

Mr. BOOZMAN. I want to thank Mr. OBERSTAR for his leadership, Dr. EHLERS for his years and years of being so aggressive and bringing this before Congress. This is an important bill. It's something that we very much support.

Also, I appreciate Mr. MICA's hard work in this area and, of course, the chairlady of our subcommittee, EDDIE BERNICE JOHNSON and her staff, for all of their hard work, and then my staff. I look forward to working with Mr. OBERSTAR and EDDIE BERNICE in the sense of trying to get our appropriators working with them.

Mr. Speaker, we do have an authorization level that we haven't been able to meet thus far. I hope that we can work with them in the rest of this Congress and certainly the next Congress to get that level up to the maximum that we can with what we have dealt with.

Mr. Speaker, I yield back the balance of my time.

Mr. OBERSTAR. Again, I want to express great appreciation to our colleagues on the committee on the Republican side who have worked without party barriers or banners to deal with a common issue of importance to all of us on the Great Lakes, and that is to address these issues, these areas of concern.

I also want to express great appreciation to Senators LEVIN and VOINOVICH, GEORGE VOINOVICH of Ohio, CARL LEVIN of Michigan, who both have been champions for the Great Lakes. I have known both men for many, many years, Senator VOINOVICH, particularly, going back to his years as mayor of Cleveland and Governor of Ohio. We worked together on so many issues.

We worked on economic development of the Great Lakes, water quality, trade between Canada and the United States, on the Asian carp issue, supporting funding for the barrier to the Chicago rivers, to prevent the Asian carp from getting into the Great Lakes; and then the second barrier that is authorized in the Water Resources Development Act south of the Twin Cities, to prevent Asian carp from going up the Mississippi into the inland waters of the State of Minnesota and into the upper Midwest. While there is occasionally obstruction from the other body, there are people of goodwill, good intentions and good bipartisan spirit who deserve recognition.

In the Duluth Harbor, with the Corps of Engineers and the EPA, we have had a remarkable success story in dredging bottom sediments with suction dredging and other technologies that avoid reintroduction into the water column of the removal of bottom sediments and putting them into a contained disposal facility. The Erie Pier in the Duluth-Superior Harbor has maybe 2 million cubic feet of bottom sediments that have been dredged from the harbor, deposited in the facility, with the sand filtration barrier that has allowed the water to filter back into the lake

relatively clean, not quite drinkable, but without the toxics, without the PCBs, without the mercury and cadmium and lead and other toxic metals that have been found in those bottom sediments.

What the Corps learned in this project was that the most complicated issue is that of grease, fuel oil, gasoline, other hydrocarbons that mix with the sand and the clay in the harbor bottom and become extremely difficult to extract in the cleanup process.

Attacking that issue, this is a typical issue, we had a steel mill in Duluth for nearly 100 years. Its discharges went into the harbor, and that's typical of many communities along the lower lakes that have to deal with these problems of bottom sediments. We learned a great deal from Duluth. We now need to apply those lessons to the other harbors on the Great Lakes.

It's somewhat of an embarrassment to us in the United States that Canada has cleaned up two of its three principal areas of concern and we have not done as well in the United States. This legislation sets the framework for us to move in that direction, \$150 million would have provided the funding we need to go in that direction, but we will deal with that in the next Congress.

Again, I thank all who have participated. I am pleased that the gentleman from Illinois mentioned Mr. EMANUEL from Chicago. RAHM EMANUEL has certainly been a champion on the issue on our side as well, along with a great list of Members.

Mr. Speaker, I yield back the balance of my time and ask for a unanimous vote in support of the Great Lakes Legacy Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 6460.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. BOOZMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### TAKING RESPONSIBLE ACTION FOR COMMUNITY SAFETY ACT

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6707) to require Surface Transportation Board consideration of the impacts of certain railroad transactions on local communities, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6707

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Taking Responsible Action for Community Safety Act".*

#### SEC. 2. EFFECT OF MERGERS ON LOCAL COMMUNITIES AND RAIL PASSENGER TRANSPORTATION.

*Section 11324 of title 49, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) by striking the last sentence and inserting "The Board shall hold public hearings on the proposed transaction, including public hearings in the affected communities, unless the Board determines that public hearings are not necessary in the public interest.";*

*(2) in subsection (b)—*

*(A) by striking "which involves the merger or control of at least two Class I railroads," and inserting "with respect to a transaction that involves at least one Class I railroad,";*

*(B) by inserting "the effect on the public interest, including" after "the Board shall consider";*

*(C) in paragraph (2), by striking "on the public interest";*

*(D) by striking "and" at the end of paragraph (4);*

*(E) by striking the period at the end of paragraph (5) and inserting a semicolon; and*

*(F) by adding at the end the following new paragraphs:*

*"(6) the safety and environmental effects of the proposed transaction, including the effects on local communities, such as public safety, grade crossing safety, hazardous materials transportation safety, emergency response time, noise, and socioeconomic impacts; and*

*"(7) the effect of the proposed transaction on intercity rail passenger transportation and commuter rail passenger transportation, as defined by section 24102 of this title.";*

*(3) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) and inserting a new subsection (c) as follows:*

*"(c) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall not approve a transaction described in subsection (b) if it finds that the transaction's impacts on safety and on all affected communities, as defined under subsection (b), outweigh the transportation benefits of the transaction. The Board may impose conditions governing a transaction under this section, including conditions to mitigate the effects of the transaction on local communities.";*

*(4) in subsection (d), as redesignated, by striking "The Board shall approve" and all that follows through "the transaction, including" and inserting "The conditions the Board may impose under this section include"; and*

*(5) in subsection (e), as redesignated, by striking "the merger or control of at least two Class I railroads, as defined by the Board" and inserting "a transaction described in subsection (b)".*

#### SEC. 3. EFFECTIVE DATE.

*The amendments made in this Act shall be applied to all transactions that have not been approved by the Board as of August 1, 2008.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. SHUSTER) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

#### GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6707, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

This bill before us arises out of longstanding concerns of communities along the routes of the Nation's freight rail system, particularly in cases where there is dramatic change, where a merger has occurred or is about to occur, and the result of which will be to change their quality of life.

The period of the Interstate Commerce Commission, from the 1880s until the Staggers Act of 1980, was a period of regulation necessary in the public interest but of increasing burdensome regulation that inhibited the productivity of the Nation's railroads. Many would argue that the result of deregulation was too little representation of the public interest in our freight rail system.

There are so many instances where the freight railroads have dismissed or been dismissive of or not paid sufficient attention to the concerns of communities and people that live along the railroad, the tracks that go through their cities and by their homes. There are, of course, those cases where some railroads have been very attentive and very responsive.

But the core problem is that of the Surface Transportation Board. As we looked into the issues of concerns raised by many communities along class 2 or class 3 railroads, who are about to be absorbed into a larger class 1 railroad, I find questions of the actions of the Surface Transportation Board defending the public interest.

This bill will assure that the Surface Transportation Board will have the legal authority and policy direction it needs to deal with mergers, which have potential to cause serious safety, environmental and other quality-of-life problems for the people in the communities along the route of the proposed merger.

The bill does not require the STB, Surface Transportation Board, to approve or disapprove any particular merger. It is not merger specific. It seeks only to ensure that when the STB considers mergers, it will have the authority to disapprove any merger in which the benefits from the merger are outweighed by the adverse effects on communities or safety.

It will vest in the board authority and give the board direction to fully evaluate rate crossing safety, hazardous materials transportation safety, public safety, noise, job losses, adverse economic impact. It will also, and our anticipation is, that the board will fully evaluate the benefits of a merger. There are clearly, in most of these mergers, benefits for one community that unfortunately are accompanied by adverse effects on other communities, or at least perceived adverse effects.

Now, the problem that we found in the course of the hearing and in evaluating issues leading up to the hearing in the Committee on Transportation and Infrastructure is that the action of

the board in dealing with mergers of two class 1 railroads are different authorities than are available to the board in evaluating the proposed merger of a class 1 and a class 2 or class 3 railroad.

This legislation will assure or make it clear that the board has the same authority to deal with mergers of class 1 with class 2 and class 3 railroads as it does in mergers of class 1 to other class 1 railroads.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mr. SHUSTER. Mr. Speaker, I rise in opposition to this bill, and I yield myself such time as I may consume.

I am very, very disappointed to be here today speaking on this bill. The TRACS Act is much too controversial to be considered under suspension. I wrongly believed that we had an understanding with the majority that we would continue to work in a bipartisan manner to improve this bill before we brought it to the floor. That is very unlike, very uncharacteristic of the T&I Committee. We did have one hearing. We had no subcommittee hearings. As I said, that is not characteristic of the Transportation Committee and how it works. So it is disappointing to me to bring this bill here under those circumstances.

I oppose H.R. 6707 because I am concerned that changing the Surface Transportation Board's merger and acquisition review process could have unintended consequences of hampering the growth of our Nation's railroad industry. I know that the folks who serve on the committee know how important it is that we expand the capacity of the railroad industry in this country.

One of the ways to do that is through mergers and acquisitions. It is an important part of how the industry has to grow and needs to grow because it allows railroads to invest in underutilized trackage around the country.

Some on the other side have complained that the class 1 railroads have given up track around the country. I believe they have, and they did it because they were not profitable. But here we have a situation where they are trying to use trackage that will be important to increasing capacity in this country.

This bill is likely to have a chilling effect on rail transactions. We are living in an increasingly difficult economic climate, and the last thing that we want to do is discourage investment that will improve capacity, and especially in Chicago. Anybody that ships across this country knows that Chicago is the most congested area in the country. It is a bottleneck and it is not only a bottleneck in the upper Midwest, it is a bottleneck to the entire system because so much of our freight goes through Chicago.

The port of Seattle, 70 percent of what comes into the port of Seattle flows through to Chicago. So I think

Americans need to realize how important Chicago is to the shipment of goods in this country.

In the next 20 to 25 years, we expect rail demand to increase 90 percent over today's level, and the industry will need to invest \$135 billion in infrastructure just to keep pace with this unprecedented growth. We cannot afford to discourage this investment, and I believe the TRACS Act will do just that.

It is also very troubling that this legislation will be retroactive because we are creating a new standard of review for deals reached years ago. This type of retroactive congressional action can, and I believe will, undermine confidence in our regulatory system and deserves much more scrutiny than we have given it.

This bill was introduced to kill a single merger, and this has generated significant controversy in the Chicago area, which as I said, is one of the most congested areas in the country. But it will also affect, I believe, all future rail mergers in this country.

I am unconvinced that this bill will even accomplish the goals of the Chicago community, to stop CN purchasing the EJ&E line. I understand that CN will spend an astounding \$25 million to review the environmental impacts of their acquisition of the EJ&E line. They are offering at least \$40 million to offset negative impacts of an increase in train traffic in that area and on that line.

But there is nothing in the bill that would prevent the current owner, EJ&E, from running additional trains over those tracks. If the CN deal falls through, the increase in traffic may very well happen. And the \$40 million that CN is offering to mitigate the effects, will be off the table. If that turns out, that the \$45 million is off the table, that CN is not going to put that the money into the deal, it would be very troubling for those communities.

But the STB today has the authority to increase from \$40 million to \$45 million, to mitigate those problems that they believe will occur. But if it goes too high, it also likely will kill the deal.

I am sympathetic to the needs of the communities that are affected by the deal. There are two sides, and I am sorry that we haven't heard much more from the communities that will be affected in a positive way. We hear from the suburbs, the wealthy and upper middle-class suburbs of Chicago that are fighting this, but we haven't heard from the inner city of Chicago where low-income folks will see train traffic decrease so they won't have to deal with the freight trains as much as they do today.

I am not in a position to judge whether this transaction should go forward. That is not Congress's job. It is the STB's job. The STB was not brought into this process in drafting the bill. The chairman of the STB and his staff have warned of serious concerns about the affects of this. We need

more involvement and input from the STB before we change the rules of the game.

Again, I am very disappointed we are here today. I hope we can defeat this and go back to committee and produce a bill that has broad, bipartisan agreement.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

I want to remind the gentleman that we incorporated all of the requests of the minority as we moved to create the manager's amendment to the bill, including spelling out what benefits should be considered, along with adverse impacts. We announced the hearing and invited all parties to the merger referenced by the gentleman, and welcomed all communities to participate in the hearing. Those who chose not to did so of their own accord. They were not excluded. We had a very extensive hearing in which all were welcome to participate in, and we explored fully all of the issues involved in this issue.

Now I am pleased to yield 2 minutes to the gentlewoman from Illinois (Ms. BEAN).

Ms. BEAN. Mr. Speaker, I thank the chairman for yielding and for his leadership on this important bill. I rise in strong support of H.R. 6707, the Taking Responsible Action for Community Safety Act.

I got involved in reviewing the STB's mission and decision-making process because of a proposed local transaction that would have negatively impacted communities in my district, across suburban Illinois, Indiana and other parts of the country. However, unless the STB review is clarified, communities and districts across the country could face similar challenges.

The current process has historically put the interests of industry over those of American families and taxpayers. This doesn't have to be the case. As noted by the board's most recent decision, the STB has the ability to deny an acquisition and/or mitigate on environmental grounds.

The TRACS Act clarifies their obligation as a Federal agency to protect the interests of those taxpayers who fund them. This bill will clearly require that public impact concerns are given equal consideration to those of commerce. And while the impacts on a local shipper may be important, they shouldn't outweigh the impact on communities and the citizens who live there.

The STB would be required to consider public impact on communities, including public safety, grade crossing safety, hazardous materials transportation, emergency response, noise pollution, socioeconomic impacts, and commuter rail. After review, if the adverse impacts on communities are significant or outweigh the potential benefits to commerce, then the STB would be required to disapprove or mitigate accordingly.

This is not about a particular transaction. And contrary to concerns expressed by some, it should not have a chilling effect on the ability to increase necessary rail capacity across this country. It also shouldn't adversely affect traditional rail mergers or acquisitions which don't significantly change traffic levels or community impact and are only changing a parent company.

But in those rare cases where there are drastic increases in freight traffic that can have negative impacts, the TRACS Act is a commonsense clarification to ensure the STB's balanced consideration of the railroad's commercial goals with the communities and American taxpayers whom we serve.

I urge my colleagues to support the bill.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD of Kentucky. Mr. Speaker, Chairman OBERSTAR has been a great leader in the transportation issues of our country, and certainly one of the leaders in rail transportation policy, but I would just like to say on this bill that one of the goals of the rail transportation policy of the United States is to ensure the development of a sound rail system to meet the needs of shippers and the consuming public.

I am genuinely concerned that H.R. 6707 may actually have an adverse impact on our rail system, particularly as it relates to rural communities. In rural areas of our country, at one time we had strong railroad service which contributed a great deal to the economic development in rural America. I am very much concerned that this legislation, while it has every good intention of protecting local communities, will actually be a chill to continued rail service in a lot of small communities.

The Rail Transportation Safety Board already is required to look, on rail mergers and acquisitions, to look at the public interest standard and must evaluate that. I am just concerned that this additional requirement will really be a chilling effect and will adversely impact rail service in rural America which will have an adverse impact on all of us, particularly at this time when energy prices, being as high as they are, we know that we can transport goods by rail cheaper which makes us more competitive in the global marketplace. For that reason, I would respectfully oppose this legislation.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. VISCLOSKY), the Chair of the water resources appropriations subcommittee.

Mr. VISCLOSKY. I thank the chairman for yielding, and I truly want to thank Mr. OBERSTAR for his leadership and for what he is trying to do today.

What I would like to do with my time is first of all to respond to a couple of

the observations made by my good friend from Pennsylvania on this legislation.

I would agree, I believe the chairman would agree, that the industry has to continue to evolve. It has to continue to grow. But today, the industry is here and the people of the United States are here. What Mr. OBERSTAR, what the chairman is trying to do is to make sure as the industry evolves and becomes more efficient and more profitable, which we all want, that people are considered equally.

Secondly, he mentions that this is simply a fight about one transaction and one community, the City of Chicago. He is incorrect in his assertion. The fact is there is a transaction pending. It highlights the need for this legislation. While he suggests the congestion of Chicago, I would point out that every one of those trains in Chicago happens to go through Lake and Porter counties, Indiana, which I represent.

The gentleman also suggested that there might be some costs attached to the industry if this act passed, \$25 million here, \$40 million here. The fact is we voted in this Chamber to the auto industry \$25 billion. We voted within the week to give the battery industry a couple of billion dollars. People are tripping over themselves in this place, tripping over themselves in this place, to give millions of brokers and bankers \$700 billion. What about people? What about the people of this country? That's what Mr. OBERSTAR is trying to say, instead of the railroads and the people, let's have some equity as far as these future considerations.

I would simply point out this is somewhat personal to me. In 1977, my mother was hit by a train. She survived the experience. But more pertinent to this debate, the Surface Transportation Board indicated that railroads historically have not paid more than a small share for grade separation.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. OBERSTAR. I yield an additional minute.

Mr. VISCLOSKY. Five to 10 percent of grade separation because grade separations, and this is the STB, primarily benefit the community and not the railroad.

Well, in northwest Indiana on July 8, three people died in a crossing accident in Gary, Indiana. On July 25, in northwest Indiana in the community of Griffith, there was a rail accident where three additional people were injured. In Portage, Indiana, this month, on September 3, another woman was killed in Porter County. There is one person getting killed at a train accident in the 1st Congressional District every 21 days since July 8.

I support the chairman's legislation that says let's think about people for a change. Let's have some equity in this so that people and communities are protected, just like the railroads are.

[From the Northwest Indiana and Illinois Times, July 8, 2008]

THREE DEAD IN CAR-TRAIN CRASH  
(By Dan Hinkel)

GARY.—Three people died when a freight train blasted through a car that drove around crossing gates Monday afternoon in Gary's Miller neighborhood, police said.

The victims were Marvin Alvarez, 20, of Gary, and Nicole Thomas, 21, and Rosie Godines, 18, both of Hobart, according to a spokeswoman from the Lake County coroner's office.

The busy scene at Miller Avenue and Lake Street devolved into turmoil in the hours following the 5 p.m. wreck.irate mourners scuffled with police officers and attacked cameramen from television news crews. An officer appeared to fire a Taser on a sobbing, shrieking man who joined a group of people fighting with a man who appeared to be a police detective.

All three died at the scene after the southbound Ford Taurus pulled around the gates into an eastbound CSX train's path, police said. None of the victims wore seat belts, and two of them were thrown from the car, said Gary police Cpl. Agnes Roberts. The bodies were covered with sheets near the car as firefighters cut the third body from the vehicle's wreckage in front of witnesses and bystanders gathered along the commercial strip.

"I still can't believe it and I'm standing right here looking," said Sandra Mays, of Gary.

Mays drove the first northbound vehicle in line behind the gates before the wreck. She was prepared for a long wait before the Taurus came "out of nowhere" around the gates, Mays said. She called 911 after the train plowed into the car's passenger side and pushed it about 50 feet east down the tracks. Mays said she could see that all the victims were dead.

"It happened so fast, like something you see on TV," she said.

Shirley Taylor, of Merrillville, was in the nearby Chase bank when she heard the train's horns blowing and its brakes screeching, she said. The bank manager ran outside to help, but he returned with shock on his face, Taylor said.

"He came over and told everyone there was nothing he could do," Taylor said.

The victims' relatives descended on the scene about 6 p.m. A small group of furious men alternated between sobbing inconsolably and bellowing profane threats at police, firefighters, clergy, bystanders and news reporters. A man who identified himself as Alvarez's brother struggled with officers. A man threw a rock at a television cameraman. Another man was arrested after a fight in the Chase bank parking lot. He was handcuffed and apparently stunned with a Taser. Gary police were not available Monday night to comment on the fights after the crash.

The train's nine cars and two locomotives were headed from Chicago to Columbus, Ohio, said CSX spokesman Gary Sease. No one on the train was hurt, Sease said.

[From the Northwest Indiana and Illinois Times, July 26, 2008]

TRAIN HITS TRUCK, INJURES THREE  
(By Vanessa Renderman)

GRIFFITH.—Three people suffered minor injuries Friday when a train hit a tractor-trailer, knocking a 20-ton piece of construction equipment off the truck bed and forcing the truck into two occupied vehicles.

"I've never seen anything like this," Griffith Cpl. Ryan Bottiger said.

The accident occurred early in the afternoon at the intersection of Main Street and Wiggs Avenue.

The front of an eastbound Canadian National train struck the back end of a Gimmer Construction tractor-trailer that was crossing the tracks. The crossing has no gates, but the lights were working, Bottiger said.

A westbound train on parallel tracks had just gone through the crossing.

The driver of the tractor-trailer, who declined to give his name, said the car in front of him crossed the tracks, and he started to cross. Because of the angle, he didn't see the eastbound train coming. By the time he did, it was too late, and the back end of his truck got clipped, he said. The driver suffered an abrasion to his chin.

The force shook loose a 20-ton piece of construction equipment that was chained to the rear of the tractor-trailer. The equipment rolled, gouging chunks of asphalt from the street. It landed on a grassy residential corner and leaked diesel fuel and hydraulic fluid, which crews cleaned up, Bottiger said.

The tractor-trailer hit two vehicles that were in the oncoming lane, including the gray Mercury Montego that Merrillville resident John Holliday was driving.

Holliday said he was waiting for a westbound train to pass. When it did, a vehicle in the oncoming lane crossed the tracks. Holliday then heard a train whistle and saw the tractor-trailer cross the tracks and get hit, before barreling toward his car.

"At that point, all I could see was a truck coming head first, straight on," he said. "It's kind of a bad feeling, seeing a truck coming right at you."

Holliday's car was hit on the front passenger side. The airbag deployed, which burned his hand. He saw the 20-ton piece of construction equipment roll off the truck.

"It looked like out of a movie," he said.

Although Holliday was alone in his car, the other vehicle that was struck had four occupants, three of whom were children. The driver was transported to a hospital with nonlife-threatening injuries and a relative picked up the children, Bottiger said.

Bottiger said Friday afternoon he didn't know whether any citations would be issued.

[From the Northwest Indiana Post-Tribune, Sept. 4, 2008]

PORTAGE WOMAN, 43, DIES WHEN HIT BY TRAIN

PORTAGE.—Police are continuing to investigate the death of a Portage woman who was killed Tuesday night when a train hit her.

Linda Evola, 43, of 5075 Lincoln St., was declared dead at 11:04 p.m. Tuesday from massive blunt force trauma, Porter County Coroner Victoria Deppe said.

Evola was hit by an eastbound CSX train near Don's Motel, 5500 U.S. 20, around 10 p.m. Tuesday, according to a Portage Police Department release.

Sgt. Keith Hughes said two engineers on the train saw Evola walking west on the tracks and sounded the train's horn. The engineers said Evola looked up, Hughes said, but she did not move off the tracks.

"At this time it's still unknown whether she intended to do it," Hughes said.

Deppe said that right now her office is ruling the death an accident.

"She did live near the train," Deppe said. "That was a place people cut through."

She also said that it does not appear drugs or alcohol played a part, although her office is running toxicology tests.

□ 1245

Mr. SHUSTER. May I inquire as to how much time I have remaining?

The SPEAKER pro tempore. The gentleman has 13½ minutes remaining.

Mr. SHUSTER. I would like to yield myself 30 seconds just to respond to

what the gentleman mentioned about the automotive industry and the \$25 billion loan they want and about the \$700 billion.

Well, the good news in this debate today about the railroad industry is that the railroad doesn't need it. The railroad industry is successful, and we need to make sure that they continue to be successful and that they don't require any kind of assistance from the Federal Government. They're the only freight rail system in the world that doesn't require the Federal Government's propping it up. So that's a good news story here today, and that's what we want to keep doing.

I would also like to submit for the RECORD a letter from the Association of American Railroads and the short lines in this country that are directly affected by this legislation, and they are opposed to it.

ASSOCIATION OF AMERICAN RAILROADS,  
Washington, DC, September 27, 2008.

DEAR REPRESENTATIVE: The House may consider H.R. 6707 on the suspension calendar today. The Association of American Railroads (AAR) and the American Short Line and Regional Railroad Association (ASLRRRA) strongly oppose H.R. 6707—Taking Responsible Action for Community Safety Act.

Under current law, the Surface Transportation Board (STB) must evaluate the merits of a railroad merger transaction under a "public interest" standard if it involves two Class I railroads. The STB's evaluation takes into account and weighs all issues relevant to the public interest including efficiencies, productivity gains, capacity improvements, and environmental benefits that the transaction will realize.

H.R. 6707 would distort that standard and STB evaluation process by requiring the STB to specifically weigh the adverse impacts on safety and local communities against the transportation benefits of a merger.

The bill's mandate for the STB's evaluation to specifically focus on the impact on local communities as a counterweight to the overall transportation benefits that a merger would otherwise realize can result in the disapproval of mergers with significant benefits to the public and to the nation solely because of "nimby"ism. This would clearly be at odds with rail transportation policy at 49 USC 10101 which has as a goal the development sound transportation system to meet the needs of the public.

The bill's requirement for a specific STB focus on local impacts creates an additional regulatory burden and imposes potentially conflicting regulatory requirements. The costs and uncertainties arising from the proposed regulatory process will further discourage parties from entering into transactions that could otherwise bring significant transportation and other public benefits.

For all of the above reasons we strongly urge a no vote on H.R. 6707.

EDWARD R. HAMBERGER,  
President & Chief Executive Officer, Association of American Railroads.

RICHARD TIMMONS,  
President & Treasurer, American Short Line & Regional Railroad Association.

Mr. SHUSTER. I would like to now yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I rise in strong support of the TRACS Act legislation being presented here.

I thank the chairman of the committee, Mr. OBERSTAR, for all of the work that he has done on this bill, and I'm really very proud to be an original cosponsor on it.

I really believe in the rail system. I believe in our transportation system, and I think that we have always put our railroads in a very high context as far as being able to move our goods across this country and being able to ship at a reasonable rate. A situation has come up, something that, I think, is very unfair, and I think it is what this legislation will address.

In considering a merger, the STB is required to look at how it affects Congress. If there is just one major rail, just one—a class A—then they don't have the same requirements that other mergers have. If it's a class 1 and more than a class 1, then the STB, the Surface Transportation Board, is required to consider the safety and environmental effect of the proposed transaction, including the effects on local communities: the traffic congestion, the grade crossing, the public safety, the socioeconomic impact, and the traffic congestion—commuter rail and Amtrak.

The clarification that we want to make is, if there is just one of the class 1 rails, then they need to take these same things into consideration.

Mr. WHITFIELD of Kentucky talked about the rural area. I think we're really looking at congested areas, when a merger is to take place that will affect an area of densely populated areas such as the suburbs of our great cities. It's not just one area that's going to be affected. Mark my words that these types of merger requirements will affect so many more than just the Chicago area, as was suggested by the chairman of the subcommittee.

I don't think that our purpose here today is to kill any merger. It is to clarify and to make sure that there is fairness in what the Surface Transportation Board will look at. Will they look at just the commerce and competitiveness of two rail lines and how it will affect all of the competition between all of the rails or will they also take into account the effect on the public interest and on the communities that are involved?

Now, in the area that we've been talking about in Chicago, I have to say that this is an area that has grown up around the railroads. It has increased to such a dense population that socioeconomic issues are affected, that public safety is affected and that traffic congestion is affected. All we want is to clarify that the Surface Transportation Board can take that into account.

I have just one other clarification about mitigation. I didn't want to get into specifics, but in this issue, the mitigation would be \$30 million. Now, I have in my community a rail crossing

that is being put underground, and it has nothing to do with this other line. The cost of that is \$53 million to have a separate grade crossing. So, when we talk about \$30 million that would affect at least 40 communities and at least 141 rail crossings, I think this is something to consider.

So it's just a clarification, and I would urge my colleagues to vote for it.

I thank the chairman so much for bringing this up and for having a hearing which, I think, was very open.

Mr. OBERSTAR. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from Minnesota has 9 minutes remaining. The gentleman from Pennsylvania has 10 minutes remaining.

Mr. OBERSTAR. I yield 3 minutes to the distinguished gentleman from Illinois (Mr. FOSTER).

Mr. FOSTER. Mr. Speaker, I rise in strong support of H.R. 6707, the Taking Responsible Action for Community Safety Act.

I would like to thank Chairman OBERSTAR, who has displayed exemplary leadership on an issue of great importance to so many American communities.

The need for this legislation came to my attention as a result of a specific situation spanning several districts in Illinois and in Indiana, but the issue it addresses is national. Let me explain.

For several months, families and businesses in my district and in nearby districts have overwhelmingly declared their opposition to Canadian National's potential acquisition of the Elgin, Joliet and Eastern Railway, which is currently pending before the Surface Transportation Board. I have heard from many of my constituents in public forums, on the phone and in private meetings. They've held rallies and have petitioned the STB in writing, but their voices have gone unheard. At this point, the only criterion the STB must consider in evaluating this deal is whether the proposed transaction would have an adverse effect on competition among the rail carriers in the affected region.

Sadly, the public interest has been largely left out of this process even though the public stands to lose the most in this transaction. There will be no improvement in the quality of life in the region and no economic upside. The recently released draft of the STB's environmental impact statement estimates the acquisition will lead to a loss of 300 jobs in the region. It will also unreasonably saddle local taxpayers with the cost of the mitigation of this project. The study provided, at best, a vague and incomplete study of the 133 grade crossings in the area and, from this, recommended that Canadian National pay only 5 to 10 percent of the mitigation cost. Grade separations cost approximately \$50 million each, and the STB apparently expects local communities to shoulder most of this burden.

Let's see: Private profits, socialized bailout costs. Does that sound familiar to anyone around here?

The deal also raises serious public safety concerns, many of which are simply glossed over in the draft study. Increased traffic on the EJ&E will raise the probability of train accidents by 28 percent. Further, the ability of local police, fire and EMS services to respond to emergencies in the affected communities will be hampered by blocked intersections. Once again, Canadian National is not directed to help fund projects that will mitigate this potentially life-threatening problem.

Now, how does H.R. 6707 address this type of situation? Simply speaking, H.R. 6707 would compel the STB to consider the public interest as well as purely commercial considerations in its judgment of a proposed railway merger. The legislation would require the STB to determine a transaction's effect on public safety, on grade crossing safety, on hazardous materials transportation, and on emergency response time. Such a proposal would be approved when it is consistent with the overall public interest and rejected when it is not.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. OBERSTAR. I yield the gentleman 1 additional minute.

Mr. FOSTER. Mr. Speaker, H.R. 6707 is a much needed enhancement of current statute. While this legislation is an immediate response to one proposed acquisition, it will ultimately protect communities across the country.

To be clear, I do not mean to oppose all railway transactions. Railways are an extremely efficient means of transportation, and their use can and should increase in response to rising fuel prices. However, transactions like the EJ&E acquisition should only proceed when there is an overall commercial and economic benefit. This is not the case here. There is something seriously wrong with a process that leaves out the public and that deflects the cost of these acquisitions and traffic increases on to local communities. H.R. 6707 will help change this.

I urge my colleagues to support this important legislation.

Mr. SHUSTER. I yield 3 minutes to the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. First of all, I want to thank Chairman OBERSTAR for his leadership and for his willingness to listen and for his thoughtful approach on this and for how he has brought, really, a bipartisan group together in trying to drive towards a solution.

Since coming to Congress, I've noticed that, many times, what we need to do is to spend time bringing statutes up to date, and this is just one of those examples. We've been struggling over these past several days with the financial markets and, in many cases, with a regulatory environment that isn't regulating properly. Well, here is an

opportunity for us to be proactive and to bring a regulation up to date to really deal with current needs. Giving the Surface Transportation Board the authority to consider a couple of things, I think, is very thoughtful and very wise and very measured. This is what this bill is about.

It says that the Surface Transportation Board in these transactions has to consider a couple of things. It has to consider the impact on safety and the environment. It has to consider the impact of grade crossings, of HAZMAT, of emergency response time, and of noise. In my view, those are not unreasonable requests. It doesn't predetermine an outcome. It doesn't say what they need to do with that information, but it says, as a matter of record, that they have to consider that.

Now a word about Canadian National: Whether or not Canadian National decided to show up at a hearing is really their prerogative. I just confirmed with the chairman that they were welcomed to show up. This is a pattern, frankly, that we've seen with Canadian National in our community where we were told they would show up at any time and at any place to talk to anyone, but when a forum was created, they waived off of that.

Now let's just set that aside. Here we have a chance to create a statute that says, if you're going to increase rail traffic through a community, you've got to consider the cost, and you've got to consider the cost on the community.

The gentlelady from Illinois (Mrs. BIGGERT) spoke a couple of minutes ago about the cost of one of these rail crossings and of the cost of a grade separation. They are a thing to behold, and they are incredibly expensive. The fact that Canadian National in this particular case has several tens of millions of dollars on the table doesn't anywhere near answer the cost to local taxpayers who would be asked to bear the burden with very little benefit.

So I think the chairman's approach on this—the way he has brought a bipartisan group together around it and the thoughtfulness of it and, really, the holistic way that this would be evaluated—is a very light touch, in fact, and he is not coming down with a heavy hand. I am strongly supportive of it.

Mr. OBERSTAR. Mr. Speaker, I have no further speakers at this time. I just want to reinforce what the gentleman said, however, and I yield myself 30 seconds.

The CEO of Canadian National Railway not only was invited to participate—and I, actually, reached out to the railroad—but Hunter Harrison, their CEO, testified in person.

I continue to reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Pennsylvania has 7½ minutes remaining.

Mr. SHUSTER. I now yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, this bill is quite interesting because, if you take a look at the Surface Transportation Board's weighing an application for a merger, one would think that items such as the safety of the people, the backup of traffic, incremental delays at crossings, and hundreds of school bus crossings per day on impacted tracks would have some type of a consideration.

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The problem is that under the present law, in an oversight made in 1995, whenever the Surface Transportation Board tries to weigh the impacts on local communities, the only criteria that is used is whether or not it violates antitrust laws. And ironically, issues of safety are not taken into consideration. And that's shocking.

It's apparent that there is a big problem in this bill. The bill has application across the country. It has particular application to northern Illinois to tens of thousands of my constituents that have to travel through the town of Barrington, which is in Congresswoman BEAN's district. To these folks, the backup of traffic is significant. The inability to get to work on time; the fact that, from what we understand, Canadian National plans on putting in trains that are 2 miles long clogging all three intersections in the village of Barrington at the same time. And it's through that village that there are 800 school bus crossings each day.

And it's amazing that this bill tries to correct something so elementary as to say whenever there is a request to merge railroad companies, that safety should be a consideration.

I'm here today to offer my unqualified support for the Taking Responsible Action for Community Safety Act (H.R. 6707). This bill, which I'm proud to co-sponsor, will help solve a left-over problem from when Congress abolished the Interstate Commerce Commission in 1995. The Surface Transportation Board, STB, took over the functions of the ICC with the missions of resolving railroad rate and service disputes and reviewing proposed railroad mergers. Current law gives the STB considerable discretion to disapprove transactions involving at least two Class I rail carriers but allows much less flexibility to disapprove transactions like CN's proposed acquisition of the EJ&E. In fact, the law states that the STB "shall" approve the transaction "unless" the Board determines it will hurt competitiveness, restrain trade, or fail to meet significant transportation needs. In plain English, this means that the STB will not stop a transaction because of local community concerns unrelated to anti-trust issues. This may seem like semantics, but it's an important distinction that has long tipped the scale toward privately owned rail carriers and away from the communities who have to live with them.

In northern Illinois, the community of Barrington is unalterably opposed to the proposed sale of the EJ&E line to the Canadian National, CN, Railway, as evidenced by the thousands of people that showed up to the STB scoping session last January and their formal hearing last August. This is not because of a

NIMBY syndrome—everyone understands the need to improve the national rail transportation network and would be willing to compromise. But having additional freight train traffic traverse on the existing aging EJ&E track will not be just a simple minor inconvenience—it will fundamentally alter the entire nature of this picturesque town.

While I do not directly represent Barrington, Illinois, I am honored to serve the thousands of commuters who live in southern McHenry County who must travel through Barrington, either by car or rail, to get to work or to perform daily errands. While I've been concerned about this deal since day one, a Draft Environmental Impact Statement recently released by the STB confirmed many of my worst fears about increased accident risks, increased air pollution, increased exposure to hazardous material, and increased traffic. The report also acknowledged that railroads traditionally only contribute 5 to 10 percent of the costs to mitigate these problems. That would leave taxpayers paying the tab for a transaction that solely benefits a private company's bottom line.

I say it's not about what's traditional. It's about what's fair. And the people from the 16th District of Illinois, who I've had a plenty of chances to talk with over the past few weeks, agree with me.

H.R. 6707 corrects an oversight made in 1995 and requires the STB to weigh impacts on local communities more heavily when considering any railroad transaction. In fact, the STB would have to reject a proposed acquisition if it finds that transaction's impacts on the affected communities outweigh the transportation benefits. Congress should learn from this experience with this particular transaction and make sure that no community in the Nation will ever have to go through what Barrington is experiencing now.

In this particular case, I understand that this transaction could have some macrobenefits, but CN accomplishes that goal primarily by exporting the train congestion problems in downtown Chicago to outlying suburban areas such as Barrington. Tens of thousands of motorists in northern Illinois—especially those in McHenry County—travel through Barrington on their way to work each day, crossing the EJ&E line at Route 14, Route 59, and Lake-Cook Road. Approximately another 4,000 commuters from McHenry County ride Metra rail to work in the Chicago-land area each day, crossing the EJ&E line in Barrington. All of these people will be affected by additional CN freight traffic.

At the very least, they are going to encounter inconvenient delays and increases in air pollution. At the worst, it could become a matter of life and death. Not only could emergency responder vehicles become trapped on all sides by a train, but school buses in the Barrington school district cross the EJ&E lines about 800 times a day. Additional freight trains could quadruple the safety risk of students who traverse the crossings each day.

In closing, I'd like to express my appreciation to my friend JIM OBERSTAR, the chairman of the Transportation Committee, for introducing this piece of legislation and for working with me and others in the suburban Chicago delegation in a bipartisan manner. I urge my colleagues to support H.R. 6707 today.

Mr. OBERSTAR. Mr. Speaker, may I inquire of the gentleman if he has any further speakers.

Mr. SHUSTER. We have none. I am prepared to close.

I have how much time left?

The SPEAKER pro tempore. The gentleman has 5½ minutes.

Mr. SHUSTER. Again, I just want to reiterate the reasons that I oppose this bill today. First and foremost, the Transportation and Infrastructure Committee is a committee that does its homework usually, that works hard to understand the issues and come forth with something that is good legislation, and it's also bipartisan. And I think that in this situation, we're not able to reach that standard that we typically do in the Transportation and Infrastructure Committee. Not bringing in the STB to have them at the table, the experts, to really understand how the nuts and bolts of this legislation going forward is going to have a chilling effect, I believe, on our rail industry.

We do have the most efficient, the safest railroad industry in the world. It's the gold standard. Countries around the world look at our rail industry and want to copy it, want to try to have that type of freight industry in their countries.

But we in Congress sometimes do our best to try to make it extremely difficult for them to operate, to cause them to put mandates on them that I don't believe serve the best interests of not only communities, but of the rail industry and of our economy.

As I said, we have the most efficient and safest rail industry of the world, and we should continue to want to see that so that we don't, down the road 10 years, 15 years, see the rail industry coming to Congress asking them to bail them out.

As I said, I believe there are going to be unintended consequences of this bill. There are going to be negative effects on the growth of the railroad industry which we desperately need to see going forward as I talked earlier about the increase and demand for rail. The retroactive provision is going to undermine the confidence in our regulatory system, and it's going to, as I said, have a chilling effect on investments when rail companies in the future want to merge.

The CN and EJ&E deal, if it's killed, the increase in traffic can still occur on those lines. The situation is going to be, though, that the EJ&E is not going to have to put \$40 million of money into mitigating some of the problems and the increase in traffic. So I think that's going to be bad for those communities.

And we can't forget the benefits that decreased congestion in Chicago is going to have on America. And also, most importantly, as I said earlier, we're not hearing from those low-income communities in Chicago that have hundreds of trains going through their neighborhood every week. They are going to see a decrease. That voice of those low-income neighborhoods is not being heard, is not being addressed

because that is what is going to happen here. Those neighborhoods will benefit also with a decrease in traffic if we are able to spread out trains to decrease that bottleneck that's occurring in Chicago.

So I urge my colleagues to vote "no" on this piece of legislation, and I urge other members of the committee, let's go back to the committee, let's work together and produce something that we can see improvements to the STB that will be a positive for the communities as well as the economy of this country.

With that, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Minnesota has 4½ minutes remaining.

Mr. OBERSTAR. Mr. Speaker, I yield myself the balance of our time.

This is not a retroactive measure. It does not undo any transaction in the works or already concluded. It sets standards for all railroads, for all considerations of acquisition by class 1 or class 2 or class 3 railroads, sets up standards, reinforces authority that the Surface Transportation Board chairman has said they thought they had authority over environmental review but they've never exercised it. They're concerned that if they did, they might have some legal difficulties. We're clarifying that the board has authority to act on environmental issues raised by communities.

We did hear from those inner city communities who testified in person at the hearing at the request of the gentleman from Illinois (Mr. LIPINSKI). I have heard railroads don't need help from the Federal Government. Well, they shouldn't. The Federal Government gave the railroads, between 1850 and 1871, 173 million acres of public land, 9 percent of the total surface area of the United States, for the public use, convenience, necessity, and benefit of the Nation to own and control the resources above and below ground: the timber resources as well as the coal and, in many cases, oil and gas, and other minerals; and the right to sell those properties. The railroads have sold billions of dollars' worth of public land that were given to them for the public trust. And they're not without their requests to the Congress. They've spent a considerable amount of time, the Association of American Railroads, lobbying the House and the Senate for a 25 percent investment tax credit to increase their capital investment. I'm for it. I think that's a reasonable investment to make. I think we ought to help railroads do that. I think we ought to ensure that they use that tax credit for those capital investments. It's a reasonable request, but they're not without their hand out to the Federal Government.

Why should the railroads take the position that they are above review? When other forms of transportation are subject to public scrutiny by the communities affected by road construction,

bridge construction, transit, light rail, commuter rail, all are subject to citizen review. Railroads cannot take the position that they're above review. They, too, take actions that affect the citizens and the communities that reside along their lines. And all we're providing in this legislation is a process within which those actions taken by railroads would be subject—class 1 to class 1, and class 1 to class 2 and class 3 should be considered in the same way.

That's all this legislation does.

I ask for a very resounding "aye" vote for this long overdue legislation.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR) that the House suspend the rules and pass the bill, H.R. 6707, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SHUSTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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APPOINTMENT OF HON. STENY HOYER AND HON. CHRIS VAN HOLLEN TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH REMAINDER OF SECOND SESSION OF 110TH CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
September 27, 2008.

I hereby appoint the Honorable STENY H. HOYER and the Honorable CHRIS VAN HOLLEN to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Tenth Congress.

NANCY PELOSI,  
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

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PROVIDING FOR THE PRINTING OF A REVISED EDITION OF THE RULES AND MANUAL OF THE HOUSE OF REPRESENTATIVES FOR THE 111TH CONGRESS

Mr. FOSTER. Mr. Speaker, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?