



TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

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

KEY UPDATES

- Fallout from Norfolk Southern derailment in East Palestine, OH
 - NTSB issued a [preliminary report](#) on February 3, final report expected in June or July
 - Bipartisan Senate [rail safety bill](#) introduced on March 1, markup of a revised version of this bill is likely on May 10
- Federal discretionary grants:
 - FRA released a [grant NOFO/award tracker](#) on March 31
 - FRA Fed-State grant NOFO [announced](#) on Dec. 22, applications were due April 21
 - USDOT RAISE grants were due Feb 28, awards by end of June
 - See list of applicants for all USDOT OST grants in FY22 [here](#)
- House T&I Committee planning hearings on supply chain and Amtrak in May and June

FY2024 APPROPRIATIONS

- On March 9, President Biden released his [FY2024 proposed budget](#)
 - House and Senate Appropriations Committees have begun their annual appropriations processes, House plans to begin marking up its appropriations bills in May
 - See [here](#) for all House member requested earmarks/CPFs
- See current Appropriations table below for more details:

	Omni FY22	IJJA FY22	Total FY22	Omni FY23	Biden Budget FY24
USDOT RAISE	\$775m	\$1.5b	\$2.275b	\$800m	\$1.5b
USDOT MEGA	\$0	\$1b	\$1b	\$0	\$2.2b
FRA including Amtrak	\$2.33b	\$4.4b	\$6.73b	\$3.065b	\$7.8b
<i>CRISI</i>	\$625m	\$1b	\$1.625b	\$535m	\$1.5b
<i>Fed-State Partnership</i>	\$100m	\$7.2b	\$7.3b	\$100m	\$7.7b
<i>Rail Restoration/Enhancement</i>	\$0	\$50m	\$50m	\$0	\$0
RRIF CRP Subsidy	\$0	\$50m	\$50m	\$0	\$0
Section 130 grade crossing set-aside	-	\$245m	\$245m	\$245m	\$245m
<i>Rail crossing elimination</i>	-	\$600m	\$600m	\$0	\$850m
FTA New Starts	\$2.25b	\$1.6b	\$3.85b	\$2.21b	\$2.85b
FTA Formula funds	-	\$13.355b	\$13.355b	\$13.6b	\$14b
WMATA	\$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
 - **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 most high-profile item before the STB this year was the merger between Canadian Pacific and Kansas City Southern, but the board is also still considering several major rules with huge implications for the railroads: 1) forced access/reciprocal switching and 2) NPRMs on shipper/railroad rate disputes
 - More action on forced access/reciprocal switching expected later this year
- 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), see more [here](#)
 - Companion bill in the House was introduced on March 21 by Reps. Deluzio (D-PA) and Lalota (R-NY)
 - Bill will likely get marked up by the Senate Commerce Committee in May
- 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

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

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

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 IJA Public Transportation Investment	AASHTO Implementation Outline for IJA

- As a reminder, \$1.2 trillion five-year bill was signed into law on November 15, 2021
 - 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

- April 20, 2023. The House Committee on Appropriations held a hearing to discuss and receive testimony on matters pertaining to, "Budget Hearing – Fiscal Year 2024 Request for the Department of Transportation." [Committee Link and Testimony](#). **Covered by TGA AMS – Summary Available Upon Request.**
- April 18, 2023. The House Committee on Transportation and Infrastructure held a [Full Committee Member Day Hearing](#) to testify on priorities that are important to their individual districts. The T&I Committee is expected to address a five-year reauthorization of the FAA, a pipeline safety reauthorization, and a Coast Guard bill. In addition, the Committee will address supply chain challenges and bottlenecks. At the end of the year the Committee will address a bipartisan Water Resources Development Act (WRDA) for 2024. [Committee Link](#).

U.S. DEPARTMENT OF TRANSPORTATION/FRA/FTA

- April 26, 2023. The US DOT issued a [Notice of Funding Opportunity](#) (NOFO – and [here](#)) making available \$24 million under the [Regional Infrastructure Accelerator \(RIA\) Grant Program](#). The intent of the RIA grant program is to demonstrate and evaluate the viability and effectiveness of a small number of accelerators in expediting the development and delivery of specific transportation projects within the geographic area of each RIA designated by the Build America Bureau. RIA grants assist entities in developing improved infrastructure priorities and financing strategies for the accelerated development of a project that is eligible for funding under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Credit Program. RIAs were

selected in FY 2021 and FY 2022. The Bureau plans to select between six and ten RIAs for awards under this program based on proposals submitted by eligible applicants in response to this notice. The Bureau anticipates providing grants in the range of \$2 million to \$4 million. **The deadline for applications is 30 days after it is opened on Grants.gov.**

- April 26, 2023. The Federal Railroad Administration (FRA) issued a [Notice](#) to inform the public about FRA's regulations that currently govern certain outages of Positive Train Control (PTC) systems during, for example, infrastructure upgrades and capital projects.
- April 25, 2023. Operation Lifesaver, Inc. (OLI), in partnership with the Federal Highway Administration (FHWA) and the Posner Foundation of Pittsburgh [announced](#) \$214,075 in competitive crossing safety awareness grants to Operation Lifesaver programs in 12 states. The FHWA provided \$200,000 of the total funding. The grants will be used for a variety of crossing safety public education projects and campaigns that will encompass Rail Safety Week, September 18-24, 2023.
- April 21, 2023. The Federal Transit Administration (FTA) published a [Notice of Proposed Rulemaking](#) (NPRM – and [here](#)) proposing new requirements for Public Transportation Agency Safety Plans (PTASP) that include revised requirements for Agency Safety Plans (ASP), safety committees, cooperation with frontline transit worker representatives in the development of ASPs, safety risk reduction programs, safety performance targets, de-escalation training for certain transit workers, and addressing infectious diseases through the Safety Management System (SMS) process. **Comments are due June 26, 2023.**
- April 10, 2023. The Federal Railroad Administration (FRA) issued a [Notice of Safety Advisory](#) to emphasize significant concerns related to train makeup and to ensure that all railroads exercise due diligence and recognize the importance of taking proactive measures to address potential safety risks related to operating train builds with varying configurations, load and empty placement, distributed power arrangements, and other factors. The agency issued the advisory in the aftermath of several train derailments that occurred in 2022 and 2023, including train length, distributed power units, trailing units, first car derailed, train type, cars carrying hazardous materials, derailed hazmat cars, evacuations, and key trains. The FRA said an analysis revealed several common themes among the crashes, including that each one had 125 cars or more, all had much more than the maximum allowed 4,000 trailing tons and an empty car was the first to derail in all cases. The FRA is providing recommendations for freight railroads to improve the safety of their train build processes and practices. See analysis and recommendations actions in the Advisory. [*In June 2022, the House Committee on Transportation and Infrastructure [held a hearing on the state of freight rail safety, where members raised the issue of train makeup.](#)*]
- April 7, 2023. The US DOT [announced](#) \$21.15 million in funding in the first round under the [FY 2022 Thriving Communities Program](#) to 64 communities in 42 states. The Thriving Communities Program funds tailored technical assistance to under-resourced and disadvantaged communities to aid them access historic infrastructure investments and deliver transformative projects. The selected communities will be grouped into four "Communities of Practice" identified by US DOT based on their unique technical assistance needs. The Communities of Practice are: **Main Streets, Complete Neighborhoods, Complete Transit-Oriented Neighborhoods, and Network Communities.** *The FY 2023 Thriving Communities Program opportunity for Capacity Builders and communities is expected to open in summer 2023.* See the Thriving Communities Program website [here](#) for future announcements and the list of runner-up communities [here](#).

- April 6, 2023. The US Department of Labor issued a [Notice of Funding Opportunity](#) (NOFO) making available \$80 million under the [Building Pathways to Infrastructure Jobs Grant Program](#). The DOL Building Pathways to Infrastructure Jobs Grant Program will invest in public-private partnerships to develop, implement, and scale worker-centered sector strategy training programs in H-1B industries and occupations critical to meeting the goals of the IJJA. The DOL expects the availability of approximately \$80 million to fund 15-25 grants for the first round of funding. This program requires cost sharing or matching funds. **Applications for Round 1 are due by 11:59 p.m. ET on July 7, 2023. Round 2 will open on March 15, 2024 and applications must be submitted by June 14, 2024.**
- March 31, 2023. The Federal Railroad Administration (FRA) has issued a [Notice of Proposed Rulemaking](#) (NPRM) (and [here](#) and [here](#)) regarding “[Passenger Equipment Safety Standards; Standards for High-Speed Trainsets](#)” and proposing to amend its Passenger Equipment Safety Standards to modernize Tier I and Tier III safety appliance requirements; update the pre-revenue compliance documentation and testing requirements; establish crashworthiness requirements for individual Tier I-compliant vehicles equipped with crash energy management (CEM); establish standards for Tier III inspection, testing, and maintenance (ITM) and movement of defective equipment (MODE); incorporate general safety requirements from FRA’s Railroad Locomotive Safety Standards for Tier III trainsets; and provide for periodic inspection of emergency lighting to ensure proper functioning. While the rule references “high-speed” in the title, it has many elements that apply to conventional equipment and commuter rail operations. In particular, the rulemaking includes several requirements that will have an effect on any passenger locomotive or rolling stock procurements. **Written comments must be received by June 2, 2023.**
- March 31, 2023. The Federal Railroad Administration (FRA) published its [Calendar Year 2023-2024 Notice of Funding Opportunity](#) (NOFO) timeline. Please visit FRA’s [Bipartisan Infrastructure Law](#) and [Competitive Discretionary Grant Programs](#) webpages for additional information about grant programs that are currently accepting applications and other grant program updates. **The aforementioned URL also has a CY 2024 chart not shown here.**
- March 30, 2023. The Congressional Research Service issued an updated report entitled, “[The Railway Labor Act and Congressional Action](#).” The report provides background on the RLA and discusses executive and legislative action to resolve the 2022 dispute.

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
April 2023	Promoting Resilient Operations for Transformative, Efficient/Cost Saving Transportation (PROTECT) Pgm. (NOFO on 4/21/23.)	FHWA
April 2023	Commercial Driver’s License Pgm. Implementation (NOFO on 4/3/23)	FMCSA
April 2023	Commercial Motor Vehicle Operator Safety Training Grant (NOFO on 4/3/23)	FMCSA
April 2023	High Priority Commercial Motor Vehicle Grant (NOFO on 4/3/23)	FMCSA
April 2023	High Priority Innovative Technology Deployment (NOFO on 4/3/23)	FMCSA
Spring 2023	High Priority Enforcement Training Support	FMCSA
March 2023	Safe Streets and Roads for All Grant Program (NOFO on 3/31/23)	US DOT/Office of the Secretary
May 2023	Transit-Oriented Development Planning	FTA

Spring 2023	Mega Grant Program	US DOT/Office of the Secretary
Spring 2023	The INFRA Grants Program	US DOT/Office of the Secretary
Spring 2023	The Rural Surface Transportation Grant	US DOT/Office of the Secretary
Summer 2023	Thriving Communities	FHWA/Office of the Secretary
Spring 2023	Nat'l. Electric Vehicle Formula Pgm. Disc. Grants	FHWA
Spring 2023	Interstate Rail Compacts	FRA
Late Spring 2023	Reconnecting Communities Pilot Program	FHWA/Office of the Secretary
Late Spring 2023	Neighborhood Access and Equity Grants	FHWA/Office of the Secretary
April 2023	Regional Infrastructure Accelerators Demonstration Program (NOFO on 4/26/23.)	US DOT
July 2023	All Stations Accessibility Program	FTA
July 2023	State of Good Repair/Rail Vehicle Replacement Program	FTA
Summer 2023	Bridge Investment Program	FHWA

POLITICAL ENVIRONMENT

- Current split for the 118th Congress
Senate: **51 Democrats** – **49 Republicans** (gain of 2 Dem seats)
House: **222 Republicans** – **212 Democrats** (gain of 10 Repub seats)
- President Biden made his reelection announcement official on April 25