The INVEST Act has been drafted by the House of Representatives and below are the issues covered in the Act that affects railroad workers. We are currently reviewing the language in the Bill and we will provide more information as it becomes available.

The Invest in America Act
For the People
“Investing in a New Vision for the Environment and Surface Transportation in America Act”

DIVISION A – COVID-19 RESPONSE AND RECOVERY

Sec. 103. Federal Transit Administration.
Authorizes an additional $5.79 billion in contract authority from the Mass Transit Account above FY20 levels and allows funds obligated in FY21 to be up to 100 percent Federal share. Distributes funds through the 5307, 5310, and 5311 programs in the same ratio as such funds were provided in FY20. Allows funds to be used for both capital and operating expenses, including the purchase of personal protective equipment and paying for administrative leave costs due to reductions in service. Requires transit agencies to use these funds, to the maximum extent possible, for payroll and provision of public transit service. Increases the base authorization for the Capital Investment Grants (CIG) program by $958 million above FY20 levels and provides an additional authorization for such sums as may be necessary through an emergency CIG authorization to allow project sponsors to increase their Federal share to account for lost local revenue sources due to COVID-19. Provides authority for CIG project sponsors to defer to later years their local share payments.

Waives the application of the Rostenkowski test to the Mass Transit Account for FY21.

DIVISION B – SURFACE TRANSPORTATION REAUTHORIZATION

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Program Conditions

Sec. 1112. Buy America. [23 USC 313]
Ensures a transparent public process before waiving Buy America requirements. Strengthens existing domestic content requirements by requiring the Secretary to reevaluate any standing nationwide waivers every five years, including the manufactured products waiver, to determine whether those waivers remain necessary. Codifies longstanding Congressional reporting requirements.

Subtitle B—Programmatic Infrastructure Investments
Sec. 1204. Railway crossings. [23 USC 130]
Establishes a standalone railway crossing program, based on the railway-highway grade crossing set aside, raising the overall level of investment in safety projects under the bill. Requires railroads to contribute the share for projects that provide a benefit to the railroad. Expands eligibilities to include projects to mitigate lost access from a crossing closure and strategies to prevent or reduce trespasser fatalities and injuries along railroad rights-of-way. Allows railway crossing funds to be used toward the cost of projects selected for the Federal Railroad Administration’s Consolidated Rail Infrastructure and Safety Improvements discretionary grant program. Requires the Government Accountability Office to assess the effectiveness of the railway crossing program. Emphasizes Congressional intent that U.S. DOT should coordinate Departmental efforts to reduce trespasser deaths at railroad rights-of-way.

TITLE II—PUBLIC TRANSPORTATION
Subtitle A—Federal Transit Administration

Sec. 2101. Authorizations.
Authorizes $66.3 billion in contract authority for FY22 through FY25 for the Federal transit program. Creates a new set aside for administrative costs for Buy America.

Subtitle C—Buy America and Other Procurement Reforms

Sec. 2301. Buy America. [49 USC 5320]
Recodifies Buy America into section 5320, closes loopholes, removes bureaucratic burdens, clarifies waiver reporting requirements, and provides new incentives to boost domestic job production. Closes loopholes that allow waived components and components exceeding 70 percent domestic content to receive credit for 100 percent domestic content. Incentivizes higher domestic content by including final assembly costs into the domestic content calculation, providing an automatic 2.5 percent increase in domestic content if a zero-emission vehicle uses domestic battery cells, providing a bonus of 10 percent of domestic content for any component that exceeds 70 percent, and providing a bonus of 15 percent of domestic content for any component that exceeds 75 percent.

Requires FTA to conduct rolling stock certifications to remove the burden from transit agencies, allows certifications to be used for multiple procurements, sets a standard for recertifications, and provides fair competition by ensuring certifications are consistently applied. The DOT Inspector General will provide annual audits of the program. Creates a refined waiver process for passenger vehicles, allowing automatic waivers for passenger vehicles that are domestically assembled and have a 60 percent domestic content as measured by the American Automobile Labeling Act. Requires FTA to review its bus and rail component and final assembly regulations to maximize domestic job creation and align with modern manufacturing techniques. Phases in the modifications of Buy America over a 5-year timeframe.

Subtitle F—Supporting Frontline Workers and Passenger Safety

Sec. 2601. National transit frontline workforce training center. [49 USC 5314(b)]
Creates a training center modeled on the successful National Transit Institute, but with a frontline employee mandate. Establishes labor-management partnerships to provide standards-based training in maintenance and operations occupations. The focus will include developing training standards, local training partnerships, training for new technologies including zero-emission buses, and training on safety and emergency preparedness.

Sec. 2602. Public Transportation Safety Program. [49 USC 5329]
Expands the national safety plan to include driver assist technologies and driver protection infrastructure.

Expands the transit agency safety plan to include a focus on passenger and personnel injuries, assaults, and fatalities; a joint labor-management safety committee empowered to approve the safety plan; and a comprehensive frontline workforce training program on safety and de-escalation.

TITLE II - HAZARDOUS MATERIAL SAFETY AND IMPROVEMENT

Sec. 8202. Transportation of Liquefied Natural Gas by Rail Tank Car.
Requires DOT to rescind any special permit or approval for the transport of liquified natural gas (LNG) by rail tank car issued before the date of enactment. Also prohibits DOT from issuing a regulation or special permit to authorize the transport of LNG by rail tank car until DOT conducts a further safety evaluation. Directs FRA and PHMSA to initiate an evaluation of the safety, security, and environmental risks of transporting LNG by rail, which must include performance evaluation of tank cars, including physical testing of rail tank cars. The evaluation also must examine the impact of a discharge of LNG from a rail tank car and consider several related issues, including the benefits of route, speed, and consist restrictions, the needs of first responders to prepare and safely respond to incidents involving LNG, and the types of safety enhancements required to make tank cars and certain rail containers capable of moving LNG by rail safely. GAO must verify that DOT has complied with this mandate.

Authorizes the Assistance for Local Emergency Response Training (ALERT) grant, which promotes hazmat response training for volunteer or remote emergency responders, at $9 million over five years.

Currently, Federal Motor Carrier Safety Administration (FMCSA) regulations require that all hazmat cargo tank trucks must stop at rail grade crossings, even when the signal is green. The regulations exist to prevent hazmat truck-train collisions but can cause inattentive drivers to rear-end the hazmat trucks. This provision directs Secretary to conduct research on the overall effectiveness and safety implications of those regulations.

DIVISION D - RAIL
TITLE I – AUTHORIZATIONS

Sec. 9101. Authorization of Appropriations.
Provides $29.3 billion over five years in grants to support Amtrak’s intercity passenger rail service on the Northeast Corridor (NEC) and the National Network. Provides higher Amtrak funding levels for FY 2021 and FY 2022 than subsequent years in order to mitigate the effects of the COVID-19 pandemic on its network. Additionally, $2 billion over five years of the National Network grants will go to offset allocated national costs that Amtrak charges states for state-supported routes.

Authorizes five-year appropriations for the State-Amtrak Intercity Passenger Rail Committee at $15 million and the Northeast Corridor Commission at $30 million. Further, authorizes appropriations for the Amtrak Office of Inspector General at $137.5 million over five years.

The Federal Railroad Administration (FRA) Safety and Operations account is authorized at $1.165 billion over five years. This section also specifies certain uses of these funds, such as authorizing grants for improving Class II and III railroad safety.

FRA’s Railroad Research and Development account is authorized at $230 million over five years. Funding is specifically provided for research on the safety of liquefied natural gas (LNG) by rail and to research the feasibility of expanding railroad safety culture assessments and training to include tourist, passenger, and commuter railroads.

Sec. 9102. Passenger Rail Improvement, Modernization, and Expansion (PRIME) Grants. This new intercity passenger rail funding program authorizes grant funding of $19 billion over five years for state of good repair projects, service improvement projects, and rail expansion projects. High speed rail projects are eligible for the funds, and priority is given for projects that incorporate regional planning and/or have the support of multiple states and to projects that provide environmental benefits, such as greenhouse gas reduction and other air quality benefits. Within the grant program, 40% is reserved for NEC projects and 40% is reserved for projects outside the NEC, with a Federal cost-share of up to 90%.

Sec. 9103. Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grants. Reauthorizes the FRA’s discretionary grant program, CRISI, at $7 billion over five years. Commuter rail authorities are newly eligible, and project eligibilities are extended to commuter rail transportation improvement projects, maintenance and upgrades of railroad safety technology (including positive train control), and the establishment of new quiet zones. The section reserves 15% of the funding for rural projects, establishes a 50 percent set-aside for projects over $100 million, and removes a preference for projects with a lower percentage of Federal funding. Grants awarded to commuter rail authorities are transferred to the Federal Transit Administration for grant administration, and commuter railroad authorities must provide protective arrangements to employees covered by railroad labor and retirement statutes who are adversely affected by grant-funded projects.

Sec. 9104. Railroad Rehabilitation and Improvement Financing (RRIF). Through the RRIF program, the Department of Transportation (DOT) provides direct loans and loan guarantees to finance development of railroad infrastructure. New provisions direct the Secretary to repay the credit risk premium (CRP) with interest for each loan defined in cohort 3 (made between 2009 and 2015) not later than 60 days after all obligations attached to each such
loan has been satisfied. The section also authorizes $30 million per year for the Secretary to pay the CRP in whole or in part for loan and loan guarantees for state and local governments, congressionally consented interstate compacts, and government-sponsored authorities and corporations. Of this, $25 million per year is reserved for passenger rail projects. The section makes permanent the authority for transit-oriented development project loans, and it clarifies that RRIF loans may be used as the non-Federal share of project costs if such loans are repaid from non-Federal funds.

**Sec. 9105. Buy America.**
Requires the Department of Transportation (DOT) to provide notice and opportunity for public comment on requests for waivers from FRA’s Buy America standards at least 30 days before making a finding on such request. Also requires DOT to annually report to Congress on the waivers granted during the preceding fiscal year.

**TITLE II – AMTRAK REFORMS**

**Sec. 9203. Amtrak Board of Directors.**
Realigns the makeup of Amtrak’s board of directors to better reflect the interests of passengers and Amtrak-served states. The board must represent the interests of areas served by Amtrak, Amtrak’s passengers and employees, in addition to the Amtrak president and DOT. Also clarifies that the board members provide advice and oversight of Amtrak operations, with consideration for the travelling public’s safety and interests, and the long-term viability of national passenger rail service.

**TITLE III – INTERCITY PASSENGER RAIL POLICY**

**Sec. 9303. Protective Arrangements.**
Directs the FRA Administrator to adhere to current law that requires that applicants seeking FRA grants for some types of projects agree to comply with protective arrangements that are equivalent to those established under the Railroad Revitalization and Regulatory Reform Act of 1976. Those protective arrangements are intended to ensure that workers are not harmed as a result of a project funded by an FRA grant.

**TITLE IV—COMMUTER RAIL POLICY**

**Sec. 9401. Surface Transportation Board Mediation of Trackage Use Requests.**
Requires that a rail carrier must provide good faith consideration to a provider of commuter rail transportation’s reasonable request for access to trackage and provision of related services.

**Sec. 9402. Surface Transportation Board Mediation of Rights of Way Use Requests.**
Requires that a rail carrier must provide good faith consideration to a provider of commuter rail transportation’s reasonable request for access to rail right of way.

**TITLE V – RAIL SAFETY**

**Subtitle A – Passenger and Freight Safety**
Sec. 9501. National Academies Study on Safety Impact of Trains Longer than 7,500 Feet. Long trains place different operational demands on the rail network and workforce. This provision begins a National Academies study on the safety impacts of trains longer than 7,500 feet in a variety of terrains and conditions. The study will consider safety factors, such as loss of communication between crew members and train load composition.

Sec. 9502. GAO Study on Changes in Freight Railroad Operating and Scheduling Practices. Initiates a GAO report on the industry-wide impacts of the Precision Scheduled Railroading model. Directs GAO to take a holistic look at the impacts on freight rail shippers, Amtrak, commuter railroads, and railroad employees.

Sec. 9503. FRA Safety Reporting. Amends FRA accident report forms to collect information on train length and crew size.

Sec. 9504. Waiver Notice Requirements. This section requires FRA to engage in a public process before granting waivers from railroad safety standards and regulations. FRA must give the public notice of a waiver request, make available a waiver application and any supporting data, and provide the public with notice and an opportunity to comment on waivers before they are finalized.

Sec. 9505. Notice of FRA Comprehensive Safety Assessments. Requires that, not later than 10 business days after the FRA initiates a comprehensive safety assessment of an entity providing regularly scheduled intercity or commuter rail transportation, the FRA must notify the House Transportation and Infrastructure Committee, the Senate Commerce, Science, and Transportation Committee, and each member of Congress representing a state in which the service that is the subject of the assessment being conducted is located. Additionally, not later than 90 days after the comprehensive safety assessment is complete, FRA must transmit the findings of the assessment to such Committees and Members of Congress.

Sec. 9506. FRA Accident and Incident Investigations. Requires DOT to create a standard process during FRA accident and incident investigations for gathering information about the accident or incident, and consulting for technical expertise with railroad carriers, contractors or employees or employee representatives, and other relevant entities. In developing the process, the Secretary shall factor in ways to maintain confidentiality of such entities when requested and appropriate.

Sec. 9507. Rail Safety Improvements. In response to the recommendations the National Transportation Safety Board (NTSB) issued following the December 2017 Amtrak derailment near DuPont, Washington, this provision directs DOT to complete a study on how signage can improve rail safety, reevaluate seat securement mechanisms and identify means to prevent their failure, develop policies for the safe use of child safety seats, and conduct research to evaluate the causes of passenger injuries in passenger railcar derailments and overturns, and use such findings to develop occupant protection standards. The section also directs Amtrak to improve its training and skill proficiency requirements for operating crewmembers, to ensure that wayside signs and plaques are highly noticeable and strategically located, to ensure all operating documents are current before starting
new or revised operations, to take measures to improve its system safety plan and conduct risk assessments on all new or upgraded services. FRA and Amtrak must report on their progress within 18 months.

Sec. 9509. Freight Train Crew Size Safety Standards.
Includes a two-person crew requirement that generally requires that freight trains have a certified engineer and a certified conductor. Limited exemptions are included for short line and small railroads, but no exemptions are available for trains carrying dangerous hazmat and long trains, which must be staffed with two crewmembers.

Sec. 9510. Safe Cross Border Operations.
Prohibits the Secretary from granting or modifying a waiver to allow mechanical or brake inspections of rail cars to be performed in Mexico in lieu of complying with the certification requirements of section 416 of the Rail Safety Improvement Act of 2008. This section also prohibits railroad employees whose primary reporting point is in Mexico from entering the U.S. to perform train or dispatching service unless the Secretary certifies that such workers are subject to certain specific safety standards that apply to U.S.-based crews. If the Secretary certifies that such safety standards are met, the Secretary must publicly notice, seek public comment, and hold a public hearing on such certification notice, and notify Congress.

Sec. 9511. Yardmasters Hours of Service.
Makes yardmaster employees subject to FRA’s hours of service protections, defined as individuals responsible for supervising and coordinating the control of trains and engines operating within a rail yard.

Sec. 9512. Leaking Brakes.
Directs the FRA to take such actions as are necessary to ensure that certain air brake control valves are phased out on rail cars operating in cold regions of the United States.

Establishes an annual reporting requirement for positive train control (PTC) system failures.

Sec. 9514. Fatigue Reduction Pilot Projects.
Requires the Secretary to conduct fatigue pilot projects mandated in the Rail Safety Improvement Act of 2008 and directs that the projects be developed and evaluated in coordination with the labor organizations representing impacted employees. The section also permits the Secretary to reimburse participating railroads for associated costs and authorizes funds for such purpose. If the pilot projects have not begun one year after the date of enactment, then the Secretary must report to Congress on the pilot project status, FRA efforts and challenges, and other details associated with their development.

Sec. 9515. Assault Prevention and Response Plans.
Requires passenger and commuter railroad carriers to implement response plans and employee training in order to address assaults against both passengers and employees. The section also requires railroads to report annual assault data to FRA.
Sec. 9516. Critical Incident Stress Plans.
Amends FRA regulations to include assault in the definition of a critical incident, after which railroad carriers must offer support services to employees who witness or experience such events.

Sec. 9517. Study on Safety Culture Assessments.
Requires the FRA to conduct a study on the feasibility of expanding the scope of railroad safety culture assessments and training to include tourist, passenger, and commuter railroads.

Subtitle B – Grade Crossing Safety

Sec. 9551. Grade Crossing Separation Grant.
To reflect the significant demand for funds to support grade separation projects, this section creates a new grant program authorized at $2.5 billion over five years to build or improve grade crossing separations. Right-of-way owners must contribute at least 10% of the total project costs. No more than 50% of the funds can go to projects that cost $100 million or more. For projects over $40 million the cost-share is 65% and for projects under $40 million the cost-share is 85%.

Sec. 9552. Rail Safety Public Awareness Grant.
This section authorizes a new FRA grant program at $30 million over five years with a focus on reducing rail-related accidents and improving safety along railroad rights-of-way and highway-rail grade crossings. Eligible programs include public service announcements and media campaigns, school and driver education safety presentations, and dissemination of safety information to communities.

Sec. 9553. Establishment of a 10-minute Time Limit for Blocking Public Grade Crossings.
This section mirrors many state laws by prohibiting a stopped freight train from blocking a public crossing for more than 10 minutes and allows the Secretary to impose penalties. Enforcement of the blocked crossing regulations may also be delegated to states.

Sec. 9554. National Strategy to Address Blocked Crossing.
Directs DOT to develop a national strategy to address blocked crossings.

Sec. 9555. Railroad Point of Contact for Blocked Crossing Matters.
Adds blocked crossings to the grade crossing problems that the public may report to a railroad under existing law.