

Freight Railroad Industry FAST Act Reauthorization Priorities

Fueled by billions of dollars in private spending on infrastructure and equipment — averaging \$25 billion annually — the freight railroad industry's top priority in FAST Act reauthorization legislation is to preserve its ability to serve its customers and compete successfully in a safe, efficient and cost-effective manner. In addition to maintaining the current balanced rate and service regulatory framework, which is fundamental to the railroads' ability to earn enough to maintain a 140,000-mile railroad network, Congress should consider the following policy priorities:

1. Highway-Rail Grade Crossing Safety

Reducing accidents and fatalities at highway-rail grade crossings is of paramount importance given that most collisions are preventable. Engineering solutions (such as closing unneeded crossings and upgrading warning devices), education and enforcement are key. Thanks in part to the Section 130 federal program, grade crossing collisions are down 36% since 2000, but much work remains.

- The federal Section 130 program, which provides funds to eliminate hazards at highway-rail grade crossings, should continue to receive dedicated, formula funding out of the Highway Safety Improvement Program.
- Funding for Section 130 should be maintained at least at current levels (\$245 million in fiscal year 2020) or increased.
- Increase Section 130 incentive payments for grade crossing closures from the current cap of \$7,500 to \$100,000.
- Expand flexibility in the use of Section 130 funds by eliminating the arbitrary 50% cap on spending for hazard elimination projects and by enabling replacement of certain protective warning devices.
- Enable costs by public and private entities incurred for preliminary engineering for grade crossing projects to be counted toward the non-federal share.
- Enable or incentivize states to bundle grade crossing projects into a single grant application under applicable discretionary grant programs, such as BUILD, INFRA or CRISI.
- Require or incentivize accelerated deployment of navigational warnings for motorists (e.g., smartphone apps) to warn of grade crossings.
- Require future fleets of automated vehicles to provide grade crossing warnings and/or prevention of incursions into grade crossings where gates or other devices have been activated.
- Require grade crossing safety training in driver education curricula at NHTSA through recommendations to states.
- Authorize at least \$3 million per year for Operation Lifesaver through FHWA, FRA and FTA.

2. Innovations for Deployment of Safety Technologies

Freight railroads require a modernized approach to federal regulations that allows them to innovate with new technologies and processes for an even safer and more efficient rail network. The current regulatory approach to rail safety is largely prescriptive and does not easily allow for the incorporation of the best technologies to improve safety and performance. Safety and efficiency improvements should be encouraged by the FRA.

3. Project Permitting Reforms

While much has been done in recent years to cut the red tape associated with infrastructure project approval and construction, more can be done to fast-track routine maintenance and replacement construction projects without sacrificing environmental or historical preservation concerns. These include:

- Codify that a categorical exclusion and a Finding of No Significant Impact are the only NEPA documentation needed on projects where replacement of infrastructure on existing operating railroad right-of-way is the purpose.
- Convert select executive orders on streamlining the permitting process – such as timeclocks, intermediate deadlines and One Decision for large projects – to statute.
- Continue streamlining the Sec. 106 historic preservation review process, especially for projects needed to enhance or maintain safety.

4. Support Funding for Amtrak & Public Partnering with Freight Railroads

The freight railroad industry supports funding for grant programs that enable the public sector, including state and local governments and passenger and commuter railroads, to partner with freight railroads to advance projects of mutual interest, including projects to help lessen road and port congestion, enhance safety at highway-rail grade crossings, improve port connectivity, facilitate intercity passenger and commuter rail service and improve the quality of life for communities. The following programs should continue to be authorized at existing or increased levels:

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

5. Restore the Highway Trust Fund to a True User-Based Fund

The current underpayment by road users, especially commercial trucking, has required a transfer of some \$144 billion in General Funds to the HTF over the past ten years. Consequently, the rail sector is perennially placed at an unfair competitive disadvantage.

- Support mechanisms such as an increase in the gas tax, a vehicle miles traveled fee or a weight-distance tax that could help remedy this fundamental imbalance.
- Oppose measures to fund the HTF that would increase taxes or fees on freight railroads.
- Retain a competitive tax environment for the private sector.

6. Oppose Policies that Harm Railroads' Ability to Operate Safely & Efficiently

Congress must reject policies that would disadvantage the freight railroad industry, the most environmentally-friendly way to move freight over land. These include:

- Proposals to allow longer and heavier trucks on roads, bridges and highways, until, at a minimum, trucks of all legal dimensions pay the full cost of the damage that they cause to publicly-provided infrastructure.
- Mandates requiring specific operating models, such as railroad crew size.
- Mandates resulting in property takings on railroad rights of way for utility or broadband access.

