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BEFORE THE COMMITTEE ON THE BUDGET
UNITED STATES SENATE

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Testimony of The AMTRAK REFORM COUNCIL

Concerning THE IMPACT OF THE COUNCIL'S PROPOSALS FOR RESTRUCTURING THE NATIONAL INTERCITY RAIL PASSENGER SYSTEM ON FUNDING RAIL PASSENGER SERVICE

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The ARC is an independent federal commission established under the Amtrak Reform and Accountability Act of 1997 (P. L. 105-134)

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Good morning, Mr. Chairman, and members of the Committee.

I am Tom Till, Executive Director of the Amtrak Reform Council. I am here today to present the Council's views on the effect of the President's FY 2003 Budget on the funding of infrastructure investments and other expenses related to intercity rail passenger service. Also here today, Mr. Chairman, are two members of the Amtrak Reform Council – James Coston and Charles Moneypenny. I will speak of the Council's views, Mr. Chairman, in the context of the Council's *Action Plan for the Restructuring and Rationalization of the National Intercity Rail Passenger System*, which was submitted to the Congress on February 7, 2002. With your permission, Mr. Chairman, I will summarize my statement and submit the full statement for the record.

The Council has submitted its recommendations to the Congress for reform in our rail passenger program. We are sure that other reasonable reforms will be proposed. The most important thing is that reform is no longer an option, Mr. Chairman. Reform is an imperative.

As the Council's Action Plan clearly states:

> "The Council's view is that there should be a bright future for passenger rail service in America. But the Council believes that passenger rail service will never achieve its potential as provided and managed by Amtrak. A new and different program is needed to move forward."

Over its lifetime, the increase in Amtrak's ridership has barely kept pace with the growth rate of the US population. Contrary to popular belief, in the period between September 11, 2001, and the end of last year, Amtrak carried fewer passengers than it did in the comparable period of 2000. Amtrak is burdened with debt and debt service, and its assets are in poor condition. And Amtrak's organizational structure and its management and financial systems are not those of a modern corporation.

Amtrak's worsening condition, and the continuing deterioration of its performance since the Council was established, led the Council, on November 9, 2001, to its finding that Amtrak would not achieve operational self-sufficiency by December 2, 2002, as required by the Amtrak Reform and Accountability Act of 1997.

Regrettably, Amtrak is no closer to self-sufficiency today than it was in 1997. This is despite the appropriation to Amtrak, over five years, of more than $5 billion, including $2.2 billion in capital funding under the Taxpayer Relief Act. It's announcement on February 1, 2001, that it needs $1.2 billion for FY 2003, or it will shut down the network of 18 long-haul trains, is likely to be business as usual for Amtrak.

Sadly, **Amtrak has proven that it cannot concentrate on its core mission of running trains**. It has too much to do, and does little of it well. As it is chartered and organized today, **no agency has effective oversight of Amtrak's business plans, its funding requests, or its financial and operational performance**. **A program cannot be effective without effective oversight.**

The Action Plan the Council sent to Congress on February 7, 2002, thus recommends **a fundamental restructuring of the way we organize, fund, and operate rail passenger service** in this country. Our Council believes that if a national passenger service is to grow and improve, **we must have a new program that provides a new structure for operating passenger, mail, and express service and for developing the infrastructure to support those operations throughout the country. If we are to have an effective rail passenger program, we have to organize and fund passenger trains and infrastructure separately.**

The Council proposes that the new program be administered by a small federal agency, the National Railroad Passenger Corporation (NRPC). The Council recommends that the NRPC be modeled after the United States Railway Association (USRA), and be charged to administer and oversee the intercity passenger rail program. The Congress created USRA in 1973 to restructure the bankrupt railroads of the Northeast. USRA created Conrail. It reviewed Conrail's annual business plans and monitored its progress in executing its plans. USRA disbursed federal funds and had the authority to withhold funds if Conrail did not take actions to improve its performance. USRA enforced discipline, shielded Conrail from political interference, and, by working closely with Conrail management, contributed to Conrail's success. The Council believes the national passenger rail program needs, and would benefit from, a similar oversight organization.

In this framework, **a new train operating company could concentrate on running trains**, with the resources to do so, and without political pressure on its management decisions. The NRPC would contract with the operating company to provide the passenger services, both to ensure that there would not be any unfunded mandates and to require that the train operations meet standards of improved performance and maintain fully transparent accounting.

To ensure that there are adequate incentives for efficiency, the Council's proposal for a national passenger train operating company also recommends **introducing the possibility of competition into the provision of passenger train services**. In many countries around the world, reforms in the provision of both passenger and freight rail service have involved competitive bidding for contracts to provide public services.

Our recommendations also deal directly and strongly with **the parts of the Northeast Corridor and other infrastructure that Amtrak owns**. Today's Amtrak is a minority user of the

Northeast Corridor – running only about 150 of the Corridor's 1200 trains – and its finances and management cannot bear the burden of maintaining and improving what is largely a commuter facility. (Only the portions of the Northeast Corridor that Amtrak does not own are effectively maintained today.) The main evidence of the infrastructure's physical deterioration is the increase in minutes of train delay under Amtrak's stewardship – from 134,000 minutes in 1998 to 234,000 minutes in 2001, *or more than 160 days of train delays*. The system is literally slowing down! This is reported in the January 2002 report of the DOT Inspector General. The Council's recommendations will provide a structure under which this vital artery can be put back into good condition.

The Council's final recommendation is that the Congress enact measures to **provide stable and adequate sources of funding – separate sources for train operations and for infrastructure – for a restructured rail passenger program.** There are those who say that putting more money into the existing Amtrak is all we need to do. The Council strongly rejects that notion. What we have today is an institution that, through more than 30 years of existence, has never had the full confidence of the Congress or the Executive regarding Amtrak's ability to spend money properly, regardless of which party controlled either of those branches. Effective reforms will correct that lack of confidence.

Even then, the reality of government funding today poses important challenges to effective funding of passenger rail infrastructure and other needs. As you know, guaranteed spending programs have been very beneficial for highways, transit and aviation, but other modes of transportation are having a tougher time getting funds appropriated. Today, guaranteed spending programs predetermine the appropriation of 75 percent of all federal transportation funds. As a result, there is no room in the transportation appropriations bill to fund major facilities such as the Northeast Corridor infrastructure, which is forced to compete for funding with the Coast Guard, Safety programs, funding for independent agencies and a variety of other critical transportation programs. In addition, the NEC is primarily used by commuter operations, but, because Amtrak owns it, Amtrak is responsible for finding the resources – about $1 billion per year – to invest in the NEC infrastructure from whatever funding it gets out of the transportation appropriations bill. Clearly, the NEC infrastructure needs to be shifted to an owner that has better access to federal, state, and local funding than Amtrak, because Amtrak will not be able to obtain the federal appropriation necessary to meet the corridor's capital requirements. Guaranteed spending makes it virtually impossible for the Congress to come up with the level of appropriations that Amtrak is requesting.

Among **possible sources of funding for a restructured passenger rail program** are the numerous legislative initiatives that have been introduced. **Most important for the infrastructure needs of an improved passenger rail program are several bond bills that have been introduced. One is the High Speed Rail Investment Act**, co-sponsored by Senators Daschle and Lott. A bill sponsored by House Transportation and Infrastructure Committee Chairman Don Young, **RIDE-21, provides $36 million in tax-exempt bonding authority** (and $35 billion in loan guarantees) for railroad investments. The Council's views on these initiatives are on the record, including clear recommendations for important changes in the provisions of the High Speed Rail Investment Act, should the Congress choose to move forward with that initiative.

Under appropriate safeguards, the Council also recommends that states have flexibility to use highway and aviation funds for appropriate rail passenger investments. Funds used under such flexibility provisions might appropriately be used for investments to improve the intermodal connectivity of the passenger network or to fund rail investments that would relieve highway or aviation congestion in short-haul corridors.

The federal fuel tax revenue shortfall for FY 2003 of approximately $8 billion dollars is not only bad for highway infrastructure; it will have a devastating impact on the flexible provisions of TEA 21. Programs like the Surface Transportation Program (STP) and the Congestion Mitigation & Air Quality (CMAQ) program are the primary vehicles used by states to flex funds to the infrastructure of other modes. Unless Congress agrees to make up some of the shortfall in fuel tax revenues, the Highway Trust Fund will not be able to provide funding for the infrastructure of other modes.

Pending House and Senate bills would restore $4.4 billion above the Administration's request for highways, which brings it to the level of spending outlined in TEA-21 ($27.75 billion). If the funding is restored, the likelihood that the flexibility provisions will be exercised is greater because the highway program would be funded to the level projected in TEA 21.

The issue of funding for operating subsidies for long-haul trains and for the needs of corridor trains during a transition period is more difficult. **The Council's Action Plan recommends that the government provide funding on the basis of a formula that will promote its efficient use**, not simply to fund inefficient, deficit-ridden operations. Funding under such a structure might be provided through appropriations or through some dedicated source of funding (some have suggested that a new penny might be added to the federal motor fuel tax that could go to rail uses if matched by a new penny on a state's motor fuel tax). **Under the program structure that the Council recommends, in which train operations would be provided under contracts, much of the funding for the passenger equipment investment needs of the operating company should come from private capital markets.**

Under the category of infrastructure funding, let me address the funding of the emerging high-speed rail corridors before I turn to the Northeast Corridor. While ultimately all corridors should be funded under the same program, that may not be for some time. The Council believes that the longer-term funding needs of the emerging federally-designated High-Speed Rail Corridors are most likely to be met through bond initiatives. Two such pending proposals are the High-Speed Rail Investment Act, co-sponsored by Senators Daschle and Lott, and the RIDE-21 proposal for $36 billion of tax-exempt bonds and $35 billion of guaranteed loans sponsored by Chairman Young of the House Transportation and Infrastructure Committee. I might point out that if the the Council's proposed restructuring were adopted, then the High-Speed Rail Investment Act's tax credit bonds could be issued by the small government agency the Council proposes – the National Railroad Passenger Corporation – instead of the train operating company. This is a much cleaner solution for issuing the bonds that avoids many of the serious problems of the original HSRIA identified by the Council and others.

When such a program is enacted – I say "when," not "if" – these funds will be the engine for an effective federal-state rail infrastructure program, in cooperation with the freight railroads, to support improved passenger rail service. The systematic and continuing improvement of railroad infrastructure that this program will support is the essential foundation for the sound national rail passenger program that America needs.

Let me now address the Northeast Corridor infrastructure. **Separating the Northeast Corridor infrastructure – both organizationally and financially – from Amtrak's nationwide train operations is another way of closing the gap between the subsidy needs of Amtrak's train operations and the uncommitted funds available in the budget.** There is little or no chance that Amtrak will be able to get the capital it needs to maintain and improve the NEC out of appropriated funds.

Even if capital were available for the NEC, it makes no sense for Amtrak (a company that has been losing money on their operations) to have the burden of being responsible for the work that needs to be done. The DOT IG has reported last month that when Amtrak has an infusion of capital dollars, they tend to use capital to offset some of their operating losses. Amtrak has demonstrated that it will try to use whatever capital is available to offset the operating losses of its trains. To fund operations, Amtrak raised $300 million for operating expenses last year by mortgaging 16 years of future income from two concourses in Penn Station New York, it regularly charges portions of its large management overhead costs to capital projects, and it has deferred maintenance on the NEC infrastructure below levels needed for minimum operational reliability. And, despite the large and growing backlog of critical capital projects on the Northeast Corridor, currently estimated at $3.8 billion, Amtrak did not request the full amount of appropriations authorized by the Congress under the Amtrak Reform and Accountability Act of 1997.

Amtrak as it is presently structured cannot be an effective public steward for the vital infrastructure resource known as the Northeast Corridor.

As a separate federal entity, under the governance of the federal government and the states, the NEC will have better access to more capital funds to help cover its expenses, while generating its own capital, from sources such as Penn Station, for badly needed investments. The Council's Action Plan describes a variety of funding sources that, while not directly available to Amtrak, may well be accessible to state governments to assist in providing the investments to support their large NEC commuter operations.

Indeed, there is no single source that could provide all the necessary capital for the NEC. Thus, the Congress should look at a variety of sources, which may include:

- Bond bills that are pending before Congress (RIDE-21 and HSRIA) would help;

- A federal appropriation, perhaps through a reauthorized Northeast Corridor Improvement Program account, to address some of the life/safety projects that must be addressed. Congress has already appropriated $100 million for the New York tunnels and could help address others;

- The Congress might consider providing part of the funding needed to establish a trust fund to pay off the bonds. For example, a trust fund in the amount of about 38 percent of the face amount of a tax-exempt bond would pay off the principal amount of that bond over 20 years. If the federal government put up half of the funding, the states' share would be less than 20 percent;

- TIFIA and/or RRIF may be employed to entice a Regional Transmission Organization (RTO), in partnership with a restructured National Railroad Passenger Corporation and the states, to undertake one of the major infrastructure projects south of New York – the replacement of the electric traction system. Amtrak is already considering entering into a long term lease or ownership arrangement with a northeast RTO in exchange for rebuilding the catenary system and allowing construction of more electric transmission lines to meet the needs of electric customers in the northeast. Such an arrangement would help fund what all estimates suggest is at least an $800 million project.

- As mentioned above, expanding the flexibility provisions in current transportation trust funds to include the NEC projects that would reduce highway and air traffic congestion.

- Civil works projects under the Army Corps of Engineers are often undertaken with federal transportation funds. There is some precedent for the Corps to undertake bridge projects that are over navigable waters.

- Expand the role of the NEC states through special purpose mechanisms for ownership and control. NEC states already invest state and federal transit funds in corridor segments of specific value to their regions to enhance essential commuter services. Other assets, such as the Penn Station Complex, whose needs have been neglected for decades, might be effectively handled under some kind of appropriate regional umbrella.

- Federal and/or state tax incentives might be developed to encourage the private sector to make investments in the corridor. Freight users of the corridor may be more willing to undertake projects that have a common benefit if there were investment tax credits they could take advantage of, as the Association of American Railroads has suggested.

The point of this list is that there are many different combinations of approaches that might be used to fund high priority capital projects other than just asking Congress to appropriate more money. It will take hard work and require the cooperation of multiple parties, but it can be done.

Mr. Chairman, the Council believes its recommendations are strong and sound. The chronic difficulties that Amtrak experiences – year in and year out – are not due principally to lack of funding. They spring primarily from an organization that is obsolete, that cannot do all the things that it is charged to do, that will not consider recommendations for change, that has no effective oversight, and that desperately needs to be redesigned.

For these reasons, the Council strongly recommends that the Congress first adopt badly needed institutional reforms before providing major new funding for passenger rail service. Effective reform will beget funding. Funding alone will not beget reform.

I will be pleased to answer any questions. On behalf of the Council, I thank you, Mr. Chairman, for the opportunity to address the Committee.