TESTIMONY OF

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BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

HEARING ON:

THE STATE OF TRANSPORTATION INFRASTRUCTURE AND SUPPLY CHAIN CHALLENGES

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On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify today. AAR members account for the vast majority of North America's freight rail mileage, employees, revenue, and volumes as well as Amtrak and some passenger rail.

U.S. freight railroads operate a network spanning more than 136,000 miles and serve every industrial, wholesale, retail, agricultural, and mining-based sector of our economy. Together with their Canadian and Mexican counterparts, U.S. railroads form the world's best freight rail system (Figure 1).

Figure 1

In this testimony, I will provide general background on railroads; discuss steps railroads have taken to improve service over the past year; provide an overview of rail labor issues; and discuss what policymakers can do to maintain a regulatory and legislative framework conducive to moving freight by rail.

Freight Railroads Offer Enormous Benefits to Our Nation

America's freight railroads are proud of the tremendous role they play in the U.S. economy. The operations and capital investments of America's major freight railroads support a million or more jobs and several hundred billion dollars in nationwide economic activity, wages, and taxes.

Moving freight by rail meaningfully reduces greenhouse gas emissions. In 2021, U.S. freight railroads moved a ton of freight an average of nearly 500 miles per gallon of fuel, making railroads three to four times more fuel efficient than trucks. Safety is the foundation of everything the railroads do, and the past decade has been the safest in rail history. The train accident rate in 2021 was down 30 percent from 2000; the employee injury rate was down 47 percent; and the grade crossing collision rate was down 23 percent.

Unlike trucks, barges, and airlines, America's privately-owned freight railroads operate almost exclusively on infrastructure they own, build, maintain, and pay for themselves. From 1980 to 2022, freight railroads spent more than $800 billion of their own funds, not government funds, on capital expenditures and maintenance expenses. That's more than 40 cents out of every revenue dollar invested right back into a rail network that keeps America's economy moving.

Railroad Accident Rates: 2000-2021

Total accidents	-30%
Collisions	-50%
Derailments	-35%
Other	-9%
Employee injuries	-47%
Grade crossings	-23%
Hazmat incidents*	-60%

*Through 2020 Source: FRA, AAR

Figure 2

The affordability of freight rail saves rail customers billions of dollars each year; enhances the global competitiveness of U.S. products; and helps American consumers. Average rail rates (measured by inflation-adjusted revenue per ton-mile) were 44 percent lower in 2021 than in 1981. Changes in rail rates over time compare favorably to changes in the prices of things we buy every day (Figure 3).

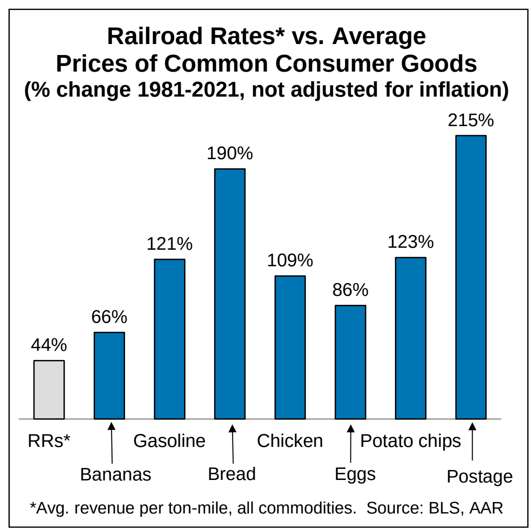

Figure 3

Rail Customers Deserve Safe, Reliable Service

Railroads know rail service over the past year has not been what their customers want or deserve and are fully committed to restoring service to a consistently high level.

Hiring and Retaining a Robust Rail Workforce

Over the past two years, railroads, along with virtually every other industry, have found that attracting and retaining enough employees to meet their needs has been a major challenge. The pandemic turned labor markets upside down. When rail traffic collapsed, railroads deployed a long-standing method of temporarily furloughing some employees. As the economy recovered faster than anyone expected, and demand for rail service surged, far fewer furloughed employees chose to return than historical patterns would suggest, leaving railroads without sufficient workforce. We now know that furlough policies must be carefully reviewed to build more resiliency into the system to better ride economic ups and downs.

To this day, competition for workers remains fierce. In December 2022, the national unemployment rate was 3.5 percent, matching the lowest it's been in 50 years. In many key railroad states, the unemployment rate is even lower. The extremely tight labor market means railroads' single-biggest service-related challenge is finding and keeping employees.

I'm happy to say, though, that railroads are making progress. Total Class I railroad employment in December 2022 was up 6.8 percent over January 2022.[1] Train and engine employment (mostly engineers and conductors in locomotive cabs) was up 9.6 percent in December 2022 over January 2022. Railroads are taking many concrete steps to recruit new employees and continue this progress, including hiring bonuses, relocation bonuses for current workers who move to high-need areas, and employee referral bonuses. In fact, this month Union Pacific reported that last year it received 12,000 employee referrals which led to 1,200 job offers. Railroads are confident they will continue successfully recruiting the next generation of railroad workers to meet the nation's rail freight demand.

[1] Class I railroads are those with annual revenue in 2021 of at least $944 million. The seven U.S. Class I railroads account for approximately 95 percent of U.S. freight rail industry revenue.

Investing in Rail Infrastructure

America's freight railroads operate overwhelmingly on infrastructure they own, build, maintain, and pay for themselves. In recent years, railroads invested close to $70 million every day, on average, back into the network, making railroads at or near the top among all U.S. industries in terms of capital intensity (Figure 4). Thanks to this spending, "crumbling" might describe some U.S. infrastructure, but not freight rail. The American Society of Civil Engineers has consistently awarded rail the highest grade of all American infrastructure.[2] U.S. freight rail infrastructure is in better overall condition today than ever before.

Capital Spending as % of Revenue*	
Average all manufacturing	**3.0%**
Petroleum & coal products	2.3%
Food	2.3%
Machinery	2.6%
Motor vehicles & parts	2.8%
Fabricated metal products	3.2%
Primary metal products	3.2%
Wood producs	3.4%
Plastics & rubber products	3.8%
Chemicals	3.8%
Paper	4.3%
Nonmetallic minerals	4.4%
Computer & electr. products	5.0%
Class I Railroads	**18.4%**

*Avg. 2012-2021
Source: Census Bureau, AAR

Figure 4

Railroads remain firmly committed to investing in and growing their operations to improve and expand service, as evidenced by the plans announced by many of the railroads to expand capacity:

- BNSF recently announced a 2023 capital investment plan of $3.96 billion and will invest more than $1.5 billion in the Barstow International Gateway, a new state-of-art integrated rail facility in Southern California.
- Union Pacific plans to spend close to $2 billion in 2023 on maintenance and capital spending and opened a new intermodal facility in Oregon in December, which will encourage agricultural shippers to bypass the congested I-5 corridor in the Pacific Northwest.
- Norfolk Southern has announced major investments including capacity projects in the Chicago-Cincinnati-Jacksonville and Atlanta-Birmingham-New Orleans/Mobile corridors.

[2] *See* American Society of Engineers*, 2021 Report Card for America's Infrastructure* (available at https://infrastructurereportcard.org).

- CSX began work in late 2021 on a multi-year project to enlarge the Howard Street Tunnel that runs beneath Baltimore and clear obstructions at 22 other locations between Baltimore and Philadelphia.

The list goes on. Kansas City Southern, CN, Canadian Pacific—even short line systems like Genesee and Wyoming and Watco—continue to spend massively, including on new capacity, to improve the safety, resiliency, and reliability of their networks.

Railroads are making these investments because they want to grow with their customers through a safe, fluid, and reliable network. These investments will improve service now and help railroads and their customers better weather service disruptions in the future.

Metrics Show Service is Improving

Data reported by individual railroads and compiled by the Surface Transportation Board (STB) indicate that railroads are making progress on a variety of key service metrics. A recent STB report stated that railroads are meeting six-month targets for service improvement, with key performance indicators trending in a positive direction.

For example, average train speeds have all been trending higher for most railroads over the past nine months. The same holds true for manifest trains[3], coal unit trains[4], grain unit trains, and intermodal trains. Average terminal dwell time[5] has been falling for most railroads and the percentage of rail cars in manifest trains delivered within 24 hours of their original arrival estimate has been trending higher. Train recrew rates[6] have been trending down for most railroads as well. All these metrics point to a more fluid, more efficient system.

[3] Manifest trains are trains carrying a variety of different commodities.

[4] A unit train is a train carrying just one commodity.

[5] Terminal dwell time is the time a railcar sits in a rail yard before being switched into an outbound train.

[6] Train recrew rates is the percentage of rail train crews who had to go off duty before trains completed their runs because their allowable on duty time expired.

It's not just STB data that show recent improvement in rail service levels. A recent survey of rail shippers by Wolfe Research, a highly respected Wall Street investment and advisory firm, found that "Rail service ratings…have reached their highest level in our survey in the past 10 quarters."[7] The pace of rail service improvement might be slower than some rail customers and policymakers would prefer, and not every service metric for every railroad has been improving in recent months, but the progress railroads have made is unquestionably good news and the work to improve service is continuing.

Rail Labor Negotiations

Railroads are pleased to have concluded the round of national collective bargaining with the twelve major rail unions at the end of last year. The historic agreements reached in the round were based on the recommendations of neutral arbitrators appointed by President Biden and were facilitated directly by senior members of his administration. These agreements contain a 24 percent wage increase, the largest compensation increases seen in the industry in approximately 50 years. They also maintain the railroads' platinum-level healthcare plans, provide additional paid time off for all represented rail workers, and establish a process and timeline for the railroads to work directly with the operating craft unions to make additional work rules changes this year that will enhance predictability and quality of life for those employees who currently have the least predictable schedules. We would like to thank Congress for the swift, bi-partisan action to avert a shutdown of the nation's rail system.

The industry and its employees take great pride in the work that they do to move the nation's freight and support the U.S. economy. Rail jobs are, and always have been, great jobs. The recent national agreements will ensure that railroad compensation and benefit levels remain

[7] Wolfe Research, "The State of the Freight – 1Q Shipper Survey."

near the very top of the American workforce. However, even though the bargaining round is behind us, the railroads recognize that more can be done to enhance the work-life balance traditionally associated with certain types of rail employment. Individual carriers are already engaging with the rail unions to discuss steps that can be taken to modernize railroad work rules and provide greater flexibility for rail employees to structure their personal lives. In this regard, the railroads look forward to productive and collaborative discussions with the rail unions.

Opportunities for the 118th Congress

The 118th Congress will play a critical role as railroads continue to find innovative ways to improve safety, coordinate with state and local governments to invest in infrastructure, and work with regulators and customers to enhance service.

Supporting Innovation and Technology to Improve Safety

Safety is the foundation of everything the railroads do, and railroads have long applied technological solutions to improve safety, enhance performance, and create efficiencies. The industry has made major progress in safety over the last few decades. The next great leap forward in safety directly relies on the ability of railroads to innovate and deploy new technology but achieving the maximum benefit from these new technologies requires regulatory flexibility. While other Department of Transportation modal agencies are working to support greater automation and the safety benefits that accompany such technology, the Federal Railroad Administration (FRA)—railroads' prime safety regulator—stands alone in its efforts to lock in yesterday's regulatory approaches.

Congress can support the goal of achieving better outcomes through new technology by ensuring the FRA becomes increasingly forward-looking in how it proposes and promulgates new rules, particularly when innovation can improve safety. Identifying specific safety concerns a new rule is meant to address; relying on sound science and building robust data sets to support rules; identifying specific metrics to measure effectiveness; adopting performance-based, rather than prescriptive regulations; and issuing waivers that facilitate new technology will all enhance the industry's ability to innovate and create new ways to improve safety while still being subject to FRA oversight.

For example, automated track inspection (ATI) is changing the nature of track inspection by allowing railroads to gather massive amounts of data, analyze it for patterns and warning signs, and preventatively maintain their track. In some instances, ATI testing of track has resulted in more than a 90 percent reduction in the rate of unprotected main track defects found, yet the FRA is preventing railroads from widely implementing this safety-enhancing technology.[8]

Another example of FRA failing to understand the importance of technology in improving safety is the July 2022 Notice of Proposed Rulemaking (NPRM) that, for all intents and purposes, would mandate two crew members in a locomotive cab.[9] Proponents of a two-person crew mandate for railroads, including current FRA leadership, say it would enhance rail safety. There is no data to support this claim. In fact, many railroads—including shortline, passenger, and most European railroads—already operate with a one-person crew in the cab. We do know, however, that a two-person mandate could stifle the adoption of other new technologies that would enhance railroads' safety and efficiency. Crew size has always been, and should continue to be, collectively bargained and the flexibility to evolve and adapt should be maintained.

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[8] For additional information on ATI and other safety-enhancing technology, please visit: https://www.aar.org/wp-content/uploads/2022/06/AAR-Technology-Fact-Sheet.pdf
[9] For additional information on the Crew Size NPRM, please visit https://www.aar.org/wp-content/uploads/2020/08/AAR-Crew-Size-Fact-Sheet.pdf

Implementing the Infrastructure Investment and Jobs Act

Railroads appreciate the work of this Committee and the 117th Congress to pass the *Infrastructure Investment and Jobs Act (IIJA)* in 2021. *IIJA's* grant programs enable the public sector to partner with freight railroads and others to advance projects that provide significant public benefit. The Consolidated Rail Infrastructure and Safety Improvements (CRISI) program appropriates $1 billion per year for projects that improve the safety, efficiency, and reliability of intercity passenger rail and freight rail, a dramatic increase from past funding levels. For the first time, *IIJA* also provided $600 million annually in dedicated funding for the Grade Crossing Elimination Program to help state and local communities close grade-level crossings. These projects will dramatically improve safety, reduce emissions, and connect communities. Other *IIJA* grant programs, including Infrastructure for Rebuilding America (INFRA) and Rebuilding American Infrastructure with Sustainability and Equity (RAISE), will allow state and local governments working with freight railroads and other partners to fund major projects with regional and national impacts.

For example, last year the Illinois Department of Transportation and the Chicago Region Environmental & Transportation Efficiency Program (CREATE), of which AAR is a proud partner, received a $70 million INFRA grant for the Ogden Junction project in Chicago to replace, repair, or eliminate 16, 100-year-old bridges along a two mile stretch of freight rail lines. By modernizing these tracks, CREATE will increase safety, reduce delays for commuter rail, enhance the local community and businesses, and improve the flow of freight through the vitally important Chicago rail hub.

Because of railroads' fuel efficiency, good-paying jobs, and strong ties to the communities in which they operate, the industry is in a unique position to achieve the broader goals of *IIJA*. While *IIJA* does address some permitting issues to ensure the money goes as far as possible while maintaining environmental protections, further permitting reforms would be beneficial.[10] We look forward to working with Congress on its continued implementation.

Maintaining Balanced Regulation

Throughout history, the degree of government control over rail operations has tremendously impacted the industry's vibrancy and effectiveness. Prior to the enactment of the Staggers Act of 1980, excessive regulation was preventing railroads from earning adequate revenues and competing effectively in the freight transportation market. Congress recognized the need for a new regulatory scheme that allowed railroads to establish their routes and tailor rates based on market conditions and demand. Importantly, however, the Staggers Act did not completely deregulate railroads. The STB, the federal agency that regulates rail rates and service, retained authority to set maximum rates if a railroad was found to have "market dominance" over a particular movement and the rate was determined to be unreasonable. The STB was also permitted to take other actions if a railroad engages in anti-competitive behavior. Effectively, under today's balanced regulations, the market is allowed to govern, unless and until it is determined to have failed.

Since Staggers, rail spending has risen dramatically as well as rail income, leading, in turn, to greater efficiency, improved safety, better service, and sharply lower average rates (Figures 9 and 10). These improvements are exactly what Congress hoped for when it passed Staggers. Today, railroads' survival is not in doubt, but that doesn't mean the need for balanced

[10] For more information on permitting, please visit https://www.aar.org/article/freight-rail-environmental-permitting-policies/

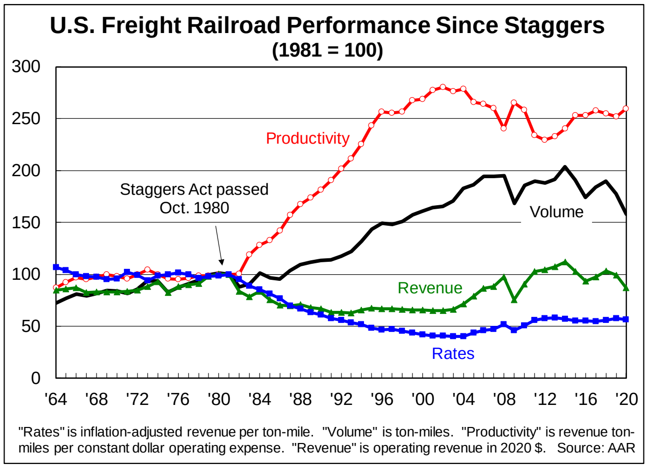

Figure 9

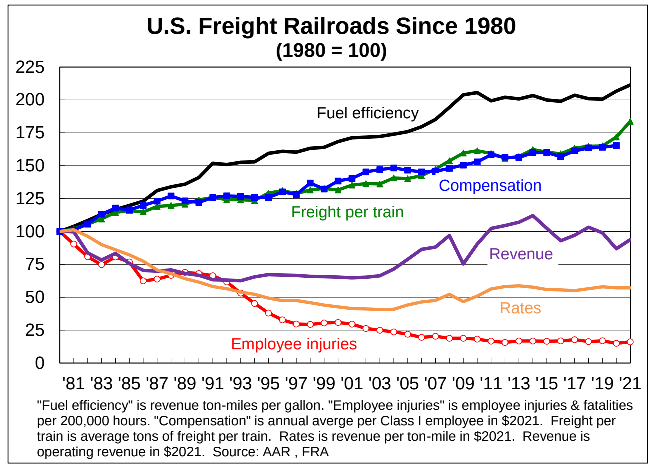

Figure 10

regulation has gone away. America's railroads are healthy precisely because of the regulatory balance that Staggers ushered in.

Unfortunately, some rail industry critics want policymakers to re-impose excessive regulations and price controls on railroads. The STB is currently considering several proposals that would do just that. If this happened, the rail industry would not disappear overnight, but over time its physical plant would deteriorate, needed new capacity would not be added, and rail service would become slower, less responsive, and less reliable. Of course, the STB does, and should, play a productive role in adjudicating disputes between shippers and railroads, but excessive government intervention into private activity only risks sending the industry backwards.[11]

Conclusion

Railroads are bullish on 2023 and beyond. In the long term, demand for freight transportation will grow as our economy and population grow, and railroads are the most efficient, cost-effective, and safest way to meet much of this growing demand. Railroads reduce

[11] For additional information on the Staggers Act and the STB, please visit https://www.aar.org/campaigns/economic-regulation-101/

emissions and the overall environmental impact of transportation; provide good-paying, stable careers to millions of Americans; enable domestic manufacturing, agriculture, and other industries to continue expanding; and enhance America's competitiveness in the global economy. In such an interconnected supply chain, every segment must be robust. Only through working together can we maximize supply chain performance and keep our economy moving.

Railroads want to build on these successes, and they remain ready and willing partners with this Committee, the STB, and other policymakers to achieve our shared goals of a robust, strong U.S. rail network long into the future.