



**Testimony of John Tolman
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Representative
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Before the House Committee on Transportation
& Infrastructure Hearing on National Rail
Policy: Examining Goals, Objectives, and
Responsibilities
June 27, 2013**

Good morning, Chairman Denham, Ranking Member Brown, and Members of the Subcommittee. My name is John Tolman and I am Vice President and National Legislative Representative for the Brotherhood of Locomotive Engineers and Trainmen, which is a Division of the Teamsters Rail Conference.

On behalf of more than 37,000 active BLET members and over 70,000 Rail Conference members, I want to thank the Committee for the opportunity to discuss a comprehensive national rail policy, and how this issue impacts the men and women working on our nation's railroads.

The need for a National Rail Policy ("NRP") has long been established in order to focus passenger and freight rail investment and provide clarity to states and regions about the growth of our nation's railroads. This need was identified and codified by Congress in the Rail Safety Improvement Act of 2008 ("RSIA"). Section 307(b)(j)(2) of the Act directed the Administrator of the Federal Railroad Administration to "develop a long-range national rail plan consistent with approved State rail plans and the rail needs of the Nation as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people." A preliminary plan was delivered to Congress a year after the enactment of that legislation. A progress report on the Plan was submitted to Congress in September 2010.

The BLET — along with many other organizations — commented on the preliminary plan. In our comments, the BLET expressed, and continues to articulate, our support of the concept of a unified national plan for our nation's passenger and freight railroads, as it is consistent with our desire for long-term planning and financing of rail, and passenger rail in particular. Freight and passenger rail are the answer for many of our nation's transportation problems. Rail is energy efficient, relieves highway congestion, and provides flexible and viable alternatives as our population continues to grow. It also is imperative that any National Rail Policy or Plan would protect the interests of the men and women who work on America's railroads.

In order for our nation to meet the economic and environmental challenges that we face, we must continue to invest in infrastructure and continue to develop and plan for new means to get goods and people from place to place, while doing it in the most fuel efficient means possible. Rail is clearly the best means of doing this.

In Amtrak, the nation has a national passenger rail service provider, which has been working to integrate its operations with those of the freight railroads for more than 40 years. Amtrak, and its employees, have the knowledge, skills and abilities to develop, implement and grow passenger rail in this country. Now is the time to provide a long-term funding solution for Amtrak and our national passenger rail system. The cycle of nickel and diming the system shortchanges the public's need for high quality transportation and our economy's need to move people to and from work.

Amtrak and other intercity and commuter railroads have done great work and continue to set ridership records. This is all while Amtrak is underfunded. In spite of this, they continue to make great strides in passenger rail. They have moved ahead with providing a version of positive train

control that will help protect their employees and the public -- some of which has been in place since 1996.

Troubling is the recently proposed House Appropriations budget for fiscal year 2014. This will also affect ridership on Amtrak and commuter rails by forcing delays in completing equipment maintenance by cutting work hours. As reported by *Congressional Quarterly*, Amtrak President and CEO Joseph Boardman stated that the House's proposal "was not thought out at all." He also added, "It doesn't pay for any of the equipment that's on order and we fall further behind on the Northeast Corridor." Clearly, the House's proposal is a step in the wrong direction that cuts into bone and harms more than it helps.

Further, the bill would cut the Federal Railroad Administration's budget by \$468 million dollars, or about 40%. It would impair FRA's ability to enforce safety laws and hire congressionally mandated inspectors. This is an unacceptable level of funding for the agency that oversees rail safety.

On the freight side, intermodal freight transportation is the way of the future, with goods moving from ship to truck to train, on a seamless network, and to do this we need to ensure that our nation's infrastructure is well planned to allow for these transfers. Unfortunately, the House 2014 spending plan leaves TIGER out entirely, and also tries to cut this year's award pool in half by rescinding \$237 million before the DOT can get the already-awarded 2013 grants out the door. This program has helped meet the need for infrastructure upgrades around the country and has always had more demand than available funding affords – upgrades which our nation will need in coming years, as traffic congestion on our nation's highways is expected to grow exponentially over the next 30-40 years. This will necessitate even more use of rail as we move forward. Additional freight will come to rail from our over-crowded highways, and at the same time, our railroads must be prepared to provide new services and handle multi-modal containerized shipments.

In this century, the cost of fuel is expected to increase from the near record levels that we have seen in recent years, and railroads are poised to meet this challenge. Railroads have improved their fuel efficiency by 23 percent between 1990 and 2007. Each ton of freight transported via rail can move more than 450 miles per gallon of fuel consumed.

While the freight side of the industry is investing billions annually in its infrastructure and is well positioned to handle any additional freight that comes its way, we must also ensure these continued investments are made not only to expand capacity but also to improve safety.

The preliminary National Rail Plan points out the benefits from the implementation of positive train control ("PTC"), which is currently required to be installed by 2015 on all Class I mainline track where certain hazardous materials are transported and on mainline track over which intercity or commuter rail passenger transportation is regularly provided. PTC will save lives, and the BLET strongly supports the implementation of PTC on our nation's railroads.

The NRP Progress report issued in 2010 acknowledges that there is a "concomitant need for transporting more freight and improving safety." The BLET agrees wholeheartedly that safety

and efficiency are factors that form an essential bond. At a forum on February 27, 2012, at the National Transportation Safety Board, the NTSB asked, “Is PTC on Track?” The question was answered by a majority of Class I Railroads — with the exception of BNSF — and the answer was “No.” It was astonishing that the railroads said directly to the NTSB, which is charged with investigating transportation accidents, that they were not going to comply with the legal deadline mandated in the RSIA. They have had over seven years to work on this, and now they come to Congress begging for an extension, yet this issue has been on the NTSB most wanted list since the early 1970’s. Again, this is unacceptable. This technology will prevent the most egregious and catastrophic accidents where HAZMAT or passenger trains are involved protecting the public and railroad employees, and needs to move forward.

Too often, cost benefit analysis is used as the sole objection against moving ahead on a project. Forgotten is the most vital cost of doing business — that of providing a safe workplace for employees who perform the work that provides for business growth and the industry’s multi-billion dollar profits. To argue otherwise is to state that a train is worth more than a person’s life. Labor’s voice is included in the debate not because we are scientists, lawyers or economists, although we count those professions among our ranks, but because we are the practitioners who are reporting what occurs from the field for our own, our employers’ and the public’s safety benefits. Perceived costs are calculated by forecasted assumptions. The resulting picture will be different depending on the assumptions of time and discounting practices that are inserted into the equation by a certain statistician.

Actual costs are borne in the field in blood and limbs. If we could rewind time and freeze frame the moment before any fatal accident — such as Macdona, Texas in 2004 or Graniteville, NC, in 2005 — occurred and talk to that train crew, who among us would like to explain to the train crew and town residents that they would die in the accident, not from the accident itself but from smoke or hazardous materials inhalation because the Congressionally-mandated emergency escape breathing apparatus (“EEBA”) failed a cost benefit analysis? We understand how ridiculous the point would be no matter how academically sound an economic analysis it was. These are just two of the many accidents leading up to the Rail Safety Improvement Act’s passage in 2008 mandating EEBA.

Most of the safety improvements we ask for are feasible to provide. PTC, although expensive in the near term, will only get more expensive the longer the carriers procrastinate on its implementation. The values and benefits of that person’s lost life are not being captured. Those are the lessons that the unfortunate individuals who gave their lives teach us — the living — about safeguarding life. We understand it is not part of rail carrier’s corporate charter to do what is morally right. But when it comes to safeguarding people against loss of life and injuries, we, as employees, expect our employers to do what is morally correct anyway. Let’s not waste the opportunity to learn the lessons that the lost lives in our industry have presented to us. Let’s not fail to strive for reducing the lives lost year after year; let’s work to implement simple, inexpensive preventive and escape opportunities for the public and the employees. As Ed Hamburger from the AAR testified last week in the Senate, “Job Safety is the number 1 issue.” Let’s walk the talk and get things done together.

The safety benefits we enjoy today — from automatic couplers to fire extinguishers — could all fail cost benefit analysis depending on the assumptions made when doing the math; yet safety laws recognize their utility because the need for curbing and limiting the severity of accidents and injuries is so high. We do not argue over the water bill when our house is on fire. We cannot choose to worship one form of economic and statistical analysis while simultaneously ignoring medical science related to fatigue analysis.

The cost of fighting implementation and compliance with safety laws needs to be computed in any economic analysis. The cost of inaction needs to be figured. Competing costs between stakeholders and market failures need to be examined. The railroads have been noted with distinction as one of the best places to seek post-military employment. Not unlike our country's servicemen and women, railroad workers are everyday heroes who help our nation function. They work and give their time at all hours of the day and night and get injured and give their lives. Why not give them all the safety advantages that are available to make railroad catastrophes a rare thing relegated to history? In other words, let's treat our returned vets — and their coworkers who place their lives on the line for the American economy — as well as we treated them when their lives were on the line for the nation.

When examining the human factors in an accident, we need to include not just decisions by train crews, but also decisions by management and assumptions that are used as tools to prevent the advancement of safety. When talking about railroad safety, arguments overstating cost and understating benefits have proven themselves to sometimes be points that are technically correct and functionally useless when it comes to implementing PTC and fatigue mitigation. They are moot points and footnotes to substantive discussions about safety. We have seen the Class I rail carriers literally move mountains to install tracks after derailments, yet PTC is too difficult for them and requires a time frame with no end. Scheduling trains to provide predictability for employees, to provide a mere 10-hour call in advance of when a person needs to return to work cannot be too difficult for the industry to achieve. We simply don't believe these things cannot be achieved because we have seen these things accomplished before by railroads with far fewer resources and less cash on hand.

In addition to ensuring safety, one of the keys in any national rail policy is the need for a symbiotic relationship between freight rail and passenger rail. The interconnectivity of the nation's freight and passenger rail systems must be maintained due to the way the system has developed over the past 150 years with passenger and freight rail sharing corridors and rights of way.

With America's continued population growth, passenger rail is in a good position to respond to our nation's mobility needs by taking cars off the roads and passengers out of our nation's airports. Many critics of passenger rail seem to believe that its future is limited. However, this is short sighted. If the Interstate Highway System had been built only in regions where travel demand was greatest and incomes were the highest, it would not have generated the same level of connectivity and economic benefits for the entire nation as it has. A national policy must take all factors into account, including connectivity and the ability to provide service nationwide. Amtrak was created to provide a National Rail Passenger System, not just to meet the demand and needs on the NEC. Now is not the time to nickel and dime the system; now is the time to

stimulate the economy and invest in jobs through the creation of a good rail passenger system throughout the nation. For every \$1 billion invested, such a program could create 47,000 good-paying, middle class jobs.

The workers currently employed by our nation's railroads are among the most highly trained and skilled employees in the world. They are entitled to a safe work environment and any comprehensive rail policy should not interfere with their ability to keep and expand their work. Congress must require the jobs generated by a national rail policy be safeguarded for railroad workers, and ensure these workers are protected by federal laws relating to railroad workers, including the Railway Labor Act, Railroad Retirement Act and the Federal Employers Liability Act. The industry also should be required to implement the mandates included in the RSIA that still remain unfinished, including Positive Train Control, emergency escape breathing apparatus, fatigue, and risk reduction, to name only five of the nine mandates that are unfulfilled.

In conclusion, we would like to reinforce the need for Amtrak's long-term funding and the continued need for cooperation between freight railroads and labor to provide stimulus to our industry and the economy, and the need to do all this while making the critical strides to enhance rail safety. Once again, I thank Chairman Denham and Ranking Member Brown and the Members of the Subcommittee for the opportunity to address you today.