STATEMENT OF

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BEFORE THE

SENATE COMMITTEE ON COMMERCE, SCIENCE & TRANSPORTATION

HEARING ON AMERICA'S INFRASTRUCTURE NEEDS: KEEPING PACE WITH A GROWING ECONOMY

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Introduction

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to appear before you. AAR members account for the vast majority of U.S. freight rail volume, employment, mileage, and revenue. I'd like to extend a special greeting to the new members of this committee, and offer my congratulations to Chairman Wicker and Ranking Member Cantwell. Please know that the rail industry stands ready to work cooperatively with you, other members of this committee, and other policymakers to help ensure our nation has the freight transportation capability it needs to prosper in the future. On a personal level, most of you probably know that not too many years ago I was on the Commerce Committee staff. I have fond memories of that time and I look forward to continuing to work with you to enhance the safety, productivity, and cost-effectiveness of our nation's railroads in my new role as President of the AAR.

As all of you know, when it comes to transportation, we're all in this together. It's true that the various modes of transportation compete fiercely against each other in virtually every market they serve. This competition is healthy and appropriate. At the same time, though, railroads, trucks, and barges also cooperate extensively in countless markets. Moreover, all of us involved in freight transportation know that no country can be a first-rate economic power without having first-rate logistics and transportation capabilities across modes.

Today, there is a tremendous amount of strength and flexibility in America's freight transportation systems. It's also clear, however, that our nation faces significant challenges in maintaining our existing freight-moving capability and in improving it to meet the needs of tomorrow. One of the key challenges is financial. I'm proud to represent an industry that is overwhelmingly privately funded. That said, railroads agree — indeed, they have a strong vested interest — that adequate investments should be made in public infrastructure like ports and highways, which combine with rail to make up the nation's integrated freight supply chain. As explained below, railroads believe that for reasons of economic efficiency and modal equity, public infrastructure funding should adhere as closely as possible to the principle of "user pays."

A Transportation Backbone

The more than 600 freight railroads that operate in the United States together form the best freight rail network in the world. Their global superiority is a direct result of a balanced regulatory system that relies on market-based competition to establish rate and service standards, with a regulatory safety net available to rail customers when there is an absence of effective railroad competition.

Railroads move vast amounts of just about everything, connecting businesses with each other across the continent and with markets overseas over a rail network spanning nearly 140,000 miles. Railroads carry enormous amounts of corn, wheat, soybeans, and other farm products; fertilizers, plastic resins, and a vast array of other chemicals; coal to generate electricity; cement, sand, and crushed stone to build our highways; lumber and drywall to build our homes; animal feed, canned goods, corn syrup, frozen chickens, beer, and countless other food products; steel and other metal products; newsprint, recycled paper and other paper products; autos and auto parts; iron ore for steelmaking; wind turbines, airplane fuselages, machinery and other industrial equipment; and much more.

Rail intermodal — the transport of shipping containers and truck trailers on railroad flatcars — has grown tremendously over the past 25 years, setting a record in 2018. Today, just about everything you find on a retailer's shelves may have traveled on an intermodal train. Increasing amounts of industrial goods are transported by intermodal trains as well.

Given the volume of rail freight (close to two billion tons and 30 million carloads and intermodal units in a typical year) and the long distances that freight moves by rail (nearly 1,000 miles, on average), freight railroads' direct role in our economy is immense, but freight railroads contribute to our nation in many other ways too:

- America's freight railroads are overwhelmingly privately owned and operate almost exclusively on infrastructure that they own, build, maintain, and pay for themselves. Since 1980, freight railroads have plowed more than $685 billion — of their own funds, not taxpayer funds — on capital expenditures and maintenance expenses related to locomotives, freight cars, tracks, bridges, tunnels and other infrastructure and equipment. That's more than 40 cents out of every revenue dollar, invested back into a rail network that keeps our economy moving.
- An October 2018 study from Towson University's Regional Economic Studies Institute found that, in 2017 alone, the operations and capital investment of America's major freight railroads supported approximately 1.1 million jobs (nearly eight jobs for every railroad job), $219 billion in economic output, and $71 billion in wages. Railroads also generated nearly $26 billion in tax revenues.
- Thanks to competitive rail rates — 46 percent lower, on average, in 2017 than in 1981 adjusted for inflation — freight railroads save consumers billions of dollars every year. Millions of Americans work in industries that are more competitive in the tough global economy thanks to the affordability and productivity of America's freight railroads.
- In 2017, railroads moved a ton of freight an average of 479 miles per gallon of diesel fuel. That's roughly equivalent to moving a ton from Jackson, MS to Springfield, MO, or Tacoma, WA to Helena, MT, on a single gallon. On average, railroads are four times more fuel efficient than trucks. That means moving freight by rail helps our environment by reducing energy consumption, pollution, and greenhouse gases.
- Because a single train can carry the freight of several hundred trucks, railroads cut highway gridlock and reduce the high costs of highway construction and maintenance.
- The approximately 167,000 freight railroad professionals are among America's most highly compensated workers. In 2017, the average U.S. Class I freight railroad employee earned total compensation of $125,400. By contrast, the average wage per full-time equivalent U.S. employee in domestic industries was $76,500, just 61 percent of the rail figure. Around 80 percent of the U.S. freight rail workforce is unionized, compared with only around 6 percent of all private sector workers.
- Railroads are safe and constantly working to get even safer. The train accident rate in 2017 was down 40 percent from 2000; the employee injury rate in 2017 was down 43 percent from 2000; and the grade crossing collision rate in 2017 was down 38 percent from 2000. By all these measures, recent years have been the safest in history. Railroads today have lower employee injury rates than most other major industries, including trucking, airlines, agriculture, mining, manufacturing, and construction — even lower than food stores.

- Freight railroads are committed to safely implementing positive train control (PTC) as quickly as feasible so that further safety gains can be achieved. The seven Class I freight railroads all met statutory requirements by having 100 percent of their required PTC-related hardware installed, 100 percent of their PTC-related spectrum in place, and 100 percent of their required employee training completed by the end of 2018. In aggregate, Class I railroads had 83 percent of required PTC route-miles in operation at the end of 2018, well above the 50 percent required by statute. Each Class I railroad expects to be operating trains in PTC mode on all their PTC routes no later than 2020, as required by statute. In the meantime, railroads are continuing to test and validate their PTC systems thoroughly to ensure they work as they should.

Transportation Capacity is Key

The long-term demand for freight transportation in this country will grow. The Federal Highway Administration forecasts that U.S. freight tonnage will rise 37 percent by 2040. For railroads, meeting this demand is all about having adequate capacity and using it well, and that is what they focus on.

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

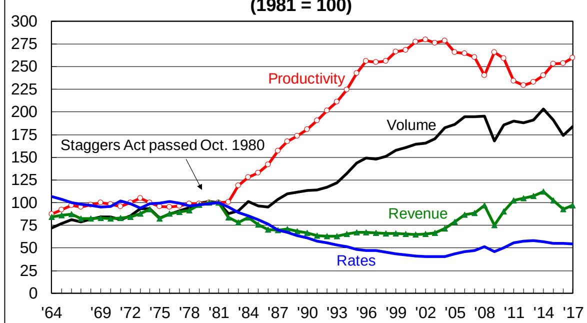
Thanks to their massive investments, freight railroad infrastructure today is in its best overall condition ever. The challenge for railroads, and for policymakers, is to ensure that the current high quality of rail infrastructure is maintained, and that adequate freight rail capacity exists to meet our nation's current and future freight transportation needs. Policymakers can help by enacting policies that promote safety and efficiency and by avoiding policies that discourage private rail investment.

Keep Railroad Rate and Service Regulation Balanced

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

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

U.S. Freight Railroads Under Balanced Regulation
(1981 = 100)



"Rates" is inflation-adjusted revenue per ton-mile. "Volume" is ton-miles. "Productivity" is revenue ton-miles per constant dollar operating expense. The decline in productivity in recent years is largely due to the effect of higher fuel prices in the productivity calculation. Source: AAR

Engage in Public-Private Partnerships Through Projects and Programs

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

Without a partnership, many projects that promise substantial public benefits (such as reduced highway congestion by taking trucks off highways, or increased rail capacity for use by passenger trains) in addition to private benefits (such as enabling more efficient freight train operations) are likely to be delayed or never started at all because neither side can justify the full investment needed to complete them. Cooperation makes these projects feasible.

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

The most well-known public-private partnership involving railroads is the Chicago Region Environmental and Transportation Efficiency Program (CREATE), which has been underway for a number of years. CREATE is a multi-billion-dollar program of capital improvements aimed at increasing the efficiency of the region's rail and roadway infrastructure. A partnership among various railroads, the city of Chicago, the state of Illinois, the federal government, and Cook County, CREATE comprises 70 projects, including 25 new roadway overpasses or underpasses; six new rail overpasses or underpasses to separate passenger and freight train tracks; 35 freight rail projects including extensive upgrades of tracks, switches and signal systems; viaduct improvement projects; grade crossing safety enhancements; and the integration of information from the dispatch systems of all major railroads in the region into a single display. To date, 29 projects have been completed, six are under construction, and 16 are in various stages of design.

The intersection of rail tracks and roadways is an important element of rail infrastructure that often involves a public-private cooperative approach. Under the federal "Section 130" program, approximately $230 million in federal funds are allocated each year to states for installing new active warning devices, upgrading existing devices, and improving grade crossing surfaces. The program also allows for funding to go towards highway-rail grade separation projects. Without a budgetary set-aside like the Section 130 program, grade crossing needs would fare poorly in competition with more traditional highway needs such as highway construction and maintenance. The 2015 FAST Act included continued dedicated funding for this important program for five more years. Railroads urge Congress to continue to support the Section 130 program. It is another example of cooperation between private railroads and public entities to help ensure that rail infrastructure benefits the general public.

Railroads also urge Congress to support a permanent extension of the "Section 45G" short line tax credit program. Section 45G creates a strong incentive for short line railroads to invest private sector dollars on freight railroad track rehabilitation. Short line freight rail connections are critical to preserving the first and last mile of connectivity to factories, grain elevators, power plants, refineries, and mines in rural America and elsewhere.

Address Modal Inequities

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

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

With respect to federally funded capacity investments in public road and bridge infrastructure, the United States has historically relied upon a "user pays" system.
Until relatively recently, that system worked well. Unfortunately, the user-pays model has been eroded as Highway Trust Fund (HTF) revenues have not kept up with HTF investment needs and so have had to be supplemented with general taxpayer dollars. Including general fund transfers scheduled to be made in the next few years through provisions of the FAST Act, general fund transfers to the HTF since 2008 have totaled almost $144 billion, according to the Congressional

Budget Office (CBO). The CBO recently estimated that between 2020 and 2029, the HTF will require $191 billion in additional payments to keep the fund solvent.

Moving away from a user-pays system distorts the competitive environment by making it appear that trucks are less expensive than they really are and puts other modes, especially rail, at a disadvantage. This is especially problematic for railroads precisely because they own, build, maintain, and pay for their infrastructure themselves (including paying well over a billion dollars in property taxes each year on that infrastructure).

Congress could help ameliorate this modal inequity by reaffirming the “user pays” requirement. Through application of current technology, the current fundamental imbalance could be rectified by ensuring that commercial users of taxpayer-financed infrastructure pay for their use.

This could be done through several different mechanisms. To its credit, the American Trucking Associations (ATA), through its Build America Fund proposal, is calling for a 20 cent per-gallon increase in the fuel tax phased in over four years, a recognition by the ATA that the current situation regarding the HTF is not tenable. Railroads believe that an increase in the fuel tax could be helpful as a short-term bridge to a longer-term future that, we think, should include a vehicle miles traveled fee or a weight-distance fee.

A handful of states already impose weight-distance taxes on heavier trucks, and others are engaged in pilot programs to assess the feasibility of transitioning their state highway taxes from a per gallon-based system to a mileage-based fee. In Oregon, for example, heavy trucks are charged a weight-mile tax that is intended to capture the full costs incurred by trucks relating to the state highway system.

First-Mile and Last-Mile Connections

One of the main reasons why the United States has the world's most efficient total freight transportation system is the willingness and ability of firms associated with various modes to work together in ways that benefit their customers and the economy. Policymakers can help this process by implementing programs that improve "first mile" and "last mile" connections where freight is handed off from one mode to another — for example, at ports from ships to railroads or from ships to trucks, or from railroads to trucks at intermodal terminals. These connections are highly vulnerable to disruptions, and improving them would lead to especially large increases in efficiency and fluidity and forge a stronger, more effective total transportation package.

Some multimodal connection infrastructure projects that are of national and regional significance in terms of freight movement could be too costly for a local government or state to fund. Consequently, federal funding awarded through a competitive discretionary grant process is an appropriate approach for these needs.

The Transportation Investment Generating Economic Recovery (TIGER) federal grant program; its replacement, the Better Utilizing Investments to Leverage Development (BUILD) Transportation grant program; and the Infrastructure for Rebuilding America (INFRA) grant program are examples of approaches to help fund crucial multimodal projects of national and regional significance.

Together, these programs have directed billions of dollars to critical infrastructure projects all over the country. Examples include a 2016 TIGER award to help modernize the Port of Everett (Washington) South Terminal. The project includes strengthening more than 500 feet of dock, creating a modern berth capable of handling roll-on/roll-off and intermodal cargo, and upgrading high voltage power systems. The project will also construct rail sidings to increase on-site rail car storage. Back in 2013, TIGER funds were also directed to improve multi-modal connections at

Mississippi's Port of Pascagoula Bayou Harbor, run by the Jackson County Port Authority. The funding was aimed at making the transportation of goods in and out of the Port more efficient and to develop a modern facility for receipt, storage, and export of renewable energy resources.

Attention to first- and last-mile connections is a critical element of both local and state freight planning and policy as well. At the local level, land use planning has been largely inadequate in accommodating the needs of freight. Freight movement — whether in rail yards, intermodal facilities, ports, or regional distribution — must be sufficiently considered when planning land uses such as residential developments, schools, and recreational areas.

Flexibility Through Regulatory and Permitting Reform

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

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

There is currently a unique opportunity to not only address specific, harmful policies, but also to improve the system that creates rules by incorporating common sense principles. Regulations should be based on a demonstrated need, as reflected in current and complete data and sound science. Regulations should provide benefits outweighing their costs and should take into consideration the big picture view for industries and sectors — including market forces, future offerings, and current regulations in place.

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

That's also why railroads respectfully urge policymakers to avoid one-size-fits-all policies that hinder modernization of safety practices and improvements to efficiency, such as policies that mandate a specific crew size for rail operations. We all want railroad safety and efficiency to continue to improve. Technological solutions are key to making this happen, but that requires regulatory oversight not prescriptive mandates.

As mentioned earlier, railroads are safe and getting safer, but more can be done by railroads, their employees, the FRA, and others working together to achieve the long-term goal of zero accidents. Regulatory reform can be a key part of that effort. Railroads respectfully urge this committee and others in Congress to encourage the FRA to become more forward-looking in how it proposes and promulgates new rules.

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

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

Support Commuter and Passenger Rail

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

Policymakers can help here too by recognizing that Amtrak should be adequately funded so that its infrastructure can be improved to a state of good repair. Commuter railroads too deserve this Committee's support.

Conclusion

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