

Freight Railroad Industry FAST Act Reauthorization Priorities

Fueled by \$25 billion in average annual private investments in infrastructure and equipment, 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. Freight railroads are the most sustainable way to move freight over land. If just 10% more freight moved by rail, fuel savings would be more than 1.5 billion gallons per year and annual greenhouse gas emissions would fall by more than 17 million tons. In addition to maintaining the current balanced rate and service regulatory framework, which is fundamental to the railroads' ability to earn enough to maintain their 140,000-mile railroad network, Congress should also 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 sustained federal funding, grade crossing collisions are down 36% since 2000, but much work remains.

Section 130 Railway-Highway Crossings Program

- Ensure that the Section 130 program, which provides funds to eliminate hazards at highway-rail grade crossings, continues to receive dedicated formula funding out of the Highway Trust Fund (HTF) and that funding for the program be maintained at current levels (\$245 million in FY 2020) or increased.
- Increase incentive payments for grade crossing closures from the current cap of \$7,500 to \$100,000.
- Expand flexibility by eliminating the arbitrary 50% cap on spending for hazard elimination projects and by enabling replacement of certain protective warning devices.
- Enable costs incurred by public or private entities for preliminary engineering for grade crossing projects to be counted toward the non-federal share.

National Highway Traffic Safety Administration

- Require future fleets of automated vehicles to provide grade crossing warnings and/or prevent incursions into grade crossings when gates or other protective devices have been activated.
- Provide funding for research related to combatting dangerous driver behavior at grade crossings.
- Incentivize states to incorporate grade crossing safety training into driver education curricula.

DOT Discretionary Grant Programs

- 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.
- Provide preference for the award of grants under the CRISI program to applicants that plan to undertake grade crossing projects.

Additional Grade Crossing Safety Initiatives

- Authorize Operation Lifesaver for at least \$3 million per year through FHWA, FRA, and FTA.
- Require or incentivize accelerated deployment of navigational alerts (e.g., smartphone apps) to warn motorists of approaching grade crossings.
- Require the FRA to update its resource guide to assist communities and universities with accessing tools and information on how to best address grade crossing safety.
- Direct the FRA to update and improve its data collection practices regarding grade crossings to provide public officials with better analytical tools to identify and address unsafe grade crossings.

2. Innovations for Deployment of Safety Technologies

Freight railroads require a modern regulatory approach that will allow for them to incorporate new technologies and processes in order to create an even safer, more efficient rail network. Safety and efficiency improvements should be encouraged by the FRA. However, 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. Freight railroads support the larger goal of moving toward a more performance-based regulatory framework, as well as the use of pilot programs to prove new technological applications that drive safety and efficiency improvements. Such pilots are designed to provide the railroad and safety regulators with data that demonstrate achievement of desired safety outcomes.

3. Project Permitting Reforms

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

- Codifying that a categorical exclusion and a Finding of No Significant Impact are the only NEPA documentation necessary for projects where replacement of infrastructure on existing operating railroad right-of-way is the purpose;
- Converting select executive orders on streamlining the permitting process, such as timeclocks, intermediate deadlines and One Decision for large projects, to statute; and
- Continuing to streamline the Section 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 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 funded at \$1 billion).
- CRISI Discretionary Grants (\$330 million in FY 2020).
- Federal-State Partnership for State of Good Repair Grants (\$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 the commercial trucking industry, has required a transfer of some \$144 billion in General Funds to the HTF over the past ten years. Consequently, the rail industry is perennially placed at an unfair competitive disadvantage in the freight transportation sector.

- 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. Support Additional Policies that Enhance Safety on the Railroads

- Support the Inclusion of mechanical employees in drug and alcohol testing requirements.
- Support legislation to make permanent the 45G tax credit to upgrade track infrastructure for short line railroads (HR 510/S.203 BRACE Act).

7. 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 permitting longer or 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 a minimum railroad crew size;
- Property takings of railroad rights-of-way for utility or broadband access; and
- Mandates to prohibit the transportation of liquefied natural gas by rail.