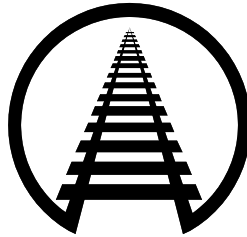


**STATEMENT OF**

**IAN JEFFERIES**

**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**

**HEARING ON FUNDING A ROBUST FREIGHT  
AND PASSENGER RAIL NETWORK**

**MARCH 4, 2020**

**Association of American Railroads  
425 Third Street SW  
Washington, DC 20024  
202-639-2100**

## Introduction

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 America's freight railroad mileage, employees, revenue, and traffic. Amtrak is a member of the AAR, as are various commuter railroads that in aggregate account for more than 80 percent of U.S. commuter railroad trips.

Freight railroads operating in the United States are the best in the world, connecting businesses with each other across the continent and with markets overseas over a network spanning close to 140,000 miles. 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 who need it. This balanced regulation has allowed America's railroads to spend huge amounts on improving their networks and meeting their customers' needs.



I'm proud to point out that the date of this hearing corresponds with our annual "Railroad Day on the Hill," during which more than 400 railroaders from all over the country will fan out across the Capitol. They will meet with over 300 members of Congress to urge them to support pro-rail policies that will help ensure railroads are able to meet our nation's transportation needs safely and efficiently now and in the future. Specifically, they will discuss the following topics:

- Make the short line railroad 45G tax credit permanent. While the recent extension of this important tax credit through 2022 is much appreciated, making it permanent would help preserve and upgrade rail service for thousands of rail customers and communities, especially in rural areas, across the country. We urge you to cosponsor HR 510, the Building Rail Access for Customers and the Economy (BRACE) Act, to make this tax credit permanent.

- Oppose increases in truck length and weight limits, including pilot programs or special exemptions for commodities. Raising truck length and weight limits would mean billions of dollars in higher taxpayer costs to repair damage to our highways and bridges; more highway gridlock; and more harm to the environment. The taxes and fees that big trucks pay today are far less than the damage they cause to our highways. This multi-billion-dollar annual underpayment — which others have to make up through higher taxes — would become even greater if truck length and weight limits were increased. Rail is the safest and most environmentally friendly way to move freight over land and new policies should be avoided that would artificially shift traffic away from rail.
- Oppose legislative or regulatory efforts that would upset the existing balanced regulatory structure regarding railroad rates and service. Today’s balanced system protects rail customers against unreasonable railroad conduct while allowing railroads to largely decide for themselves how to manage their operations. The current system ensures railroads can continue to provide safe, reliable, and sustainable service to their customers. We ask members of Congress to write and urge the Surface Transportation Board (STB) to maintain the balanced framework established by Congress that has been the bedrock of STB decisions for almost 40 years.
- Modernize the Railroad Retirement Board (RRB), the independent agency that administers retirement, survivor, unemployment, sickness, and Medicare benefits to more than 750,000 railroad beneficiaries. Wholly funded by railroad workers and the nation’s railroads, the RRB is in dire need of congressional approval to access its trust fund dollars to fully staff the agency and modernize its antiquated computer systems.

The hundreds of railroaders visiting Congressional offices today are making other important points about freight rail, including the following:

- Railroads are the environmentally sound way to move freight. On average, railroads are three to four times more fuel efficient than trucks. Moving freight by rail instead of truck reduces greenhouse gas emissions by up to 75 percent, on average. And because a single train can replace several hundred trucks, railroads reduce highway gridlock and the need to spend scarce taxpayer dollars on highway construction and maintenance.
- The affordability of freight rail saves rail customers billions of dollars each year and enhances the global competitiveness of U.S. products. Average rail rates (measured by inflation-adjusted revenue per ton-mile) were 44 percent lower in 2018 than in 1981. 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.
- An October 2018 study from Towson University found that, in 2017 alone, the operations and capital investment of America’s major freight railroads supported approximately 1.1 million jobs, \$219 billion in economic output, and \$71 billion in wages.
- America’s approximately 150,000 freight rail employees are among America’s most highly compensated workers. In 2018, the average U.S. Class I freight rail employee earned total compensation of \$130,200. By contrast, the average full-time equivalent U.S. employee in 2018 had total compensation of \$78,800, 61 percent of the rail figure.

- Without railroads, American firms and consumers would be unable to participate in the global economy anywhere near as fully as they do today. International trade accounts for around 35 percent of U.S. rail revenue, 27 percent of U.S. rail tonnage, and 42 percent of the carloads and intermodal units that U.S. railroads carry.

### What Policymakers Can Do to Support Rail Funding

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 overwhelmingly publicly financed. From 1980 through 2019, America’s freight railroads spent more than \$710 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. From 2015 through 2019, railroads poured an average of \$72 million every day back into a rail network that keeps our economy moving.

Railroads are much more capital intensive than most industries. Over the past decade, the average U.S. manufacturer spent about three percent of revenue on capital expenditures. The comparable figure for U.S. freight railroads is close to 19 percent, or about six times higher.

The Federal Highway Administration forecasts that U.S. freight tonnage will rise 30 percent from 2018 to 2040. For railroads, meeting this demand requires having adequate capacity and using it well. Thanks to their massive investments over the years, their infrastructure today is in its best overall condition ever. The challenge for railroads, for members of this committee, and for other policymakers is to ensure that the current high quality of rail infrastructure is

<b>Capital Spending as % of Revenue*</b>	
<b>Average all manufacturing</b>	<b>2.9%</b>
Food	2.2%
Petroleum & coal products	2.4%
Machinery	2.6%
Fabricated metal products	3.1%
Primary metal products	3.1%
Wood products	3.1%
Motor vehicles & parts	3.2%
Chemicals	3.4%
Plastics & rubber products	3.6%
Paper	4.0%
Nonmetallic minerals	4.8%
Computer & electr. products	5.1%
<b>Class I Railroads</b>	<b>19.1%</b>
*Avg. 2007-2016	
Source: Census Bureau, AAR	

maintained; that adequate freight rail capacity exists to meet our nation's future transportation needs; and that the many public benefits of freight rail continue to accrue.

Today's balanced rail regulatory system is critical to enabling freight railroads to provide capacity for shippers and rail passengers alike. If artificial regulatory or legislative restraints were put into place that unnecessarily and unreasonably restricted rail earnings, rail spending on infrastructure and equipment would shrink. Either taxpayers would have to make up the difference or the rail industry's physical plant would deteriorate, needed new capacity would not be added, and rail service would become slower, less responsive, and less reliable.

Policymakers can help by enacting policies, including the following, that encourage railroads to make investments in their networks; that do not discourage private rail investment; and that enhance modal connectivity in critical areas.

#### Expand Public-Private Partnerships like CREATE

Public-private partnerships offer a mutually beneficial way to enhance rail capacity for freight and passenger railroads. Under public-private partnerships, public entities devote public dollars to a project equivalent to the public benefits that will accrue, while private railroads contribute resources commensurate with expected private benefits. Without a partnership, many projects that promise substantial public benefits (such as increased rail capacity for use by passenger trains) in addition to private benefits (such as enabling faster freight trains) are likely to be delayed or never started at all because neither side can justify the full investment needed to pursue them. Cooperation makes these projects feasible.

The most well-known public-private partnership involving railroads is the Chicago Region Environmental and Transportation Efficiency Program (CREATE). Chicago is the

epicenter of the nation's rail system — about 25 percent of all U.S. freight rail traffic goes through the region — so what happens in Chicago impacts rail operations nationwide.

CREATE is a program of long-term 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 some 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, 30 projects have been completed, four are under construction, and 17 are in various stages of design. Some \$1.6 billion has been spent or authorized so far on CREATE projects.

In recognition of Chicago's importance to the rail industry, in December 2015 the industry established the Chicago Integrated Rail Operations Center (CIROC). CIROC represents a significant expansion of what had been known as the Chicago Transportation Coordination Office. Staffed around the clock by rail operations experts, CIROC monitors freight rail traffic going to, from, and through the Chicago region and helps coordinate the operations of the many railroads serving the region to ensure optimal safety and efficiency.

In addition to making operational changes, from 1998 through 2018 freight railroads spent some \$6.5 billion on infrastructure projects in the Chicago region outside CREATE. This spending, CIROC, and the development and implementation of highly advanced information technology that allows railroads to measure real-time traffic flows and proactively identify

potential problems throughout the region speak to railroads' willingness to address head-on the challenges associated with improving their fluidity and resiliency.

CREATE has already yielded incalculable public benefits, including much more efficient and reliable Amtrak and commuter train operations and tens of thousands of fewer hours of delay for motorists at previously congested rail-highway grade crossings. CREATE has benefitted from the strong support that Congress has given to discretionary grant programs that enable the public sector to partner with private railroads. For example, CREATE was named one of the first "projects of national and regional significance (PNRS)" when Congress created the PNRS program in 2005. The \$100 million funded through PNRS jumpstarted the CREATE program. Since then, federal grant programs such as the American Recovery and Reinvestment Act (ARRA), the Transportation Investment Generating Economic Recovery (TIGER) program, the Better Utilizing Investments to Leverage Development (BUILD) program, Infrastructure for Rebuilding America (INFRA) and Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants have all supported this highly successful collaborative effort.

This partnership is already demonstrating results nationally, regionally and locally. According to USDOT, the volume of imported and exported goods transported via rail to, from, or through Chicago is forecast to increase nearly 150 percent between 2010 and 2040. More high value products will be shipped via rail in the coming years, so efficient and reliable service will be increasingly important. Infrastructure improvements planned through CREATE are critical to fully unlocking the potential of the national freight rail system to serve significant future demand.

Locally, CREATE means a better quality of life for northeastern Illinois, enhancing passenger rail service, reducing motorist delays, increasing public safety, improving air quality,

and creating and retaining jobs. When fully completed, CREATE will reduce the time Chicago-area motorists spend waiting at railroad crossings by thousands of hours a day; potential crashes and injuries at 25 existing grade crossings will be eliminated; police and fire emergency vehicle routes will be improved in neighborhoods with new overpasses or underpasses of rail lines; travel times for commuters on many Metra lines will improve and schedules will become more reliable; and capacity on Metra's SouthWest and Heritage lines will increase. CREATE also will permit the increased use of LaSalle Street Station, freeing capacity at Union Station. And importantly, emissions from cars, trucks and locomotives will be greatly reduced, improving air quality and reducing noise from idling or slow-moving trains in residential neighborhoods.

Members of this committee are invited anytime to visit CIROC to see firsthand what railroads are doing to improve transportation flow in the region and learn how CREATE is helping.

#### Support Grade Crossing Safety Programs

The intersection of rail tracks and roadways is an important element of rail infrastructure that often involves a public-private cooperative approach, in Chicago and elsewhere. Under the federal "Section 130" program, approximately \$245 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.

I respectfully suggest that Congress should take steps to help improve grade crossing safety as part of the FAST Act reauthorization. For example, in addition to at least maintaining



(or, better yet, increasing) dedicated funding for the federal Section 130 program, Section 130 incentive payments for grade crossing closures could be increased from the current cap of \$7,500 to \$100,000. In addition, FAST reauthorization could incentivize states to bundle grade crossing projects into a single grant application under applicable discretionary grant programs.<sup>1</sup>

### Improve 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, from railroads to trucks at intermodal terminals, or from short line railroads to Class I railroads. These connections are highly vulnerable to disruptions. 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.

More generally, freight railroads support funding for grant programs that enable the public sector, including state and local governments and passenger railroads, to partner with

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<sup>1</sup> As part of the FAST Act reauthorization, Congress could take other actions that would make crossings safer. For example, it could expand flexibility in the use of Section 130 funds by eliminating the existing arbitrary 50 percent cap on spending for hazard elimination projects, and by allowing Section 130 funds to be used to replace functionally obsolete warning devices at crossings. A more detailed discussion of the AAR's FAST Act priorities for grade crossings is at <https://www.aar.org/article/freight-railroad-industry-fast-act-reauthorization-priorities/>.

freight railroads to advance projects of mutual interest. These include projects to help reduce road and port congestion, enhance safety at highway-rail grade crossings, improve port connectivity, facilitate intercity passenger and commuter rail service, and improve the quality of life for communities. We suggest that the following programs should continue to be authorized at existing or increased levels:

- INFRA Discretionary Grants (\$1 billion in FY 2020). Caps should be upwardly adjusted or removed on multimodal freight eligibility in proportion to general fund contributions to the Highway Trust Fund;
- BUILD Discretionary Grants (not authorized, but typically \$1 billion appropriated);
- CRISI Discretionary Grants (\$330 million in FY 2020);
- Federal-State Partnership for State of Good Repair (\$300 million in FY 2020); and
- Funding and authorization for Amtrak and state-supported passenger routes.

#### Address Modal Inequities

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. 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. General fund transfers to the HTF since 2008 have totaled almost \$144 billion, according to the Congressional Budget Office (CBO). Not long ago, the CBO estimated that between 2020 and 2029, the HTF will require an additional \$191 billion to keep it 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).

This committee could help ameliorate this modal inequity by reaffirming the “user pays” requirement. Through application of existing technologies, 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. An increase in the fuel tax could be helpful as a short-term bridge to a longer-term future that should include a vehicle miles traveled fee or a weight-distance fee.

#### Make the Short Line Infrastructure Tax Credit Permanent

The freight rail industry congratulates and thanks the many members of this committee who were instrumental in the recent passage of H.R. 1865, which extended the Section 45G short-line tax credit for five years, making it retroactive to 2018 and effective through 2022. Section 45G creates a strong incentive for short line railroads to invest private sector dollars on freight railroad track rehabilitation. Railroads urge this committee to continue to support this tax credit, which is vital to preserving the first and last mile of rail connectivity to factories, grain elevators, power plants, refineries, and mines in rural America and elsewhere.

#### **Principles for Successful Freight and Passenger Rail Partnerships**

Passenger railroads play a key role in enhancing mobility, reducing congestion, decreasing dependence on foreign oil, and reducing emissions. Today, freight railroads provide the foundation for much of our nation’s passenger rail. Nearly all of Amtrak’s more than

20,000-mile system outside the Northeast Corridor consists of tracks owned and maintained by freight railroads. In addition, hundreds of millions of trips occur each year on commuter rail systems that operate at least partially over tracks or right-of-way owned by freight railroads.

Looking ahead, America can — and should — have both safe, effective passenger railroads *and* safe and productive freight railroads. Mutual success for railroads of all types requires collaboration and a recognition of the challenges, especially capacity, they face.

Once passenger trains begin operating over freight rail lines, it is in both the host freight railroad and passenger entity's interest for the service to work as intended. And while there is no one size fits all model as each situation presents unique challenges and opportunities, success will be more likely if certain overarching principles are followed to ensure what all of us want: the long-term success of passenger rail *and* a healthy freight rail system that shippers all over the country rely on every day.

First and foremost, safety comes first. Railroads are an extremely safe way to move people and freight, and we must keep it that way.

Second, current and future capacity needs of both shippers and passenger railroads must be protected. Freight corridors are expensive to maintain, and many freight corridors today lack excess capacity. Passenger rail use of freight rail corridors must be balanced with freight railroads' need to provide safe, reliable service to present and future customers. If adding new infrastructure is necessary to expand passenger service, which is usually the case, freight railroads should not be responsible for funding that expansion.

Third, policymakers should provide passenger railroads with the dedicated funding they need to operate safely and effectively, and to pay for expanded capacity when they require it. It's not reasonable to expect Amtrak or other passenger and commuter railroads to be able to

plan, build, and maintain an optimal network when it doesn't know what its capital and operating funding will be from one year to the next. If Congress provided predictable and needed levels of federal support, Amtrak and its state partners could better deliver a future of improved reliability, enhanced capacity, more service, and reduced trip times.

Fourth, many factors — such as bad weather, heavy traffic, accidents, and equipment failures — can adversely affect fluidity on the nation's railroad network. All parties must recognize that the preference given to Amtrak's trains over freight trains does not mean there will never be delays to Amtrak trains. Amtrak is given preference, but preference does not mean a guarantee.

These principles have served railroad customers and passengers well over the years and have led to many successful results. For example, CSX and the VRE recently announced an agreement with Virginia that will enable the expansion of passenger rail service, both commuter and intercity, to serve the growing demands of the Washington D.C. region while preserving CSX's ability to serve the current and future freight demands of the Interstate 95 corridor.

Union Pacific (UP) has a robust partnership with the Capital Corridor Joint Powers Authority (CCJPA), which operates 28 trains a day between Sacramento and Oakland, CA, and the Altamont Corridor Express (ACE) between Stockton and San Jose, CA, which operates eight trains a day. These are model partnerships because the agencies understand the value of capacity and invest in infrastructure improvements necessary for on-time service. Both agencies spend millions of dollars every year to maintain shared infrastructure used by commuter and freight trains and when challenges have arisen they have worked cooperatively with UP on capacity planning studies and capital improvements resulting in improved speeds and schedules for their commuters.

In Chicago, BNSF and the Commuter Rail Division of the Regional Transportation Authority (Metra) have worked closely for decades in safely moving up to 60,000 weekday riders between Chicago and Aurora, Illinois. With commuter trains operating at 96.55 percent on-time during February 2020, BNSF operates and dispatches the service; maintains the tracks, signals, structures, and rolling stock; and, coordinates every day with Metra's management team. Of equal importance, together with BNSF, Metra continues to provide millions of dollars in annual funding for its share of the cost of replacing and upgrading the railroad's infrastructure, like rail, ties, and ballast, to keep it in an excellent state of good repair.

Norfolk Southern (NS) also works closely with Metra to enhance commuter performance in the Chicago area. The two railroads hold regular calls to discuss in detail any freight attributable delays to the Southwest service and the Heritage Corridor. They also work closely together in real time as delays are incurred so that NS can coach and train dispatching personnel to make the best and most efficient operating decisions. Metra also recently installed a full-time superintendent in the Chicago Integrated Rail Operations Center, a facility that monitors and facilitates efficient rail operations through Chicago, who works closely with his NS counterpart to address tactical and strategic issues affecting both railroads.

### **Positive Train Control Update**

Before I close, I want to provide an update on railroad efforts to implement PTC. 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 2019. In aggregate, Class I railroads had 98.5 percent of required PTC route-miles in operation as of the beginning of this year. 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, in coordination with Amtrak, other passenger railroads, and other tenant railroads, are continuing to test and validate their PTC systems thoroughly to ensure they are interoperable and work as they should.

## **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 improve their capacity base. Policymakers too have a key role to play, though. 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.