

Written Testimony of

**Robert A. Scardelletti, International President
Transportation Communications Union/IAM
3 Research Place
Rockville, MD 20850
301-948-4910**

Congressional Hearing Before

**Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and
Hazardous Materials**

In the Matter of

**“High Speed Rail in the United States:
Opportunities and Challenges”**

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Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials

“High Speed Rail in the United States: Opportunities and Challenges”

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Madame Chairwoman Brown, Ranking Member Schuster and members of the Subcommittee on Railroads, Pipelines, and Hazardous Materials:

My name is Robert A. Scardelletti and I am the International President of the Transportation Communications Union/IAM (TCU). Our union represents over 50,000 members who work primarily in the railroad industry together with over 120,000 other railroad workers represented by the other rail labor unions, in both freight and passenger rail as well as on various commuter lines throughout the United States. TCU is the largest union on Amtrak representing six (6) crafts under the Railway Labor Act. I appreciate the opportunity to appear before your Committee today to address the issue of “High Speed Rail in the United States: Opportunities and Challenges.”

TCU and rail labor have long supported high speed rail in the United States, which included the passage of the Passenger Rail and Investment and Improvement Act of 2008 (PRIIA) and the American Recovery and Reinvestment Act (ARRA), and specifically provisions in the bill providing for significant investment in our transportation infrastructure. This historic commitment to intercity and high speed rail will create and sustain thousands of good jobs while making a down payment on reversing years of neglect and underinvestment in our transportation infrastructure. We applaud those who are responsible for this unprecedented commitment to high speed rail in the PRIIA and the ARRA. However, it must be

recognized that a viable intercity passenger rail system that includes high speed rail can only be achieved through annual appropriations by Congress.

The passage of PRIIA and the appropriations included in the ARRA was a good start for what can be a great opportunity for high speed rail in our country. The most significant challenge, however, is to ensure that these initiatives are implemented correctly. As was seen in the Federal Railroad Administration's High Speed Rail Program many states and other entities are making application for high speed rail funding. The FRA had over \$50 billion worth of requests from more than 30 states. The FRA will be challenged in how best to award the \$8 billion that has been appropriated.

It is imperative that the FRA vigorously enforces the statutory requirements attached to high speed rail funding, particularly those designed to protect the jobs and rights of workers. And I should note that these statutory requirements were first included in the PRIIA and I want to thank the Committee for its work and support for these protections. Specifically, the FRA must ensure that any recipient of funding make certain that rail workers are covered under the appropriate rail and labor statutes. Labor protections for displaced workers and requirements to preserve existing collective bargaining agreements must be administered fairly and consistent with the law. Davis-Bacon prevailing wage requirements must fully apply to all covered construction work. Buy America requirements must be applied and strongly enforced.

Amtrak and its workforce must be fully utilized as the backbone of high speed rail in America. Amtrak is by law America's national passenger rail carrier and the only current provider of high speed rail, through its Acela Express service in the Northeast Corridor. The carrier has an established national network which includes an extensive reservation system, existing rolling stock, statutory relationships with the freight railroads for trackage rights, as well as physical infrastructure that could be leveraged to support various high speed rail initiatives and decades of demonstrated compliance with all federal rail laws including Railroad Retirement, the Railway Labor Act and the railroad safety laws. Amtrak has also partnered with states and local governments to provide passenger rail service for decades. Amtrak understands and has a track record of adhering to the various grant requirements imposed by the federal government and specifically included for the funds provided for high speed rail.

Most importantly, Amtrak has a dedicated and experienced workforce that will be critical in rolling out and operating high speed passenger rail service. Experienced ticket agents, baggage handlers, Carmen, on-board service workers, supervisors, machinists, sheet metal workers, electricians, boilermakers, signalmen, train dispatchers, maintenance of way workers, firemen and oilers, engineers and conductors are all employed by the company and are vital to run a passenger rail system. These employees have delivered Amtrak service to a growing national ridership, are the best trained passenger rail workers in the nation and are well positioned to implement a high speed rail program throughout the nation. Amtrak's employees did this despite years of inadequate funding, an uncertain future, and at a time when the Executive Branch leadership wanted to dismantle the company or break it up through privatization. With recent passage of multi-year Amtrak reauthorization legislation and the election of a President with a vision for an expanded role for passenger rail service, these employees are well positioned to implement the aggressive agenda and meet the challenges presented by the implementation of high speed rail.

Utilizing Amtrak for high speed rail service will best assure stable labor relations. It is well established that Amtrak is a carrier covered under the Railway Labor Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act and other applicable rail and labor statutes. Collective bargaining has existed at the carrier since its creation and current labor agreements are in place with all the company's unions. While TCU and other rail unions have experienced challenging negotiations with Amtrak over the years, the company does understand its obligations under the various rail statutes and the inherent costs associated with those obligations.

In addition, any new money that is authorized or appropriated by Congress must also carry these same protections. High speed rail is just that, railroad work, and the workers engaged in providing high speed rail service must be covered by all of the railroad statutes, including but not limited to the Railway Labor Act, Railroad Retirement, and railroad safety laws. One of the challenges that Congress faces going forward with high speed rail is to ensure that applicants are required to adhere to the specific requirements in the ARRA, which must be continued in any future bill.

Any applicant seeking to provide high speed rail under an ARRA grant or any other similar grant must be able and willing to comply with the explicit mandates. Amtrak should receive credit for doing so and not be

placed at a competitive disadvantage. For example, Amtrak, as a rail carrier, has financial obligations to its employees through the Railroad Retirement Act. If another entity seeks to provide service but does so with the intention of evading the railroad retirement system, that entity could artificially undercut Amtrak on a cost basis. Congress must ensure that potential providers of service are not allowed to evade the requirements so that all applicants will be judged on a level playing field.

Specifically, 49 U.S.C. 24405(b) directs that a person who conducts rail operations over rail infrastructure constructed or improved with funding provided in or in part by a grant shall be considered a rail carrier as defined in Section 10102(5) for purposes of statutes that use the definition, including, but not limited to the Railroad Retirement Act, the Railway Labor Act, and the Railroad Unemployment Insurance Act. Section 10102(5) in turn defines a rail carrier as a person providing common carrier railroad transportation for compensation. Finally, Section 10102(6) states that the term “railroad” includes a switch, spur, track, terminal, terminal facility and a freight depot, yard, and ground, used or necessary for transportation. Taken together, these definitions describe a rail carrier as an entity that conducts operations and undertakes a variety of rail activities necessary to provide railroad transportation. With this in mind, Congress must ensure that these various statutory definitions are adhered to by any entity seeking high speed rail grants and that they are continued in any future high speed rail bills.

All of rail labor urges Congress to continue a strong Buy America requirement such as are contained in both the Amtrak statute and the ARRA. A strong transportation system is dependent on a strong domestic manufacturing base that can produce raw materials and finished products including train equipment necessary for high speed rail.

Because there has not been a U.S. market for high speed rail, almost all of the existing major high speed rail equipment manufacturers are foreign. Buy America in this context must mean that, even if the developer is foreign owned any equipment must be assembled entirely in the United States. Furthermore, Amtrak with its skilled and unionized shopcraft employees should be the first choice to repair and maintain all new high speed equipment. Foreign companies should not be allowed to avoid the application of railroad statutes, such as railroad retirement, by tying repair and maintenance of equipment to its manufacture, and then using non-

railroad workers for both functions. We have already seen instances of this occurring, and if permitted to continue, it would lead to layoffs in the current Amtrak mechanical workforce.

Finally, strong labor protections must be applicable to any high speed rail program. For instance, 49 U.S.C. 24405(c)(2) requires applicants to comply with the protective arrangements established in Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 with respect to employees affected by a project financed in whole or in part with grants under this program. In addition, Section 24405(d) established detailed procedures for the preservation of jobs and collective bargaining agreements if an entity that receives money under this program replaces current intercity passenger rail services provided by Amtrak. As a general comment, the purpose of these protections is not simply to provide financial assistance to displaced workers, though that may indeed be necessary. Instead, employee protections should be seen as a means of integrating the existing workforce into high speed rail and expanded intercity service. Furthermore, existing collective bargaining agreements can assure that new operations have access to experienced and trained workers, and in the process, minimize labor uncertainty.

As Congress and the administration focus on high speed rail, I feel compelled to make two observations; 1) funding for Amtrak and its current services must not be cut. This would be the absolute worst thing that could be done; therefore, we call on Congress and the administration to fully fund Amtrak's capital and operating needs at the currently authorized level. 2) Any new high speed rail programs cannot be treated in the manner that Amtrak has had to suffer through since its inception. All passenger rail transportation must be fully funded in order for our country to reap the benefits that are available from high speed rail. We must be committed to the long haul, including full federal funding each and every year for all of Amtrak including new high speed rail programs, if we are truly going to have a national transportation policy that includes all modes of transportation.

In conclusion, good labor policy and sound transportation policy are not inconsistent propositions, and in fact, high speed rail in this country will only succeed if workers are brought into the process and treated fairly. The statutory framework and requirements for the ARRA high speed rail program makes this objective easier and if followed faithfully as we go

forward the United States will meet the challenges and have the opportunity to be rewarded with the benefits of the best high speed rail system in the world.

Thank you for the opportunity to address the Committee today.