

# Concerns with the INVEST in America Act

America's freight railroads are extremely disappointed in the INVEST in America Act and urge opposition to the bill. Congress should be looking towards commonsense solutions to fund America's infrastructure, not partisan policy riders or unnecessary operational requirements.

Real, transformational infrastructure investment is within reach, and railroads implore the House Transportation and Infrastructure Committee to work together to create a product that all can support. Below is a fulsome list of provisions that are concerning or need improvement.

**Sec. 9506. Freight train crew size safety standards:** This anti-technology provision would prevent any freight railroad staffing modernization in perpetuity without providing any safety benefit. Staffing has historically been determined through collective bargaining.

**Sec. 9607. Unfunded mandate to replace locomotives:** The provision would require a wholesale replacement of the locomotive fleet manufactured before 2008. Because locomotives are long-lived assets, but zero-emission locomotives are not yet commercially available, this short-sighted mandate would force the freight rail industry into replacing their existing locomotives with more internal combustion engines that will be in service for decades, delaying the industry's adoption of zero-emission locomotives and ultimately undermining the industry's efforts to reduce greenhouse gas emissions and combat climate change.

**Sec. 8202. Transportation of liquefied natural gas (LNG) by rail tank car:** The effective prohibition of the safe movement of LNG by rail is unnecessary as the Department of Transportation has already completed its rulemaking following extensive consideration, public comment, and research. This includes a real-world tank car test and the additional research being undertaken pursuant to the FYs 2020 and 2021 THUD Appropriations bills.

**Sec. 9204. Amtrak preference enforcement:** With the metrics and standards rulemaking complete, legally enforceable contracts already in existence, and two other options for legal recourse, this provision is unnecessary.

**Sec. 9402. Surface Transportation Board mediation of trackage use requests:** Commuter railroads already have access to nonbinding mediation at the STB. These proposed changes only add confusion and uncertainty to the existing process.

**Sec. 9403. Surface Transportation Board mediation of rights-of-way use requests:** Commuter railroads already have access to nonbinding mediation at the STB. These proposed changes only add confusion and uncertainty to the existing process.

**Sec. 9502. FRA safety reporting:** FRA already requires the reporting of all relevant factors in an investigation report form. These proposed changes are unnecessary.

**Sec. 9507. Border crossings:** The effective prohibition on the limited ability of certain Mexican train crews to continue to operate in the U.S. will decrease safety and security of operations, reduce network fluidity, lead to increased blocked crossings in Laredo, Texas, and could negatively impact U.S. jobs.

**Sec. 9508. Yardmaster hours of service:** Yardmasters are already required to abide by all hours-of-service laws when engaged in an activity that could affect the safe operation of a train. This provision is unnecessary.

**Sec. 9553. Establishment of 10-minute time limit for blocking public highway-rail grade crossings:** Each of the nation's 200,000 grade crossings are different. This proposed one-size-fits-all solution will lead to unintended consequences, including network congestion and reductions in service.

**Sec. 1204. Railway crossings:** Freight railroads are fully supportive of a robust Section 130 program but were disappointed in the numerous changes found in the INVEST in America Act, most significantly the decision to no longer recognize railway-highway crossing projects as highway safety projects. (Funding authorizations can be found in Sec. 1104.)

**Sec. 1619. Natural gas, electric battery and zero emission vehicles:** AAR opposes any changes to federal commercial vehicle length or weight limits.

**Sec. 4302. Alcohol and controlled substances testing:** Freight railroads request the ability to utilize oral fluids drug testing as well.

**Sec. 4405. Underride protection:** The ability to continue to stack chassis is imperative to port fluidity.

**Sec. 5304. Study on safe interactions between automated vehicles and road users:** Autonomous vehicles (AVs) have the potential to substantially improve highway-grade crossing safety by reducing or eliminating human error by motor vehicle drivers. The study of AVs and their interaction with highway-grade crossings should be included.

**Sec. 6006. Study of freight transportation fee:** American freight railroads currently spend \$25 billion of their own funds yearly to improve and maintain their infrastructure. AAR opposes any additional taxes to fund our biggest competitors' infrastructure.

**Sec. 9205. Use of facilities and providing services to Amtrak:** Tilts the balance at the Surface Transportation Board (STB) when determining if additional passenger service is required to be allowed on host track by creating a presumption that the resumption of passenger trains will not impair freight transportation and eliminates public hearing requirements.

**Sec. 9501. Study on safety impact of long trains:** Requires one-sided analysis of longer trains without exploring any of the potential benefits including improved efficiency, service, or environmental benefits.

**Sec. 9503. Waiver notice requirements:** Potentially increases the difficulty in attempts to safely implement new technologies or operations.

**Sec. 9505. FRA accident and incident investigations:** All formal accident and incident investigations should be on the record to ensure accurate and verifiable facts.

**Sec. 9509. Leaking brakes:** This provision is unnecessary as this issue is currently being addressed, focusing first on unit trains most at risk for defect. Technology should be allowed to verify cars with effective brakes.

**Sec. 9511. Fatigue reduction management plans:** Attempts to speed up the ongoing rulemaking process without considering relevant comments submitted. Ignores the challenges associated with using fatigue modeling in determining the fatigue of a single person due to distinct individual differences. Creates an unrealistic low bar for the reopening of fatigue management plans.

**Sec. 9514. Crewmember certification and qualification:** This provision only applies the certification and qualification review to freight railroads when deficiencies have been found in passenger railroads. It also conflates the role of the engineer and conductor.

**Sec. 9515. Safety management team communication:** Ignores communication between safety management teams and freight railroads.

**Sec. 9516. GAO study on reorganization of Office of Railroad Safety:** One-sided study that does not consider potential benefits of the reorganization including how the reorganization may improve the consistency in interpretation and enforcement of safety regulations throughout the country, thereby benefiting safety.

**Sec. 9517. Open-top rail car public input:** Safety should be the primary focus when evaluating the movement of goods in open-top rail cars.

**Sec. 9559. Including railroad suicides:** Safety is always the railroads' top priority, and unfortunately suicides can occur on railroad property. Treating intentional and unintentional casualties in the same manner makes evaluating risk and response impossible as the deaths are indistinguishable. Additionally, passenger and freight railroad data should be separated to allow for targeted risk assessments and responses given the different operating environments.

**Sec. 9560. Report on safety measures required for Quiet Zones:** Railroads object to the weakening of the safety protections surrounding the current process to establish quiet zones.