



TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

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

KEY UPDATES

- Fallout from Norfolk Southern derailment in East Palestine, OH
 - NTSB is holding a [field hearing](#) in East Palestine, OH on June 22-23
 - On May 10, Senate rail safety bill (S. 576) passed the Senate Commerce Committee (16-11)
- [Bill](#) to lift the debt ceiling passed the House on May 31 and is on track to pass the Senate later this week
- House T&I Committee marked up several supply chain related bills on May 23, including several truck size and weight (TSW) bills
 - Amtrak hearing in T&I rail subcommittee scheduled for June 6
- On May 31, FRA released [NPRM](#) (comments due July 31, 2023) proposed certification for rail signal employees
- Federal discretionary grants:
 - FRA released a [grant NOFO/award tracker](#)
 - FRA Rail Crossing Elimination grant awards to be announced next week
 - USDOT RAISE grant awards to be announced by end of June
 - See list of applicants for all USDOT OST grants in FY22 [here](#)

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	IJA 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	\$2.35b	\$2.6b
<i>CRISI</i>	\$625m	\$1b	\$1.625b	\$630m	\$534.5m
<i>Fed-State Partnership</i>	\$100m	\$7.2b	\$7.3b	\$555m	\$200m
<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)
 - [Revised bill](#) passed out of the Senate Commerce Committee by a vote of 16-11
 - Bill now moves to the Senate floor but appears to still be a couple of votes shy of passing
 - House T&I is writing its own version of the bill, likely to be after the release of the final NTSB report
- 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:

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

- 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

- May 23, 2023. The House Committee on Transportation and Infrastructure held a Full Committee hearing to consider several measures (18), including: an amendment in the Nature of a Substitute (ANS) to [H.R. 1836](#), Ocean Shipping Reform Implementation Act of 2023, an amendment in the Nature of a Substitute (ANS) to [H.R. 2367](#), the Truck Parking Safety Improvement Act, [H.R. 3372](#), to amend title 23, United States Code, to establish a safety data collection program for certain 6-axle vehicles [article [here](#)], and for other purposes, and H.R. [3317](#), Rolling Stock Protection Act, et al. [Committee Link](#). **Note:** see American Short Line & Regional Railroad Association [letter](#) opposing HR 3372 and HR 471, and Coalition Against Bigger Trucks [letter](#) and see report from NACo and NACE entitled, “[The Impacts of Heavier Trucks on Local Bridges](#).” See House Committee on T&I press release [here](#) for a list of measures passed-out of Committee. **Covered by TGA AMS – Summary Available Upon Request.**
- May 11, 2023. The House Committee on Transportation and Infrastructure held, Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing to discuss and receive testimony on matters pertaining to, “Getting Back on Track: Exploring Rail Supply Chain Resilience and Challenges.” [Committee Link and Testimony](#). **Covered by TGA AMS – Summary Available Upon Request**
- May 10, 2023. The House Committee on Transportation and Infrastructure held, Subcommittee on Highways and Transit held a hearing to discuss and receive testimony on matters pertaining to, “Freight Forward: Overcoming Supply Chain Challenges to Deliver for America.” [Committee Link and Testimony](#). **Covered by TGA AMS – Summary Available Upon Request**
- May 10, 2023. The Senate Committee on Commerce, Science, & Transportation held a Full Committee Executive Session to consider the [Railway Safety Act of 2023](#) (S 576 – introduced by Senator Sherrod, D-OH in the aftermath of the 2/9/23 derailment of a Norfolk Southern Railway train in East Palestine, Ohio) et al. important pieces of legislation. [Committee Link](#). See recent [letter](#) from State/Associations urging Congress not to include any mandates in a rail safety bill, such as train crew size. [*The Railway Safety Act of 2023 was passed by the Committee (vote of 16 to 11) and now proceeds to the Senate floor for consideration. It is unclear if there are sufficient votes in the Senate to move the legislation to a final vote; 60 votes would be required to achieve cloture on a motion to proceed to final consideration.*] See Norfolk Southern Railway statement on rail safety legislation [here](#) and Association of American Railroads statement [here](#). Meanwhile, several Democratic Congressional leaders of the House Committee on Transportation and Infrastructure sent a [letter](#) to T&I Committee Chairman Sam Graves (R-MO) urging the House Committee on Transportation and Infrastructure to schedule a hearing on rail safety. **Covered by TGA AMS – Summary Available Upon Request**

U.S. DEPARTMENT OF TRANSPORTATION/FRA/FTA

- May 31, 2023. As of this writing, President Joe Biden and House Speaker Kevin McCarthy have released the legislative text of a debt ceiling [agreement](#) (the Fiscal Responsibility Act of 2023 - [HR TBA](#)). The tentative agreement would raise the nation’s debt \$31.4 trillion ceiling through January 1, 2025. [*A May 26 Letter from Treasury Secretary Janet Yellen to House Speaker Kevin McCarthy (R-CA) had stated that, “Based on the most recent available data, we now estimate that Treasury will have insufficient resources to satisfy the government’s obligations*

if Congress has not raised or suspended the debt limit by June 5.” With time being of the essence, the House is planning for a vote on Wednesday (May 31), and Senate Majority Leader Chuck Schumer has indicated that he is preparing for a Friday vote (June 2) on the bill. Key provisions of the bill include:

- An extension of the public debt limit through January 1, 2025 (past the 2024 presidential election);
 - That non-defense discretionary spending remains relatively flat in FY 2024 (\$703.6 billion), and that a 1 percent cap is set on spending increases for FY 2025 (\$710.7 billion). [Defense spending will remain at roughly President Biden’s FY 2024 budget request of \$886.3 billion (about a 3 percent increase).]
 - A special adjustment for FY 2024 that forces a 1 percent reduction in all 12 appropriation bills, in any temporary Continuing Resolution, provided the regular appropriation bills are not passed by January 1, 2024;
 - IRS funding cuts of approximately \$1.4 billion, the amount included in their FY 2023 spending plan for non-taxpayer services;
 - A clawing-back of unspent \$28 billion in COVID-19 aid funds;
 - The tightening of work requirements for federal aid, i.e., SNAP program;
 - An acceleration of environmental review/permitting process ([NEPA](#)) for energy projects (approves the Mountain Valley Pipeline natural gas project championed by Senator Joe Manchin);
 - A prohibition on any further extensions on federal student loans;
 - The bill does not increase taxes, and it does not cut Medicare or Social Security
- **May 24, 2023.** The National Transportation Safety Board (NTSB) **announced** that it will hold a two-day investigative hearing in East Palestine, Ohio, on June 22-23, as part of the ongoing investigation into the February 3, 2023 derailment of a Norfolk Southern Railway train and subsequent hazardous material release and fires.
 - **May 15, 2023.** The Biden Administration released updated state-by-state **Fact Sheets** to highlight key project investments made from the Infrastructure Investment and Jobs Act.
 - **May 12, 2023.** The Rail Passengers Association announced that after a year of study, the **Amtrak Food & Beverage Working Group** has included nearly two dozen recommendations in its report to Congress. Congress created the Working Group, a team of passenger advocates, onboard Amtrak employees, state partners, and Amtrak management, as part of the Bipartisan Infrastructure Law which President Biden signed in November of 2021. Amtrak has 180 days to respond. See one-pager **here**.
 - **May 9, 2023.** The Federal Railroad Administration (FRA) issued a **Safety Bulletin** to emphasize the importance of ensuring safe operations of hand-operated main track switches. The bulletin was issued due to the on-going investigation of a train collision that occurred in April. The incident resulted in the derailment of three locomotives and twelve grain cars, with both members of the crew sustaining serious injuries.
 - **May 5, 2023.** The Federal Transit Administration (FTA) **announced** the allocation of approximately \$703,093,337 in FY 2022/2023 funding to **6 projects in 6 states** from the **Rail Vehicle Replacement Program**. The selections represent first-time funding from the new Rail Vehicle Replacement Program, which was created to improve safety, service, and customer

experience on subways, commuter rail, and light rail systems. The program is a set-aside of the State of Good Repair Formula Grants Program.

- **May 3, 2023.** [Amtrak](#) and the Illinois Department of Transportation (IDOT) have received federal approval for maximum speeds up to 110 mph for most of the Chicago-St. Louis corridor, primarily between the Amtrak stations in Joliet and Alton. “Trains will continue to operate at 110 mph for several weeks without a change in schedule to ensure everything on the system is running properly and to monitor the actual travel time between stations,” said John Oimoen, IDOT Deputy Director.
- **May 1, 2023.** The Federal Railroad Administration (FRA) issued a [Notice of Funding Opportunity](#) (NOFO – and [here](#) – corrected NOFO [here](#)) making available \$5 million (comprised of \$2.5 million for FY 2022 and \$2.5 million for FY 2023) under the [Rail Research and Development Center of Excellence \(CoE\)](#). [*An additional \$2.5 million will be made available in FY 2024 subject to the availability of appropriations.*] The CoE will provide funding to entities for research activities that would include basic and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed and freight rail transportation, to include advances in rolling stock, advanced PTC, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency, operational reliability, energy efficiency, and other advanced technologies. Eligible applicants are those with strong past performance related to rail research, education, and workforce development activities; whose proposal would involve public and private sector passenger and freight railroad operators in establishing and maintaining the CoE. The Federal share of total costs of establishing and maintaining the CoE and any related research activities funded under this notice will not exceed 50 percent. **Applications are due July 3, 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
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
Late Spring 2023	Thriving Communities	FHWA/Office of the Secretary
May 2023	Interstate Rail Compacts – (NOFO 5/9/2023)	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
July 2023	All Stations Accessibility Program	FTA
July 2023	State of Good Repair/Rail Vehicle Replacement Program	FTA
Summer 2023	Bridge Investment Program	FHWA
Summer 2023	Railroad Crossing Elimination Grant Program	FRA
Fall 2023	Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program	FRA

Fall 2023	<u>Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program</u>	Office of the Secretary
Fall 2023	Transportation Access Pilot Program	FHWA
Fall 2023	Building Resilient Infrastructure and Communities Program	DHS/FEMA
Winter 2023	Innovative Coordinated Access and Mobility Program	FTA

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