



TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

TO: Railway Systems Suppliers, Inc. (“RSSI”)
FROM: TGA Association Management Solutions, LLC (“TGA AMS”)
RE: Monthly Legislative Report for October 2023
DATE: November 1, 2023

KEY UPDATES

- Continuing Resolution (CR) to fund the federal government runs out on November 17, 2023
- House Republicans elected Mike Johnson as Speaker of the House on October 25, 22 days after Kevin McCarthy was ousted as Speaker and several floor votes for other candidates failed
- On October 12, FRA released a [final rule](#) on inward and outward facing cameras on passenger trains
- Senate leaders claimed they would continue to push for a Senate floor vote on the Railway Safety Act before the end of the year
- Federal discretionary grants:
 - FRA [grant NOFO/award tracker](#)
 - FRA Rail Crossing Elimination (RCE) grant program NOFO expected in November

FY2024 APPROPRIATIONS

- The CR includes funding for the federal government for 45 days and reauthorizes the Federal Aviation Administration through the end of the year, heading off what would have meant the furlough of tens of thousands of employees at the Department of Transportation. Congress still needs to pass another bill to fund the remainder of the fiscal year.
- The House Appropriations Committee approved their bill ([HR 4820](#)) on July 18, with a vote of 34 to 27, and the Senate approved their bill ([S 2437](#)) on July 20, with a vote of 29-0
 - Previously, on March 9, President Biden released his [FY2024 proposed budget](#)
 - A listing of [House Community Project Funding](#) requests can be found [here](#), and a listing of [Senate Congressionally Directed Spending](#) projects can be found [here](#)
- See current Appropriations table below for more details:

	Final Omni FY23	IJA Advance Approps FY24	Biden Budget Req. FY24	House FY24	Senate FY24
USDOT RAISE	\$800m	\$1.5b	\$0	\$0	\$800m
USDOT MEGA	\$0	\$1b	\$1.22b	\$0	\$0
USDOT INFRA	\$0	\$1.64b	\$0	\$0	\$0
Amtrak NEC	\$1.260b	\$1.2b	\$1.227b	\$99.23m	\$1.14b
Amtrak National Network	\$1.193b	\$3.2b	\$1.841b	\$776.4m	\$1.31b
FRA CRISI	\$560m	\$1b	\$510m	\$258.5m	\$572.9m
FRA Fed-State Partnership	\$100m	\$7.2b	\$560m	\$0	\$100m
FRA Rail Restoration/Enhancement	\$0	\$0	\$50m	\$0	\$0
FRA Rail Crossing Elimination	\$0	\$600m	\$250m	\$0	\$0

FTA New Starts	\$2.21b	\$1.6b	\$2.85b	\$392.2m	\$2.45b
FTA Formula funds	\$13.6b	-	\$14b	\$13.99b	\$13.99b
WMATA Special Appropriation	\$150m	-	\$150m	\$150m	\$150m

SURFACE TRANSPORTATION BOARD

- Current STB members:
 - **Chairman Martin Oberman (Democrat):** Former Chairman of Metra in Chicago. Named STB Chairman at the beginning of the Biden administration
 - **Robert Primus (Democrat):** Career Democratic staffer on Capitol Hill, formerly served as Chief of Staff to Rep. Nanette Barragan (D-CA), Rep. Michael Capuano (D-MA), and Rep. Tony Cardenas (D-CA)
 - **Karen Hedlund (Democrat):** former Obama FRA Deputy Administrator
 - **Patrick Fuchs (Republican):** Former Senate Commerce Committee staffer under Chairman John Thune (R-SD) who is well versed on regulatory issues affecting the railroad industry. He has been very friendly to freight railroads and we know where he stands on the issues
 - **Michelle Schultz (Republican):** Previously spent 14 year in leadership roles with SEPTA and had a career in law before that
- On September 5, the STB published a [Notice of Proposed Rulemaking](#) on reciprocal switching
 - See AAR response [here](#)
- Regarding CP-KCS, on March 15 the STB [approved CP-KCS merger with conditions](#)

RAIL SAFETY LEGISLATION/ACTION

- Railway Safety Act of 2023 (S. 576) was introduced on March 1, 2023 by Senators Vance (R-OH), Brown (D-OH), Fetterman (D-PA), Casey (D-PA), Hawley (R-MO), and Rubio (R-FL)
 - [Revised bill](#) passed out of the Senate Commerce Committee by a vote of 16-11
 - Bill now moves to the Senate floor
 - House T&I is possibly writing its own version of the bill, likely to be after the release of the final NTSB report which is not expected until the end of the year at the soonest
- RAIL Act (H.R. 1633) was introduced on March 17 by Reps. Johnson (R-OH) and Sykes (D-OH)
- FRA Rail Safety Advisory Committee (RSAC) held a special meeting on March 27 in response to the NS East Palestine, OH derailment
- Reps. Stansbury (D-NM) and Bowman (D-NY) released a labor and [rail safety bill](#) on September 19

TRUCK SIZE & WEIGHTS

- On May 23, the House Transportation and Infrastructure Committee passed two bills H.R. 3372 and H.R. 2948, both of which would allow heavier trucks on the interstate highway system. H.R. 3372 would allow states to increase the allowed weight of a commercial motor vehicle operating on interstate highways from the current maximum weight of 80,000 pounds up to 91,000 pounds. H.R. 2948 (CARS Act), would increase the permissible weight of an auto transporter by 10 percent, up to 88,000 pounds. See [ASLRRA letter](#) to the House Transportation and Infrastructure Committee and a Coalition Against Bigger Trucks (CABT) [letter](#) to committee leaders urging them to reject truck size increases.

INFRASTRUCTURE BILL (IIJA)/BIPARTISAN INFRASTRUCTURE LAW (BIL)

See links below for some helpful summaries of programs and provisions contained in the IIJA/BIL:

CRS Report on Highway and Transit funding in IIJA (NEW)	
WH technical asst guide	USDOT BIL NOFO Tracker
Section 130 program BIL fact sheet	Brookings Online Hub
CRS Report on FHWA programs in IIJA	CRS Report on passenger rail programs in IIJA
White House Guidebook	Updated WH Fact Sheet
White House Fact Sheet	USDOT State Fact Sheets
AASHTO IIJA Summary 9 15 2021	APTA IIJA Passenger Rail Investment
ARTBA IIJA Summary 8 2 2021	FTA Key Priorities
IIJA Summary	CBO Score of IIJA
National Association of Regional Councils	Dept. of Energy IIJA Fact Sheet
National Association of Counties NACo	T&I Links to Excel Apportionment Charts
APTA IIJA Public Transportation Investment	AASHTO Implementation Outline for IIJA

CONGRESSIONAL HEARINGS

- [October 18, 2023](#). The Senate Committee on Commerce, Science, and Transportation held a Full Committee Executive Session to consider several nominations, including: **Michael Whitaker** to be Administrator of the Federal Aviation Administration; **Anthony Rosario Coscia** to be a Director of the Amtrak Board of Directors; **Christopher Koos** to be a Director of the Amtrak Board of Directors; and **Joel Matthew Szabat** to be a Director of the Amtrak Board of Directors. **The Committee favorably reported by voice vote the aforementioned nominees.** [The FAA has been without a Senate-confirmed leader since March 2022.] [Committee Link](#). **Note:** Several Republican lawmakers (e.g., Senator Jerry Moran – KS) have indicated that they will hold up the nominations for the Amtrak Board of Directors on the Senate floor until, according to law, there is a more geographically diverse group of nominees. According to records, Coscia, Szabat, Capozzi, Lathem and Weissmann all reside in the Northeast Corridor. Current law requires that one-half of Amtrak’s Board of Directors represent regions that are not in the Northeast Corridor.

U.S. DEPARTMENT OF TRANSPORTATION/FRA/FTA

- [October 25, 2023](#). The Federal Railroad Administration (FRA) issued a [Notice of Availability/Request for Comments](#). The notice informs the public that, on October 17, 2023, Amtrak submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System (I-ETMS), which seeks FRA’s approval for an approximately two-hour but no greater than three-hour PTC outage that is necessary to enable an upgrade to Amtrak’s PTC Back Office Subsystem. Amtrak’s RFA states that to perform a necessary PTC Back Office Subsystem upgrade to improve the reliability and stability of the Amtrak’s I-ETMS PTC system, Amtrak plans to temporarily disable its Mixed System PTC Back Office Subsystem. Also see Consolidated Rail Corporation Notice [here](#) (and [here](#)) and New Jersey Transit Notice [here](#) (and [here](#)). **Comments are due by November 15, 2023.**
- [October 23, 2023](#). The Surface Transportation Board (STB) [announced](#) the appointment of six new members to the Board’s Rail Energy Transportation Advisory Committee (RETAC). The new members are Bryan Boaz, Sean Brewer, Sandra Ellis, Leila Ford, Edward Quinn, and Robert Zmudka. All new members have been appointed to serve three-year terms ending in September 2026. [RETAC was established by the STB in July 2007](#) to provide advice and guidance to the

Board, and to serve as a forum for discussion of emerging issues regarding the transportation by rail of energy resources (including coal, ethanol, and other biofuels). RETAC is comprised of approximately 28 voting members, representing a balance of stakeholders with interests in energy transportation by rail, including large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum industry, the private railcar industry, and labor organizations.

- October 11, 2023. The Federal Railroad Administration (FRA) issued a [Final Rule](#) (and [here](#)) requiring the installation of inward- and outward-facing locomotive image recording devices on all lead locomotives in passenger trains, as required by the Fixing America's Surface Transportation Act (FAST Act). In general, the final rule requires that these devices record while a lead locomotive is in motion and retain the data in a crashworthy memory module. The rule also treats locomotive-mounted recording devices on passenger locomotives as "safety devices" under existing Federal railroad safety regulations to prohibit tampering with or disabling them. Further, this rule governs the use of passenger locomotive recordings to conduct operational tests to determine passenger railroad operating employees' compliance with applicable railroad rules and Federal regulations. **Relate News:** National Transportation Safety Board Chair Jennifer Homendy issued a statement in response to the final rule on locomotive recording devices ([here](#)), stating, "While this is undoubtedly a step forward for passenger rail safety, FRA's rule falls short of our recommendations in two ways." **The final rule is effective November 13, 2023.**
- October 6, 2023. The [Federal Transit Administration](#) (FTA) issued a [Notice of Funding Opportunity](#) (NOFO – and [here](#) and [here](#)) making available \$196,906,663 in competitive grants under the [FY 2024 Competitive Grants for Rail Vehicle Replacement Program](#). [*FTA may also commit up to \$600,000,000 in FY 2025 and FY 2026 funding towards projects selected in FY 2024.*] Rail Vehicle Replacement Program funds will be allocated competitively to assist in the funding of capital projects to replace rail rolling stock. That is, the focus of the grant program is to modernize America's transit system, focusing on maintaining a State of Good Repair for fixed-guideway rail transit. Eligible applicants for the Competitive Grants for Rail Vehicle Replacement Program are States and local governmental authorities. The Competitive Grants for Rail Vehicle Replacement funding may be up to 50 percent of the total eligible project cost. Other Federal funding, including FTA funding, such as State of Good Repair Program formula funding, may be applied for the project up to a maximum 80 percent Federal share of eligible project costs. Program information [here](#), and there is a [FTA Rail Vehicle Replacement Webinar](#) on November 2, 2023. **Applications are due by December 18, 2023.**
- October 4, 2023. [Operation Lifesaver, Inc.](#) (OLI), the national rail safety education nonprofit, released its [2022 Annual Report](#), detailing the year's accomplishments as Operation Lifesaver celebrated its 50th Anniversary. OLI's mission is to empower the public to make safe choices when driving or walking near tracks and trains. Since OLI's inception in 1972, collisions at railroad crossings across the U.S. have dropped by 82% through education, engineering, and enforcement efforts.
- October 2, 2023. The Surface Transportation Board (STB) announced that it will extend by 15 days the comment period in [Reciprocal Switching for Inadequate Service](#), that focuses on providing rail customers with access to reciprocal switching as a remedy for poor service. The Board's notice in Reciprocal Switching may be viewed [here](#). Senators Tammy Baldwin and Shelley Moore Capito also sent a [letter](#) to STB Chair Martin Oberman intimating their strong support for the STB rulemaking. **Comments on the NRPM are due on November 7, 2023, and replies are due by December 6, 2023.**

Selected/Anticipated Transportation-Related NOFO Announcement Dates in 2023

See [White House](#) Document on [Open/Upcoming NOFOs](#)

Month Est.	Notice of Funding Opportunity (NOFO)	Operating/Admin. Office
Fall 2023	All Stations Accessibility Program	FTA
Fall 2023	Railroad Crossing Elimination Grant Program	FRA
Fall 2023	Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program	FRA
Fall 2023	Building Resilient Infrastructure and Communities Program	DHS/FEMA
Late Fall 2023	Rebuilding America Infrastructure/Sustainability/Equity (RAISE) Gnt.	OST
Nov./Dec.	FY 2022-23 Restoration & Enhancement	FRA
Fall 2023	All Stations Accessibility Program	FTA
Fall 2023	Railroad Crossing Elimination Grant Program	FRA
Fall 2023	Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program	FRA

POLITICAL ENVIRONMENT

- Current split for the 118th Congress
 Senate: **51 Democrats** – **49 Republicans**
 House: **221 Republicans** – **212 Democrats**
- President Biden made his reelection announcement official on April 25