



# TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

**TO:** Railway Systems Suppliers, Inc. (“RSSI”)  
**FROM:** TGA Association Management Solutions, LLC (“TGA AMS”)  
**RE:** Monthly Legislative Report for February 2022  
**DATE:** March 1, 2022

## KEY UPDATES

- Federal debt ceiling and Continuing Resolution (CR) for government funding/appropriations to fund government for remainder of FY 2022 (Oct 1, 2021—Sept 30, 2022) set to expire on March 11, 2022, with short term CR passed to buy additional time to pass full year omnibus
- Build Back Better Act (aka budget reconciliation package) on life support (keep eye on SOTU for path forward)
- [FRA Federal-State Partnership for State of Good Repair grants](#) are due March 7, 2022
- [Railroad Day on Capitol Hill](#) is set for virtual meetings on March 9-10, 2022

## FY2022 APPROPRIATIONS

- On February 18, 2022 a continuing resolution (CR) was signed into law until March 11, 2022
  - The CR will continue to fund the government through March 11, 2022 until Congress can assemble an agreed-to bipartisan omnibus package to fully fund FY 2022
  - On February 8, House and Senate Appropriators reached an agreement on the omnibus bill and there is optimism that a broad funding agreement will get passed by the March 11 deadline
- **IMPORTANT – key increases in federal transportation funding to be enacted in the IIJA are at risk unless a FY 2022 US DOT appropriations bill is enacted**
  - If a full-year FY 2022 CR would happen to be enacted it would restrict US DOT funding to FY 2021 spending (a CR typically limits funding to the previous year’s level) thereby preventing some of the highway and public transportation increases provided by the IIJA
- See Appropriations table below for more details:

	FY21 Actual	FY22 Biden Budget Request	FY22 House	FY Senate
TIGER/BUILD/RAISE	\$1b	\$1b	\$1.2b	\$1.09b
FRA including Amtrak	\$2b	\$2.7b	\$2.7b	\$2.7b
<i>CRISI</i>	\$375m	\$375m	\$500m	\$522.8m
<i>Fed-State SOGR Partnership</i>	\$200m	\$0	\$0	\$220m
<i>PRIME grants</i>	\$0	\$625m	\$625m	\$0
<i>Rail Restoration/Enhancement</i>	\$4.7m	\$0	\$0	\$2m
<i>MagLev</i>	\$2m	\$0	\$5m	\$0
RRIF CRP Subsidy	\$0	\$0	\$0	\$10m
Section 130 grade crossing set-aside	\$245m	\$245m	\$245m	\$245m
FTA New Starts	\$2.014b	\$2.5b	\$2.5b	\$2.24b
FTA Formula funds	\$10.8b	\$10.8b	\$12.8b	\$10.8b
WMATA Special Appropriation	\$150m	\$150m	\$150m	\$150m

## BUILD BACK BETTER (BBB) ACT/BUDGET RECONCILIATION

- Budget reconciliation is a process through which only requires 50+1 votes in the Senate that Democrats are attempting to push many social spending programs
- Roughly \$1.75 trillion partisan social spending bill, the Build Back Better Act (BBB) was passed by the House on November 19, 2021 on a vote of 220 to 213 after the [CBO estimates](#) that enacting the bill would result in a net increase in the deficit totaling \$367 billion over the 2022-2031 period, not counting any additional revenue that may be generated by additional funding for tax enforcement
  - House-passed bill includes \$10 billion for high-speed rail projects
- Negotiations between the White House and the Senate have broken down and President Biden has indicated that he will likely have to break-up the BBB bill in order to pass a scaled-down version (keep on eye on the SOTU on March 1 to hear plans for the path forward)
  - Senate Democrats currently have only 49 voting members, as Senator Ben Ray Lujan (D-NM) suffered a stroke on 1/27/22. Senator Lujan is expected to full recover in 4-6 weeks, however, Senate Democrats will temporarily lose their slim working majority - with Vice President Harris as the tiebreaking vote until he returns

## 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
  - **Vice Chair 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
- The STB has broad regulatory oversight of railroads and is a key agency to monitor. At the beginning of January, after being confirmed easily by the Senate, STB nominees Michelle Schultz and Robert Primus started their five-year terms on the STB as board members. It represents the first time the board has had its full complement of five members since the 2015 STB Reauthorization Act expanded the board from three to five
- The most high-profile item before the STB this year has been the potential merger between Canadian Pacific and Kansas City Southern, but the board is also still considering the CSX-Pan Am merger (comments due January 2022, decision expected April 2022), and several major rules with huge implications for the railroads: 1) forced access/reciprocal switching and 2) NPRMs on shipper/railroad rate disputes
  - The STB has scheduled a [Public Meeting](#) on March 15-16 concerning the forced access/reciprocal switching regulations
    - [AAR statement opposing](#) this effort
    - GoRail and AAR are gathering signers on a [grassroots letter](#) which will be delivered to the STB prior to their hearing in March and have asked for support from REMSA, NRC, RSSI, and RSI
  - House Transportation & Infrastructure Committee holds an STB hearing on March 8

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

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

<a href="#">Brookings Online Hub (NEW)</a>	<a href="#">NRC BIL resource page (NEW)</a>
<a href="#">CRS Report on FHWA programs in IIJA (NEW) – including Section 130</a>	<a href="#">CRS Report on passenger rail programs in IIJA (NEW)</a>
<a href="#">White House Guidebook</a>	<a href="#">Updated WH Fact Sheet</a>
<a href="#">White House Fact Sheet</a>	<a href="#">USDOT State Fact Sheets</a>
<a href="#">AASHTO IIJA Summary 9 15 2021</a>	<a href="#">APTA IIJA Passenger Rail Investment</a>
<a href="#">ARTBA IIJA Summary 8 2 2021</a>	<a href="#">FTA Key Priorities</a>
<a href="#">IIJA Summary</a>	<a href="#">CBO Score of IIJA</a>
<a href="#">National Association of Regional Councils</a>	<a href="#">Dept. of Energy IIJA Fact Sheet</a>
<a href="#">National Association of Counties NACo</a>	<a href="#">T&amp;I Links to Excel Apportionment Charts</a>
<a href="#">APTA IIJA Public Transportation Investment</a>	<a href="#">AASHTO Implementation Outline for IIJA</a>

- As a reminder, \$1.2 trillion five-year bill was signed into law on November 15
  - Bill includes \$550 billion in new spending
  - \$66 billion for passenger and freight rail
    - \$36B Fed-State Partnership for Intercity Passenger Rail grants
    - \$16B Amtrak National Network
    - \$6B Amtrak NEC
    - \$5B FRA CRISI grants
    - \$3B new FRA rail crossing elimination program
  - \$39 billion for transit
    - \$19.15B increased contract authority for formula funding
    - \$4.75B State of Good Repair
    - \$8B FTA CIG/New Starts
- Other key grant programs in the bill
  - New Megaprojects grant program (freight and passenger rail eligible) funded at \$10B
  - USDOT RAISE (formerly BUILD or TIGER grants) funded at \$7.5B
  - USDOT INFRA grants funded at \$3.2B
  - \$50M/year to subsidize credit risk premium for RRIF loans
- **\*Key programs of importance to RSSI**
  - New rail crossing elimination grant program funded at \$3B
  - Section 130 funded at \$245M/year from FY 2022-2026 with several key policy changes:
    - The bill removes the requirement that at least half of the funds set aside for the Section 130 program must be for the installation of protective devices at railway-highway crossings
    - The bill increases the Federal share for projects funded under the Section 130 program from 90 to 100 percent, as well as clarifies that the replacement of functionally obsolete warning devices is an eligible expense
    - The bill also increases the amount of state incentive payment at-grade crossing closures from \$7,500 to \$100,000 and increases the set-aside for compilation and analysis of data from 2 percent up to 8 percent
    - Regarding eligibility, the bill emphasizes eligibility for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings, and states that it is the sense of Congress that the DOT should, where feasible, coordinate

efforts to prevent or reduce trespasser deaths along railroad rights-of-way and at or near railway highway crossings

- This section also requires the Comptroller General of the United States to submit a report that includes an analysis of the effectiveness of the Section 130 program as a set-aside within HSIP
- FRA CRISI grants funded at \$5B
  - Expands eligibility to include rehabilitating, remanufacturing, procuring, or overhauling locomotives that result in a significant reduction in emissions; researching, developing, and testing innovative rail technology; and developing and implementing measures to prevent trespassing and reduce injuries and fatalities
- Other key provisions:
  - Codifies the One Federal Decision executive order which streamlines the permitting process by consolidating decision-making processes and expediting deadlines.
  - FRA Railroad Research and Development program funded an average of \$45 million per Fiscal Year
    - Including up to \$4.5 million per FY for grants to establish and maintain a Center of Excellence to advance the safety, efficiency, and reliability of rail
  - Includes a Highway Cost Allocation Study, the first since 1997. This study will help Congress better ensure different highway users, including commercial motor vehicles, cover their fair share of costs to maintain our nation's roads and bridges
  - Includes National Motor Vehicle Per-Mile User Fee (VMT) Pilot program to demonstrate a national VMT, including for commercial motor vehicles, to restore and maintain long-term solvency of the Highway Trust Fund
  - Establishes an FRA blocked crossings portal pilot program
  - What is notably NOT in the bill
    - No changes were made to the federal truck size or weights
    - Minimum crew size mandates
    - LNG by rail prohibition
    - Restrictive labor provisions
    - Yardmaster HOS

## CONGRESSIONAL HEARINGS

- No hearings of relevance in February, but two key upcoming hearings have been noticed in March
- March 2, 2022. The Senate Environment & Public Works Committee is holding a hearing titled, "Implementation of the Infrastructure Investment and Jobs Act by the U.S. Department of Transportation" with USDOT Secretary Pete Buttigieg. [Committee Link and Testimony](#). **Will be covered by TGA AMS – summary available upon request**
- March 8, 2022. The House Committee on Transportation and Infrastructure is holding a hearing titled, "Stakeholder Views on Surface Transportation Board Reauthorization" [Committee Link and Testimony](#). **Will be covered by TGA AMS – summary available upon request**

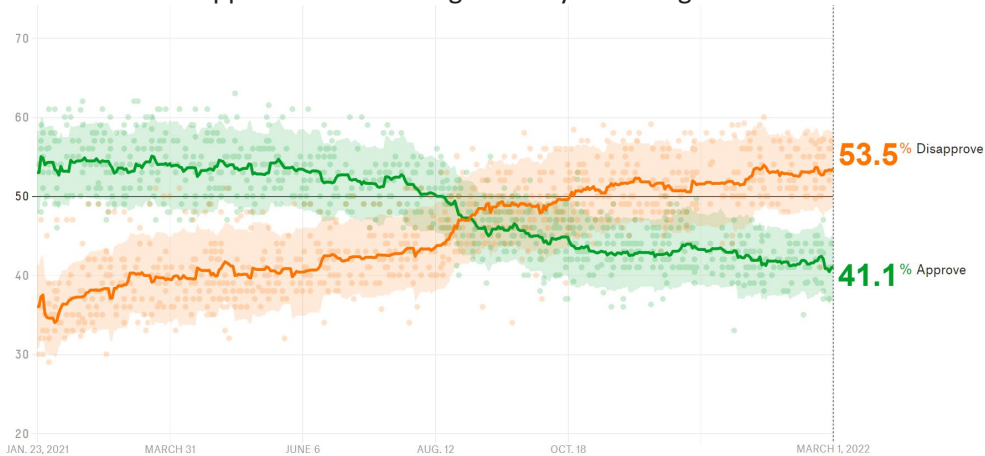
## U.S. DEPARTMENT OF TRANSPORTATION/FRA

- February 7, 2022. The Federal Railroad Administration (FRA) issued a [Request for Information](#) on a new program (Corridor Identification and Development Program per the Infrastructure Investment and Jobs Act) intended to facilitate the development of new enhanced, and restored intercity passenger rail corridors across the nation. **Written comments must be received on or before March 9, 2022.**

- **February 4, 2022.** President Biden signed an [Executive Order](#) on the Use of Project Labor Agreements for Federal Construction Projects. The E.O. states, “it is the policy of the Federal Government for agencies to use project labor agreements [above \$35 million] in connection with large-scale construction projects to promote economy and efficiency in Federal procurement.” See [Fact Sheet here](#).
- **February 3, 2022.** The Federal Transit Administration [released FY 2022 Apportionment Tables](#) (Partial Year) making available more than **\$4.7 billion in Fiscal Year 2022 transit formula funding** to transit agencies, states, and Tribal governments to support public transportation – and public transportation jobs – throughout the nation. The funds were made available under the Further Extending Government Funding Act, which provides partial-year spending authority through February 18, 2022. The amounts also include funding identified as advance appropriations in the Bipartisan Infrastructure Law for FY 2022 for the State of Good Repair and the Enhanced Mobility of Seniors and Individuals with Disabilities formula programs. Full-year formula funding will be available once Congress passes an FY 2022 appropriations bill.

## POLITICAL ENVIRONMENT

- President Biden’s approval has fallen significantly since August



- Current split in the 117<sup>th</sup> Congress  
Senate: **50 Democrats** – **50 Republicans** (VP Harris the tiebreaker)  
House: **221 Democrats** – **213 Republicans**
- As we near 2022 elections, Republicans feel good about their odds to retake Congressional majorities next year and the polls are beginning to reflect that
  - Republicans scored first electoral win of Biden admin with Youngkin’s defeat of McAuliffe in Virginia Governor’s race
  - The first round of primary elections across the country are quickly approaching this spring/summer
- Wave of Democratic retirements expected to continue (already 31 House Dems [have announced](#) their retirement)
- Maps for the next decade are being drafted across the country by legislature or commission