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# Surface Transportation Reauthorization: Passenger and Freight Rail Issues

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## Surface Transportation Reauthorization: Passenger and Freight Rail Issues

The Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58) contained, among other provisions, a five-year reauthorization of federal surface transportation (highway, public transportation, and rail) programs set to expire on September 30, 2026. Funding for Amtrak or for discretionary grant programs, rail safety, and the rail industry are all issues addressed in the IIJA or prior reauthorizations that could be considered in future rail reauthorization bills. Some of these issues would be addressed by provisions of the Building Unrivaled Infrastructure and Long-Term Development for America's 250<sup>th</sup> Act (BUILD America 250 Act, H.R. 8870), a surface transportation reauthorization bill introduced in May 2026 and ordered to be reported to the House by the Committee on Transportation and Infrastructure with several amendments.

### Funding Issues

The overall funding level for Amtrak is typically an issue in surface transportation reauthorization debate. Amtrak's expenses have exceeded its revenues each year; therefore, its ability to operate and undertake infrastructure improvement projects has depended on funding from Congress. Apart from funding Amtrak, the IIJA provided authorizations from the General Fund of the U.S. Treasury and advance multiyear appropriations for several discretionary competitive grant programs. Unlike some highway and transit programs, rail programs do not receive contract authority from the Highway Trust Fund and therefore rely on the annual appropriations process to make funding available for grants. Congress could choose to increase, decrease, or hold steady the funding levels established in the IIJA and continue to provide multiyear advance appropriations, or it could continue to rely on annual appropriations bills to fund rail programs.

### Safety Issues

Several rail safety bills were introduced in the 118<sup>th</sup> and 119<sup>th</sup> Congresses. Congress could include some elements of these proposals in potential surface reauthorization bills; it could also choose to address rail safety separately or leave existing railroad safety laws in place.

Many state, local, and federal officials have received complaints about road traffic blocked by slow-moving or stopped trains at highway-rail crossings (also called grade crossings). To assess the scale of the issue, the Federal Railroad Administration launched a website in 2019 to collect blocked crossing information submitted voluntarily by the public. Congress could consider new blocked crossing data collection or enforcement requirements, which might place an additional data collection burden on railroad carriers while potentially yielding actionable data about where safety investments should be prioritized (related bills include H.R. 6790). Other safety issues include the establishment of a two-person minimum for freight train crews such as proposed in H.R. 928 and H.R. 971.

### Industry Issues

Congress created the Surface Transportation Board (STB) in 1995 to be the economic regulator of interstate land and water transportation providers. STB has the authority to approve railroad mergers, acquisitions, and consolidations, including the acquisition of a company's railroad line(s). If Congress were to reauthorize STB, Congress could transfer the approval authority for railroad mergers from STB to one or more antitrust agencies, such as the Department of Justice Antitrust Division, as recommended by a study conducted by the Department of Transportation and the National Academies of Sciences, Engineering, and Medicine at Congress's direction. Another option for Congress could be to direct regulators to abandon STB's existing standards, which apply only to the rail industry, in favor of customary antitrust principles. Congress may consider other rail industry issues, including the rate of compensation when one railroad company transports freight cars owned by another railroad company and the possible creation of a process that would allow customers to seek damages or other relief from railroads providing substandard service. In addition, Congress could use its oversight powers to monitor how STB responds to freight service complaints in order to evaluate the need for future action.

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## Introduction

The Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58) contained, among other provisions, a five-year reauthorization of federal surface transportation (highway, public transportation, and rail) programs set to expire on September 30, 2026.<sup>1</sup> Highway and public transportation programs have been reauthorized together since 1978, but rail programs tended to be authorized separately until 2015, when a rail title was included in the Fixing America’s Surface Transportation Act (FAST Act; P.L. 114-94). Rail programs also were included in the IIJA. Congress may consider including rail programs in future surface transportation reauthorization bills or return to stand-alone rail reauthorizations.

Rail reauthorizations have tended to authorize funding for Amtrak, the national intercity passenger rail carrier, and amend statutes that govern railroad safety (passenger and freight). In the 1970s, Congress passed several laws relating to the reorganization and deregulation of freight railroads, and the freight rail industry has been largely self-funding and self-regulating since the 1980s, with few of its federal programs requiring regular reauthorization compared with other industries.

More recent rail reauthorization acts, beginning with the Passenger Rail Investment and Improvement Act of 2008 (PRIIA; P.L. 110-432, Div. B), have created and authorized funding for new discretionary grant programs to develop or improve railroad infrastructure, subject to appropriations acts. The IIJA contained a supplemental appropriations measure providing five years of advance funding for Amtrak and many grant programs. Funding issues (for Amtrak or for discretionary programs), safety, and rail industry issues could each be addressed in potential rail reauthorization bills. Some of these issues would be addressed by provisions of the Building Unrivaled Infrastructure and Long-Term Development for America’s 250<sup>th</sup> Act (BUILD America 250 Act, H.R. 8870), a surface transportation reauthorization bill introduced in May 2026 and ordered to be reported to the House by the Committee on Transportation and Infrastructure with several amendments.

## Regulatory Background

Freight and passenger railroads are subject to regulation by two federal agencies—the Department of Transportation (DOT), which delegates authority to the Federal Railroad Administration (FRA), and the Surface Transportation Board (STB). FRA was established by Congress in 1966 to implement federal rail safety laws and regulations previously administered by other agencies. In 1970, Congress passed the Federal Rail Safety Act (FRSA; P.L. 91-458), which expanded FRA’s authorities in the wake of a string of major train crashes.<sup>2</sup> FRSA directed the Secretary of Transportation to “prescribe, as necessary, appropriate rules, regulations, orders, and standards for all areas of railroad safety.”<sup>3</sup> Subsequent laws have amended FRA’s organizational structure and empowered it to issue grants for freight and passenger rail

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<sup>1</sup> For information about the reauthorization of highway, public transportation, and trucking programs, see CRS Report R48845, *Surface Transportation Reauthorization: Federal Highway Programs*, by Ali E. Lohman; CRS Report R48644, *Surface Transportation Reauthorization: Public Transportation*, by William J. Mallett; and CRS Report R48759, *Surface Transportation Reauthorization: Commercial Trucking Issues*, by John Frittelli.

<sup>2</sup> See CRS Report R48651, *U.S. Department of Transportation: Background on Modal Administrations*, coordinated by John Frittelli.

<sup>3</sup> P.L. 91-458, §202(a)(1).

infrastructure improvements. FRA has administered annual funding for Amtrak since the service began operating in 1971.

STB was created by Congress in 1995 to replace the Interstate Commerce Commission (ICC) as the economic regulator of interstate land and water transportation providers. STB has statutory jurisdiction over transportation by rail carriers, including “rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers,” as well as “the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State.”<sup>4</sup>

## Potential Funding Issues

Rail reauthorization legislation often includes funding for Amtrak passenger rail as well as authorizations and, in the case of the IJJA, advance multiyear appropriations for several discretionary competitive grant programs. Historically, some discretionary competitive grant programs have supported both passenger and freight rail. The quantity of funding authorized, its eligible uses, and its potential revenue source(s) are issues Congress may address when considering reauthorization.

## Funding Levels for Amtrak

The overall funding level for Amtrak is typically an issue in rail reauthorization. Amtrak’s expenses exceed its revenues each year; therefore, it is dependent on funding from Congress to continue operating and to undertake infrastructure improvement projects. Funding for Amtrak is divided between the Northeast Corridor (NEC)—the line linking Washington, DC, New York, and Boston—and the National Network (NN), which encompasses long-distance routes funded entirely by Amtrak and short-distance routes that receive state operating support. The IJJA authorized a total of \$19.2 billion for Amtrak over five years, subject to appropriation, while providing multiyear advance appropriations totaling \$22 billion. This was a significant increase over the funding authorized by the FAST Act (see **Figure 1**). In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would authorize a total of \$31.1 billion for Amtrak over five years, subject to appropriations.<sup>5</sup> It would not provide any multiyear advance appropriations.

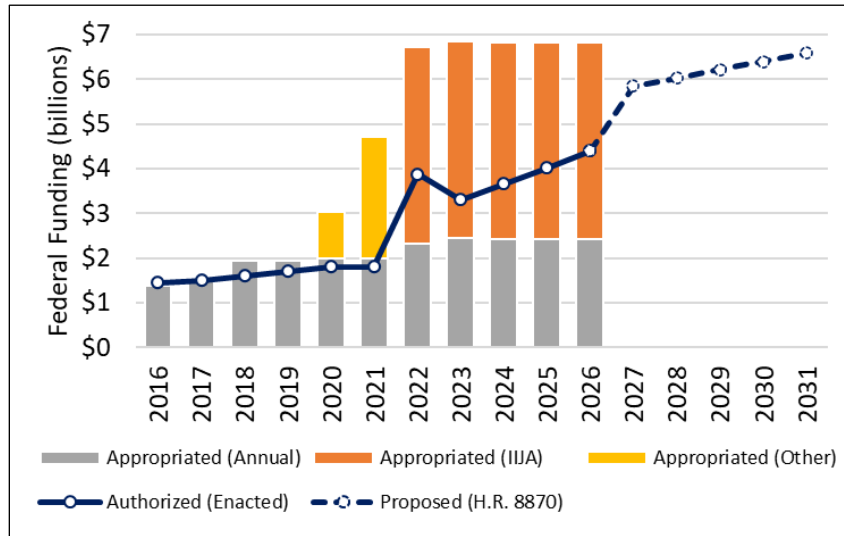
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<sup>4</sup> 49 U.S.C. §10501(b).

<sup>5</sup> H.R. 8870, §10101.

**Figure I. Federal Funding Authorized, Appropriated, and Proposed to Be Authorized for Annual Grants to Amtrak, FY2016-FY2031**

in billions of nominal dollars



**Sources:** Compiled by CRS from public laws and bills available on congress.gov.

**Notes:** IIJA = Infrastructure Investment and Jobs Act (P.L. 117-58). The Fixing America’s Surface Transportation Act (P.L. 114-94) authorized FY2016-FY2021 funding; the IIJA authorized FY2022-FY2026 funding.

Routes serving the NEC are operationally profitable, but the corridor faces complex infrastructure issues with large capital needs; routes serving the NN have lower capital needs but rely on subsidies to operate. Amtrak has stated its intention to be operationally self-sufficient by the end of FY2028.<sup>6</sup> Achievement of this goal could reduce the amount of federal funds Amtrak requests each year. If Amtrak were to become self-sufficient, then Congress could reduce the authorized funding amount for Amtrak starting in that year, keep the funding amount level, or increase it with the expectation that more funds could be allocated to capital costs than to operating expenses.

Amtrak’s five-year plans assume consistent funding to address capital and operating needs.<sup>7</sup> While Amtrak has received annual appropriations for years at a time in the absence of a statutory authorization of funding (such as between FY2003 and FY2007), a multiyear authorization combined with multiyear advance appropriations would respond to Amtrak’s stated preference for predictable funding.<sup>8</sup> Amtrak’s capital projects—such as bridge and tunnel replacements and locomotive and railcar procurements—sometimes have project timelines that are several years long. Without some confidence in the availability of future funding, Amtrak may postpone work on projects to bring infrastructure to a state of good repair, which could increase construction costs later.

<sup>6</sup> Amtrak, *General and Legislative Annual Report and Fiscal Year 2026 Grant Request*, p. 8, <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/reports/Amtrak-General-Legislative-Annual-Report-FY2026-Grant-Request.pdf>.

<sup>7</sup> Amtrak, *FY24-29 Five Year Service and Asset Line Plans*, <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/Amtrak-Service-Asset-Line-Plans-FY24-29.pdf>.

<sup>8</sup> “Providing dedicated and predictable, multiyear funding to Amtrak and intercity passenger rail would create significant, quantifiable cost savings and efficiencies in service planning, operations, and capital delivery” (see Amtrak, *General and Legislative Annual Report and Fiscal Year 2026 Grant Request*, p. 57).

## Competitive Discretionary Grants

Apart from funding Amtrak, the IIJA also provided authorizations from the General Fund of the U.S. Treasury (general fund) and advance multiyear appropriations for several discretionary competitive grant programs. The programs are (1) the Federal-State Partnership for Intercity Passenger Rail (FSP) Grant Program; (2) the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program; (3) the Railroad Crossing Elimination (RCE) Grant Program; (4) the Corridor Identification and Development (Corridor ID) Program; and (5) the Restoration and Enhancement (R&E) Grant Program. The IIJA authorized a total of \$15.3 billion for these programs, subject to future appropriations, and provided multiyear appropriations totaling \$44 billion (Table 1). In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would continue to authorize funding for several of these programs.

**Table 1. Rail Grant Funding Authorized and Appropriated Under the Infrastructure Investment and Jobs Act (IIJA), Annual Appropriations Acts, and Proposed Surface Transportation Reauthorization, FY2022-FY2031**

in millions of dollars

Grant Program	FY2022-FY2026 (Enacted)			FY2027-FY2031 (Proposed)
	Authorized Funding	Advance Appropriations	Annual Appropriations	Authorized Funding
Federal-State Partnership for Intercity Passenger Rail (FSP)	7,500	36,000	415	-
National Intercity Rail Partnership (NRP)	-	-	-	18,500
Consolidated Rail Infrastructure and Safety Improvements (CRISI)	5,000	5,000	1,695	9,103
Railroad Crossing Elimination (RCE)	2,500	3,000	-	3,660
Corridor Identification & Development <sup>a</sup> (Corridor ID)	375	1,800	21	925
Restoration and Enhancement <sup>b</sup> (R&E)	250	250	-	-
<b>Total</b>	<b>15,250</b>	<b>44,000</b>	<b>2,110</b>	<b>31,263</b>

**Sources:** P.L. 117-58, P.L. 117-103, P.L. 117-328, P.L. 118-42, P.L. 119-4, P.L. 119-75, and H.R. 8870 (119<sup>th</sup> Congress).

**Notes:** Values do not sum exactly to totals because of rounding.

- a. For the Corridor ID program, the figures represent the maximum amount that may be withheld from funds available for the FSP or NRP grant program (see “Corridor Identification and Development Program,” below); amounts are not counted in totals.
- b. Advance appropriations for the R&E grant program are withheld from National Network grants to Amtrak and are not counted in the total advance appropriations.
- c. H.R. 8870, as ordered to be reported, would repeal the R&E program but preserve eligibility for R&E projects under NRP. Up to 5% of funds available for the NRP program could be awarded to operating assistance projects.

## Federal-State Partnership for Intercity Passenger Rail Grant Program

The FSP grant program, created by the IIJA, can be used to fund large projects in support of new passenger rail lines or improvements to existing lines. The program's creation reflected a reprioritization of passenger rail service expansion as a federal policy goal. That is, while PRIIA created several grant programs intended to expand passenger rail service, the later FAST Act gave more weight to restoring existing infrastructure to a state of good repair, and then the IIJA reprioritized expansion. If Congress were to reauthorize the FSP grant program, it could authorize funding at the same levels for the same eligibilities or limit funding to projects in certain geographic areas (e.g., on or off the NEC) or of certain types. For example, Congress could adopt statutory priority for

- projects to add more scheduled trains per day on existing routes (as opposed to establishing new routes),
- high-speed rail projects using electric locomotives on dedicated tracks, and/or
- projects to improve station facilities by adding amenities and achieving compliance with the Americans with Disabilities Act of 1990.

The multiyear advance appropriations provided by the IIJA allowed FRA to commit funding to projects from each of the above (and other) categories. Providing less funding for the FSP grant program could limit funding opportunities for lower priority project types, potentially leading to delays or cancellations if project sponsors were to look elsewhere for federal funding.

In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would rename the FSP grant program the National Intercity Rail Partnership (NRP). The renamed program would extend eligibility to include intercity passenger rail carriers other than Amtrak and allow a maximum of 5% of available funds to be used for operating assistance grants that were previously eligible under a different program (see "Restoration and Enhancement Grant Program," below). The bill would not extend advance appropriations for the program.

Another provision of the BUILD America 250 Act, as ordered to be reported, would implement a moratorium on funding for the California High-Speed Rail (CAHSR) project, which had been selected to receive approximately \$3 billion in FSP grant funds before those grants were terminated. The moratorium would last until a review of the project could be completed by a working group convened by the Secretary of Transportation, to be published no later than two years following enactment. CAHSR project leadership has previously indicated that it would no longer seek federal funding after the FSP funds were withdrawn.<sup>9</sup>

## Consolidated Rail Infrastructure and Safety Improvements Program

The CRISI program, created by Congress in the FAST Act, can be used to fund a wide variety of rail or rail-related projects. Among other eligible recipients in the public and nonprofit sectors, the program is directly available to private freight railroad companies other than the largest carriers (see "Potential Rail Industry Issues," below). Such carriers might have less financial capacity than larger freight railroads to undertake complex projects but can be critical providers of first- and last-mile service to freight rail shippers. The CRISI program consistently has received a high volume of applications relative to its available funding from a broad cross section of rail carriers, suppliers, and customers. If Congress were to reauthorize the CRISI program, it could consider further consolidation of grant programs, which would give the Secretary of Transportation greater

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<sup>9</sup> California High-Speed Rail Authority, *2026 Business Plan: Transforming California's Future*, February 2026, pp. 12, 28, <https://hsr.ca.gov/communications-outreach/reports/business-plans/2026-business-plan/>.

discretion to prioritize certain types of funding. For example, many projects selected for funding under the FSP and RCE grant programs would have been eligible under the CRISI program. Alternatively, if Congress considers certain types of projects as being overlooked for federal grants under the existing program structure, new programs, eligibilities, or set-asides could be created to direct funds to those types of projects. For example, the IIJA added three new categories of projects—research and development projects, hazardous materials safety programs, and locomotive emissions reduction projects—eligible for CRISI funding. If Congress were to consider whether enough applications for these projects are selected for funding under the IIJA, policy options could include creation of a permanent set-aside for those project types when potentially reauthorizing the CRISI program.

In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would make some minor reforms to the CRISI program, extending eligibility to local law enforcement agencies and allowing the Secretary of Transportation to waive the required nonfederal share of project costs for specific project types.

### **Railroad Crossing Elimination Grant Program**

The RCE grant program was created by the IIJA and is intended to support projects to replace road-rail grade crossings with grade separations (i.e., over- or underpasses) in communities where the current crossings are considered dangerous and/or disruptive. Such projects tend to be large enough that a relatively small number of them could consume a disproportionately large share of CRISI funds, leaving little funding for other project types. An issue that Congress could address in potentially reauthorizing the RCE grant program is the identification and prioritization of grade crossings for improvement; addressing this issue could entail more data collection from rail carriers or expand on existing state-level grade crossing safety programs. For example, Congress could amend existing requirements (either according to a common set of standards or by leaving the precise evaluation methodology to states) for state grade crossing safety plans to incorporate an assessment of crossings to be considered for elimination.<sup>10</sup> Another option could be to require track owners to equip crossings with sensors capable of recording the frequency and duration of blockages, which could result in a national dataset of the most frequently blocked crossings but require an up-front investment in equipment and infrastructure that track owners may object to as an unfunded mandate. In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would make minor reforms to the RCE grant program, including by extending eligibility to nonprofit rail safety advocacy organizations.

### **Corridor Identification and Development Program**

The Corridor ID program provides grants for project planning and development activities for proposed new or improved rail corridors. The goal of a Corridor ID grant is the creation of a service development plan (SDP), a document containing a list of projects required to accomplish a specific service goal. Projects listed in an SDP are entitled to selection priority in subsequent rounds of FSP funding. In 2023, FRA selected 69 corridors in its initial Corridor ID solicitation, and some have progressed through the various planning stages earlier than others.<sup>11</sup> The Secretary may withhold up to 5% of funds available for FSP grants for the purposes of making awards under the Corridor ID program. If Congress sought to amend this set-aside, it could consider

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<sup>10</sup> First required by §11401(b) of the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94), 49 U.S.C. §22907 note.

<sup>11</sup> U.S. Department of Transportation (DOT), Federal Railroad Administration (FRA), "FRA's Corridor ID Obligation Status Report," updated November 7, 2025, <https://railroads.dot.gov/elibrary/fras-corridor-id-obligation-status-report>.

whether to establish a minimum instead of or in addition to the 5% maximum, which would guarantee that some funding would be available for planning projects in any year in which new funding is available for capital projects. The American Association of State Highway and Transportation Officials, which represents state departments of transportation (including those that may apply for Corridor ID grant funds), supports maintaining the Corridor ID funding levels established in the IIJA.<sup>12</sup>

In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, would continue to authorize the Corridor ID program, amending the set-aside of NRP funds to be automatic (i.e., “The Secretary shall withhold”) instead of discretionary (i.e., “The secretary may withhold”). It would also bar the Secretary of Transportation from selecting new corridor proposals after the end of FY2031 and adding new reporting requirements.

### Restoration and Enhancement Grant Program

The R&E grant program was created by the FAST Act and differs from the programs listed above in that it provides operating assistance, not capital grants. An R&E grant can be used to offset the operating costs of a new short-distance service for several years, which may give state sponsors additional time to ramp up their funding commitments. In some cases, state-level hesitancy to provide these commitments has been an obstacle to initiating new passenger rail service. Options for Congress include continuing to fund this program, restricting eligibility (such as to those recipients that have completed the Corridor ID process), or repealing the program to reaffirm the federal government’s role in prioritizing capital—not operating—support. Congress could leave the program in place for further evaluation until a larger number of grant recipients become fully state funded. As noted in Table 1, the BUILD America 250 Act, as ordered to be reported, would repeal the stand-alone R&E program in favor of incorporating operating assistance into the NRP program.

### Dedicated Funding for Rail

Unlike some highway and transit programs, rail programs do not receive contract authority from the Highway Trust Fund (HTF) and therefore rely on the annual appropriations process to make funding available for grants.<sup>13</sup> The long-term nature of some rail projects, especially those started to build new lines or initiate new passenger services, has elicited periodic suggestions to create a similar trust fund for rail or to create a rail account within the HTF. Several revenue sources have been proposed for such a trust fund, from a new tax on freight movement to a share of customs import duties to a transfer from the general fund.

Excise taxes on diesel fuel, which are a major revenue stream for the HTF, do not apply to fuel used in railroad locomotives.<sup>14</sup> Diesel locomotive fuel has been subject to fuel taxes in the past but temporarily and at a lower level than the permanent rate for automotive fuel and with

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<sup>12</sup> American Association of State Highway and Transportation Officials, *AASHTO Policy Recommendations for 2026 Surface Transportation Reauthorization*, August 18, 2025, <https://transportation.org/policy/wp-content/uploads/sites/56/2025/08/AASHTO-Comments-to-USDOT-on-Surface-Reauthorization-RFI-2025-08-18-FINAL.pdf>.

<sup>13</sup> *Contract authority* is a type of budget authority that is available for obligation in the absence of appropriation, although appropriators are to eventually provide liquidating authority to pay the obligation. For more information about the difference between contract authority and appropriated budget authority, see DOT, Federal Highway Administration, *Funding Federal-Aid Highways*, FHWA-PL-17-011, January 2017, pp. 12-14, [https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/FFAH\\_2017.pdf](https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/FFAH_2017.pdf). See also CRS Report R48472, *The Highway Trust Fund’s Highway Account*, by Ali E. Lohman.

<sup>14</sup> 26 U.S.C. §4082(b)(2).

revenues dedicated exclusively to deficit reduction. A fuel tax collected from railroads to fund rail projects could approximate the same user fee principle behind the HTF but have the unintended consequences of raising consumer costs and reducing demand for rail transportation. Any new tax on rail transportation also could give rise to a debate about whether tax revenue generated on one rail carrier's lines should be allocated to other—and, in some cases, competing—lines.

Congress addressed the issue of predictable funding in the IJA: it appropriated \$66 billion in advance multiyear appropriations, split between direct funding to Amtrak and funding for competitive grants. This funding was directed to be made available in tranches on October 1 of each year. As a result, the funding could be vulnerable to rescission or reprogramming before being formally obligated to projects. For example, House appropriations bill H.R. 4552 (119<sup>th</sup> Congress) would have funded Amtrak in FY2026 using the funds for the FSP grant program originally appropriated in the IJA rather than through a new appropriation from the general fund. Congress did not retain this language from H.R. 4552 in the Consolidated Appropriations Act, 2026 (P.L. 119-75), but it did repurpose certain unexpended balances of advance appropriations from prior years.<sup>15</sup>

Some rail stakeholders (e.g., current or prospective sponsors of passenger rail projects, including Amtrak and state departments of transportation) have been supportive of measures that would provide additional stability and predictability in federal funding for rail. Congress could follow its precedent set in the IJA and include multiyear advance appropriations within a potential surface reauthorization law; no such proposal was included in the BUILD America 250 Act as introduced or as ordered to be reported. Congress also could authorize contract authority from the HTF or a new trust fund and transfer money from the general fund to the trust fund to cover future obligations. Alternatively, congressional authorizers could retain the paradigm of general fund authorizations contingent on future appropriations and encourage appropriators to provide funding for future fiscal years in annual appropriations acts.<sup>16</sup>

## Potential Safety Issues

Some elements from several rail safety bills introduced in the 118<sup>th</sup> and 119<sup>th</sup> Congresses could be included in a surface transportation reauthorization.<sup>17</sup> The two most recent surface transportation reauthorizations—the IJA and the FAST Act—included some rail safety measures, while the rail reauthorization prior to the FAST Act essentially consisted of two separate bills: one (PRIIA) authorizing Amtrak and various grant programs, and the other (the Railway Safety Improvement Act of 2008; P.L. 110-432, Div. A) authorizing safety programs. Congress could include some rail safety proposals in future surface reauthorizations, address rail safety separately, or leave existing railroad safety laws unchanged.

## Blocked Crossings

Many state, local, and federal officials have received complaints about slow-moving or stopped trains blocking road traffic at highway-rail crossings (also called grade crossings). In small towns and rural areas, a single crossing may be the only road connection from one side of the tracks to the other for miles, if another one exists at all. This may incentivize drivers to attempt to beat approaching trains or pedestrians to cross over or through a stopped train at great personal risk.

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<sup>15</sup> P.L. 119-75.

<sup>16</sup> A similar method is used to provide annual appropriations for certain rental assistance programs of the Department of Housing and Urban Development a full fiscal year in advance.

<sup>17</sup> See CRS Report R47911, *Freight Rail Safety Issues in the 119th Congress*, by Ben Goldman.

To assess the scale of the issue, FRA launched a website in 2019 to collect blocked crossing information from the public on a voluntary basis.

The IIJA directed FRA to establish a portal to collect and analyze blocked crossing data over three years. The portal collects data submitted by the public using a smartphone application. While the portal results have highlighted the severity of blocked crossings in some communities, the crowdsourced nature of the data may not be providing an accurate picture of which crossings are subject to chronic blockages more than others and which crossings would be especially disruptive if blocked compared with others. An earlier proposal for the IIJA passed by the House (H.R. 3684, 117<sup>th</sup> Congress) contained measures, first introduced in the Don't Block Our Communities Act (H.R. 3698, 117<sup>th</sup> Congress), that would have created permanent data collection requirements for railroads and DOT; these measures were not present in the Senate amendment that became law. Congress could consider new blocked crossing data collection or enforcement requirements, which could place an additional data collection burden on railroad carriers but potentially yield actionable data about where safety investments should be prioritized.<sup>18</sup>

As introduced, the BUILD America 250 Act contains a provision that would permanently reauthorize the blocked crossing portal and authorize its use as part of selecting projects under the CRISI or RCE programs. The bill also contains a provision directing the Secretary of Transportation to take certain actions at crossings where three or more blockages have been reported over a 30-day period, including the requirement that the rail carrier collect data on blocked crossings for up to 60 days. A subsequent amendment offered by Representative Troy Nehls and adopted by the Committee on Transportation and Infrastructure would require the Secretary of Transportation to partner with the National Academies of Sciences, Engineering, and Medicine to publish a study of 20 frequently blocked crossings in at least 10 states.

## Crew Size

Technological advances and cost cutting pressures in railroading have, over several decades, led to the elimination of some crew positions on freight trains to the point where it is not uncommon for a single train to have a crew of two aboard (one engineer and one conductor). Railroads have explored the use of one-person train crews to further reduce costs, while some labor organizations and some lawmakers have sought to establish a two-person crew minimum for safety reasons.<sup>19</sup> FRA proposed a crew size rule in 2016 after several crashes but withdrew it in 2019, stating that available data “d[o] not establish that one-person operations are less safe than multi-person train crews.”<sup>20</sup> In July 2022, FRA proposed a new crew size rule requiring two-person train crews in most trains after the earlier rule’s withdrawal was vacated by a federal court.<sup>21</sup> The final rule, issued in April 2024, requires all trains to have a minimum of two crew members on board except in certain situations, such as on slow-moving freight trains loading or unloading at a mine or similar facility, on tourist trains that are not connected to the general rail transportation system, or on passenger trains covered by an FRA-approved emergency preparedness plan.<sup>22</sup> Railroads

<sup>18</sup> For example, see H.R. 6790 (119<sup>th</sup> Congress).

<sup>19</sup> For example, see H.R. 1748 (116<sup>th</sup> Congress); see also Bill Stephens, “A Rebuttal: Union Pacific CEO Jim Vena on One-Person Crews,” *Trains*, May 20, 2024, updated August 5, 2025, <https://www.trains.com/pro/freight/class-i/a-rebuttal-union-pacific-ceo-jim-vena-on-one-person-crews/>.

<sup>20</sup> DOT, FRA, “Train Crew Staffing,” 84 *Federal Register* 24735, May 29, 2019, <https://www.federalregister.gov/documents/2019/05/29/2019-11088/train-crew-staffing>.

<sup>21</sup> DOT, FRA, “Train Crew Size Safety Requirements,” 87 *Federal Register* 45564, July 28, 2022, at 45570, <https://www.federalregister.gov/documents/2022/07/28/2022-15540/train-crew-size-safety-requirements>.

<sup>22</sup> DOT, FRA, “Train Crew Size Safety Requirements,” 89 *Federal Register* 25052, April 9, 2024, <https://www.federalregister.gov/documents/2024/04/09/2024-06625/train-crew-size-safety-requirements>.

seeking to use a one-person crew in cases not covered by a permanent exception must petition FRA for approval.

If Congress decided to act on this issue, it could codify a two-person minimum crew in statute with or without exceptions for short-distance operations such as switching and branch line service.<sup>23</sup> Alternatively, Congress could direct FRA to repeal its crew size rule, and staffing decisions could be negotiated by rail carriers and labor organizations in collective bargaining sessions.

As introduced in the 119<sup>th</sup> Congress, the BUILD America 250 Act did not address train crew size. An amendment offered by Representative Troy Nehls and adopted by the Committee on Transportation and Infrastructure included a provision, substantially similar to one approved by the Senate Committee on Commerce during the 118<sup>th</sup> Congress, that would codify a minimum two-person crew for most freight train operations. The amendment was adopted over the opposition of the committee chairman, who stated,

A key piece of this amendment is the two-man-crew mandate. I find it absolutely fascinating that in a world where we have autonomous vehicles—no driver, autonomous trucks with no driver, we have aircraft with no pilot, and here it is we have the only mode of transportation operated on a rail and we say we've got to have two individuals in the cab to prevent something. The fact is there were three people in the cab in East Palestine [Ohio, where a train derailment in 2023 resulted in a chemical spill].<sup>24</sup>

## Potential Rail Industry Issues

The private sector rail industry generally does not rely on federal funding. However, as carriers engaged in interstate commerce, railroad companies are subject to federal laws and regulations concerning how the industry conducts business. While safety reforms and grant funding could be expected to have implications for freight rail and passenger rail, a surface transportation reauthorization could include measures that address issues specific to the private sector rail industry, either directly or through STB, the federal regulator with jurisdiction over rail transportation.<sup>25</sup> In the 119<sup>th</sup> Congress, the BUILD America 250 Act, as ordered to be reported, does not contain a reauthorization of the STB.

## Freight Rate and Service Disputes

STB retains authority to set a maximum price for common carriage in response to customer complaints (it cannot initiate its own rate inquiries) and in cases where the railroad company is *market dominant*—that is, where no economically viable other transportation option exists. In such cases, STB is constrained by law to impose a rate no greater than 180% of the cost to the railroad of providing the service in question. The process of challenging a rate as unreasonable requires extensive documentation, depends on assumptions derived from a model adopted by the ICC in the 1980s, and may result in prolonged litigation.<sup>26</sup> When it established STB, Congress

<sup>23</sup> For example, see H.R. 928 and H.R. 971 (119<sup>th</sup> Congress).

<sup>24</sup> YouTube, “Full Committee Markup (May 21, 2026),” at 3:34:46, <https://www.youtube.com/live/UQYszuHwvXE?si=RY9NCImuc1rKy0jd&t=12883>.

<sup>25</sup> Surface Transportation Board (STB) authorities do not expire. Its most recent multiyear funding authorization, covering FY2016-FY2020, was the Surface Transportation Board Reauthorization Act of 2015 (P.L. 114-110), which became law roughly two months after the FAST Act.

<sup>26</sup> Customers that receive rail service under the terms of confidential contracts, as opposed to publicly available common carriage rates, cannot challenge the reasonability of rates before STB.

directed the agency to develop ways to resolve rate disputes that would be accessible to shippers in cases in which a full process would be costly to pursue. Attempts to do so have been largely unsuccessful; alternative rate reasonableness methods have not meaningfully increased the number or speed of rate cases resolved by STB, and an arbitration-based method called “final offer rate review” was withdrawn after a federal court struck it down as unconstitutional.<sup>27</sup>

STB can issue orders to provide or offer additional freight service in certain circumstances but does not have a process to penalize carriers or compensate shippers for unreliable freight service. Congress could use its oversight powers to monitor how STB responds to freight service complaints to evaluate the need for future action. Congress also could consider proposals introduced in prior Congresses to

- empower STB to award damages to shippers who receive freight service that falls below a set standard (S. 4961, 116<sup>th</sup> Congress),
- establish an obligation to fulfill a shipper’s “reasonable service requirements” on the part of railroad carriers and provide considerations for STB in determining whether this obligation has been fulfilled (S. 2104, 119<sup>th</sup> Congress), and/or
- direct STB to periodically review which commodities are exempt from its jurisdiction, potentially allowing a larger number of shippers to petition STB for relief (§201 of H.R. 8649, 117<sup>th</sup> Congress).

## Car Service Default Rates

When a freight railcar owned by one carrier is transported by another carrier, the railcar’s owner customarily is entitled to compensation on the basis of the distance the car travels and the length of time it is in another carrier’s custody. Some manufacturers of certain types of railcars contend that this system, known in the industry as *car service* or *car hire*, keeps compensation rates (and therefore revenue) artificially low, thereby suppressing demand to invest in the manufacture of new railcars. This is especially true of boxcars, a large number of which are approaching the end of their service lives without replacements in production.<sup>28</sup> The Association of American Railroads (AAR), a railroad industry group, sets standards for managing the car hire system and can examine the rate-setting process through its working groups and committees. Congress could intervene by directing STB to reopen its docket for establishing car service rules, solicit public comment and recommendations, and/or propose new rules for calculating compensation rates, or Congress could defer to STB’s discretion while conducting oversight. AAR has pointed out that car service rates apply only to railcars owned by the rail carriers themselves, not by shippers or by third-party leasing or equipment pooling companies, which creates alternatives to participating in the car service system when shipping goods by rail. These alternatives may not be economically viable for all shippers.

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<sup>27</sup> STB, “Final Offer Rate Review; Expanding Access to Rate Relief,” 90 *Federal Register* 24077, June 6, 2025, <https://www.federalregister.gov/documents/2025/06/06/2025-10162/final-offer-rate-review-expanding-access-to-rate-relief>.

<sup>28</sup> Railroad-Shipper Transportation Advisory Council, *RSTAC Recommendation to the Surface Transportation Board to Examine the Nation’s Boxcar Supply*, June 2023, <https://www.stb.gov/wp-content/uploads/White-Paper-Boxcar-Supply.pdf>.

## Mergers and Acquisitions

Railroad mergers, acquisitions, and consolidations, including the acquisition of one company's railroad line(s) by another, must be approved by STB.<sup>29</sup> This approval depends on different factors according to the complexity of the transaction.

- Any transaction involving more than one Class I railroad is automatically considered a *major* transaction subject to the highest level of STB scrutiny.<sup>30</sup>
- Other transactions can be deemed *significant* (entailing an elevated level of scrutiny) or *exempt* (no longer requiring STB review prior to approval) if certain conditions are met.
- All other transactions are considered *minor*.

Federal law holds that STB “shall approve and authorize a transaction ... when it finds the transaction is consistent with the public interest” and may impose conditions on the transaction.<sup>31</sup> If Congress were to reauthorize STB, it could transfer the approval authority for railroad mergers from STB to antitrust agencies, such as the Department of Justice Antitrust Division. Congress also could direct regulators to abandon the public interest standard in favor of customary antitrust principles. These courses of action were recommended by a 2015 study published by the Transportation Research Board of the National Academies. The study reasoned that the rationale for retaining a public interest standard (i.e., excess capacity creates struggling competitors) no longer applies, as STB itself has stated that “excess and duplicative capacity are no longer problems.”<sup>32</sup> Alternatively, Congress could preserve STB's exclusive authority to approve transactions, with or without additional direction as to what is and is not considered to be in the public interest.<sup>33</sup>

## Cargo Theft

Reports of cargo theft from freight trains stopped in yards or en route have grown since the COVID-19 pandemic began in the United States in 2020. There is a federal criminal statute concerning theft from railcars in interstate commerce (18 U.S.C. §659), so the FBI can be involved in such incidents if it so chooses. Additionally, if U.S. mail or controlled substances are among the items stolen, a victimized carrier also could ask for help from the Postal Inspection Service or Drug Enforcement Administration, respectively, but could not necessarily compel cooperation from either agency. Options for Congress include directing these agencies to devote resources to the issue of cargo theft or instructing them to jointly study the issue and submit

<sup>29</sup> See CRS Report R47013, *The Surface Transportation Board (STB): Background and Current Issues*, by Ben Goldman.

<sup>30</sup> A *Class I railroad* is one that has annual operating revenues of at least \$900 million in inflation-adjusted 2019 dollars. Railroads with lower operating revenues can be either Class II (regional) or Class III (short line, terminal, or switching) railroads. See STB, *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers*, Docket no. EP 763, decided March 30, 2021.

<sup>31</sup> 49 U.S.C. §11324(c).

<sup>32</sup> National Academies of Sciences, Engineering, and Medicine, *Modernizing Freight Rail Regulation* (National Academies Press, 2015), p. 9, <https://www.nationalacademies.org/publications/21759>.

<sup>33</sup> For example, applicants in a major transaction are directed to show how their proposal would “enhance competition”—a requirement adopted in 2001 after a series of Class I consolidations in the 1990s—but these rules did not specify whether competition was to be enhanced solely between rail carriers or between rail and other modes of transportation; see 49 C.F.R. §1180.1(c). An option for Congress, if it were to address this issue, could be to direct STB to consider the effects of a proposed transaction on competition with other modes of transportation as opposed to competition solely between rail carriers.

recommendations for how it can be addressed. Administratively, if FRA finds a sufficient safety risk, the agency can issue an emergency order to remove a section of track from service until the safety issue is resolved, but no comparable power appears to exist for risk of cargo theft. The Department of Homeland Security also has issued freight rail security regulations (49 C.F.R. Part 1580) so that the Transportation Security Administration can investigate whether a carrier is in compliance with its regulatory requirements, but those requirements relate mostly to employee training and the tracking of sensitive cargo, not to physical infrastructure. If it chose to address this situation, Congress could create new programs to encourage or require greater cooperation between agencies or make additional funding available for projects to help reduce trespassing on railroad property.

One Class I railroad announced in February 2026 that it had successfully reduced cargo theft through a combination of new fencing, surveillance equipment, and operational changes to avoid prolonged stoppages in high-risk areas.<sup>34</sup> Congress could encourage adoption of similar strategies by other railroads, either by creating new programs or new eligibilities under existing programs or through other means such as commissioning research on the topic from FRA, the National Academies, or other research institutions. A section of the BUILD America 250 Act, as ordered to be reported, would direct the Secretary of Transportation to establish an advisory committee to provide advice and recommendations on regulations and policies to better deter and address cargo theft and fraud.

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<sup>34</sup> “CSX Slashes Cargo Theft in Memphis Rail Corridor,” *Progressive Railroading*, February 26, 2026, <https://www.progressiverailroading.com/security/news/CSX-slashes-cargo-theft-in-Memphis-rail-corridor—76434>.

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