

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

Full Committee Nomination Hearing
Tuesday, May 13, 2025, at 10:00 A.M.

DEMOCRATIC QUESTIONS FOR THE RECORD

COVER PAGE
David Fink

RANKING MEMBER MARIA CANTWELL (D-WA)

Poor safety record running Pan Am Railways. Mr. Fink, your former company, Pan Am Railways, had a mainline track derailment rate that exceeded your peers nearly every year. In fact, the mainline derailment rate was nine times the national average in 2021, when you were in charge of the railway. As you know, mainline track derailments generally pose the greatest risk to the community, as we saw in East Palestine in 2023.

As part of a 2022 Federal Railroad Administration (FRA) safety audit, the Chief Safety Officer found, quote, “significant safety issues are not receiving the serious and thoughtful consideration by railroad leadership that Pan Am’s employees, and the public, deserve.”

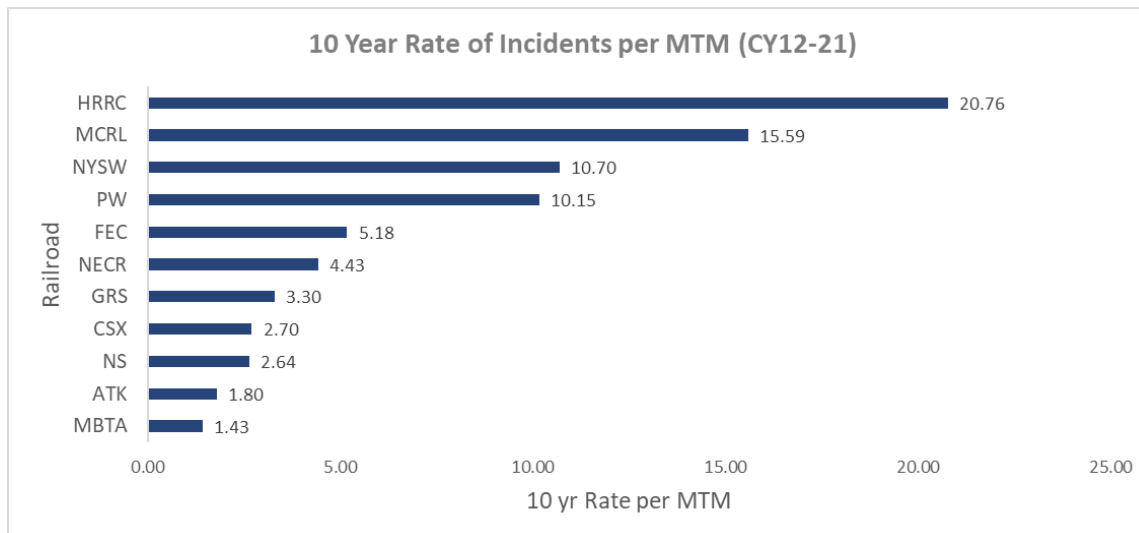
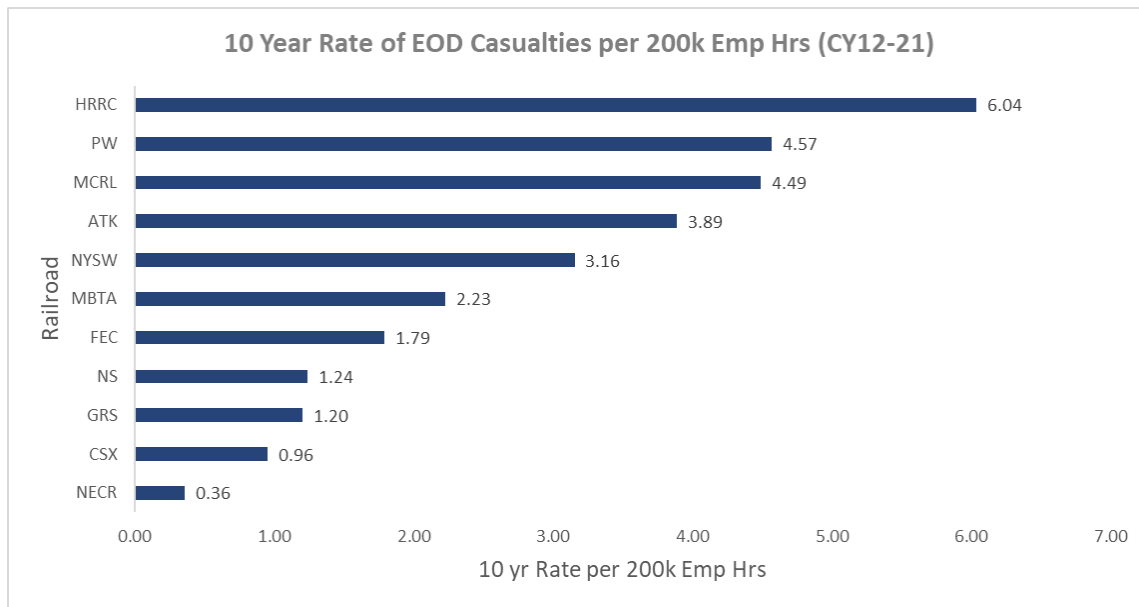
It’s not just safety concerns themselves – it’s how your company handled them. In 2014, an Administrative Law Judge (ALJ) found Pan Am Railways had a “culture of intimidating employees” who reported injuries. In fact, the ALJ found, “99% of injuries at Pan Am that were reportable to the FRA triggered formal charges” against the injured employee.

Question 1: Why should we trust you to ensure the safety of the nation’s railroads when the FRA found your own railroad had “significant safety issues” which you failed to give “serious and thoughtful consideration” to addressing?

Answer: I believe FRA’s number one mission is safety, and it was also my number one focus when I ran Pan Am Railways. During my tenure, we were at the forefront of short line safety culture assessments, piloting the process with two voluntary assessments through the Short Line Safety Institute, one in 2015 and another in 2018.

I also believe when you look at Pan Am’s safety record and the data, including in the two charts below, you can see our dedication to safety and our safety record was as good or better than the railroads we connected with and/or hosted¹.

¹ Railroads in the chart are: New England Central Railroad (NECR); CSX; Guilford Railroad System also known as Pan Am Railways (GRS); Norfolk Southern (NS); Florida East Coast Railway (FEC); Massachusetts Bay Transportation Authority (MBTA); New York, Susquehanna & Western Railway (NYSW); Amtrak (ATK); Massachusetts Coastal Railroad (MCRL); Providence and Worcester Railroad (PW); and Housatonic Railroad (HRR).



If confirmed, I will continue to put safety first, follow the data, and work collaboratively to make a very safe industry even safer.

Question 2: Do you respect the FRA’s findings about Pan Am Railway’s safety failings?

Answer: I respect the work of the FRA and FRA’s safety experts.

Question 3: Do you believe it is ever acceptable to retaliate against a worker for reporting an injury on the job?

Answer: No.

Question 4: How do you explain the ALJ’s findings about Pan Am Railway’s “culture of intimidating employees”?

Answer: I recognize that our industry, including Pan Am Railways, was slow to adjust to FRA and OSHA rule and process changes regarding incident investigations. We made mistakes, learned from them, and strived for continuous improvement in our safety record and culture.

Question 5: Do you think the ALJ was wrong?

Answer: My experience and recollection over the course of my time leading Pan Am Railways does not align with the ALJ’s findings in 2014.

Question 6: Do you dispute the ALJ’s 2014 finding that “When there is a reportable injury at Pan Am, 99% of the time formal charges are brought against the injured employee”?

Answer: I recognize that our industry, including Pan Am Railways, was slow to adjust to FRA and OSHA rule and process changes regarding incident investigations. We made mistakes, learned from them, and strived for continuous improvement in our safety record and culture.

Question 7: Do you dispute the ALJ’s 2014 finding that Pan Am Railway’s charges of dishonesty against the injured employee constituted “unlawful retaliation”?

Answer: I accept the findings of the ALJ.

Railway Safety Act. Mr. Fink, the Railway Safety Act would have set new safety requirements for advanced technologies that could have prevented the East Palestine derailment.

Vice President Vance helped write this bill when he was on the Commerce Committee, and President Trump endorsed the bill on May 8, 2023.

Question 1: As the President’s pick to be the leader on rail safety, do you support the Railway Safety Act? If not, please explain why not.

Answer: Rail safety is FRA’s primary mission. If confirmed, I will implement any legislation passed by Congress and signed into law by President Trump that is under FRA’s jurisdiction.

Pan Am’s criminal record of environmental safety violations. Mr. Fink, I asked you at the hearing about your company, Pan Am, being convicted in 2009 for failing to report a hazardous material spill to the Massachusetts Department of Environmental Protection. Investigators discovered that Pan Am employees had paved over a 900-gallon diesel oil spill in their rail yard in Ayer, Massachusetts, instead of reporting the spill immediately. Without the anonymous caller who reported this spill, it may have never come to public light at all.

Question 1: Are you aware of any other hazardous material spills that Pan Am did not report to authorities as legally required?

Answer: Yes, please refer to listed consent agreements in my questionnaire addendum submitted to the Committee.

Question 2: Are you aware of any other hazardous material spills that Pan Am employees tried to pave over or otherwise illegally cover up?

Answer: No.

Department of Transportation (DOT) Inspector General report on improving FRA's inspection and oversight of worker protection regulations. On May 14, 2025, the DOT's Office of Inspector General released a report, "FRA Needs to Improve Its Inspection and Data Collection Processes to Effectively Oversee Compliance with the Roadway Worker Protection Regulation," that made 13 recommendations. FRA concurred with all 13 recommendations.

Question 1: If confirmed, will you commit to ensuring FRA implements the Inspector General's 13 recommendations to improve worker protection?

Answer: If confirmed, I will work with our safety experts to take appropriate action to ensure the safety of all rail employees and those who come in contact with our nation's rail network.

SENATOR GARY PETERS (D-MI)

1. I mentioned in my opening remarks Michigan Central Station and efforts to expand and improve passenger rail service across Michigan's three passenger lines. The Bipartisan Infrastructure Law's Corridor ID Program has been integral to our state doing the ridership analysis they need to support future expansion. But Corridor ID grants don't mean much if we don't follow them up with investment.
 - a. If confirmed, do you commit to ensuring that Amtrak sees the additional funding and support it needs to follow up on Corridor ID work to expand passenger rail where appropriate – including in Michigan?

Answer: If confirmed, I will oversee the implementation of authorized programs and appropriated funds under FRA's jurisdiction, in accordance with law. I look forward to learning more about the Corridor ID program, funding needs, and Michigan's vision.

- b. Do you think cuts and additional barriers to Amtrak's expansion will harm the ability to serve more folks in the Midwest?

Answer: I support Amtrak's national network and, if confirmed, I look forward to ensuring that funding for Amtrak is being used effectively to serve Americans across the country, including in the Midwest.

2. Mr. Fink, in your time running a Class II railroad, you were required to work with F-R-A and Amtrak to host passenger service on your line. The main driver of Amtrak delays in 2023 was freight rail train interference – meaning companies are not living up to their statutory duty to ensure on-time passenger service.
 - a. Do you agree that freight rail operations are a main driver of lack of on-time performance?

Answer: During my time at Pan Am Railways, we hosted 12 Amtrak trains a day. I understand the difficulties of running passenger and freight on the same line. It was not easy at the beginning, but I worked closely with the state-sponsor for the route, Northern New England Passenger Rail Authority (NNEPRA), on agreements and to identify targeted investments that allowed us to become a preferred Amtrak host.

- b. If confirmed, do you commit to taking a firm stance on on-time Amtrak performance, including by holding railroad operators to account?

Answer: I commit to working collaboratively with all necessary stakeholders – including you and your staff, as appropriate – to improve Amtrak on-time performance.

3. Mr. Fink, you have referenced your support for safety at FRA. Would you support increasing the number of safety inspectors at FRA to expand inspection capacity?

Answer: Safety inspectors are vital because rail safety is FRA's primary mission. I would not support reducing the number of safety inspectors. If confirmed, I will prioritize looking into this, making sure we have the right number of safety inspectors, and that they have the tools to get the job done.

4. Mr. Fink, you have discussed your desire to work on blocked and unsafe railroad crossings. I agree this is a huge issue impacting communities – in my state from Manistee to Romulus, Michigan. That's why we created the Railroad Crossing Elimination Grant Program in the Bipartisan Infrastructure Law. It's important that a program specific to this problem exists, since it was getting overlooked as an eligible use of other programs like CRISI. If confirmed, will you commit to supporting the continuation of a separate funding stream for the Railroad Crossing Elimination Grant Program so we can tackle this issue directly?

Answer: Blocked crossings are a priority for me and the Secretary of Transportation. I have heard very positive things about the Railroad Crossing Elimination grant program. If confirmed, I will ensure that enacted legislation, including the existing authorization and funding for the Railroad Crossing Elimination program, is implemented in accordance with law.

5. Will you continue FRA's work with Amtrak and interagency partners as necessary to establish cross-border Amtrak service from Detroit to Windsor via Michigan Central Station?

Answer: If confirmed, yes.

SENATOR TAMMY BALDWIN (D-WI)

1. Track defects are one of the top causes of train derailments. Federal safety regulations currently require railroads to inspect their railroad track twice a week for 27 types of track defects, including broken rails, rotten ties, drainage issues including where the roadbed has washed away, and track geometry flaws.

The railroads are actively seeking to reduce visual track inspections by upwards of 75% to twice a month and instead rely solely on a technology that's been around since the 1970s called Track Geometry Measurement Systems, also known as Automated Track Inspection (ATI). ATI can only detect track geometry flaws and thus can only inspect for 26% of the track defects that a human track inspection does. It cannot fully replace human track inspectors.

Mr. Fink, will you commit to protecting the current level of visual track inspections and deny any railroad waivers seeking to reduce those visual inspections?

Answer: If confirmed, I commit to ensure we have appropriate federal oversight of track inspections to keep our railroads safe.

SENATOR JACKY ROSEN (D-NV)

The FRA's Railroad Crossing Elimination Grant Program and the FHWA's Section 130 programs are critical funding streams that allow communities to tackle grade crossing safety challenges, whether through rail crossing closures or the installation of safety devices. The Nevada Department of Transportation partnered with the Union Pacific Railroad to successfully streamline and improve project implementation and approval process for Section 130 projects, which has led to improved safety at rail crossings in our state.

1. Mr. Fink, if confirmed, would you continue to support these critical programs and ensure any funding Congress appropriates for them is quickly and efficiently distributed, in line with the law?

Answer: From my time with Pan Am Railways, I understand the importance of the Section 130 program; however, if confirmed as Administrator of the FRA, I will not have jurisdiction over this program. I have heard very positive things about the Railroad Crossing Elimination grant program. If confirmed, I will ensure that enacted legislation, including the existing authorization and funding for the Railroad Crossing Elimination program, is implemented in accordance with law.

Nevada is the nation's leader in tourism and hospitality service, a sector that heavily relies on freight trains to bring in goods from out-of-state and from ports to support the industry. The Interstate 15 corridor, which runs from California to Nevada, is heavily crowded on a regular basis, leading to slower speeds and longer traveling times. This makes it difficult for trucks to move along the interstate efficiently, making reliable freight rail service along the corridor all the more important.

2. Mr. Fink, if confirmed, how do you plan to support a more reliable freight rail system that moves goods quickly and efficiently to states that rely on imports like Nevada, but still promotes safety as its core priority?

Answer: Our country's freight rail system is the envy of the world. I intend to continue the trend of safety improvements we've seen throughout history. A safe railroad is a reliable railroad, and, with balanced regulation and the use of proven safety technology, we can ensure both safety and efficiency are achieved.

I am so proud that one of the highest profile rail projects in the country is headquartered in my home state of Nevada. Brightline West received a \$3 billion grant from the Federal-State Partnership for Intercity Passenger Rail program. Secretary Duffy has publicly singled out this project and mentioned that Brightline West has his support. Nevada DOT is the grant recipient and Brightline West is building and will operate the system. It is a great public-private partnership.

3. Mr. Fink, I would like to understand your views on how Brightline is changing the way we think of implementing passenger rail projects and your commitment to making sure that any FRA approvals are made a top priority to keep Brightline West on schedule, and how you plan to work with stakeholders to ensure any implementation issues are addressed.

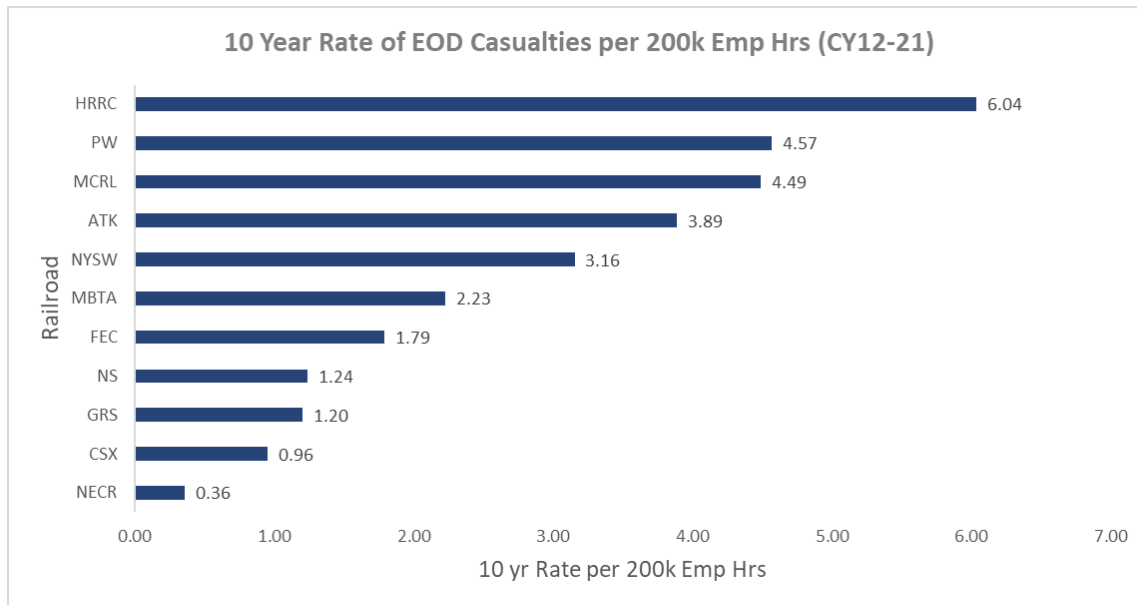
Answer: Brightline West is an innovative public-private partnership using an existing transportation corridor. Brightline has a proven track record with their service in Florida, and I look forward to learning more about this exciting high-speed rail project, if confirmed.

SENATOR BEN RAY LUJÁN (D-NM)

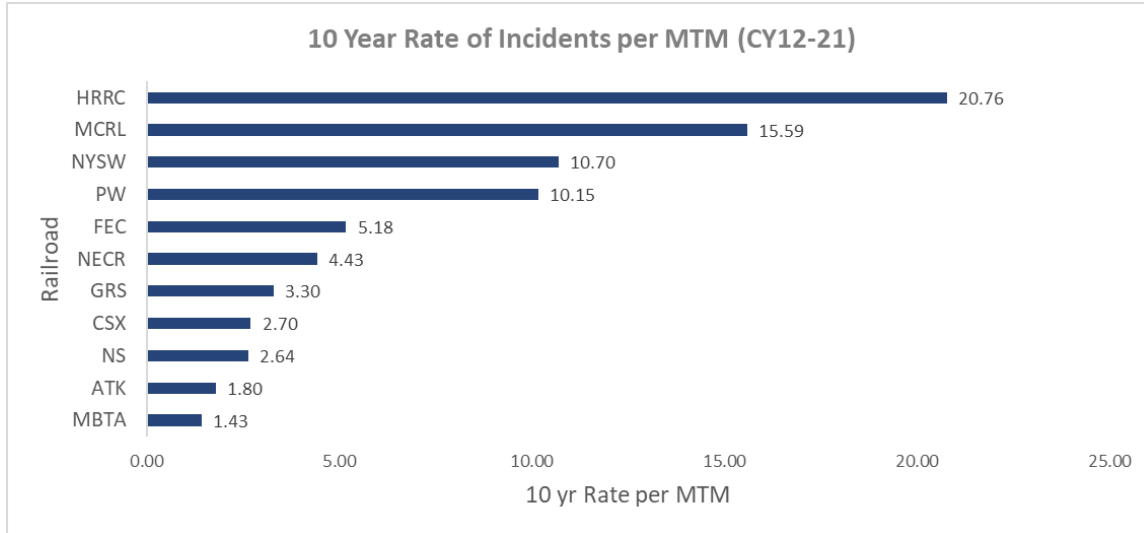
1. Under your leadership, the railroad you ran was found to have “critical safety concerns,” a culture of retaliation, high accident rates, and extremely poor track conditions, which increased the risk of derailments. The FRA, the agency you are nominated to lead, attributed these to “failure of PanAm’s leadership.” What makes you qualified to hold other companies accountable to standards that your company could not meet?

Answer: I believe FRA’s number one mission is safety, it was also my number one focus when I ran Pan Am Railways. During my tenure, we were at the forefront of short line safety culture assessments, piloting the process with two voluntary assessments through the Short Line Safety Institute, one in 2015 and another in 2018.

I also believe when you look at Pan Am’s safety record and the data, including in the two charts below, you can see our dedication to safety and our safety record was as good or better than the railroads we connected with and/or hosted².



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If confirmed, I will continue to put safety first, follow the data, and work collaboratively to make a very safe industry even safer.

2. Did Joe Biden lawfully win the 2020 presidential election?

Answer: Joe Biden was the certified winner of the 2020 presidential election.

3. Did Donald Trump lawfully win the 2024 presidential election?

Answer: Donald Trump was the certified winner of the 2024 presidential election.

SENATOR LISA BLUNT ROCHESTER (D-DE)

Question 1: As President of Pan Am Railways, you helped facilitate the expansion of Amtrak's Downeaster service, which received \$38 million in federal grants and improved Pan Am-owned tracks. Do you agree that federally backed passenger rail expansions are mutually beneficial to passenger railroads, freight railroads, and their surrounding communities? Please detail any benefits.

Answer: Yes, with appropriate infrastructure investments determined in collaboration with host railroads, like those carried out on Pan Am Railways as part of hosting 12 Amtrak trains per day sponsored by the Northern New England Passenger Rail Authority (NNEPRA), I agree that passenger rail expansion can be mutually beneficial.

Question 2: Delaware received a Corridor ID grant in December 2023 to work towards implementing a service similar to Amtrak's Downeaster. Will you commit to working with me to do everything possible to ensure we restore rail access to Southern Delaware?

Answer: If confirmed, I look forward to learning more about this project and working with you.

Question 3: In October 2024, the University of Delaware received a CRISI grant to create a program to educate the next generation of railroad technical professionals using the HTL track at the Transportation Technology Center. Will you uphold and expand on FRA's previous commitments to rail workforce development programs led by universities?

Answer: If confirmed, I look forward to learning more about this project and efforts to train the next generation of railroad workers.

Question 4: As you know, the American rail industry is a symbol of American ingenuity that successfully connected our coasts. Across the globe, China has been leveraging its high-speed rail investments to build influence and forge strategic partnerships, from Southeast Asia to Europe, with its Belt and Road Initiative (BRI). I believe that we should use our rail industry as a beacon of connectivity to counter China's BRI. Our rail industry should be the "iPhone" for rails across the world. But we can't do that without investment. And the fact is, before the historic funding levels of the Bipartisan Infrastructure Law, this Congress failed to adequately invest in the rail transformation we so desperately need to match our competition across the globe.

Do you support the historic funding levels and advanced appropriations included in the last surface reauthorization for freight, Amtrak, and passenger rail, so that we can counter China's BRI?

Answer: I want to make sure our freight rail network remains the envy of the world and ensure that our intercity passenger rail services are safe, reliable, and efficient.

Question 5: Will you advocate to the President to maintain these funding levels in his budget request to Congress?

Answer: If confirmed, I will dive into the numbers to better assess current funding levels and needs of the freight and passenger rail industry.