



TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

TO: Railway Systems Suppliers, Inc. (“RSSI”)
FROM: TGA Association Management Solutions, LLC (“TGA AMS”)
RE: Monthly Legislative Report for June 2023
DATE: June 30, 2023

KEY UPDATES

- Fallout from Norfolk Southern derailment in East Palestine, OH
 - NTSB held [field hearing](#) in East Palestine, OH on June 22-23
 - Senate Majority Leader Schumer suggested Senate will vote on the rail safety bill in July
- [Bill](#) to lift the debt ceiling became law on June 3
- House T&I Rail Subcommittee held a [hearing](#) on Amtrak operations on June 6
- On May 31, FRA released [NPRM](#) (comments due July 31, 2023) proposed certification for rail signal employees
- Federal discretionary grants:
 - FRA [grant NOFO/award tracker](#)
 - FRA Rail Crossing Elimination grant awards [announced](#) on June 5
 - USDOT RAISE grant awards [announced](#) on June 28
 - USDOT [opened application](#) process on June 27 for the Multimodal Project Discretionary Grant program (Mega, INFRA and Rural grant programs)

FY2024 APPROPRIATIONS

- On March 9, President Biden released his [FY2024 proposed budget](#)
 - House and Senate Appropriations Committees have begun their annual appropriations processes, House and Senate will continue marking up its appropriations bills in July
 - 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	\$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
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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
 - 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

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

- 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

- June 21, 2023. The Senate Committee on Commerce, Science, and Transportation held a Full Committee Nominations Hearing to consider nominations for the Amtrak Board of Directors and the National Transportation Safety Board. Nominees included: [Joel Matthew Szabat](#); [Anthony Rosario Coscia](#) and [Christopher Koos](#) to be a Directors of the Amtrak Board of Directors; and [Alvin Brown](#) to be a Member of the National Transportation Safety Board. The nominees testified and answered questions in their own behalf. Senator Jon Tester (D-MT), meanwhile, is said to be negotiating with the Biden Administration to ensure that the Amtrak Board of Directors is geographically representative of the US, and that no more than four nominees hail from states on Amtrak's Northeast Corridor. Currently, five of the six nominees are from states within the NE Corridor. [*The Committee has yet to schedule a hearing for the other three nominees – David Capozzi, Samuel Lathem and Robin Wiessmann.*] [Committee Link and Testimony](#).
- June 6, 2023. The House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines and Hazardous Materials held a hearing to discuss and receive testimony on matters pertaining to, "Amtrak Operations: Examining the Challenges and Opportunities for Improving Efficiency and Service." Witnesses include: Amtrak CEO Stephen Gardner and NEC Commission Executive Director, Mitch Warren. [Committee Link and Testimony](#). **Covered by TGA AMS – Summary Available Upon Request**

U.S. DEPARTMENT OF TRANSPORTATION/FRA/FTA

- June 28, 2023. The US DOT [announced the award](#) of more than \$2.2 billion from the 2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program to 162 different infrastructure projects across the country. US DOT received \$15 billion in requests for the \$2.26 billion available. RAISE Grants are for investments in surface transportation that will have a significant local or regional impact. The RAISE grant program supports communities of all sizes, with half of the FY2023 funding going to rural areas and the other half to urban areas. Seventy percent of the grants are going to projects in regions defined as an Area of Persistent Poverty or a Historically Disadvantaged Community. The full list of the projects can be viewed [here](#), and the NOFO can be found [here](#).
- June 27, 2023. The US DOT issued a **Notice of Funding Opportunity (NOFO)** making available between \$5.45 billion - \$ 5.575 billion under the **FY 2023- 2024 Multimodal Project Discretionary Grant Opportunity (MPDG)**. The MPDG opportunity is a combination of three (3) grant programs into one solicitation: **1.)** the [National Infrastructure Project Assistance Grants Program \(aka Mega for \\$1.8 billion - Mega grants may be used for up to 60 percent of future eligible project costs.\)](#), **2.)** the [Nationally Significant Multimodal Freight and Highways Projects Grants Program \(aka INFRA for between \\$3-3.1 billion - INFRA grants may be used for up to 60 percent of future eligible project costs.\)](#) and **3.)** the [Rural Surface Transportation Grant Program \(aka Rural for \\$650-675 million - Rural grants may be used for up to 80 percent of future eligible project costs, except for the Appalachia Dev. Highway System\)](#) program. The

funding opportunities are awarded on a competitive basis for surface transportation infrastructure projects—including highway and bridge, intercity passenger rail, railway-highway grade crossing or separation, wildlife crossing, public transportation, marine highway, and freight projects, or groups of such projects—with significant national or regional impact, or to improve and expand the surface transportation infrastructure in rural areas. Applicants may choose to apply to one, two, or all three of these grant programs. Applicants are encouraged to apply for multiple programs, to maximize their potential of receiving Federal support. See the NOFO for details on applicant eligibility, project size etc. **Applications are due by 11:59:59 p.m. EDT on August 21, 2023. The Grants.gov “Apply” function will open by June 22, 2023.** See US DOT Press Release [here](#).

- [June 9, 2023](#). The Federal Railroad Administration (FRA) issued a [Notice of Safety Advisory - Notice No. 2](#) (and [here](#) – and [here](#)) regarding a series of rail accidents suspected of being caused by burnt journal bearings and addressing the use and maintenance of hot bearing detectors (HBDs). This safety advisory is, in fact, the 2nd advisory on those issues; [the first advisory was issued on March 3, 2023](#). This 2nd safety advisory recommends that railroads take action to evaluate the resiliency and accuracy of the overall process used to monitor and measure bearing health. The impetus for the second safety advisory is due to another accident on May 10, 2023, in New Castle, Pennsylvania wherein it is suspected that the accident occurred due to a burnt journal bearing.
- [June 5, 2023](#). The Federal Railroad Administration (FRA) [announced](#) it has awarded more than \$570 million in Railroad Crossing Elimination (RCE) Grant Program funding to projects in 32 states. The inaugural round of funding (the program was authorized in Section 22305 of the IIJA – FY 2022 - NOFO [here](#)) will address more than 400 at-grade crossings nationwide. The FRA said there were more than 2,000 highway-rail crossing collisions last year and more than 30,000 reports of blocked crossings. For the full list of FY 2022 RCE Program project selections, please click [here](#).
- [May 31, 2023](#). The Federal Railroad Administration (FRA) issued a [Notice of Proposed Rulemaking](#) (NPRB) proposing regulations for the certification of dispatchers, pursuant to the authority granted in section 402 of the Rail Safety Improvement Act of 2008. FRA proposes to require railroads to develop programs for certifying individuals who perform dispatching tasks on their networks. Under the proposed rule, railroads would be required to have formal processes for training prospective dispatchers, as well as verifying that each dispatcher has the requisite knowledge, skills, safety record, and abilities to safely perform all the safety-related dispatcher duties mandated by Federal laws and regulations, prior to certification. **Comments must be received by July 31, 2023.**
- [May 31, 2023](#). The Federal Railroad Administration (FRA) issued a [Notice of Proposed Rulemaking](#) (NPRB) proposing regulations for the certification of signal employees, pursuant to the authority granted in section 402 of the Rail Safety Improvement Act of 2008. FRA proposes to require railroads to develop programs for the certification of signal employees and to submit those written certification programs to FRA for approval prior to implementation. Signal employees are responsible for the installation, testing, troubleshooting, repair, and maintenance of railroad signal systems which, for purposes of this proposed rule, include highway-rail and pathway grade crossing warning systems, unusual contingency detection

devices, broken rail detection systems, power-assisted switches, and switch point indicators.
Comments must be received by July 31, 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
July 2023	Transit-Oriented Development Planning	FTA
June 2023	Mega Grant Program – NOFO 6/27/23	US DOT/Office of the Secretary
June 2023	The INFRA Grants Program – NOFO 6/27/23	US DOT/Office of the Secretary
June 2023	The Rural Surface Transportation Grant – NOFO 6/27/23	US DOT/Office of the Secretary
Summer 2023	Thriving Communities	FHWA/Office of the Secretary
Summer 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	Railroad Crossing Elimination Grant Program	FRA
Fall 2023	Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program	FRA
August 2023	Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program	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