labor Act. Labor protection would be provided by the NRPC under the terms of the then-existing collective bargaining agreements.
- After franchising is introduced, equipment could be owned by the NRPC, the franchisee, or a state or states; alternatively, the equipment subsidiary could be privatized after the

transition period. Such arrangements would ensure that potential franchisees have access to equipment on the same terms as the train-operating subsidiary in submitting competitive franchise bids after the transition period.

- States developing high-speed rail corridors and/or providing operating subsidies on lower-speed trains would have the right to manage the franchising process for those operations and select the service providers using their own selection criteria.
- After the transition period, mail and express operations could be franchised through competitive bidding as a single unit or as part of the passenger operations franchises, at the discretion of the NRPC.
- After the transition period, the NRPC would determine whether to privatize NEC (Wilmington and Bear, DE shops) and Beech Grove, IN and other maintenance and repair shops, lease them to private entities, or otherwise operate or dispose of the facilities. At the discretion of the NRPC, passenger train operators could bid, as part of their franchise agreements, to operate equipment repair shops or to contract with the train-operating subsidiary or another service provider for locomotive and car maintenance.
- Operating shortfalls for the long-haul trains would be funded by the federal government both before and after the transition period; during the transition period, the current arrangements for funding operating shortfalls for existing and new corridor services would remain in place (i.e., the federal government would continue to fund operating shortfalls for only “basic system” services as historically defined; shortfalls for non-basic system and new services would continue to be funded by the states); after the transition period, including a ramp-up period for new corridor train services, the states would be responsible for funding operating losses (if any) on all existing and new corridor services.
- Both during and after the transition period, franchising authorities or train operators would be responsible for privately financing new equipment purchases or leases; if necessary, federal funding would be provided for long-haul equipment and state funding for corridor equipment.
- After the transition period, the train-operating company could be privatized.

### **C. A REGIONALLY-DIRECTED COMPANY TO OPERATE, MAINTAIN, AND IMPROVE THE NORTHEAST CORRIDOR INFRASTRUCTURE**

- The NRPC would establish a separate corporation (a wholly-owned government corporation organized under DC law) to hold title to the NEC infrastructure.<sup>32</sup>

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<sup>32</sup> The infrastructure company could hold title to the NEC and other infrastructure owned by Amtrak outside of the NEC subject to the existing USG mortgage lien and as a condition of assuming all outstanding Amtrak debt to the

- The NEC infrastructure company would be established with a separate board of directors comprised of representatives of the Northeast Corridor states' governors, United States Department of Transportation, freight railroads that use the Northeast Corridor, and the new intercity passenger train-operating company.
- During a transition period of 2-5 years, the new infrastructure company would manage the NEC infrastructure under contract with the NRPC. The contract would include performance standards requiring continuous improvements in performance (cost recovery, user satisfaction, and decreases in track speed restrictions for Acela Express and other trains, for example).
- If the MTA, Connecticut Department of Transportation, and MBTA consent, their portions of the Northeast Corridor would be integrated with the infrastructure company; otherwise, the infrastructure company would coordinate operations, maintenance and capital programs with the states owning portions of the Northeast Corridor.
- Under the direction of the NRPC, the infrastructure company would have the authority to sell or transfer unneeded assets within the NEC or acquire needed assets within the NEC from states and localities.
- Ownership and responsibility for non-NEC assets (including train stations) would be divested to the states, local governments, or private enterprises (to the extent possible).
- The NEC infrastructure company would charge an incremental cost-based rate to all passenger operators on a fair and equitable basis, and market-based rates for other users. This policy would ensure that all NEC users are treated fairly and that there are no hidden subsidies.
- After the transition period, the NRPC would have the authority to contract out management of the NEC infrastructure to private contractors (under existing labor arrangements negotiated between the NRPC with NEC employees, as may be subsequently modified), or to transfer ownership and management of the NEC infrastructure company to the NEC states or a regional authority under appropriate terms and conditions ensuring fair use and proper maintenance.
- The new infrastructure corporation could be modeled on other examples under which the federal government owns the assets, but competitively awards a contract for the operation of the assets to a private sector company (i.e., a government-owned, contractor-operated (GOCO) facility, of which there are many examples in the US).

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USG, including the USG-held preferred stock; alternatively, payment of principal on the existing NEC mortgage note could be accelerated by federal statute as provided for in the mortgage agreement and settled in return for outstanding debt; under this option the NEC infrastructure company could take title under a new USG mortgage agreement. Other options, such as the conversion of existing USG debt to equity, are also available.

- The federal government would provide funds to the Infrastructure Company via grants administered by the NRPC, including some initial appropriated funds for the Penn Station life and safety projects and Northeast Corridor bridge and tunnel projects that need immediate attention. On a long-term basis, funds would be provided via a trust fund (with an income source to be determined by Congress).<sup>33</sup> States would be expected to fund a portion of the capital expenditures reflecting the importance of the Northeast Corridor for commuter rail operations either directly or through flexible transportation funding programs.

#### **D. OTHER ALTERNATIVES CONSIDERED BY THE COUNCIL**

The Council initially considered nine different options for restructuring Amtrak. Most of the differences in the proposals were with respect to train operations. The options ranged from retaining a national operating company to establishing a group of regional operating companies to franchising some or all of Amtrak's operations. All of the options called for a more active federal role overseeing the passenger rail service program. All of the options also called for separating Amtrak's train operations from the Northeast Corridor infrastructure for purposes of accounting transparency, with eight of the nine options recommending the creation of separate infrastructure and train operations companies.

At a public meeting held on December 14<sup>th</sup>, the Council directed the staff to collapse the nine options into three. Council Member Cox subsequently offered a fourth option to establish a regionally-managed, operationally self-sufficient train network. The Council met to consider the final four options on January 11<sup>th</sup>. At that meeting, the Council noted that all of the options are meritorious, but Option 3, with amendments, was specifically endorsed as the Council's proposal. The following charts summarize the key differences between the four options and the amendments adopted to Option 3.

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<sup>33</sup> Not the 4.3 cent diesel tax currently assessed to the freight railroads.

<b>Operating Company Options</b>				
	<b>OPTION 1: National or Regional Monopolies</b>	<b>OPTION 2: Competition for Long Haul Markets</b>	<b>OPTION 3: Competition for All Markets</b>	<b>OPTION 4: Competition and Local Accountability</b>
New High-Speed Corridors	Amtrak (as a national operating company) or regional operating companies.*	Amtrak.*	Amtrak for a transition period*, then Amtrak and/or other franchisees selected through competitive bidding process to operate under contract to the NRPC or the states. [As adopted by the Council, franchising is permissible rather than mandatory.]	Passenger Rail Transitional Board (PRTB) under transitional authority (up to 5 years), then franchisees selected through competitive bidding to operate under contract to Regional Rail Operating Corporations (RROC)
Existing Corridor Trains	Amtrak (as a national operating company) or regional operating companies.*	Amtrak.*	Amtrak for a transition period*, then Amtrak and/or other franchisees selected through competitive bidding process to operate under contract to the NRPC or the states. [As adopted by the Council, franchising is permissible rather than mandatory.]	PRTB under transitional authority, then franchisees selected through competitive bidding to operate under contract to RROCs
Long-Distance Trains	A national operating company or regional operating companies. Option to organize long-hauls as a separate operating company.	Franchised to Amtrak and/or private operator(s) through competitive bidding	Amtrak for a transition period, then Amtrak and/or other franchisees selected through competitive bidding process to operate under contract to the NRPC or the states. [As adopted by the Council, franchising is permissible rather than mandatory.]	PRTB under transitional authority, then franchisees selected through competitive bidding to operate under contract to RROCs or agreements between RROCs. Commercial operations could be provided at any time by private firms under contract with railroad infrastructure owners.
Mail and Express	A national operating company or regional operating companies.	Amtrak or long-haul franchisee(s).	Amtrak for a transition period, then mail and express franchised through competitive bidding as a single unit or as part of passenger operations franchises. [As adopted by the Council, franchising is permissible rather than mandatory.]	PRTB under transitional authority, then through competitive bidding.
*As under current law, states would have the option of operating corridor services and choosing their own operator.				

	<b>OPTION 1: National or Regional Monopolies</b>	<b>OPTION 2: Competition for Long Haul Markets</b>	<b>OPTION 3: Competition for all Markets</b>	<b>OPTION 4: Competition and Local Accountability</b>
Commuter Operations	As under current law, performed by Amtrak or others under contract with commuter authorities	As under current law, performed by Amtrak or others under contract with commuter authorities	As under current law, performed by Amtrak or others under contract with commuter authorities	PRTB under transitional authority, consistent with the terms and conditions of current contracts.
Right of access to freight railroad rights-of-way at incremental cost and with operating priority	Assigned by NRPC to monopoly operator(s). States/regions wishing to assume corridor operations would have to negotiate access with freight railroads.	Assigned by NRPC to Amtrak for corridor services and to franchisees of long-distance trains; states/regions wishing to assume corridor operations would have to negotiate access with freight railroads	Assigned by NRPC to franchisees. [As adopted by the Council, franchising is permissible rather than mandatory.]	Access and rate arrangements to be commercially negotiated.
Shops	Owned and operated by the NRPC.	Owned and operated by NRPC unless transferred to states/regions as part of corridor operations they assume.	Owned and operated by NRPC during transition; then may be retained, leased or sold. Franchisees could bid to operate shops or contract with the Amtrak shops or another service provider for equipment maintenance. [As adopted by the Council, franchising is permissible rather than mandatory.]	PRTB, to be sold.
Equipment Ownership	Existing equipment transferred to new subsidiary of NRPC; equipment could be leased to national or regional operating companies or leased or sold to contract operators or states operating corridor services. New equipment owned by states or train operator(s).	Existing equipment transferred to new subsidiary of NRPC; equipment could be leased to Amtrak or leased or sold to franchisees, contract operators or states operating corridor services. New equipment owned by states or train operator(s).	Existing equipment transferred to new subsidiary of NRPC; equipment could be leased to Amtrak or leased or sold to franchisees and states operating corridor services. New equipment owned by states or train operator(s).	Existing equipment transferred to RROCs. Equipment could be leased or sold to franchisees. New equipment could be owned by RROCs or train operators.
Labor Protection and Labor Contracts	National or regional monopolies assume Amtrak contracts. In the case of regional monopolies, future contracts would be negotiated on a regional basis.	Labor protection provided by NRPC. Amtrak employees have preferential hiring status with long-haul franchisees but franchisees may immediately negotiate new labor contracts.	Labor protection provided by NRPC. Amtrak employees have preferential hiring status with corridor and long-haul franchisees but franchisees may immediately negotiate new labor contracts. D15	Provided by PRTB.

	<b>OPTION 1: National or Regional Monopolies</b>	<b>OPTION 2: Competition for Long Haul Markets</b>	<b>OPTION 3: Competition for all Markets</b>	<b>OPTION 4: Competition and Local Accountability</b>
Insurance and Liability	NRPC insures operator(s); liability limited as under current law	NRPC insures operators or operators obtain their own insurance, at their election; liability limited as under current law	NRPC insures operators or operators obtain their own insurance, at their election; liability limited as under current law	National Passenger Rail Marketing Association (NPRMA) insures operators or train operators obtain their own insurance, at their election; liability limited as under current law.
Status of Amtrak	National or regional monopolies remain quasi-government organizations.	Remains a quasi-government organization.	Ultimately privatized [if franchising is invoked under Option 3, as amended]	Transitional. The organization would be wound down during transition by PRTB.
Time to Implement	Six-month transition to new organization.	One year-transition period to new organization and franchised long-haul routes.	Immediate projects to introduce competition; two to five years for full implementation. [As adopted by the Council, franchising is permissible rather than mandatory.]	Conversion to be completed in 5 years. No PRTB administered route to receive operating subsidies after three years.
Funding Requirements -- Operating Subsidies	Federal operating subsidies for long-haul trains; after transition period, states to cover losses associated with existing and new corridor services	Federal operating subsidies for long-haul trains; after transition period, states to cover losses associated with existing and new corridor services	Federal operating subsidies for long-haul trains; after transition period, states to cover losses associated with existing and new corridor services	Consistent with the Amtrak Reform and Accountability Act (ARAA), no federal operating subsidies. Federal subsidies would be phased out over three years. States could subsidize services.
Funding Requirements -- Equipment Capital	Capital funds would be provided on a federal-state matching basis.	Train operators responsible for securing new equipment and related financing based on the value of the equipment and their operating contracts with possible state/corridor/federal credit enhancement; to the extent equipment cannot be funded from operating profits, the federal government would be responsible for funding equipment on long-haul trains and states would fund equipment for corridor services.	Train operators responsible for securing new equipment and related financing based on the value of the equipment and their operating contracts with possible state/corridor/federal credit enhancement; to the extent equipment cannot be funded from operating profits, the federal government would be responsible for funding equipment on long-haul trains and states would fund equipment for corridor services.	RROCs, using federal capital subsidies or state subsidies. Equipment could be owned by RROCs or train operators.
National System	Marketing, coordination and intermodal arrangements administered by Amtrak or, in the case of regional monopolies, by the NRPC.	Marketing, coordination and intermodal arrangements administered by Amtrak or the NRPC.	Marketing, coordination and intermodal arrangements administered by the NRPC.	Marketing, coordination and intermodal arrangements administered by a National Passenger Rail Marketing Association (NRPMA), composed of the RROCs.

<b>Additional Amendments to Option 3 Adopted by the Amtrak Reform Council</b>		
		<u>Sponsor</u>
1	The Council recommends that any federal subsidy to intercity passenger rail service should be offered on a performance basis. The basis of any operating subsidy should include a percentage of revenue performance measure or a farebox recovery ratio.	Norquist (seconded by Cox)
2	The Council recommends that Congress establish an investment tax credit for the purchase of rights of way, roadbed, equipment, station property and other facilities needed to support regularly scheduled passenger service. (This would be analogous to the low income housing tax credit, which rewards investment in affordable housing. With the housing tax credit, the credits are rewarded at the state level under an overall cap, they can be flexibly pooled to meet overall project financing needs, and spread over a period of years.)	Norquist (seconded by Weyrich)
3	The Council recommends that Congress allow states and units of local government to use federal transportation funds with more flexibility.	Norquist as amended by Gleason (seconded by Chapman)
4	The Council recommends that Congress encourage intermodal connectivity between rail and other modes of transportation, including airports. For example, perhaps Congress should allow airports to treat passenger rail facilities, including the intermodal stations necessary to connect air and rail, as the equivalent of runways. Short route rail can cost effectively replace short distance aviation if there is an easy point of transfer. Known as the "landside access issue," this flexibility would enable current funding authority (normally secured by anticipated airline revenue) to be pledged against long term rail revenue. Airport operators could then charge a passenger facility charge to replace the revenue they currently collect from short route air travel, and to cost share with the private sector and other levels of government as funding is available for further improvements."	Norquist as amended by Gleason (seconded by Chapman)
5	Whereas in the past four years in hearings held across the country the states have expressed an interest in having more decision-making authority for scheduling, operations and other passenger service matters, the Council recommends that Congress adopt a principle that train service decisions and administration should be handled at the regional level to the maximum extent possible.	Cox (seconded by Chapman)
6	Inasmuch as transportation policy generally accepts the policy that the Federal government assumes responsibility for funding infrastructure while the private sector assumes responsibility for operations, Amtrak is an anomaly. The Council recommends that Congress recognize the Federal responsibility for rail infrastructure through the creation of a Rail Infrastructure Trust Fund,	Coston as amended by Chapman (seconded by Norquist)
7	The Council recommends to Congress that in any restructuring, employees follow their work in seniority order with their collective bargaining agreements intact. Agreements would be subject to collective bargaining under the normal provisions of the RLA.	Money Penny (seconded by Weyrich)
8	Franchising should be permissible rather than mandatory. Franchises should be designed to avoid cherry-picking particular routes.	Kling (seconded by Chapman)

## **E. TRANSITION PLANNING TO IMPLEMENT THE COUNCIL'S PROPOSAL**

To prepare for the implementation of the Council's proposed rail passenger restructuring plan, a number of transition tasks will need to be executed by appropriate implementing agencies, should the Congress decide to adopt the Council's Proposals. Examples of some of the more important transition planning efforts and tasks are summarized below:

- Prepare detailed lists of Amtrak's assets, liabilities, and contingent liabilities including descriptions of the condition, location and use of physical assets; the realizable value of other assets and liabilities; the likely cost of outstanding Amtrak guarantees and contracts; and the likely cost of settling outstanding self-insured losses, claims in excess of insurance for damages to third parties, FELA claims to employees, etc. These lists will be needed to organize the train operating and infrastructure companies and to determine the funding requirements of the NRPC during the transition period from the current Amtrak organization to the new structure for rail passenger service.
- For each of the principal business components organized under the restructuring plan, the National Railroad Passenger Corporation, the Passenger Train Operating Company, and the NEC Infrastructure Company, it will be necessary to develop: (1) organization charts and staffing plans; (2) lists of equipment and other assets to be transferred to each entity, including their current use, their condition, and their future maintenance and capital expenditure requirements; (3) debt and other obligations to be transferred to each entity; (4) recommended capital structures for each entity in view of the debt and other obligations being assumed and the future funding and financing requirements of the entity; and (5) financial pro forma projections for each entity projecting operating revenues and expenses, capital expenditure requirements, and working capital requirements.
- For the NEC Infrastructure Company it will be necessary to develop an assessment of: (1) train operating capacity and operating cost analyses in the aggregate and by each user of the NEC infrastructure; (2) requirements for returning the NEC to a state of good repair; (3) requirements for annual normalized maintenance; (4) priority capital needs; and (5) long-term capital needs.
- The NRPC will need to develop, in cooperation with the emerging corridors, state and regional proposals for investments to develop improved passenger service.
- The NRPC will need to estimate the transition costs, including costs of planning for the restructuring, costs of restructuring existing financial obligations of Amtrak, costs of employee severance and labor protection, costs of current obligations and future liabilities of Amtrak that are not due for payment, and the NRPC will need to develop a plan for paying such transitional obligations as economically as possible as they mature and become due for payment.