



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 2022
DATE: July 1, 2022

KEY UPDATES

- House T&I Rail Subcommittee held a contentious [freight rail safety hearing](#) on June 14, 2022
- FY2023 Transportation Appropriations process continued (which funds programs for next fiscal year beginning October 1, 2022) with the House Appropriations Committee approving its FY23 bill
- Federal discretionary grants:
 - FY21 FRA [CRISI grant awards announced](#) on June 2, 2022
 - Grade crossing elimination grants [notice of funding announced](#) on June 30 (after Amtrak incidents at grade crossings in California and Missouri earlier in the week)
- On June 22, President Biden called for a three-month federal gas tax holiday through September, but Congress is unlikely to approve such action
- On June 27, FRA convened its first Rail Safety Advisory Committee (RSAC) meeting of the year.
Covered by TGA AMS – summary available upon request

FY2023 APPROPRIATIONS

- House Appropriations Committee marked up its FY23 Transportation-HUD Appropriations bill on June 30. See bill [here](#) and committee report [here](#)
- See updated Appropriations table below for more details:

	FY22 House	FY22 Senate	Omni FY22	IJJA FY22	Total FY22	House FY23
TIGER/BUILD/RAISE	\$1.2b	\$1.09b	\$775m	\$1.5b	\$2.275b	\$775m
FRA including Amtrak	\$2.7b	\$2.7b	\$2.33b	\$4.4b	\$6.73b	\$2.35b
<i>CRISI</i>	\$500m	\$522.8m	\$625m	\$1b	\$1.625b	\$630m
<i>Fed-State SOGR Partnership</i>	\$0	\$220m	\$100m	\$7.2b	\$7.3b	\$555m
<i>PRIME grants</i>	\$625m	\$0	\$0	\$0	\$0	\$0
<i>Rail Restoration/Enhancement</i>	\$0	\$2m	\$0	\$50m	\$50m	\$0
<i>MagLev</i>	\$5m	\$0	\$0	\$0	\$0	\$0
RRIF CRP Subsidy	\$0	\$10m	\$0	\$50m	\$50m	\$0
Section 130 grade crossing set-aside	\$245m	\$245m	-	\$245m	\$245m	\$245m
<i>Grade crossing elimination</i>			-	\$600m	\$600m	\$0
FTA New Starts	\$2.5b	\$2.25b	\$2.25b	\$1.6b	\$3.85b	\$3.012b
FTA Formula funds	\$12.8b	\$10.8b	-	\$13.355b	\$13.355b	\$13.634b
WMATA Special Appropriation	\$150m	\$150m	\$150m	-	\$150m	\$150m

CHINA TRADE & COMPETITIVENESS BILL

- On May 12, the [Conference Committee](#) (107 members) on the Senate-passed [U.S. Innovation & Competition Act](#) (USICA – [S 1260](#) (and [here](#))), passed as a Senate Amendment to HR 4521 on 3/28/22 - [vote of 68-28](#)) and the House-passed [America COMPETES Act](#) ([HR 4521](#) (and [here](#))) – passed on 2/4/22 - [vote of 222 to 210](#)) met for the first time. Senator Maria Cantwell (D-WA), Chair of the Senate Commerce, Science, and Transportation Committee, Chaired the meeting. Rep. Eddie Bernice Johnson (D-TX), Chair of the House Science, Space, and Technology Committee, led the House delegation.
 - Senate passed its U.S. Innovation and Competition Act on March 28, 2022 after the House passed its COMPETES Act on February 4, 2022. The bill is aimed at improving supply chain woes and strengthening American competitiveness and trade
 - See summary [here](#) for key provisions and differences in the two bills

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 several major rules with huge implications for the railroads: 1) forced access/reciprocal switching and 2) NPRMs on shipper/railroad rate disputes
 - On May 6, 2022, the Surface Transportation Board (STB) [announced](#) that it will require certain railroads to submit service recovery plans as well as provide additional data and regular progress reports on rail service, operations, & employment. [BNSF](#), [CSX](#), [Norfolk Southern](#) (NS) & [Union Pacific](#) (UP) have submitted service recovery plans. The plans can also be found [here](#)
 - The STB held public meetings on April 26 and 27 to discuss rail service issues
 - Class Is mostly got grilled for how they have handled cargo amid continued supply chain disruptions. STB Chair Oberman made it clear that he's frustrated with the railroad industry's excessive delays, fees and failures to ship goods at agreed upon dates and times
 - The [STB approved the CSX-Pan Am merger](#) on April 14
 - The STB held a [Public Meeting](#) on March 15-16 concerning the forced access/reciprocal switching regulations

- [AAR statement opposing](#) this effort
- See the US Department of Justice comments on reciprocal switching [here](#) and other comments [here](#) (type in EP 711 on Docket Number box)
- Also, see Railway Age article, “[A Primer on Reciprocal Switching.](#)”
- On March 23, the STB issued a decision allowing supplemental written comments and extending the ex parte communications period in the Reciprocal Switching proceeding. Following the March 15/16 hearing, the [STB decided to allow interested persons to file supplemental written comments](#) limited to issues raised at the hearing or in written materials submitted in response to the Board’s December 28, 2021 notice
- Regarding CP-KCS
 - On June 22, three Commissioners (of the five Commissioners) of the Federal Maritime Commission [filed a letter](#) with the Surface Transportation Board to “respectfully urge the Surface Transportation Board to disapprove of the consolidation of the railroad systems of the CP and the KCS.” The rationale, as explained in the letter from the Commissioners notes that, “the proposed merger will adversely impact U.S. ports and the primarily U.S.-based intermodal railway systems that serve our ports, and would disproportionately benefit Canadian ports and the primarily Canadian-based intermodal railway systems that service Canadian ports for transportation of U.S.- bound cargo.” The Commissioners logging their concerns with the merger are Carl Bentzel (Republican), Louis Sola (Republican) and Max Vekich (Democrat)
 - On June 14, Metra said that new analysis shows CP-KCS merger would vastly increase commuter train delays, more info [here](#)
 - On March 16, the STB noted that CP submitted 2019 baseline GT/M data for CP and KCS lines that is different from data in the Master Segment Table that was submitted. And on Feb 28, CN formally requested, via a [Responsive Application](#), to the STB to divest the parallel Springfield Line to CN’s as a condition of any approval of the proposed CP-KCS merger. CN argued that, “Allowing CP to consolidate control over two routes between Kansas City, on the one hand, and Chicago, Detroit, and Eastern Canada, on the other hand, would diminish competitive alternatives for rail customers— particularly because the CP-KCS application makes clear that CP will favor its existing Chicago-Kansas City route over potential routings involving the parallel Springfield Line.” CN has also intimated that it will invest in the creation of the Kansas City Speedway, if granted control over the line, bringing significant environmental benefits by removing 80,000 trucks a year from the road

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
- On May 27, it was reported that Senator Joe Manchin (D-WV) is in talks with Senate Majority Leader Chuck Schumer (D-NY) about passing a climate, energy and deficit-reduction package. “The productive spirit of the Manchin-Schumer talks leads some senators to believe a reconciliation bill, with roughly \$300 billion in energy tax credits and \$800 billion in new revenue, is possible”
- As a reminder, the 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
 - House-passed bill included \$10 billion for high-speed rail projects

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 (NEW)	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
 - 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

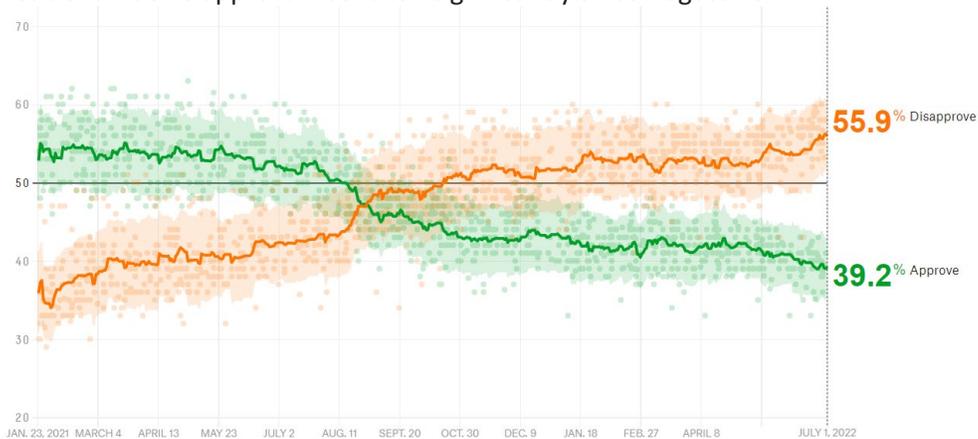
- June 30, 2022. The House Committee on Appropriations held a markup of the FY 2023 Transportation, and Housing and Urban Development, and Related Agencies appropriations bill. [Committee Link](#). **Covered by TGA AMS – summary available upon request**
- June 23, 2022. The House Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development held a markup of their “Fiscal Year 2023 Transportation, Housing and Urban Development and Related Agencies Subcommittee Appropriations Bill.” [Committee Link](#). **Covered by TGA AMS – summary available upon request**
- June 14, 2022. The House Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines and Hazardous Materials held a hearing on, “Examining Freight Rail Safety.” [Committee Link and Testimony](#). **Covered by TGA AMS – summary available upon request**
- June 8, 2022. The House Committee on Transportation and Infrastructure held a hearing to discuss and receive testimony on, “Addressing the Roadway Safety Crisis: Building Safer Roads for All.” [Committee Link and Testimony](#).

U.S. DEPARTMENT OF TRANSPORTATION/FRA

- June 10, 2022. The Federal Railroad Administration (FRA) issued a [Final Rule](#) requiring certain railroads to develop and implement a Fatigue Risk Management Program, as one component of the railroads' larger railroad safety risk reduction programs. The rule is part of FRA's efforts to improve rail safety continually and to satisfy the statutory mandate of Section 103 of the Rail Safety Improvement Act of 2008 (RSIA). The rule fulfills the RSIA's mandate for railroads to include fatigue management plans in their safety risk reduction programs, by requiring railroads to develop and implement Fatigue Risk Management Programs (FRMPs) as part of their Risk Reduction Program (RRPs) or System Safety Program (SSPs). **The final rule is effective July 13, 2022**
- May 31, 2022. The Federal Transit Administration (FTA) published its, "[FTA Standards Development Program: Rail Transit Roadway/Pedestrian Grade Crossing Exploratory Report](#)." The report presents the results of a literature review, an industry survey, development of general use cases for grade crossing, and case studies on four transit properties to establish standards for rail transit roadways/pedestrian grade crossings
- May 31, 2022. The Federal Transit Administration (FTA) published its, "[Research Report and Findings: Review of Standards for Track Inspection and Maintenance Final Report](#)." The report presents research that was performed to determine the state of inspection/maintenance practices for rail transit agencies

POLITICAL ENVIRONMENT

- President Biden's approval has fallen significantly since August 2021



- Current split in the 117th Congress
Senate: **50 Democrats** – **50 Republicans** (VP Harris the tiebreaker)
House: **220 Democrats** – **210 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
 - Primary elections across the country are in full swing
 - Maps for the next decade are now mostly approved across the country by legislature or commission in preparation for upcoming primary elections
- Wave of Democratic retirements expected to continue (already 31 House Dems [have announced](#) their retirement)