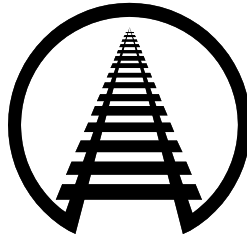


STATEMENT OF

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**BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON TRANSPORTATION, HOUSING AND
URBAN DEVELOPMENT, AND RELATED AGENCIES
HEARING ON RAIL SAFETY AND INFRASTRUCTURE:
STAKEHOLDER PERSPECTIVES**

APRIL 11, 2018

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Introduction

Chairman Diaz-Balart, Ranking Member Price, Members of this Committee, on behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to appear before you. While today's hearing is focused on federal funding opportunities and challenges, I'm proud to be here today representing an industry that is almost exclusively privately funded. However, as I will discuss below, Congress still has a vital role to play to ensure the nation's freight railroads can continue their American success story.

Freight railroads operating in the United States are the best in the world. They move vast amounts of just about everything, connecting businesses with each other across the continent and with markets overseas over a rail network spanning close to 140,000 miles. Their global superiority is a direct result of a balanced regulatory system that relies on market-based competition to establish rate and service standards, with a regulatory safety net available to rail customers when there is an absence of effective railroad competition.



Freight railroads offer tremendous benefits to our nation:

- America's freight railroads are privately owned and operate almost exclusively on infrastructure that they own, build, maintain, and pay for themselves. When railroads reinvest in their networks, it means taxpayers don't have to.¹ Since 1980, freight railroads have plowed more than \$660 billion — of their own funds, not government funds — on capital expenditures and maintenance expenses related to locomotives, freight cars, tracks, bridges, tunnels and other infrastructure and equipment. That's more than 40 cents out of every revenue dollar, invested back into a rail network that keeps our economy moving.

¹ In contrast, infrastructure used by other transportation modes — especially the roads and waterways used by trucks and barges, the railroads' primary competitors — is paid for primarily by taxpayers. As discussed elsewhere in this testimony, railroads support a movement toward a stronger "user pays" approach to transportation infrastructure.

- A June 2016 study from Towson University’s Regional Economic Studies Institute found that, in 2014 alone, the operations and capital investment of America’s major freight railroads supported around 1.5 million jobs (1.1 percent of all U.S. workers), nearly \$274 billion in economic output (1.6 percent of total U.S. output), and \$88 billion in wages (1.3 percent of total U.S. wages). Railroads also generated \$33 billion in tax revenues.
- In 2017, railroads moved a ton of freight an average of 479 miles per gallon of diesel fuel. That’s roughly equivalent to moving a ton from Miami to Savannah, or Durham to New York City, on a single gallon. On average, railroads are four times more fuel efficient than trucks. That means that moving freight by rail helps our environment by reducing energy consumption, pollution, and greenhouse gases.
- If just 10 percent of the freight that now moves by Class 7 or Class 8 (the largest) trucks moved by rail instead, fuel savings would be around 1.5 billion gallons per year and annual greenhouse gas emissions would fall by some 17 million tons — equivalent to removing 3.2 million cars from the highways for a year or planting 400 million trees.
- Thanks to competitive rail rates — 46 percent lower, on average, in 2017 than in 1981 adjusted for inflation — freight railroads save consumers billions of dollars every year. Millions of Americans work in industries that are more competitive in the global economy thanks to the affordability and productivity of America’s freight railroads.

The long-term demand for freight transportation in this country will grow. The Federal Highway Administration forecasts that U.S. freight tonnage will rise 41 percent by 2040. For railroads, meeting this demand is all about having adequate capacity and using it well, and that is what they focus on.

The capital intensity of freight railroading is at or near the top among all U.S. industries. In recent years, the average U.S. manufacturer spent approximately 3 percent of revenue on capital expenditures. The comparable figure for freight railroads is nearly 19 percent, or more than six times higher.

Thanks to their massive investments, freight railroad infrastructure today is in its best overall condition ever. The challenge for railroads, and for policymakers, is to ensure that the current high quality of rail infrastructure is maintained, and that adequate freight rail capacity exists to meet our nation’s current and future freight transportation needs.

Today's Railroads Are as Safe as Ever

Every day, the nation's freight railroads work to make a safe rail network even safer. Data from the Federal Railroad Administration (FRA) confirm that recent years were the safest ever for U.S. railroads, thanks to a strong industry safety culture, employee commitment to safety, and massive industry investments in maintenance and new safety-enhancing technologies. Based on preliminary FRA safety data for 2017:

- The train accident rate was the lowest ever, down 44 percent from 2000.
- The track-caused accident rate was the lowest ever, down 55 percent from 2000.
- The human factor-caused accident rate was the lowest ever, down 45 percent since 2000.
- The equipment-caused accident rate was down 36 percent from 2000.
- The derailment rate was down 42 percent from 2000.

Railroads are working to further improve these metrics every day.

While significant progress continues to be made on the safety issues above, the industry remains concerned about driver and pedestrian safety. The most recent data show a 19 percent increase in trespassing deaths compared to 2016. Every three hours someone is hit by a train in the United States, and these accidents are almost entirely preventable. Every year, railroads spend millions to maintain and improve grade crossings as well as work directly with communities and law enforcement to educate the public about safe behavior near tracks. As I will discuss below, Congress can and does play a helpful role in this critical safety issue through the Section 130 grade crossing program.

Positive Train Control Remains on Track

Railroads have devoted enormous human and financial resources – approximately \$10 billion by the end of this year – to develop a functioning and reliable PTC system. Progress to

date has been substantial. Class I railroads remain committed to safely implementing PTC as quickly as feasible. By the end of 2018, each Class I railroad will have implemented PTC or initiated revenue service demonstration on, at a minimum, 51 percent of its required PTC route-miles or subdivisions; have 100 percent of the necessary wayside, back office, and locomotive hardware installations completed; have all required spectrum in place; and have all required employee training completed.

In addition, network-wide approximately 80 percent of required PTC route-miles are expected to be operational by the end of 2018. While some Class I railroads plan to be fully implemented by the end of this year, all Class I railroads will be fully implemented no later than 2020. While PTC will be installed and operational on certain Class I railroads by the end of this year, not all tenant railroads operating over these Class Is will have implemented PTC. The FRA may require host Class I railroads, nonetheless, to request an extension of its implementation deadline until its tenants have also installed and are operating PTC to be considered fully implemented. In the meantime, Class I railroads will continue to work with each other and their tenant passenger and shortline railroad partners to successfully achieve full interoperability, which is the largest challenge to a fully implemented national PTC system.

What Policymakers Should and Should Not Do to Support Rail Investments and Promote Rail Safety

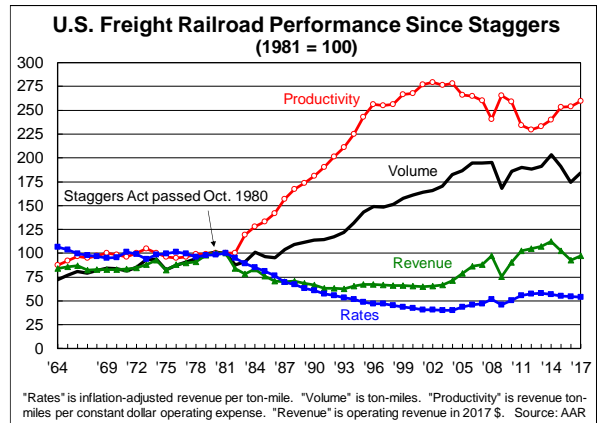
I respectfully suggest that it is in our nation's best interest to allow the huge public benefits of freight railroading to accrue as quickly as possible. Policymakers can help by enacting policies that promote safety and efficiency by encouraging railroads to make investments in their networks and by avoiding policies that discourage private rail investment.

Keep Economic Regulation Balanced

The current structure of rail regulation relies on competition and market forces to determine rail rates and service standards in most cases, with maximum rate and other protections available to rail customers when there is an absence of effective competition.

This deregulatory structure has benefited railroads *and* their customers. However, despite the severe harm caused by excessive railroad

regulation in years past and the substantial public benefits that have accrued since the current less regulatory regime was put in place, some groups want to again give government regulators control over crucial areas of rail operations. That would be a profound mistake. It would prevent America's railroads from making the massive investments a best-in-the-world freight rail system requires. Policymakers should be taking actions that enhance, rather than impair, railroads' ability and willingness to make those investments.



Engage in Public-Private Partnerships Through Projects and Programs

Public-private partnerships — arrangements under which private freight railroads and government entities both contribute resources to a project — offer a mutually beneficial way to solve critical transportation problems.

Without a partnership, many projects that promise substantial public benefits (such as reduced highway congestion by taking trucks off highways, or increased rail capacity for use by passenger trains) in addition to private benefits (such as enabling more efficient freight train

operations) are likely to be delayed or never started at all because neither side can justify the full investment needed to complete them. Cooperation makes these projects feasible.

With public-private partnerships, the public entity devotes public dollars to a project equivalent to the public benefits that will accrue. Private railroads contribute resources commensurate with the private gains expected to accrue. Thus, the universe of projects that can be undertaken to the benefit of all parties is significantly expanded.

This Committee has consistently demonstrated its commitment to public-private partnerships in recent years through the popular “TIGER” program. Freight railroads were pleased to see Congress prioritize TIGER once again in its FY 2018 omnibus bill by providing an impressive \$1.5 billion – three times the annual funding in recent years! Programs such as TIGER have provided opportunities for public entities to partner with freight railroads on projects of mutual benefit to all parties involved.

Perhaps the most well-known public-private partnership involving railroads is the Chicago Region Environmental and Transportation Efficiency Program (CREATE), which has been underway for several years. CREATE is a multi-billion-dollar program of capital improvements aimed at increasing the efficiency of the region’s rail and roadway infrastructure. A partnership among various railroads, the city of Chicago, the state of Illinois, the federal government, and, recently, Cook County, CREATE comprises 70 projects, including 25 new roadway overpasses or underpasses; six new rail overpasses or underpasses to separate passenger and freight train tracks; 35 freight rail projects including extensive upgrades



of tracks, switches and signal systems; viaduct improvement projects; grade crossing safety enhancements; and the integration of information from the dispatch systems of all major railroads in the region into a single display. To date, 29 projects have been completed, 5 are under construction, and 17 are in various stages of design.

The intersection of rail tracks and roadways is an important element of rail infrastructure that often involves a public-private cooperative approach. State governments, not railroads, are responsible for evaluating grade crossing risks and prioritizing grade crossings for improvement. The decision to install a specific type of warning device at a particular public grade crossing is made by the state transportation authority, not by a railroad, and approved by the Federal Highway Administration. Once installed, the maintenance of grade crossings and their warning devices is generally the responsibility of railroads.

Under the federal “Section 130” program, approximately \$230 million in federal funds are allocated each year to states for installing new active warning devices, upgrading existing devices, and improving grade crossing surfaces. The program also allows for funding to go towards highway-rail grade separation projects, although this does not come close to meeting the pressing needs that states and local governments face in funding critical projects that separate their roadways from railroad operations. That said, Section 130 has helped prevent tens of thousands of fatalities and injuries associated with grade crossing accidents. Without a budgetary set-aside like the Section 130 program, grade crossing needs would fare poorly in competition with more traditional highway needs such as highway construction and maintenance. One of the primary reasons the Section 130 program was created in the first place was that highway safety, especially grade crossing safety, traditionally received low funding priority.

The 2015 FAST Act included continued dedicated funding for this important program for five more years. Railroads urge this committee to continue to support the Section 130 program. It is another example of cooperation between private railroads and public entities to help ensure that rail infrastructure benefits the general public.

Address Modal Inequities

As mentioned earlier, America's freight railroads operate overwhelmingly on infrastructure that they own, build, maintain, and pay for themselves. By contrast, trucks, airlines, and barges operate on highways, airways, and waterways that are publicly financed.

No one, and certainly not railroads, disputes that other transportation modes are crucial to our nation, and the infrastructure they use should be world-class — just like U.S. freight railroad infrastructure is world class. That said, public policies relating to the funding of other modes have become misaligned.

With respect to federally funded capacity investments in public road and bridge infrastructure, the United States has historically relied upon a “user pays” system. Until recently, that system worked very well. Unfortunately, the user-pays model has been eroded as Highway Trust Fund (HTF) revenues have not kept up with HTF investment needs and so have had to be supplemented with general taxpayer dollars. Including general fund transfers scheduled to be made in the next few years through provisions of the FAST Act, general fund transfers to the HTF total \$143 billion since 2008.

Moving away from a user-pays system distorts the competitive environment by making it appear that trucks are less expensive than they are and puts other modes, especially rail, at a disadvantage. This is especially problematic for railroads precisely because they own, build,

maintain, and pay for their infrastructure themselves (including paying more than a billion dollars in property taxes each year).

Congress could help ameliorate this modal inequity by reaffirming the “user pays” requirement, possibly by increasing the fuel tax paid by motor carriers and/or moving toward a weight distance tax or a vehicle-miles-traveled tax system. A handful of states already impose weight-distance taxes on heavier trucks, and others are engaged in pilot programs to assess the feasibility of transitioning their state highway taxes from a per gallon-based system to a mileage-based fee. In Oregon, for example, heavy trucks are charged a weight-mile tax that is intended to capture the full costs incurred by trucks relating to the state highway system.

The huge transfers of general funds to the Highway Trust Fund is on top of significant existing underpayments by heavy trucks regarding the damage they cause to our highway networks. According to the U.S. Department of Transportation’s Highway Cost Allocation Study released in 2000, 80,000-pound, five-axle combination trucks cover just 80 percent of the damage they cause to our highways; six-axle, 97,000-pound trucks cover just 50 percent of their cost responsibility; and trucks weighing more than 100,000 pounds cover only 40 percent. There is no reason to think these underpayments are any less today.

Indeed, recent studies suggest that, adjusted for inflation, the DOT findings mean that 80,000-pound trucks today underpay their federal cost responsibility by around 27 cents per gallon of fuel. For other truck size and weight configurations, the federal underpayment could be as high as \$1.17 per gallon. Underpayments on state taxes are also significant and are in addition to the federal underpayment.

This multi-billion-dollar annual underpayment — which other motorists and the general public must make up through their taxes — would become even greater if truck size and weight

limits were increased. In April 2016, the U.S. Department of Transportation (DOT) released the results of a comprehensive study examining the impacts of increasing current federal truck size and weight limits. The DOT study concluded that no changes to federal policy on truck size and weights should be made at this time.

Existing truck size and weight limits were imposed years ago, largely because of concerns about the safety of longer and heavier trucks and the uncompensated highway damage they cause. Legislation to increase these limits on federal highways has been proposed many times over the years. As members of this Committee are all too aware, interest groups pressing for bigger and heavier trucks have frequently tried to circumvent the authorization process by attempting to include controversial riders in appropriations bills. These efforts should be soundly rejected. To date, all attempts at nationwide increases have failed because the concerns that led to the federal limits in the first place are still valid. I respectfully suggest that Congress should heed the DOT 2016 recommendation and refrain from passing truck size or weight increases, as part of an appropriations bill or via any other legislative vehicle.

Regulatory and Permitting Reform is Key to Promoting Investment

There is bipartisan agreement that America's regulatory processes require reform and could more accurately reflect rapid technological advancements. Improved regulations and regulatory processes can also help improve U.S. infrastructure.

Federal regulations provide a critical safety net to the American public and workers, but rules borne from faulty processes only deter economic growth without any public benefits. Dictating the means to an end via overly prescriptive policy increases compliance costs, can chill innovation and investment in new technologies, and can slow, or defeat entirely, an outcome both industry and government would view as a success.

There is currently a unique opportunity to not only address specific, harmful policies, but also to improve the system that creates rules by incorporating common sense principles.

Regulations should be based on a demonstrated need, as reflected in current and complete data and sound science. Regulations should provide benefits outweighing their costs and should take into consideration the big picture view for industries and sectors – including market forces, future offerings, and current regulations in place.

The freight rail industry believes policymakers should embrace performance-based regulations, where appropriate, to foster and facilitate technological advancement and achieve well-defined policy goals. Defining the end goal rather than narrow steps will boost citizen confidence in government, incent U.S. industry to research and innovate, and create new solutions. Outcome-based measures can better avoid “locking in” existing technologies and processes so that new innovations, including new technologies, that could improve safety and improve efficiency, can flourish.

We must also streamline the permitting process to spur infrastructure investment. Railroads have faced significant permitting delays from federal agencies, which means that the amount of time and energy it takes to get many rail infrastructure projects from the drawing board to construction and completion has been growing longer every day.

In the face of local opposition, railroads try to work with the local community to find a mutually satisfactory arrangement, and these efforts are usually successful. When agreement is not reached, however, projects can face lawsuits, seemingly interminable delays, and sharply higher costs. Rail capacity, and railroads’ ability to provide the transportation service upon which our nation depends, suffer accordingly. Recent efforts by Congress and the Administration are noteworthy, but more must be done.

Support Commuter and Passenger Rail

Freight railroads agree that passenger railroads play a key role in alleviating highway and airport congestion; decreasing dependence on foreign oil; reducing pollution; and enhancing mobility, safety, and economic development opportunities. In the United States, freight railroads provide a crucial foundation for passenger rail: more than 70 percent of the miles traveled by Amtrak trains are on tracks owned by other railroads — mainly freight railroads — and many commuter railroads operate at least partially on freight-owned corridors.

Policymakers can help here too by recognizing that Amtrak should be adequately funded so that its infrastructure can be improved to a state of good repair. Commuter railroads too deserve this Committee's support. One concrete way this can happen is through the provision of direct federal funding to commuter railroads to cover the costs of implementing positive train control (PTC). As stated above, while Class I freight railroads will have spent approximately \$10 billion of their own funds by the end of this year to implement PTC, many publicly-funded commuter railroads continue to face significant funding challenges to meet PTC requirements. I congratulate this Committee for including funding for this purpose in the recently-passed omnibus spending bill.

Conclusion

Of the many different factors that affect how well a rail network functions, the basic amount and quality of infrastructure is among the most significant. That's why U.S. freight railroads have been expending, and will continue to expend, enormous resources to continuously improve safety and improve their asset base. Policymakers too have a key role to play. Freight railroads look forward to working with this Committee, others in Congress, and other appropriate parties to develop and implement policies that best meet this country's transportation needs.