



# TGA ASSOCIATION MANAGEMENT SOLUTIONS, LLC

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

## KEY UPDATES

- Senate rail safety bill did not get a vote on the Senate floor before the Congressional August recess as it did not have enough votes (60+) to pass on the floor
- House and Senate Appropriations Committees both passed their FY24 transportation funding bills, but there is a major delta in funding between the House and Senate
  - This must get resolved by Sept. 30 or there will be a government shutdown
- On May 31, FRA released [NPRM](#) (comments originally due July 31, 2023) proposed certification for rail signal employees
  - AAR and other groups have asked for a 60-day extension to file comments
- Federal discretionary grants:
  - FRA [grant NOFO/award tracker](#)
  - USDOT [opened application](#) process on June 27 for the Multimodal Project Discretionary Grant program (Mega, INFRA and Rural grant programs)
  - RAISE FY2023 awards [announced](#) on June 28 – rail-related projects received \$259 million out of \$2.2 billion available

## FY2024 APPROPRIATIONS

- The House Appropriations Committee approved their bill ([HR 4820](#)) on July 18, with a vote of 34 to 27, and the Senate approved their bill ([S 2437](#)) on July 20, with a vote of 29-0
  - Previously, on March 9, President Biden released his [FY2024 proposed budget](#)
  - A listing of [House Community Project Funding](#) requests can be found [here](#), and a listing of [Senate Congressionally Directed Spending](#) projects can be found [here](#)
- See current Appropriations table below for more details:

|                                     | Final<br>Omni<br>FY23 | IJA<br>Advance<br>Approps<br>FY24 | Biden<br>Budget Req.<br>FY24 | House<br>FY24 | Senate<br>FY24 |
|-------------------------------------|-----------------------|-----------------------------------|------------------------------|---------------|----------------|
| USDOT RAISE                         | \$800m                | \$1.5b                            | \$0                          | \$0           | \$800m         |
| USDOT MEGA                          | \$0                   | \$1b                              | \$1.22b                      | \$0           | \$0            |
| USDOT INFRA                         | \$0                   | \$1.64b                           | \$0                          | \$0           | \$0            |
| Amtrak NEC                          | \$1.260b              | \$1.2b                            | \$1.227b                     | \$99.23m      | \$1.14b        |
| Amtrak National Network             | \$1.193b              | \$3.2b                            | \$1.841b                     | \$776.4m      | \$1.31b        |
| FRA CRISI                           | \$560m                | \$1b                              | \$510m                       | \$258.5m      | \$572.9m       |
| FRA Fed-State Partnership           | \$100m                | \$7.2b                            | \$560m                       | \$0           | \$100m         |
| FRA Rail<br>Restoration/Enhancement | \$0                   | \$0                               | \$50m                        | \$0           | \$0            |
| FRA Rail Crossing Elimination       | \$0                   | \$600m                            | \$250m                       | \$0           | \$0            |

|                             |         |        |         |          |          |
|-----------------------------|---------|--------|---------|----------|----------|
| FTA New Starts              | \$2.21b | \$1.6b | \$2.85b | \$392.2m | \$2.45b  |
| FTA Formula funds           | \$13.6b | -      | \$14b   | \$13.99b | \$13.99b |
| WMATA Special Appropriation | \$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
  - **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:

|   |   |
|---|---|
| <a href="#">CRS Report on Highway and Transit funding in IIJA (NEW)</a> |   |
| <a href="#">WH technical asst guide</a>                                 | <a href="#">USDOT BIL NOFO Tracker</a>                        |
| <a href="#">Section 130 program BIL fact sheet</a>                      | <a href="#">Brookings Online Hub</a>                          |
| <a href="#">CRS Report on FHWA programs in IIJA</a>                     | <a href="#">CRS Report on passenger rail programs in IIJA</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, 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

- July 26, 2023. The Senate Committee on Environment and Public Works, Subcommittee on Clean Air, Climate and Nuclear Safety held a hearing to discuss and receive testimony on matters pertaining to “Cleaner Trains: Opportunities for Reducing Emissions from America’s Rail Network.” [Committee Link and Testimony](#). **Covered by TGA AMS – Summary Available Upon Request**
- July 20, 2023. The Senate Committee on Appropriations held a Full Committee markup of the: 1.) FY 2024 Energy and Water Development appropriations bill, 2.) FY 2024 State, Foreign Operations appropriations bill, and 3.) Transportation, Housing and Urban Development appropriations bill. The Committee approved all of the three aforementioned bills by votes of 29-0, 27-2, and 29-0, respectively. [Committee Link](#) and Committee Press Release [here](#).
- July 18, 2023. The House Committee on Appropriations held a Full Committee markup of the FY 2024 Transportation, Housing and Urban Development (THUD) bill. The bill was approved by a vote of 34 to 27 (press release [here](#)). [Committee Link](#).
- July 12, 2023. The House Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development held a markup of the [FY 2024 Transportation, Housing and Urban Development \(THUD\) bill](#). The THUD FY 2024 Appropriations Bill was approved and forwarded to the full Committee, without amendment. See THUD bill summary [here](#). [Committee Link](#).

## U.S. DEPARTMENT OF TRANSPORTATION/FRA/FTA

- July 19, 2023. The Federal Railroad Administration (FRA) issued their FY 2023 Q2 Service Quality Report, entitled, “[Quarterly Report on the Performance and Service Quality of Intercity Passenger Train Operations](#)” which reports on the performance and service quality of intercity train operations. The report notes that “Amtrak trains experienced approximately 1.31 million minutes of delay during the second quarter of FY 2023, down 4 percent from the previous quarter and an increase of 14 percent over FY 2022 Q2. The largest cause of delay was freight train interference at 234,110 minutes of delay – 18 percent of total delay minutes, a decrease of 7 percent from the previous quarter and a decrease of 10 percent from the second quarter of FY 2022. Other significant causes of delay were passenger train interference, slow orders, and signals. ***The routes with the highest On-Time Performance (OTP) in this quarter were the Keystone, 96 percent; Adirondack, 93 percent; and Empire Service (New York – Albany), 92 percent. Those with the lowest were the California Zephyr, 31 percent; Empire Builder, 38 percent; and Heartland Flyer, 38 percent.***
- July 18, 2023. The Federal Railroad Administration (FRA) issued a [Notice of Availability/Request for Comments](#) concerning the request from twenty host railroads for amendment to their approved Positive Train Control Safety Plans (PTCSP). The Request For Amendment (RFA)

proposes an alternative to the definition of “initial terminal.” **Comments are due 20 days after the Notice is published in the Federal Register (scheduled for publication on July 19, 2023).**

- July 6, 2023. The Federal Railroad Administration (FRA) issued a [Safety Bulletin 2023-04](#) following a fatality that occurred on June 26, involving a CSX conductor trainee (CT) at the Port of Baltimore’s Seagirt Marine Terminal. The purpose of the Safety Bulletin “is to ensure the railroad industry is aware of this recent accident that resulted in a fatality of an employee. Its purpose is to also encourage railroads to identify location-specific safety issues to cover during safety briefings and (re)train employees.”
- July 5, 2023. The [US DOT released](#) a FY 2023 Notice of Funding Opportunity (NOFO) making available \$198 million for the [Reconnecting Communities and Pilot \(RCP\) Program](#), and another NOFO making \$3.155 billion available under the [FY 2023 Neighborhood Access and Equity Program \(NAE\)](#). The US DOT combined these two programs into a single joint NOFO (RCN Program) to provide a more efficient application process for project sponsors. While they remain separate programs for the purposes of awards, the programs share many common characteristics.

**Selected/Anticipated Transportation-Related NOFO Announcement Dates in 2023**

See [White House](#) Document on [Open/Upcoming NOFOs](#)

| <b>Month Est.</b> | <b>Notice of Funding Opportunity (NOFO)</b>  | <b>Operating/Admin. Office</b> |
|-------------------|--|--------------------------------|
| July 2023         | <a href="#">Transit-Oriented Development Planning</a>  | FTA                            |
| Summer 2023       | <a href="#">Thriving Communities</a>   | FHWA/Office of the Secretary   |
| Spring 2023       | Nat’l. Electric Vehicle Formula Pgm. Disc. Grants  | FHWA                           |
| Summer 2023       | <a href="#">Reconnecting Communities Pilot Program</a> – NOFO 7/5/2023                           | FHWA/Office of the Secretary   |
| Late Spring 2023  | <a href="#">Neighborhood Access and Equity Grants</a> – NOFO 7/5/2023                            | FHWA/Office of the Secretary   |
| July 2023         | <a href="#">All Stations Accessibility Program</a>   | FTA                            |
| July 2023         | <a href="#">State of Good Repair/Rail Vehicle Replacement Program</a>                            | FTA                            |
| Summer 2023       | <a href="#">Bridge Investment Program</a>  | FHWA                           |
| Summer 2023       | <a href="#">Railroad Crossing Elimination Grant Program</a>                                      | FRA                            |
| Fall 2023         | <a href="#">Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program</a>         | FRA                            |
| Late Summer 2023  | <a href="#">Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program</a> | 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                            |
| Winter 2023/2024  | <a href="#">National Culvert Removal, Replacement, and Restoration Grants</a>                    | FHWA                           |

**POLITICAL ENVIRONMENT**

- Current split for the 118<sup>th</sup> 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