TTD A BOLD VOICE FOR TRANSPORTATION WORKERS

STATEMENT OF
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HOUSE SUBCOMMITTEE ON RAILROADS,
PIPELINES, AND HAZARDOUS MATERIALS
ON
REAUTHORIZATION OF THE FEDERAL RAIL SAFETY PROGRAM

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Chairwoman Brown, Ranking Member Shuster and members of the Subcommittee, thank you for the opportunity to testify today. As you know, the Transportation Trades Department, AFL-CIO (TTD) consists of 32 member unions in all modes of transportation, including those that represent the hundreds of thousands of rail workers in the freight, passenger and commuter rail sectors. Collectively, these workers operate and maintain our nation's rail system and equipment and are critical to the safe and efficient movement of goods and people throughout our country. Commerce as we know it would come to an immediate standstill, if it were not for their dedication and professionalism. Yet for more than a decade the safety concerns of rail workers have been ignored in the legislative process as the railroad lobby has stonewalled every attempt to update our rail safety laws. It is long-past time to move meaningful rail safety legislation.

Madam Chair, it is a pleasure to be back before this Subcommittee. In the two months that have elapsed since I testified before you to outline the rail safety objectives of our member rail unions, we are pleased that significant strides have been made. In sum, we believe the Federal Railroad Safety Improvement Act represents an historic step forward for the safety of railroad workers, rail passengers and, indeed, all those who rely on or live near railroad operations. We thank you and Chairman Oberstar for crafting this legislation and for listening to the concerns of railroad workers who know the dangers of this industry first-hand. We appreciate the fact that you understand the wealth of knowledge and experience that rank-and-file members can bring to the debate about how to improve the safety – and efficiency – of our rail system and we are pleased that you have made us partners in this effort. We look forward to continued collaboration with you, the Ranking Member and this Committee as this process moves forward.

My rail labor colleagues on the panel today will provide a detailed assessment of the current rail safety proposals so I will not reiterate all those comments here. I do, however, want to make mention of a few specific areas of concern that we have advocated for years and place the need for rail safety authorization in some context for the Subcommittee.

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As we talk about rail safety initiatives, it is important to recognize that we are not dealing with an industry that can claim it does not have the resources to comply with common-sense safety directives. The freight railroads have pocketed $25 billion in profits over the past six years according to their own annual reports. Yet, this same railroad industry has effectively blocked rail safety legislation since the last reauthorization bill expired in 1998.

The railroad industry can never be safe if employees are intimidated and harassed when they report accidents, injuries and safety problems. Our members continue to face retribution, harassment and intimidation for reporting accidents and potential safety and security problems. As I have reported to this Committee before, there is a pervasive culture in the railroad industry that tamps down reporting. In railroads' quest for Harriman safety awards and glowing safety reports, in reality, safety is compromised. Workers are routinely forced into "team" reporting where groups of workers are rewarded for filing no injury reports in a given time period. This means that when a worker severs a finger, for example, he may forego treatment or face pressure from his team – a convenient way for management to use co-workers to do their intimidating for them. Safety measures in the railroad industry are based on FRA's data collection from accident and incident reports. Since workers are so soundly and routinely discouraged from actually submitting reports, the FRA's data is inherently flawed. Likewise, rules, regulations, penalties and fines that are based on accident and incident reports are misaligned as well.

Workers should not have to choose between job security and the security and safety of the rail transportation system – yet that is what is happening today. The stories I hear from members are shocking – yet they are commonplace. Members injured on the job are denied medical care until company representatives arrive on the scene and then convinced by the injured worker they need urgent care. They are accompanied to the hospital or doctor by supervisors. Supervisors "remind" injured workers that taking a prescription drug would make the case reportable to the FRA. One of our member unions has supplied this Subcommittee with reams of paper documenting harassment and intimidation of workers with respect to accident and injury reporting. It is a pervasive problem in the industry that has gone unchecked for too long and must be addressed by Congress.

Strong whistleblower language is key to improving rail safety. Clearly, if Congress can find the will to protect those who report financial security problems as it did in the Sarbanes-Oxley Act, the same should be expected for rail workers. We were disappointed that the Administration failed to recognize the need for whistleblower protections for workers, but are pleased that the Oberstar-Brown bill includes strong whistleblower provisions. We also believe the section in H.R. 2095 assuring injured workers of prompt medical attention is important, and we support its inclusion in the bill.

It is well documented that fatigue is a factor in many rail accidents. The catastrophe in Macdona, Texas should have been a wake up call. According to the National Transportation Safety Board (NTSB), the probable cause of that accident was train crew fatigue. And at the core of the issue were Union Pacific's train crew scheduling practices. With record profits and an overloaded system, it is unconscionable that the railroad industry refuses to hire the workers

they need and instead make employees work dangerously long hours. Workers often put in 12-hour days, then have to wait on their train "in limbo" for up to six more hours until a replacement crew arrives, and then must return to work 10 hours later (or face retribution from their employer). As the Brotherhood of Railroad Signalmen (BRS) will tell you, workers who maintain railroad signals can actually be forced to work 20 hours in a 24 hour period. Just as you wouldn't want an airline pilot or bus driver operating on two hours of sleep, no one should want a train barreling through town with a similarly fatigued crew.

We are pleased that you, Madam Chair, and Chairman Oberstar have addressed this issue head-on in H.R. 2095. The fatigue proposal in H.R. 2095 is critical to improving rail safety. I would venture to say that when this bill becomes law, the number of accidents and incidents will drop dramatically based on the fatigue provisions alone. Mr. Shuster has proposed a rail safety plan as well. And while we don't believe the fatigue provisions go far enough, we appreciate your willingness to listen to the concerns of rail workers and their unions. We are pleased that you want to address the fatigue issue, and we look forward to working with you throughout this process.

H.R. 2095 also includes an important training measure. The current training structure for rail workers is woefully inadequate. For both operating and on-board crafts as well as maintenance workers, training is largely left to peer-to-peer training. As the workforce retires, critical "institutional" knowledge is lost. Coupled with limited classroom training and virtually no on-the-job training requirements, workers are entering the field with very little experience and little oversight. This is hardly a recipe for safe and stable operations. Not surprisingly, the Administration's bill did not address the need for a better trained and more prepared workforce. Despite the industry's claim that it will need to hire 80,000 more workers just to maintain the current movement of freight, it continues to ask its workers to do more with less.

Section 605 of H.R. 2095 provides for minimum training standards. We believe this is an essential piece of the reauthorization proposal and I want to thank you for including it.

Similarly, we are pleased the bill includes a certification requirement for conductors. We believe certification provides important qualification standards for rail workers and contend this section should be expanded to cover future Carmen as well as include dispatchers and other workers who perform safety-sensitive functions.

Section 508 of H.R. 2095 requires an increase in the number of rail safety inspectors. As this Subcommittee heard at the hearing in January, there are myriad problems with safety oversight by the FRA. As the GAO has stated in testimony before this Subcommittee, because the number of FRA and state inspectors is small relative to the size of railroad operations, FRA inspections can only cover 0.2 percent of railroad operations.[1] When safety problems are found during that very small number of inspections (about 3 percent in 2005), the FRA does not measure the extent to which the identified safety problems have been corrected.[2] As I mentioned before, rail

[1] Reauthorization of the Federal Rail Safety Program: Hearing Before the House Subcommittee on Railroads, Pipelines, and Hazardous Materials, 110th Cong. (2007) (statement of Katherine Siggerud, Director, Physical Infrastructure Issues, Government Accountability Office)
[2] *Id.*

companies are making money hand over fist, and even the GAO states that it is not clear whether the number of civil penalties issued, or their amounts, are having the desired effect in improving compliance.[3]

I want to add that we wholeheartedly endorse the provisions in H.R. 2095 related to track safety and signaling dark territory. The NTSB has been clear in its recommendations in this area and until the railroads commit to install adequate signal technology throughout the entire rail system, these measures are vital. BRS President Pickett will speak more thoroughly on that subject.

Speaking more broadly, we are pleased the bill clarifies that the primary responsibility of the FRA is to promote rail safety. We further applaud the reporting requirements in Section 103 which will provide important measurements and help set benchmarks for improved safety throughout the industry. We have long called for increased penalties for safety violations and are pleased the Oberstar-Brown bill increases the maximum penalties for railroads' dereliction of their safety responsibilities. It is unconscionable that the average fine for safety violations is $39; parking tickets can be double that amount and no one's life is put in danger when the time on a parking meter expires.

Finally, we hope this Committee will recognize the need to address the issue of safe cross-border transportation in the rail sector. As U.S. industries continue their drive to outsource American jobs and cut costs, we must remember the safety implications of such actions. Train inspections currently performed by U.S. rail workers play an important role in ensuring the safe and secure movement of U.S. cross-border operations. We hope this Committee will consider making a strong statement in the reauthorization bill to prohibit rail carriers from waiving U.S. inspection mandates (and outsourcing them to Mexico) or other safety requirements in cross-border operations.

Madam Chair, we look forward to working with you and Chairman Oberstar as the Committee prepares to move legislation that will make our railroad industry safer. I thank you for this opportunity to testify, and I will be happy to answer any questions.

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[3] *Id.*