A bold voice for transportation workers

SUBMITTED STATEMENT OF
LARRY I. WILLIS, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS
ON
BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: RAIL STAKEHOLDERS' PERSPECTIVES

October 4, 2017

Chairman Denham, Ranking Member Capuano, and members of the House Transportation and Infrastructure Committee's Railroad subcommittee, thank you for the opportunity to testify this afternoon on building a 21st century infrastructure for America. By way of background, TTD consists of 32 affiliated unions that represent workers in every mode of transportation in both the public and private sectors.[1] TTD unions specifically represent workers that operate, service and build passenger and freight rail systems including those at Amtrak, commuter rail providers and freight railroads.

Let me start by stating clearly that TTD believes that significant freight and passenger rail investment must be included as part of any broad infrastructure bill considered by Congress and the Administration. These investments must be done in a way that supports good middle-class jobs and the legislation cannot be used as a way to undercut important safety or labor regulations. This Committee, as part of the FAST Act, wisely chose to create and expand investments in freight transportation to alleviate chronic delays and congestion plaguing our nation's supply chain. We also strongly supported the inclusion of Amtrak reauthorization and other passenger rail provisions into the FAST Act as detailed later in this statement. But we know that these investments to our nation's transportation system are just down-payments on reversing decades of neglect and deterioration.

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[1] A complete list of TTD affiliates is attached

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At the same time that our nation faces massive infrastructure challenges, our economy is simultaneously producing too few stable, good-paying jobs for American workers. In fact, this is fast becoming the lost generation when it comes to investing in the transportation infrastructure that can and should sustain our economy. This trend has idled millions of good jobs, stifled economic expansion, worsened wage inequality and left voters wondering why the richest country in the world no longer places a premium on high quality, modern infrastructure. In the rail sector alone, new modernization and capacity building efforts – both large and small – are central to moving goods and passengers and securing America's future in a competitive global marketplace. If done correctly, these strategic infrastructure investments can ensure this sector remains an incubator of good jobs for workers employed in the railroad, construction, and manufacturing industries.

The type of investments we are talking about today are linked with good jobs and economic growth because workers in these sectors benefit from collective bargaining rights and generally high union density. As this Committee considers transportation investments broadly and rail funding more specifically, it would be a mistake, and one that we would vigorously oppose, to pursue policies that weaken labor protections or undermine collective bargaining rights that are essential to creating and sustaining good-middle class jobs. Section 13(c) transit protections, Davis-Bacon prevailing wage, rail worker protections, and Buy America rules must apply to appropriate funding programs. We will insist on this outcome as we did in the FAST Act and previous infrastructure investment bills. If we are serious about creating good jobs that pay a living wage, then correctly applying these long-standing rules should be a no-brainer.

The freight rail sector alone is a major driver of job creation and economic expansion, and we have long fought for smart policies that ensure this industry remains strong, economically viable and competitive. On many of these policies, we have worked in tandem with our freight employers. For example, we are strongly opposed to changing federal policy that limits the size and weight of trucks. Larger and heavier trucks represent a serious safety threat to truck drivers, other commercial operators and personal vehicles that share our nation's roads. Larger and heavier trucks will also place a significant burden on our already deteriorated highway and bridge network that will cost billions to bring into a state of good repair. But larger commercial vehicles will not pay these additional costs, shifting the burden to taxpayers while at the same incentivizing shipments away from a freight rail system that largely relies on private financing for infrastructure.

The railroads have made sizeable investments in their systems and operations over the years while maintaining a well-trained and highly skilled workforce. In 2017 alone, the railroads plan to invest $22 billion in their network. However, the revenues necessary to maintain these type of investments and support a robust workforce that keeps the industry competitive are premised on a balanced regulatory approach that we join with the industry in supporting.

To assist with the investment needs of short line railroads – carriers that operate the lower density, 'first and last mile' connections to the national freight system – the federal tax code offers a credit ('Section 45G') for short lines of 50 cents for every dollar invested in track improvements (up to a cap). This credit expired in December 2016. We support industry's effort to make this tax credit permanent so that short lines can reliably factor this cost savings into their infrastructure improvement plans and make prudent investments on their lines. We also support making this credit available to short lines in existence as of January 1, 2015, as currently required by law.

Passenger rail, and Amtrak in particular, also remains an important economic driver and job creator. Though chronically under-funded, Amtrak has seen a nation-wide resurgence. Polls consistently show that Americans throughout the country want more and better passenger rail service. Furthermore, Amtrak has been consistently breaking its own annual ridership records. Amtrak has accomplished all of this despite the fact that it has never received full federal funding. In fact, the President's recent budget proposal would gut federal Amtrak funding by eliminating all funding for long-distance routes – effectively signaling to the country that the benefits of passenger rail service should only be available to those who live along the Northeast Corridor. When Congress passed the FAST Act, it included a rail title that reauthorized Amtrak for the first time in 9 years and specifically rejected efforts to defund long-distance routes or privatize the carrier. Congress should fund Amtrak at least at authorized levels and continue to reject calls to privatize the carrier. With aging infrastructure and a growing maintenance backlog it is only a matter of time before this underfunding results in a serious reduction in services – further limiting transportation options for many Americans.

As part of its commitment to Amtrak and passenger rail, policymakers must ensure funding to completing an infrastructure project critical to our rail network and the nation's economy: the Gateway Program and Hudson Tunnel Project. We put a sharp focus on Gateway, not because it is the only important rail project in the nation, but because completing this massive endeavor can and should serve as an example of what a thoughtful government-supported infrastructure plan can accomplish. The strategic importance of this project, which will increase track, tunnel, bridge and station capacity between Newark and Penn Station, New York, are massive. The Northeast corridor is home to 1 in 7 Americans, creates and supports 30 percent of the nation's jobs, and produces 20 percent of our GDP. Absent action to upgrade the corridors' outmoded infrastructure, passenger and commuter service in the nation's busiest rail corridor will be crippled, with major consequences for the nation's overall economic health.

The FAST Act introduced important reforms to the Railroad Rehabilitation and Improvement Financing Program and the Federal Transit Administration's Capital Investment Grants (CIG) program in order to make Gateway eligible for federal funding that would augment funding from Amtrak and state partners and ensure the project's viability. But for these reforms to take effect, the Department of Transportation (DOT) must meet its commitment to process CIG grants. We believe both the law and clear congressional intent require the Trump Administration to move meritorious projects, such as the Hudson River Tunnels and the Portal Bridge North, through the pipeline. The Administration's full commitment to this project is an important test of its seriousness to advancing an infrastructure agenda.

During the construction phase, the program will invest heavily in the local workforce, creating thousands of good-paying construction, engineering and related jobs. Full application of federal Buy America laws and 100% domestic sourcing for steel and manufactured goods would also provide a boost to the U.S. steel and manufacturing sectors. With the increased capacity provided by Gateway, service will expand and new rail jobs will also be created. Conversely, if action is not taken, not only would we forgo these economic benefits, but Amtrak would be forced to take one Hudson tunnel out of service at a time. This would reduce capacity to 25 percent of current level, severely slowing and reducing Amtrak and commuter traffic, which would endanger good-paying rail jobs.

In a similar vein, the California High Speed Rail (CHSR) Program presents our nation with a transformative project with nationwide implications. The benefits of CHSR are not limited solely to future passengers of this high-speed rail (HSR) line. The project has produced between 19,900 to 23,600 job-years of employment, created $3.5 to $4.1 billion in total economic activity, and utilized the support of companies from 35 different states outside of California. Most importantly, this project – through stringent domestic contents standards, the development of technology, business practices, and skilled American labor – has the capability to spur the development of HSR throughout this country and create a new, internationally competitive domestic industry. In turn, an American HSR industry would increase passenger rail efficiency, inducing customer demand and ultimately growing capacity while also creating a market for the export of American-manufactured goods and services to other nations' rail projects. California is paving the path forward in this regard, and we urge policymakers to support, rather than hinder, its progress.

As Congress considers an infrastructure investment package, it must not be used as a vehicle to attack critical safety or labor rules or to undermine the rulemaking authority of the Federal Railroad Administration (FRA). As this Committee is aware, the DOT is soliciting comments on regulations, policies and guidance that may unjustly delay or prevent completion of infrastructure projects and requests feedback on which of these policies may be appropriate for modification or repeal. As we have stated in our DOT comments, we agree that transportation infrastructure projects should commence and reach completion in timely manner and that unnecessary permitting delays should be addressed in a reasonable fashion.[2] Needless project delays result in lost employment opportunities, project cost increases, and the continued deterioration of our transportation network. At the same time, we will oppose efforts to remove safety rules that protect front-line workers or any attempt to undermine policies that maximize middle class job creation in construction, operations or transportation manufacturing.

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[2] A copy of TTD's comments to the **Notice of Review of Policy, Guidance, and Regulation Docket No. OST–2017–0057**

We are also concerned with legislative efforts to make it harder for the FRA to ensure the safe operation of our nation's railroads. In particular, Senator Fischer has introduced, S. 1451, the Railroad Advancement and Innovation and Leadership with Safety Act (RAILS) which would make it easier for the railroads to waive safety regulations they do not like while simultaneously strangling the FRA's ability to create strong safety regulations through a series of new, cumbersome requirements. Taken together, this approach would make the industry less safe for the public and rail workers by ceding FRA regulatory authority to industry whims. This is absolutely no way to regulate an industry, and must be rejected by lawmakers.

Finally, I would like to briefly provide TTD's transportation labor's advice for any broader infrastructure package put together by this Committee, the President, and other lawmakers. The massive infrastructure backlog we face is not lost on any American. From commuters to businesses and workers of all stripes, we all collectively bear the continued costs of inaction every day; whether its delayed shipments, lengthy transit and car commutes, or lost job opportunities. Inaction is not an option, and I am heartened by the bipartisan consensus in support of tackling this growing problem. However, not all plans are created equal.

The most pressing challenge to enacting a substantial infrastructure program is how to fund it. With states and municipalities investing less in capital projects and maintenance, a more consistent and robust federal partner is needed to both create the certainty to spur investment and to provide direct fiscal support to augment austere budgets. While we will consider a variety of proposals, the most effective tool for meeting this demand is to provide direct federal support by raising the gasoline user fee. Increasing and indexing the motor vehicle user fee to inflation is the most viable means of funding surface transportation programs because it raises sufficient funding, maintains a dedicated revenue stream, and can be implemented without significant new operational hurdles. It is important to note that a bipartisan majority of House members – 253 to be exact – signed a letter this year commissioned by Representatives Graves and Norton in support of finding as solution to the Highway Trust Fund's (HTF) structural revenue deficit. The letter included a majority of each parties' membership and demonstrates the level of support for long term stabilization of the HTF. Considering the gravity of the funding problem, we believe any infrastructure package should tackle this issue.

Private sector participation has also been highlighted as means to solve our transportation infrastructure problems. Typically, private financing is costlier than traditional tools and can only serve a limited number of revenue-generating projects. Given the geographic diversity of our infrastructure needs and our large maintenance backlog, this approach has limited value.

This is not to say that the private sector has no role in the delivery of transportation projects. In fact, quite the contrary. The private sector has, and always will, play an important role. When P3s and other innovative financing tools – including an infrastructure bank – are used, they must be properly designed to be transparent, and protect workers and the public interest. Among other requirements, P3s and other innovative financing instruments must include Section 13(c) transit protections, Davis-Bacon, Buy America rules, and other protections for rail and public sector employees to create the good jobs that our country needs.

Thank you for the opportunity to testify today, and I look forward to working with the committee to promote railroad and broader infrastructure investments that promote high-wage standards and safe working conditions.

Transportation Trades Department, AFL-CIO
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TTD MEMBER UNIONS

Air Line Pilots Association **(ALPA)**
Amalgamated Transit Union **(ATU)**
American Federation of Government Employees **(AFGE)**
American Federation of State, County and Municipal Employees **(AFSCME)**
American Federation of Teachers **(AFT)**
Association of Flight Attendants-CWA **(AFA-CWA)**
American Train Dispatchers Association **(ATDA)**
Brotherhood of Railroad Signalmen **(BRS)**
Communications Workers of America **(CWA)**
International Association of Fire Fighters **(IAFF)**
International Association of Machinists and Aerospace Workers **(IAM)**
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers **(IBB)**
International Brotherhood of Electrical Workers **(IBEW)**
International Longshoremen's Association **(ILA)**
International Organization of Masters, Mates & Pilots, ILA **(MM&P)**
International Union of Operating Engineers **(IUOE)**
Laborers' International Union of North America **(LIUNA)**
Marine Engineers' Beneficial Association **(MEBA)**
National Air Traffic Controllers Association **(NATCA)**
National Association of Letter Carriers **(NALC)**
National Conference of Firemen and Oilers, SEIU **(NCFO, SEIU)**
National Federation of Public and Private Employees **(NFOPAPE)**
Office and Professional Employees International Union **(OPEIU)**
Professional Aviation Safety Specialists **(PASS)**
Sailors' Union of the Pacific **(SUP)**
Sheet Metal, Air, Rail and Transportation Workers **(SMART)**
SMART-Transportation Division
Transportation Communications Union/ IAM **(TCU)**
Transport Workers Union of America **(TWU)**
UNITE HERE!
United Mine Workers of America **(UMWA)**
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union **(USW)**

These 32 labor organizations are members of and represented by the TTD

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July 24, 2017

Michael A. Smith
Office of the General Counsel
Department of Transportation
1200 New Jersey Ave., S.E.
Washington, DC 20590

RE: Transportation Infrastructure: Notice of Review of Policy, Guidance, and Regulation
Docket No. OST–2017–0057

Dear Mr. Smith,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to provide comments on the Department of Transportation's (DOT) request for input regarding the agency's review of its regulations, policy and guidance in order identify items that may cause unnecessary obstacles to transportation infrastructure projects. By way of background, TTD consists of 32 affiliate unions representing workers in all modes of transportation who are impacted by DOT regulations. [1] We therefore have a vested interested in the rulemaking.

In this notice, DOT solicits comment on its policies that may unjustifiably delay or prevent completion of surface, maritime, and aviation infrastructure projects, and requests feedback on which of these policies may be appropriate for modification or repeal. We share the view that infrastructure projects under the jurisdiction of DOT should commence and reach completion in a timely manner and that unnecessary permitting delays should addressed in a reasonable manner. In fact, we supported the FAST Act that included a number of requirements to streamline permitting regulations and these mandates should be implemented by DOT and other agencies. Needless project delays result in missed employment opportunities and transportation improvements cost to rise significantly.

[1] Attached is a complete list of TTD's 32 affiliate unions.

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At the same time, we will oppose efforts to use this proceeding to remove critical safety protections for front-line workers or to undermine policies that maximize middle class job creation in construction, operations or transportation manufacturing. DOT correctly states that its mission is to serve the United States by ensuring a safe, fast, efficient, accessible, and convenient transportation system that meets the nation's vital interests and enhances the quality of life of the American people. While there may be outdated rules and policies that impede transportation projects, it must also be recognized that there are regulations and policies that must be preserved to meet DOT's broader mission of safety and promoting good jobs.

As DOT is well aware, a number of policies, guidance and regulations currently exist that help ensure the safe operation of nation's transportation system and its workforce. While there should be no credible argument that these regulations interfere with the delivery of infrastructure projects, we are concerned that some might nonetheless use this proceeding to promote this misguided agenda. Rules governing fatigue mitigation, whistleblower protections that allow workers to report safety and security concerns, training mandates, health and safety standards specific to the transportation workforce, Hazmat rules and requirements for proper protective gear – to name just a few – all contribute significantly to a safe transportation system, and should not be discarded or weakened through this proceeding.

In addition, DOT and its modal agencies have promulgated rules to enhance the occupational safety of construction and maintenance of transportation infrastructure. For example, speed restrictions in highway construction zones and requirements for visible gear and proper signage are all common sense rules that should not weakened. Taken together with actions of responsible employers and front-line employees we have seen significant improvements to transportation safety.

In fact, from when the Bureau of Labor Statistics began tracking accident data in the 60's and 70's, aviation accidents have fallen by 73% and rail accidents by 55%. Transit accidents have only been tracked since 1990, and in that short time, they have decreased 91%.[2] Within the last twenty years, occupational injuries and illnesses for transportation workers have fallen by nearly two thirds.[3] This is no coincidence – strong, reasonable regulations have continued to improve safety nationwide. There is no clearer evidence of this pattern than the NHTSA estimate that 613,501 lives have been saved by vehicle safety technology, much of which became standard as a result of NHTSA issuing vehicle safety regulations, beginning in the 1960s.[4] However, these improvements do not mean that the fight to improve safety is over. Recent years have seen upticks in accidents

[2] Bureau of Labor Statistics, Transportation Accidents by Mode.

[3] Bureau of Labor Statistics, Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, between 1994 and 2015.

[4] National Highway Traffic Safety Administration, Lives Saved By Vehicle Safety Technologies and Associated Federal Motor Vehicle Safety Standards 1960-2012, January 2015.

and injuries in certain sectors, and in the transportation industry overall. The role of DOT must be to identify and address current and future safety challenges like those created by new technologies, not roll back decades of progressive safety improvement throughout the country's transportation system.

We are also concerned that this proceeding could be used to weaken labor rules that ensure that investments in our nation's infrastructure create jobs that can support middle-class families. Again, we reject the premise that these rules interfere with the delivery of federal investments in our transportation system. More broadly, rules that protect current and longstanding collective bargaining rights, wage standards and Buy America mandates play an important role the economic stimulus impact of infrastructure investment. With too many American still looking for work and wage stagnation a problem that policy makers are vowing to address, it makes no sense to undermine policies that create and sustain the type of jobs our economy desperately needs.

We have not sought to comment on every safety or labor issue that stakeholders may ask DOT to eliminate or modify in this proceeding. It would indeed be impossible to predict every issue that some stakeholders might claim slows down infrastructure investment. It is our expectation, and we urge DOT to follow this course, that before any repeal or change in labor or safety policies is adopted, that the public have an opportunity to comment on these specific proposals. Failure to seek public comment would deprive DOT of the benefit of hearing other perspectives on the value of core safety and labor policies.

TTD stands with DOT in its goal of investing, improving, and expanding our nation's infrastructure. The ability to build transportation infrastructure projects in an expeditious manner offers transformative effects for the nation's economy and workforce, and transportation labor will continue to be a partner in these developments. However, in its review of its policies, guidance, and regulations, DOT must ensure that it does exchange the promises of new infrastructure for decreased safety, or undercutting and undermining American workers. We believe firmly that are measures that DOT can, and should take to accomplish these goals without these tradeoffs.

We appreciate the ability to comment on DOT's request, and look forward to working with DOT and the Administration in building, maintaining and operating our nation's transportation infrastructure going forward.

Sincerely,

Larry Willis

Larry I. Willis
President