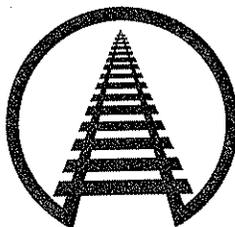


STATEMENT OF
EDWARD R. HAMBERGER
PRESIDENT & CHIEF EXECUTIVE OFFICER
ASSOCIATION OF AMERICAN RAILROADS



BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

APRIL 7, 2011

Association of American Railroads
425 Third Street SW
Washington, DC 20024
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On behalf of the members of the Association of American Railroads (AAR), thank you for this opportunity to discuss the reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act, A Legacy for Users (SAFETEA-LU) as it relates to freight railroads.

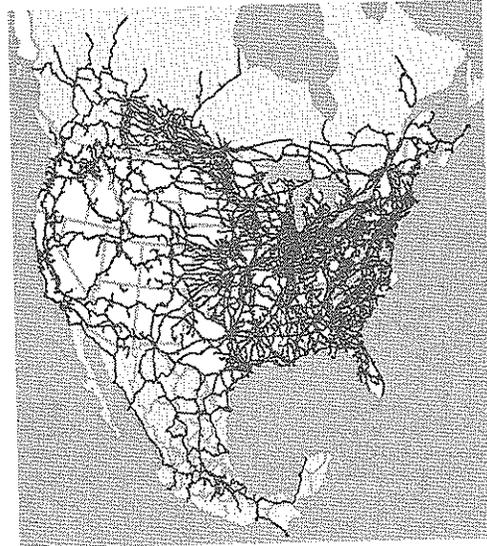
AAR freight railroad members, which include the seven U.S. Class I railroads as well as approximately 75 short line and regional railroads, account for the vast majority of freight railroad mileage, employees, and traffic in Canada, Mexico, and the United States. Amtrak and several commuter railroads are also members of the AAR.

Our nation's growth and vitality have always been closely tied to transportation. Today, our freight transportation networks are, in aggregate, the best in the world, providing both a tremendous competitive advantage for our farmers, manufacturers, and other businesses in the global economy as well as a means to significantly improve our residents' standard of living.

That said, it is clear that the nation's transportation system is overburdened, and I congratulate and thank members of this committee and others in Congress and the Administration for recognizing this point and seeking ways to fix it. For their part, freight railroads stand ready and determined to work cooperatively with you, other policymakers, rail customers, rail employees, and others to help ensure that our nation has the capability to transport goods and people safely, efficiently, and cost-effectively now and in the future.

The AAR respectfully suggests that policymakers have a key role to play. They should support policies that help ensure that adequate rail capacity exists to meet America's future

The North American Rail Network



transportation needs and that the tremendous public benefits resulting from more freight and people moving by rail are realized. By the same token, policymakers should refrain from implementing policies that would make it more difficult for railroads to operate fairly and effectively in the transportation marketplace. Unnecessary and counterproductive legislation and regulation should be avoided, uncertainties that lead to restricted rail reinvestments should be removed, and policies that have worked well in the past to promote transportation safety and efficient transportation choices should be sustained.

In addition, it is critical that policymakers retain the existing balanced regulatory system that protects shippers against unreasonable rail pricing (where shippers do not have competitive options) while allowing railroads to largely decide for themselves how to manage their operations. Balanced regulation has made it possible for America's freight rail industry to become, in the words of *The Economist*, "universally recognized in the industry as the best in the world."¹

Freight Railroads Are a Vital Link to Economic Growth

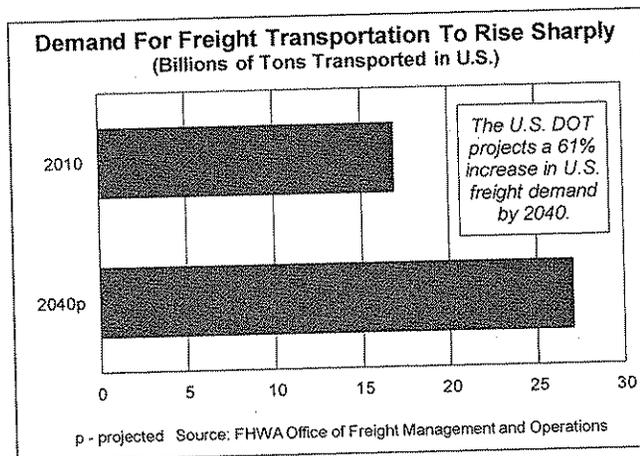
The U.S. freight railroad system is a tremendous national asset, serving nearly every agricultural, industrial, wholesale, retail, and resource-based sector of our economy. Our railroads move more freight, more efficiently, and at lower rates than any other freight rail system in the world.

In fact, the cost efficiency of freight rail means that U.S. consumers and businesses pay tens of billions of dollars less in transportation costs than they otherwise would. A few years ago, the American Association of State Highway and Transportation Officials (AASHTO) estimated that if all freight rail traffic were shifted to trucks tomorrow, rail shippers would have

¹ *The Economist*, "High-speed Railroading: America's System of Rail Freight is the World's Best. High Speed Passenger Trains Could Ruin It," July 22, 1010.

to pay an additional \$69 billion per year — or \$1.4 trillion over 20 years — for less efficient transportation alternatives. That figure is undoubtedly much higher today.

The recent recession significantly reduced freight transportation demand, but that's only temporary. Experts agree that over the long term, freight transportation demand will grow. The Federal Highway Administration, for example, recently reported that total freight movements across all modes will rise from an estimated 16.9 billion tons in 2010 to 27.1 billion tons in 2040 — a 61 percent increase.



Railroads will need to work hard to make sure the capacity to handle this traffic growth is in place. Moreover, rail customers will continue to insist that railroads invest heavily in service-enhancing infrastructure. Demands for use of freight-owned track by commuter and intercity passenger trains are mounting and will continue to grow. And with highways becoming increasingly congested and demands to reduce emissions, conserve fuel, and promote safety on the rise, pressure on railroads to provide relief will only increase.

Unlike other transportation modes, freight railroads finance nearly all of their infrastructure spending with private funds. Largely as a result of approximately \$240 billion spent on infrastructure from 1980 through 2010 and another \$240 billion or so spent on equipment, America's freight rail network is probably in better overall condition today than ever before. Moving forward, though, the high quality of the infrastructure must be maintained and necessary investments must be made to meet the capacity and service challenges that lie ahead.

The Benefits of Moving More Freight and People by Rail

When deciding on transportation-related issues, members of this committee and other policymakers can choose to implement policies that eliminate uncertainties and would allow more people and more freight to move by rail, or they can choose to implement policies that create or perpetuate uncertainties and would mean fewer people and less freight moving by rail. We respectfully suggest that the proper choice should be clear. Making more and better use of our nation's rail assets makes good economic sense and represents sound public policy.

That railroads provide significant public benefits is beyond dispute. These include:

- *Jobs and Economic Development.* U.S. freight railroads provide the most efficient and affordable freight rail service in the world, connecting businesses with each other across the country and around the world and providing a huge competitive advantage for U.S. firms in the global marketplace.

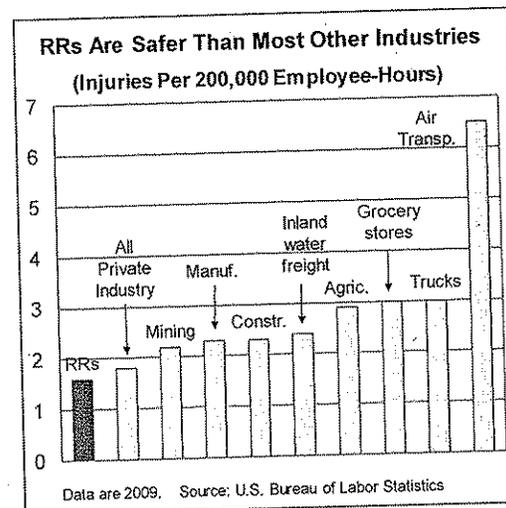
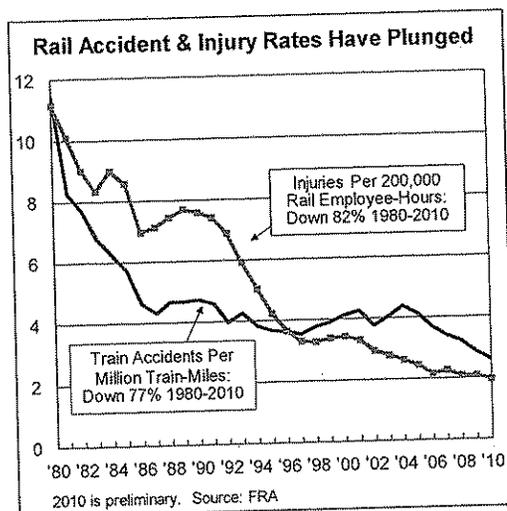
According to a U.S. Department of Commerce model of the U.S. economy, America's freight railroads generate nearly \$265 billion in total economic activity each year including direct, indirect, and induced effects. In addition to their own 175,000 employees, freight railroads sustain more than 1 million additional jobs at firms that provide goods and services to railroads or that are recipients of spending by the employees of railroads and their suppliers. Millions of others work in industries that are more competitive in the global economy thanks to freight railroads' affordability and productivity. Railroads expect to hire tens of thousands of employees in the years ahead to replace workers who retire and to handle anticipated traffic growth.

- *The Environment.* On average, railroads are four times more fuel efficient than trucks. In 2010, U.S. railroads moved a ton of freight an average of 484 miles per gallon of fuel — about the distance from Washington, DC to Cincinnati, Ohio. And since greenhouse gas emissions are directly related to fuel consumption, moving freight by rail instead of truck reduces greenhouse gas emissions by an average of 75 percent.
- *Highway Congestion.* According to a recent study by the Texas Transportation Institute, highway gridlock costs the U.S. economy \$115



billion per year — and that's just in wasted fuel and time. Lost productivity, cargo delays, and other costs add tens of billions of dollars to this tab. Thus, highway congestion constitutes an “inefficiency tax” that all of us pay. But a single train can carry the freight of several hundred trucks. That means railroads reduce highway gridlock, the costs of maintaining existing highways, and the pressure to build costly new highways. That's especially important now when government spending is under such severe pressure.

- *Pollution.* Moving freight by rail rather than truck significantly reduces particulate, nitrogen oxide, and other emissions. The Environmental Protection Agency recently released new regulations that will mean even greater reductions in locomotive emissions.
- *Affordability.* Adjusted for inflation, on average it cost shippers 51 percent less to ship freight by rail in 2010 than in 1981 on a revenue per ton-mile basis. That means the average rail customer today can ship twice as much freight for about the same price it paid 30 years ago. Improvements in freight rail affordability over the years are due to huge rail productivity gains that have largely been passed through to shippers in the form of lower rates, and that would not have come about but for a reasonable regulatory structure that allows railroads to compete fairly in the transportation marketplace while protecting shippers against unreasonable railroad pricing. The affordability of freight rail saves consumers billions of dollars each year and provides a major competitive advantage for American firms in the global marketplace.
- *Expanded passenger rail.* Freight rail provides the infrastructure on which most passenger rail operations take place.
- *Safety.* Railroads today are one of our nation's safest industries. They have lower employee injury rates than other modes of transportation and most other major industry groups, including agriculture, construction, and manufacturing. Freight rail transportation is associated with an estimated one-eighth of the fatalities of intercity motor carriers per unit of freight moved. Railroads are continually working to further improve the safety of their operations, but they're proud that 2010 was the safest year ever for railroads, breaking the record set in 2009.



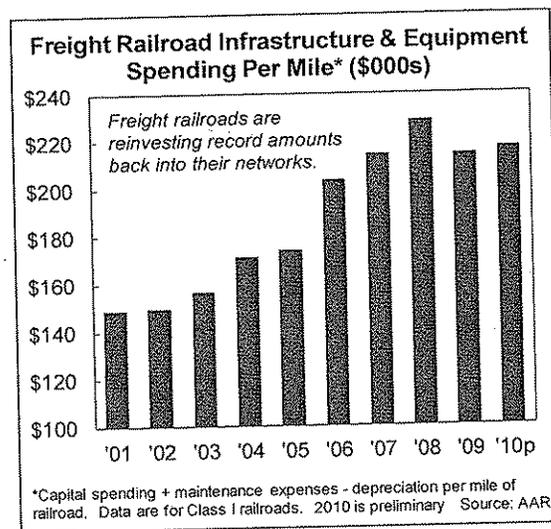
It is in our nation's best interest to allow the major public benefits of freight rail to continue to accrue as quickly as possible. A good way to help make sure this happens is by ensuring that railroads and other transportation providers operate on a level playing field, by eliminating uncertainties and modifying unreasonable regulations that currently hinder rail investments, and by retaining key transportation programs that work well now and would continue to work well in the future.

Importance of a Level Playing Field

The competition railroads face in the transportation marketplace is fierce. Railroads welcome this competition because they are confident that they provide the combination of price and service attributes that their customers want. That said, competition should be the product of free-market forces. In other words, the "playing field" among transportation providers should be level. Unfortunately, that's not always the case.

Truck Size and Weight

America's freight railroads operate almost exclusively on infrastructure that they own, build, maintain, and pay for themselves. From 1980 to 2010, they reinvested more than \$480 billion of their own funds — equivalent to about \$675 billion in today's dollars and equal to more than 40 cents out of every railroad revenue dollar over this period — on upgrading and maintaining locomotives, freight cars, tracks, bridges, tunnels and other infrastructure.



By contrast, trucks operate on publicly financed highways, and as discussed below, the taxes trucks pay do not come close to covering the costs associated with their use of the infrastructure that the public provides.

Truck size and weight limits on federal highways were frozen by Congress in 1991, largely because of concerns about the safety of longer and heavier trucks and concerns about the highway damage that heavy trucks cause. Over the years, some groups have called for lifting the freeze. Most recently, H.R. 763 (the so-called "Safe and Efficient Transportation Act") in the current Congress would raise the federal weight limit to 97,000 pounds for combination trucks that add a sixth axle to the five such trucks usually have.

From the railroads' perspective, the key issue with truck size and weight is the amount of damage done by trucks to our nation's highways and how that damage is paid for. According to the most recent U.S. Department of Transportation Highway Cost Allocation Study, combination trucks weighing 80,000 to 100,000 pounds pay just half the cost of the damage they cause to our highways.² The study found that trucks weighing more than 100,000 pounds pay only 40 percent of the damage they cause. The existing underpayment is in the billions of dollars and must be covered by other taxpayers, not by the trucks that cause the damage.

As the Government Accountability Office has noted, "From an economic standpoint, this ... distorts the competitive environment by making it appear that heavier trucks are a less expensive shipping method than they actually are and puts other modes, such as rail and maritime, at a disadvantage."³ And as the National Surface Transportation Policy and Revenue Commission noted in a 2008 report, this violates a principle of highway taxation, dating back to

² U.S. DOT *Comprehensive Truck Size and Weight Study*, August 2000. An update to the 2000 study is reportedly forthcoming.

³ Government Accountability Office, "Freight Transportation: National Policy and Strategies Can Help Improve Freight Mobility," GAO-08-287, January 8, 2008, p. 16.

the creation of the Highway Trust Fund, that “different vehicle classes should be charged in proportion to their contribution to highway investment requirements.”⁴

Relaxing truck size and weight limits would make this inequity much worse because even more freight would be transported by heavy trucks that don't pay their cost responsibility. Unless we want our highways to fall apart, this even-higher underpayment would have to be made up by state and local governments, other motorists, or other taxpayers.

Bridges are a primary concern. Bridges are designed with a safety margin of error to ensure against bridge failure. Heavier trucks erode that margin of error, increasing the number of bridges that must be replaced, strengthened, or posted. Adding axles does nothing to fix this problem. Already, more than 146,000 highway bridges (some 24 percent of the nation's total) are structurally deficient or functionally obsolete.

Proponents of heavier trucks on our highways implicitly acknowledge the extra damage such trucks would cause by agreeing that heavier trucks should pay extra taxes. Under H.R. 763, for example, the annual federal “use tax” for heavier trucks would rise from the current \$550 to \$800, an increase of \$250. This additional tax is equivalent to just a few cents on a per-gallon of fuel basis — a woefully deficient amount to cover the costs associated with the damage 97,000 pound trucks would inflict on our highways and bridges. According to a recent analysis of FHWA data by Norbridge, a well-respected management consultancy, 97,000 pound trucks would enjoy an average underpayment on the order of \$1.17 per gallon of fuel they consume.

Increased truck weight limits would also lead to more freight carried by trucks and less freight carried by trains, especially short line railroads. Traffic diversion would mean that railroads of all sizes would have less money to reinvest in their privately-owned networks. This

⁴ National Surface Transportation Policy and Revenue Study Commission, Final Report, Chapter 5.

would lead directly to reduced rail capacity. Traffic diversion would also harm the environment. Already-overcrowded highways would become even more crowded, and since railroads on average are four times more fuel efficient than trucks, diversion could increase fuel consumption by hundreds of millions of gallons per year and lead to a corresponding increase in greenhouse gas emissions.

It should be stressed that railroad opposition to increasing existing truck size and weight limits should not be construed to mean that railroads are in any way "anti-truck." Railroads fully recognize the critical role trucks play in American commerce, and railroads value deeply the transportation partnerships they've forged with motor carriers all over the country. That should not detract, however, from the fact that raising allowable truck weight limits would give trucking companies a free ride that would have to be paid for by other highway users, other taxpayers, and railroads. Public policies which permit heavy trucks to operate while avoiding their full cost responsibility are inefficient from an economic point of view and unfair from a competitive equity standpoint. Unless trucks pay their full costs, existing weight limits should not be changed.

Importance of Regulatory Certainty and Reasonableness

In January 2011, President Obama announced that he is ordering a government-wide review of regulations that stifle our nation's economic competitiveness and job creation. The rail industry welcomes this review because there are a number of existing rail-related regulations that are either unjustified on the basis of cost-benefit analysis or that simply serve no useful purpose. Money the rail industry is forced to spend to adhere to these regulations, a couple of which are discussed in more detail below, could be spent far more productively somewhere else. In other

areas, railroads face unnecessary uncertainty that serves as a disincentive to further investments. A few examples of these are discussed below as well.

Positive Train Control

I discussed the PTC issue in significant detail at this committee's March 17, 2011 hearing on the Rail Safety Improvement Act of 2008. For the purposes of this testimony, suffice it to say that even using the Federal Railroad Administration's estimates of the cost of installing and maintaining PTC systems — and the railroads believe the FRA's cost estimates are far too low — railroads will incur approximately \$20 in PTC costs for each \$1 in PTC safety benefits.⁵ Moreover, the FRA's final rules implementing the PTC-related provisions of the RSIA impose onerous and unjustified requirements on railroads that are not consistent with the underlying statute or sound application of cost-benefit analysis. This is important because the cause of safety will not be advanced if resources are directed to programs or requirements that do little to improve safety, or if government mandates syphon resources that would have a more pronounced impact on safety improvements if spent elsewhere.

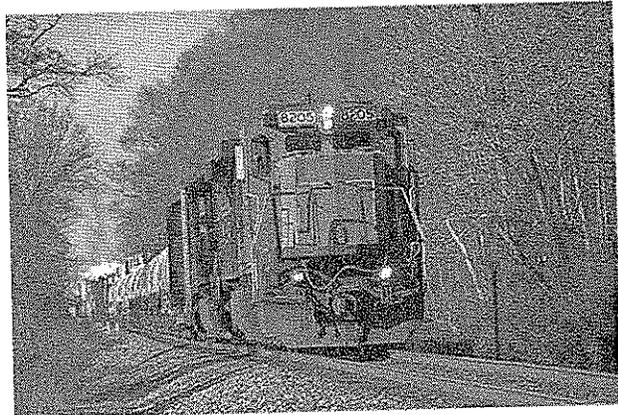
As we noted in our testimony on March 17, railroads are committed to meeting the 2015 deadline for implementing PTC, but it will be an enormous technical and financial undertaking. At the very least, to help railroads fund the huge costs associated with PTC, Congress should pass legislation that provides tax incentives for rail revitalization that could be applied to the cost of installing PTC.

⁵ According to the FRA, railroads will have to spend around \$5 billion just to install PTC. As of this writing, railroads think a more realistic estimate of installation costs is \$5.8 billion for freight railroads and another \$2.4 billion for passenger railroads. Both the FRA and the railroads agree that PTC will require hundreds of millions of dollars each year to maintain. Estimating PTC implementation costs is so difficult primarily because PTC is still an emerging but extremely complex technology that is untested in terms of a real-world, day-to-day, multi-railroad environment.

92-Day Locomotive Inspection

Another example of a regulation that should be modified regards locomotive inspections. Under existing regulations, the FRA requires railroads to inspect locomotives daily and to perform a much more comprehensive inspection every 92 days. In 2002, the AAR estimated that the 92-day inspection cost Class I railroads approximately \$350 million annually, and the daily inspections approximately \$60 million annually

The concept of daily and periodic inspections dates back to the steam engine era. It may have been necessary for safety purposes then, but it is not now. Accidents attributable to locomotive defects are extremely rare — there were just 18 in 2010. Furthermore, no one can point to an analysis of the usefulness of the detailed inspection requirements in reducing locomotive accidents. In fact, AAR believes that no showing can be made that the daily and periodic inspections are necessary to keep the number of accidents attributable to locomotive defects low or to reduce them further.



The modern diesel locomotive is very different from the steam locomotive and even from diesel locomotives manufactured 30 years ago. Today's locomotives are equipped with sophisticated self-diagnostic technology. Engines are monitored continuously. Better sealants and gaskets have led to fewer leaks, and safety appliances such as handholds and steps are more securely attached to locomotives. Defect detectors along the tracks also help monitor locomotive health. Importantly, today's locomotives are designed for semi-annual maintenance, not quarterly maintenance. Thus, neither safety nor mechanical considerations support a 92-day

periodic inspection.⁶ It is clearly time to revisit the concept of daily and 92-day locomotive inspections.

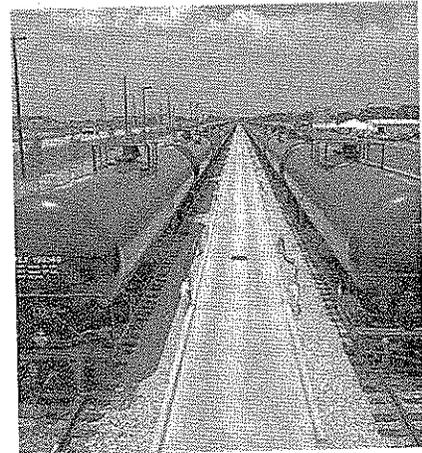
Transport of Hazardous Materials

An area in which railroads face extreme uncertainty is the transport of hazardous materials, especially “toxic inhalation hazard” (TIH) materials. Under existing law, railroads have a “common carrier obligation” to carry TIH materials. This means that, under most circumstances, a railroad must transport TIH materials if a shipper asks it to, whether the railroad wants to or not. By contrast, trucks, barges, and airlines can refuse to transport these materials.

The problem is that every time a railroad transports TIH materials, it faces potentially ruinous liability risks if an inadvertent TIH release were to occur. In fact, history demonstrates that railroads can be subjected to multi-billion dollar liability claims for personal injury and property damage even when they do nothing wrong and are not the cause of a TIH release.

By forcing railroads to carry an excessive liability burden, the existing system insulates manufacturers and users of TIH materials from many of the risks they create. The existing system also forces railroads to assume risks they would not assume on their own without sufficient protection against those risks.

As long as railroads are forced to transport TIH materials, policymakers should address the enormous risks railroads are forced to assume. Policymakers can do this, among other ways,



⁶ It is interesting to note that Transport Canada, which serves a similar purpose in Canada as the FRA does in the United States, does not require daily or periodic inspections, relying instead on inspections of locomotives as they are placed in trains. The rail operating environment in Canada does not differ in any relevant respect from the operating environment in the United States.

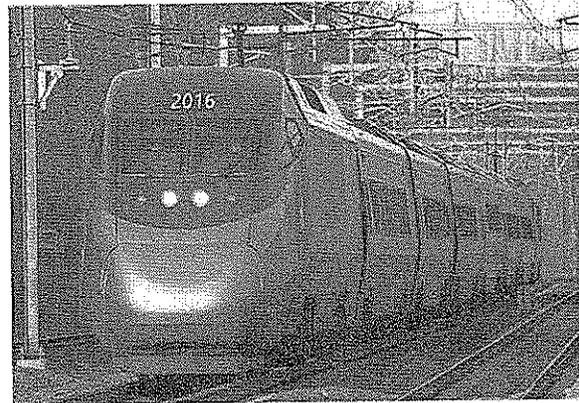
by creating a statutory liability cap for railroads. Another option is to create a fund, to which producers and end-users of TIH materials would contribute, to pay for damages above a certain amount, similar to "Price-Anderson" protections in the nuclear energy industry.

Railroads are not asking to be free from all liability related to TIH transport. Rather, they believe that those responsible for making and selling these dangerous chemicals, as well as those who benefit from their use, should share in the added liability and costs associated with transporting them.

Passenger Rail Challenges

Freight railroads provide the foundation for passenger rail. Each year, tens of millions of passenger trips are taken on passenger trains operating on tracks owned by freight railroads. But because America's economic health and global competitiveness would suffer if freight railroads were impaired by moving passengers on their tracks, great care must be taken going forward to ensure that the growth of passenger rail complements, rather than detracts from, the growth of freight rail.

An essential element of this is to ensure that freight railroads have adequate liability protection. An accident involving a passenger train on freight-owned property, though rare, could involve major casualties and potentially ruinous liability claims against the freight railroad. Because of this risk, freight railroads must be adequately protected from liability that results from the presence of passenger trains and that freight railroads would not have but for the presence of passenger trains. Legislation now before Congress would raise the existing \$200 million liability cap for all parties in the case of an



accident involving passenger trains to \$275 million. This legislation instills additional uncertainty that could end freight and passenger railroad cooperation in new passenger rail operations that involve freight-owned assets. Furthermore, legislation containing retroactive provisions could have a negative impact on both existing and new passenger rail operations.

In addition, freight railroads are also being asked to help facilitate the introduction and expansion of high-speed rail in corridors across the United States. The freight railroads support high-speed rail service where it makes economic sense: where the ridership exists, where it can be done safely, and where it does not disrupt service to freight customers. The most successful high-speed rail corridors in the world are those that are separated, sealed (*i.e.*, no highway-rail grade crossings), and dedicated solely to high-speed rail service.

Freight Fund

Proposals have been made to create a federal “freight fund” to finance the federal share of publicly supported freight-related projects. Railroads do not support freight fund proposals that would require freight railroads or rail shippers to pay into such funds.

As noted above, unlike airlines, trucks, and barges, freight railroads already pay the vast majority of the costs of building and maintaining their infrastructure. It wouldn’t make sense for railroads or their customers to pay into a “freight fund,” only to have the government dole the money — minus inevitable bureaucratic costs — back out. Railroads should not be required to assess or collect fees going into a freight fund, and no state and local government should impose such fees unless the parties involved agree otherwise.

Safety User Fees

Safety in most U.S. industries is regulated by the Occupational Safety and Health Administration, an agency of the U.S. Department of Labor. Safety in the rail industry, however,

is regulated mainly by the Federal Railroad Administration, an agency of the U.S. Department of Transportation. Today, funding for both OSHA and the FRA come from general appropriations.

For the FRA, it wasn't always this way. From 1991 until 1995, railroads paid fees to the FRA to cover many of the costs associated with the FRA's rail safety program. Total railroad payments during this period were approximately \$159 million, equivalent to around \$190 million in today's dollars.

Recognizing that these fees were unfair taxes in disguise, Congress eliminated them in 1995. Since then, there have been several legislative efforts to reintroduce the fees and expand their scope. Most recently, in its proposed 2012 budget, the Administration calls for the reintroduction of the FRA fees at a rate of some \$80 million per year. Each time since 1995 that FRA safety user fees have been proposed, key Congressional committees — acting on a bipartisan basis — have rejected them.

Railroads respectfully suggest that safety “user fees” were a bad idea when they were in place and would be a bad idea again:

- OSHA regulates workplace safety for most U.S. industries, but those industries do not pay user fees to OSHA. Thus, equity alone dictates that railroads should not have to pay safety “user fees” to the FRA.
- FRA “user fees” are nothing more than taxes in disguise, an attempt to shift to private industry the costs of government regulation designed to achieve public goals.
- Railroads already know that operating safely is their highest priority. Imposing safety “user fees” would not change this. Nor would it add any incentives to operating safely that railroads don't already have.
- The imposition of FRA “user fees” would make it that much harder for railroads to afford the new capacity they will need to meet America's growing freight transportation needs in the years ahead. This would be a serious problem at any time, but it would be an especially serious problem today when railroads are being called upon more than ever to help achieve key policy goals (such as reducing highway congestion and cutting fuel consumption and air pollution) and when the pressure to reduce government spending on just about everything — including transportation infrastructure — is greater than it has been in many years.

Tax Incentives to Expand Rail Capacity

As they do today, freight railroads in the future will continue to pay essentially all the costs of their tracks, bridges, tunnels, and other infrastructure. However, there is a gap between the socially-optimal level of rail capacity and what railroads are likely to be able to afford on their own.

A sensible way to bridge the gap is to enact legislation that provides tax incentives for projects — such as new track, bridges, tunnels, and intermodal facilities — that expand freight rail capacity. All businesses that make capacity-enhancing rail investments, not just railroads, would be eligible. Costs associated with the recent unfunded Congressional mandate for railroads to install PTC systems should also be eligible for the tax incentive.

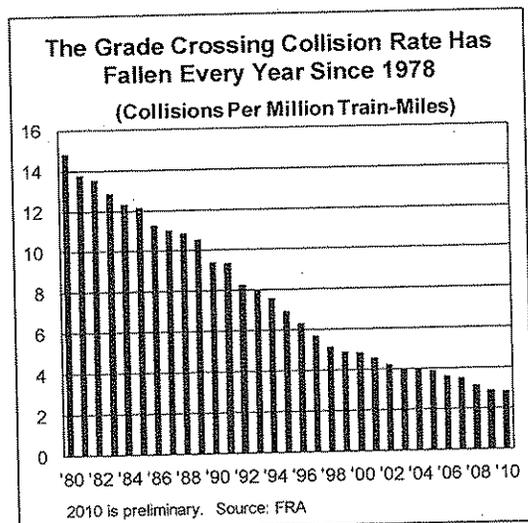
Keeping Programs That Work Well

Several key transportation programs work well now and would continue to work well in the future, and thus should be included in new surface transportation reauthorization legislation.

Grade Crossing Safety

Grade crossing collisions have fallen sharply over the years. In fact, from 1980 through 2010, the number of grade crossing collisions fell 81 percent, injuries associated with collisions fell 79 percent, and fatalities fell 69 percent. The grade crossing collision rate has fallen every year since 1978.

One of the reasons for this impressive improvement is the federal “Section 130” program. This program, which is named after a provision in an earlier federal highway bill, provides federal funds to states and local



governments to eliminate or reduce hazards at highway-rail grade crossings on public highways. According to the FRA, since its inception the Section 130 program has prevented tens of thousands of injuries and fatalities. Current set-aside funding is approximately \$220 million per year. The vast majority of Section 130 funds have been spent on the installation of new active warning devices such as lights and gates, upgrading existing devices, and replacing or improving grade crossing surfaces.

Without a set aside program, grade crossing needs would likely fare very poorly in competition at the state level with more traditional highway needs, such as highway capacity expansion and maintenance. In fact, the primary reason that a separate grade crossing safety improvement program was begun in 1974 was that highway safety, and especially crossing safety, received limited priority for available highway dollars.

Operation Lifesaver, a nationwide non-profit with chapters across the country, educates the public about the dangers of grade crossings and the hazards of trespassing on railroad property. It receives significant funding from railroads and other sources, as well as funding from the U.S. Department of Transportation. Federal support of Operation Lifesaver should continue.

The AAR and AASHTO earlier this week wrote a joint letter to this Committee urging the retention of the Section 130 program and funding for Operation Lifesaver. A copy of that letter is attached to this testimony as Appendix 1.

Short Line Tax Credit

H.R. 721 (the "Short Line Railroad Rehabilitation and Investment Act of 2011") in the current Congress would extend the "Section 45G" short line railroad tax credit. Originally enacted in 2004, Section 45G creates a strong incentive for short line railroads to invest private

sector dollars on freight railroad track rehabilitation and improvements. The credit is capped based on a mileage formula and is currently scheduled to expire at the end of the current 2011 tax year. Freight railroads respectfully urge members of this committee and other members of Congress to unite in support of legislation to extend this important credit.

The Congestion Mitigation and Air Quality Improvement Program (CMAQ)

The CMAQ program is intended to reduce transportation-related emissions by providing state transportation departments and local governments flexible options to fund emission reduction strategies. Over the years, CMAQ funds have been used to support the use of public transportation; promote efficient traffic movement; support educational campaigns; promote ride-sharing, bicycling, and pedestrian programs; fund automobile inspection and maintenance programs and fleet conversion efforts; and many other purposes.

Over the past few years, CMAQ has funded a few rail-related projects. A greater focus on freight-related projects would allow states to undertake innovative projects that accomplish CMAQ's goals, including use of CMAQ funds for environmental mitigation around railroad yards.

State and Local Freight Planning

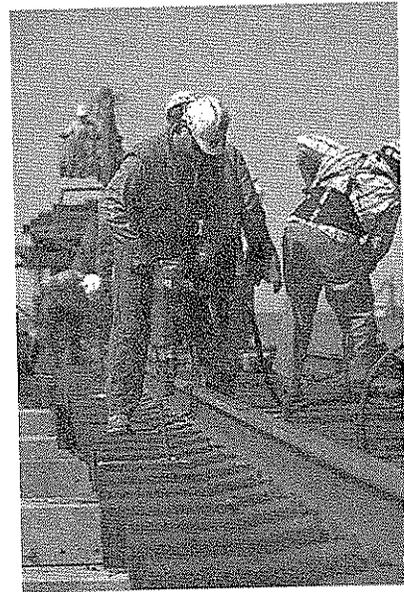
Transportation projects that involve federal funds are prioritized by state planning organizations and, in the case of urban projects, by metropolitan planning organizations (MPOs). The planning process is very useful, allowing for continuing, cooperative efforts by local stakeholders to achieve effective transportation solutions. Unfortunately, transportation planning typically focuses almost exclusively on moving passengers, with scant attention paid to freight. To address this deficiency, Congress should continue to encourage planning organizations to

consider freight transportation needs, including railroad projects and intermodal projects, more fully in their planning.

Public-Private Partnerships for Rail Infrastructure Projects

Today more than ever, America needs safe, affordable, and environmentally sound transportation options. Public-private partnerships combine public and private resources for specific projects to help make this happen.

With public-private partnerships, the public entity devotes public dollars to a project equivalent to the public benefits that will accrue. The private railroads contribute resources commensurate with the private gains expected to accrue. The result is a substantial expansion of the universe of projects that may be undertaken to the benefit of all parties. Since railroads contribute funding commensurate with the benefits they receive, public-private partnerships are not

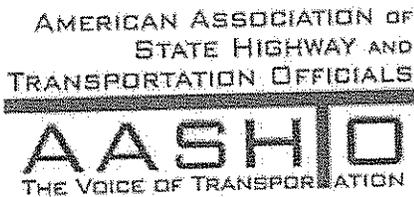


“subsidies” to railroads. In some partnerships, public entities and private railroads both contribute to a project’s initial investment, but the railroad alone is responsible for funding future maintenance to keep the project productive and in good repair. Continued use of public-private partnerships would allow additional worthwhile projects to go forward.

Conclusion

The reauthorization of SAFETEA-LU presents a great opportunity for policymakers to encourage more freight to move by rail — and therefore generate more of the huge public benefits that freight railroading brings.

In the years ahead, meeting our nation's transportation demands will be a tremendous challenge. Meeting this challenge — while minimizing congestion and emissions and maximizing safety and energy efficiency — will be a critical and difficult task. If not done effectively, it will weigh heavily on our nation's productivity and quality of life. Enhanced freight rail transportation must be part of the solution. While railroads have made tremendous strides in improving their ability to serve their customers efficiently and reliably, meeting the daunting challenges of operating a rail system capable of addressing future needs will require effective public policies that support those goals. Freight railroads look forward to working with this committee, others in Congress, and other appropriate parties to develop a surface transportation reauthorization which best meets this country's transportation needs.



April 5, 2011

The Honorable John L. Mica
Chairman
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nick J. Rahall
Ranking Member
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John J. Duncan
Chairman
Highways and Transit Subcommittee
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Peter A. DeFazio
Ranking Member
Highways and Transit Subcommittee
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressmen:

On behalf of our organizations – the American Association of State Highway and Transportation Officials (AASHTO) and the Association of American Railroads (AAR) – we are opposed to proposals to eliminate dedicated funding for the section 130 highway grade-crossing safety program. Both AASHTO and AAR believe that funding for this program should remain as a set-aside program. It fulfills unique function in addressing both safety and productivity objectives relating to intersections between the highway and railroad modes. We continue to support the program in its current form and funding level, or at a level proportionate to the funding level of the reauthorized surface transportation program.

The Highway Safety Act of 1973 created Section 130 to enhance safety at highway-rail at-grade crossings. Under the program, at least \$220 million has been apportioned each year to states for installing new warning devices, upgrading existing devices, and replacing and improving grade-crossing surfaces. The Federal Highway Administration estimates that over 10,500 lives have been saved and an estimated 51,000 serious injuries avoided through this program since its inception in 1974.

Among the factors pointing to program success is the dramatic reduction in grade-crossing collisions that have occurred. Let's look at the resulting statistics:

- In 1978, there were roughly 14,000 grade-crossing collisions; in 2009 that number dropped to some 1,900 collisions.
- Fatalities dropped from 1,178 in 1976 to just under 250 in 2009.
- Injuries dropped from a high of over 4,600 in 1977 to just over 700 in 2009.

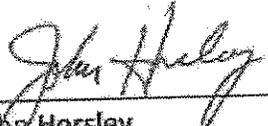
Eliminating the funding for the Section 130 program and thus effectively eliminating the program would risk reversing these remarkable safety gains.

Additionally, AASHTO and AAR support the continued funding of a coordinated national Operation Lifesaver program through the Highway Trust Fund, now authorized at an annual level of \$560,000. This public information and education program is an essential tool in the prevention of motor vehicle accidents, injuries and fatalities at highway-rail at-grade crossings and provides some essential grant funding, guidance, and expertise to state programs. With forecasts calling for a substantial boost in the amount of freight and the numbers of passengers to move by rail in the near future, safeguarding American pedestrians and motorists around railroad crossings remains of urgent and paramount importance.

Finally, AASHTO and AAR propose increasing the maximum amounts payable in incentives for permanently closing highway-rail at-grade crossings from \$7,500 per location to a maximum amount equal to one-half of the estimated cost of the signal or crossing improvement project. Under this change, the dollar-for-dollar railroad match should be retained as an option, but not as a requirement for the states. The Federal funds would continue to be limited to safety-related purposes, and allowing the railroads to participate in such projects through contribution of in-kind services, assets, or cash would provide more flexibility to railroads and to states and bring additional value through the program for sustainable highway and railroad crossing safety improvements.

Don't penalize success and risk losing the unique value and importance of the Section 130 program. AASHTO and AAR urge you to support the continued dedicated funding for the Section 130 grade-crossing program and Operation Lifesaver. Let's continue to build on our work to date to further enable the states and railroads to carry out the important mission of improved highway-rail crossing safety.

Sincerely,



John Horsley
Executive Director
American Association of State Highway
And Transportation Officials



Edward R. Hamberger
President and CEO
Association of American Railroads



April 5, 2011

The Honorable John L. Mica
Chairman
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515

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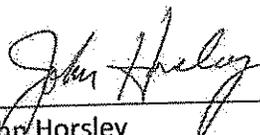
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Don't penalize success and risk losing the unique value and importance of the Section 130 program. AASHTO and AAR urge you to support the continued dedicated funding for the Section 130 grade-crossing program and Operation Lifesaver. Let's continue to build on our work to date to further enable the states and railroads to carry out the important mission of improved highway-rail crossing safety.

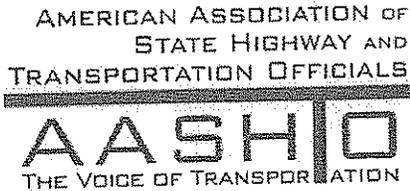
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John Horsley
Executive Director
American Association of State Highway
And Transportation Officials



Edward R. Hamberger
President and CEO
Association of American Railroads



April 5, 2011

The Honorable Barbara Boxer
Chairman
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

The Honorable James Inhofe
Ranking Member
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

The Honorable Max Baucus
Chairman
Transportation and Infrastructure Subcommittee
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

The Honorable David Vitter
Ranking Member
Transportation and Infrastructure Subcommittee
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510

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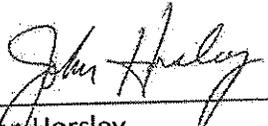
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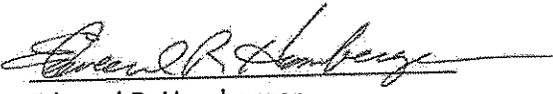
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John Horsley
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Edward R. Hamberger
President and CEO
Association of American Railroads

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name: Edward R. Hamberger

(2) Other than yourself, name of entity you are representing:

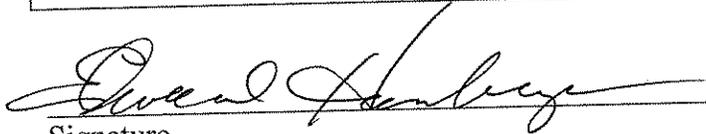
Association of American Railroads

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

No contracts.


Signature

4/5/11
Date

EDWARD R. HAMBERGER
President and CEO
Association of American Railroads

Ed Hamberger serves as President and Chief Executive Officer of the Association of American Railroads (AAR). Mr. Hamberger has over thirty years experience in public policy through his work in both the executive and legislative branches of government, as well as his career as an attorney.

Prior to joining the AAR in July 1998, he was the managing partner of the Washington, DC office of Baker, Donelson, Bearman & Caldwell. He came to the firm in 1989 after having served as Assistant Secretary for Governmental Affairs at the Department of Transportation.

Mr. Hamberger began his career in transportation in 1977 as General Counsel of the National Transportation Policy Study Commission. In 1985, he was appointed as a member of the Private Sector Advisory Panel on Infrastructure Financing and in 1994 served as a member of the Presidential Commission on Intermodal Transportation. Most recently, he served on the Blue Ribbon Panel of Transportation Experts, appointed by the National Surface Transportation Policy and Revenue Study Commission.

Mr. Hamberger received his Juris Doctor, and both a Master of Science and a Bachelor of Science, in Foreign Service from Georgetown University.