



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Sam Graves  
Chairman

Rick Larsen  
Ranking Member

Jack Ruddy, Staff Director

Katherine W. Dedrick, Democratic Staff Director

March 24, 2023

**SUMMARY OF SUBJECT MATTER**

**TO:** Members, Subcommittee on Highways and Transit  
**FROM:** Staff, Subcommittee on Highways and Transit  
**RE:** Subcommittee Hearing on “*Reviewing the Implementation of the Infrastructure Investment and Jobs Act*”

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**I. PURPOSE**

The Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure will meet on Tuesday, March 28, 2023, at 10:00 a.m. ET in 2167 of the Rayburn House Office Building to receive testimony on “*Reviewing the Implementation of the Infrastructure Investment and Jobs Act*.” The hearing will provide Members an opportunity to hear from stakeholders to examine the issues, successes, and challenges associated with the Administration’s implementation of the *Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58)*. Members will receive testimony from representatives from the American Association of State Highway and Transportation Officials (AASHTO), the National Stone, Sand and Gravel Association (NSSGA), the Associated Builders and Contractors (ABC), and American Road & Transportation Builders Association (ARTBA).

**II. BACKGROUND**

*IIJA*

On November 15, 2021, the President signed *IIJA* into law, representing the largest Federal investment in decades in the United States’ infrastructure.<sup>1</sup> This legislation provided \$1.2 trillion for infrastructure programs over the five-year period from Fiscal Year (FY) 2022 to FY 2026, to sustain and modernize the Nation’s infrastructure, including roads, bridges, transit,

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<sup>1</sup> *IIJA*, Pub. L. 117-58, (2021), 135 Stat. 429 [hereinafter *IIJA*].

railroads, and airports, as well as energy and broadband.<sup>2</sup> Of the total provided in *IJA*, approximately \$660 billion is administered by the Department of Transportation (DOT).<sup>3</sup>

The Subcommittee has jurisdiction over the following modal administrations and offices within the DOT: the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Motor Carrier Safety Administration (FMCSA), certain programs under the National Highway Traffic Safety Administration (NHTSA), and certain programs under the Office of the Secretary of Transportation (OST).<sup>4</sup> *IJA* provided approximately \$529 billion for programs under the purview of the Highways and Transit Subcommittee.<sup>5</sup> Specifically, the law provides:

- \$365 billion for highway programs administered by the FHWA;<sup>6</sup>
- \$108 billion for transit programs administered by the FTA;<sup>7</sup>
- \$43 billion for multimodal project, safety, and innovation grant programs administered by the OST;<sup>8</sup>
- \$8 billion for safety programs administered by the NHTSA;<sup>9</sup> and
- \$5 billion for motor carrier safety programs administered by the FMCSA.<sup>10</sup>

Taken together, *IJA*'s five-year average funding for modes under the Subcommittee's jurisdiction increased significantly; for example, FTA funding increased by 67 percent and FHWA funding increased by 56 percent compared to the five-year average funding authorized in the *Fixing America's Surface Transportation Act (FAST Act)*, P.L. No. 114-94). In addition, *IJA* quintupled the amount of competitive grants the Secretary of Transportation will award.<sup>11</sup>

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<sup>2</sup> *Bipartisan Infrastructure Law*, FHWA, available at <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/> [hereinafter *Bipartisan Infrastructure Law*].

<sup>3</sup> See DOT, *IJA, Authorized Funding FY 2022 to FY 2026*, available at [https://www.transportation.gov/sites/dot.gov/files/2022-01/DOT\\_Infrastructure\\_Investment\\_and\\_Jobs\\_Act\\_Authorization\\_Table\\_%28IJA%29.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-01/DOT_Infrastructure_Investment_and_Jobs_Act_Authorization_Table_%28IJA%29.pdf) (Comm. on Transp. and Infrastructure calculation).

<sup>4</sup> H. COMM. ON TRANSP. AND INFRASTRUCTURE, JURISDICTION AND ACTIVITIES SUBCOMM. ON HIGHWAYS AND TRANSIT OF THE H. COMM. ON TRANSP. AND INFRASTRUCTURE, 118<sup>TH</sup> CONG. 1 (2023) (on file with Comm.) [hereinafter JURISDICTION AND ACTIVITIES].

<sup>5</sup> See *Bipartisan Infrastructure Law*, *supra* note 2 (Comm. on Transp. and Infrastructure calculation based on *IJA*).

<sup>6</sup> See *id.* (providing further information on highway programs).

<sup>7</sup> See FTA, *Bipartisan Infrastructure Law*, available at <https://www.transit.dot.gov/BIL> (providing further information on transit programs).

<sup>8</sup> DOT, *Bipartisan Infrastructure Law Dashboard*, available at <https://www.transportation.gov/mission/budget/bipartisan-infrastructure-law-dashboard> (last updated Dec. 28, 2021).

<sup>9</sup> See NHTSA, *Bipartisan Infrastructure Law*, available at <https://www.nhtsa.gov/bipartisan-infrastructure-law> (providing further information on NHTSA programs).

<sup>10</sup> FMCSA, *Bipartisan Infrastructure Law: Impacts for FMCSA Grant Programs*, DOT, <https://www.fmcsa.dot.gov/Bipartisan-Infrastructure-Law-Grants> (last updated Jan. 6, 2022).

<sup>11</sup> Jeff Davis, *Status Check: The First Year of IJA Competitive Grant Funding*, ENO CTR. FOR TRANSP., (Sept. 6, 2022), available at <https://www.enotrans.org/article/status-check-the-first-year-of-ija-competitive-grant-funding/>.

### Highway Trust Fund (HTF)

The landmark *Federal-Aid Highway Act of 1956* (P.L. 84-627) established a “user pays” funding mechanism to provide financial certainty for the newly authorized National System of Interstate and Defense Highways. It created the Highway Trust Fund (HTF) and funded it through Federal excise taxes levied on motor fuels, heavy truck and trailers, heavy truck tires, and heavy vehicle use taxes.<sup>12</sup>

In 1956, the excise tax rate for highway use of motor fuels was three cents per gallon. The tax rate and structure has been revised several times since then. The current rates of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel went into effect on October 1, 1993. In addition, all receipts from motor fuel taxes originally were deposited into the HTF.<sup>13</sup>

Since 1982, portions of enacted gasoline and diesel tax increases were deposited into a newly created Mass Transit Account (MTA) within the HTF to fund public transportation programs.<sup>14</sup> Currently, of the 18.4 cents per gallon Federal excise tax on gasoline, 15.44 cents is deposited into the Highway Account (HA), 2.86 cents is deposited into the MTA and 0.1 cent is deposited into the Leaking Underground Storage Tank (LUST) Trust Fund. Of the 24.4 cents per gallon Federal excise tax on diesel, 21.44 cents is deposited into the HA, 2.86 cents is deposited into the MTA, and 0.1 cent is deposited into the LUST Trust Fund. All other taxes are deposited into the HA.<sup>15</sup>

Federal motor fuel taxes have lost significant purchasing power since Congress last increased the tax rate 30 years ago. In addition, improved vehicle fuel efficiency and vehicles using alternative forms of fuel have further eroded Federal revenues. This combination has contributed to a gap between HTF revenues and expenditures.<sup>16</sup> Since 2008, Congress has periodically transferred amounts from the general fund of the Treasury and other sources into the HTF to ensure that it can continue to pay its obligations.<sup>17</sup> Between FYs 2008 and 2021, Congress transferred approximately \$275 billion to the HTF, of which \$118 billion was transferred to the HTF under *IJA*.<sup>18</sup> Despite these transfers, the Congressional Budget Office’s (CBO) most recent estimate projects the HTF will be insolvent again in FY 2027.<sup>19</sup>

To bridge the gap between revenues and spending, Congress would need to significantly cut transportation spending, raise Federal motor fuel taxes, or implement another method to provide revenues for the HTF. In recent years, there has been a growing focus on a mileage-based user fee, which levies a tax on vehicle miles traveled (VMT), as a potential future substitute for the current motor fuels taxes. This user fee could address the challenges of capturing rising fuel efficiency and electric vehicles. In several states, pilot programs are

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<sup>12</sup> JURISDICTION AND ACTIVITIES, *supra* note 4.

<sup>13</sup> *Id.* at 5-6.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 5-6.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 6.

<sup>18</sup> Briefing from Staff, FHWA to H. Comm. on Transp. and Infrastructure Staff (Jan. 19, 2023, 2:00 p.m. ET).

<sup>19</sup> CBO, THE BUDGET AND ECONOMIC OUTLOOK: 2023 TO 2033 18 (2023), *available at* <https://www.cbo.gov/system/files/2023-02/58848-Outlook.pdf>.

underway to test different VMT collection methods, as well as address subsequent challenges. In addition, *IJJA* required the Secretary of Transportation to establish an alternative funding advisory board and a National motor vehicle per-mile user fee pilot program.<sup>20</sup>

### **III. IJJA Implementation Overview**

Since *IJJA*'s enactment nearly a year and a half ago, DOT states that FHWA has distributed almost \$125 billion in highway formula funding to the States and announced 300 discretionary grants or cooperative agreements totaling approximately \$2.7 billion.<sup>21</sup> ARTBA's Highway Dashboard, which uses data from FHWA, indicates that States have used those formula dollars to support 34,300 projects across the country.<sup>22</sup> FTA has distributed approximately \$35 billion in transit formula funding and announced 249 awards totaling \$2.75 billion, and OST has announced approximately \$4.1 billion in discretionary grants.<sup>23</sup> However, some stakeholders have raised concerns with the slow rollout of *IJJA* funding. A 2023 outlook survey of its member companies by the Associated General Contractors of America found that just five percent of companies responded they have worked on *IJJA*-funded projects to date, while six percent responded they had successfully bid on projects for which work had yet to begin.<sup>24</sup>

To provide information on discretionary grants programs, DOT created the "Key Notices of Funding Opportunity" website that provides estimated timing for forthcoming Notices of Funding Opportunity (NOFOs) and application closing dates for NOFOs that have already been announced.<sup>25</sup> To enable interested parties to track the deployment of *IJJA* funding, the Administration's website includes an interactive map showing the location of formula and discretionary projects.<sup>26</sup>

However, there are several programs that have not been implemented or require additional clarity. For examples, the Department has not yet implemented provisions related to VMT, including establishing the alternative funding advisory board that is a precursor to pursuing a National VMT pilot program.<sup>27</sup> Further, the Administration has not issued final guidance related to the *Build America, Buy America Act (BABAA)*. The Administration released initial implementation guidance on April 18, 2022, and on February 9, 2023, the Office of

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<sup>20</sup> JURISDICTION AND ACTIVITIES, *supra* note 4.

<sup>21</sup> Email from FHWA Staff to H. Comm. on Transp. and Infrastructure Staff (Mar. 14, 2023, 8:04 a.m.) (on file with Comm.).

<sup>22</sup> See ARTBA, *Highway Dashboard-IJJA*, available at <https://www.artba.org/economics/highway-dashboard>.

<sup>23</sup> Verbal communication from OST Staff to H. Comm. on Transp. and Infrastructure Staff (Mar. 15, 2023, 2:25 p.m.); Email from FTA Staff to H. Comm. On Transp. & Infrastructure Staff (March 16, 2023, 3:57 p.m.) (on file with Comm.).

<sup>24</sup> ASSOC. GEN. CONTRACTORS OF AM., SAGE, HIGH HOPES FOR PUBLIC FUNDING AMID WORKFORCE AND SUPPLY CHAIN CHALLENGES: THE 2023 CONSTRUCTION HIRING AND BUSINESS OUTLOOK, (2023), available at [https://www.agc.org/sites/default/files/users/user22633/2023\\_Construction\\_Hiring\\_and\\_Business\\_Outlook\\_Report\\_Final.pdf](https://www.agc.org/sites/default/files/users/user22633/2023_Construction_Hiring_and_Business_Outlook_Report_Final.pdf).

<sup>25</sup> See DOT, *Key Notices of Funding Opportunity*, available at <https://www.transportation.gov/bipartisan-infrastructure-law/key-notices-funding-opportunity> (last updated Mar. 23, 2023).

<sup>26</sup> See GEN. SERVS. ADMIN., *Bipartisan Infrastructure Law Dashboard*, available at <https://d2d.gsa.gov/report/bipartisan-infrastructure-law-bil-maps-dashboard> (last updated Feb. 15, 2023).

<sup>27</sup> *IJJA*, *supra* note 1, § 13002(g)(1).

Management and Budget issued proposed guidance.<sup>28</sup> In the interim, FHWA issued Questions and Answers related to *BABAA* on February 1, 2023, and on February 7, 2023, FTA held a webinar on the applicability of the *BABAA* construction materials provision.<sup>29</sup> However, the stakeholder community has stated that it needs additional clarity and final guidance in order to ensure proper compliance with these provisions.<sup>30</sup>

Stakeholders and some members of Congress are concerned about the Administration's overreach in its promulgation of recent DOT rules and guidance materials.<sup>31</sup> For example, on December 16, 2021, FHWA released a controversial memorandum entitled "*Information: Policy on Using Bipartisan Infrastructure Law Resources to Build A Better America*" to put forth "an overarching framework to prioritize the use of [IIJA] resources," towards existing infrastructure assets over adding new highway capacity.<sup>32</sup> It stated that "FHWA will work with recipients to encourage and prioritize the repair, rehabilitation, reconstruction, replacement and maintenance of existing transportation infrastructure, especially the incorporation of safety, accessibility, multimodal, and resilience features. Projects to be prioritized include those that maximize the existing right-of-way for accommodation of non-motorized modes and transit options that increase safety, accessibility, and/or connectivity."<sup>33</sup> In addition, stakeholders and elected officials were concerned that this memorandum would have contradicted the longstanding

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<sup>28</sup> See M-22-11, Memorandum from Shalanda D. Young, Dir., Off. of Mgmt. and Budget, (Apr. 18, 2022), available at <https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf>; Guidance for Grants and Agreements, 88 Fed. Reg. 8,374 (Feb. 9, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-02-09/pdf/2023-02617.pdf>.

<sup>29</sup> FHWA, *FHWA's Buy America Q and A for Federal-aid Program*, available at [https://www.fhwa.dot.gov/construction/contracts/buyam\\_qa.cfm](https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm); FTA, *Buy America Update, Construction materials Waiver for Certain Contracts and Solicitations, FTA Internal Webinar*, YOUTUBE, (Feb. 7, 2023), available at <https://www.youtube.com/watch?v=61UYE680by4>.

<sup>30</sup> Verbal information provided to the Committee from multiple stakeholders.

<sup>31</sup> Letter from Sam Graves, Ranking Member, H. Comm. on Transp. and Infrastructure to the Honorable Pete Buttigieg, Sec'y, Dep't of Transp., (Sept. 23, 2022) (on file with Comm.).

<sup>32</sup> Memorandum from Stephanie Pollack, Deputy Adm'r, FHWA to Associate Administrators, et. al., (Dec.16, 2021), available at [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building\\_a\\_better\\_america-policy\\_framework.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building_a_better_america-policy_framework.cfm).

<sup>33</sup> Jeff Davis, *FHWA Replaces 2021 IIJA "Guidance Memo" with a More State-Deferential Version*, ENO CTR. FOR TRANSP., (Mar. 3, 2020), available at <https://www.enotrans.org/article/fhwa-replaces-2021-ijja-guidance-memo-with-a-more-state-deferential-version/?code=FtFDf9FVV30ArEGqXMDV9gnzvdXyHrmvXmSAjE8J33U%3D>; Letter from U.S. Chamber of Commerce, et al. to the Honorable Shailen Bhatt, Adm'r, FHWA, (Jan. 18, 2023), available at <https://www.uschamber.com/assets/documents/Coalition-Letter-FHWA-Memo-1.18.2023.pdf>; Press Release, H. COMM. ON TRANSP. AND INFRASTRUCTURE, *Graves Statement on GAO Determination That FHWA Memo Urging States Against Road-Building Constitutes a Rule*, (Dec. 15, 2022), available at <https://transportation.house.gov/news/documentsingle.aspx?DocumentID=406017>; Letter from Rep. Rodney Davis, et al., to the Honorable Pete Buttigieg, Sec'y, Dep't of Transp. (Mar. 7, 2022), available at [https://transportation.house.gov/uploadedfiles/2022-03-07\\_davis\\_letter\\_to\\_buttigieg\\_re\\_ofd.pdf](https://transportation.house.gov/uploadedfiles/2022-03-07_davis_letter_to_buttigieg_re_ofd.pdf); GAO, Decision, Matter of: Federal Highway Administration- Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America, B-334032, (Dec. 15, 2022), available at <https://www.gao.gov/assets/820/814061.pdf> [hereinafter GAO FHWA Decision]; Tom Ichniowski, *FHWA Issues New IIJA Highway Funding Memo Clarifying States' Role*, ENGINEERING NEWS RECORD, (Feb. 24, 2023), available at <https://www.enr.com/articles/55987-fhwa-issues-new-ijja-highway-funding-memo>.

Federal-state partnership that has provided states the flexibility to prioritize projects to address their own challenges.<sup>34</sup>

After repeated Congressional and stakeholder calls to rescind the memorandum were ignored, the General Accountability Office (GAO) determined, on December 15, 2022, that the memorandum was a rule and had a substantial impact on the rights and obligations of non-agency parties.<sup>35</sup> Recently, on February 24, 2023, the FHWA issued an update to the memorandum, superseding the December 16, 2021, memorandum, which effectively reversed FHWA's guidance.<sup>36</sup>

In addition, FHWA issued a notice of proposed rulemaking to require states and metropolitan planning organizations to establish a new performance measure with declining targets for carbon dioxide and to measure and report greenhouse gas emissions associated with transportation under the Federal-aid highways program.<sup>37</sup> Congress included provisions to address climate change and transportation resiliency in *IJJA*. Although a rule requiring a new highway related greenhouse gas performance measure was included in the House-passed *INVEST in America Act* (H.R. 3684), it was considered and disposed of during *IJJA* negotiations.<sup>38</sup>

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<sup>34</sup> Letter from Rep. Shelley Moore Capito, Ranking Member, S. Comm. on Environment and Public Works & Rep. Mitch McConnell, S. Majority Leader to State Governors, (Feb. 9, 2022), *available at* [https://www.epw.senate.gov/public/\\_cache/files/8/c/8c3b1b65-550b-493b-b6cd-33b108e53eac/B44AC4860614C4E3FD4712AAB8652E9C.2022-02-07-general-ijja-governors-letter.pdf](https://www.epw.senate.gov/public/_cache/files/8/c/8c3b1b65-550b-493b-b6cd-33b108e53eac/B44AC4860614C4E3FD4712AAB8652E9C.2022-02-07-general-ijja-governors-letter.pdf).

<sup>35</sup> Letter from U.S. Chamber of Commerce, et al. to the Honorable Shailen Bhatt, Adm'r, FHWA, (Jan. 18, 2023) *available at* <https://www.uschamber.com/assets/documents/Coalition-Letter-FHWA-Memo-1.18.2023.pdf>; Press Release, H. COMM. ON TRANSP. AND INFRASTRUCTURE, *Graves Statement on GAO Determination the FHWA Memo Urging States Against Road-Building Constitutes a Rule*, (Dec. 15, 2022), *available at* <https://transportation.house.gov/news/documentsingle.aspx?DocumentID=406017>; Letter from Rep. Rodney Davis, et al., to the Honorable Pete Buttigieg, Sec'y, Dep't of Transp. (Mar. 7, 2022), *available at* [https://transportation.house.gov/uploadedfiles/2022-03-07\\_davis\\_letter\\_to\\_buttigieg\\_re\\_ofd.pdf](https://transportation.house.gov/uploadedfiles/2022-03-07_davis_letter_to_buttigieg_re_ofd.pdf); GAO FHWA Decision, *supra* note 33.

<sup>36</sup> See AM. HIGHWAY USERS ALL., *FHWA Administrator Bhatt Rescinds Fix-it-First Memo*, (Nov. 2, 2010), *available at* <https://www.highways.org/wp-content/uploads/2011/06/deficit-commission-ltr.pdf>; Memorandum from Shailen Bhatt, Adm'r, FHWA, to Assoc. Adm'rs, et. al., (Feb. 24, 2023), *available at* [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/using\\_bil\\_resources\\_build\\_better\\_america.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/using_bil_resources_build_better_america.cfm).

<sup>37</sup> Nat'l Performance Mgmt. Measures; Assessing Performance of the Nat'l Highway System, Greenhouse Gas Emissions Measure, 87 Fed. Reg. 42,401 (July 15, 2022).

<sup>38</sup> Michael Laris, *DOT proposal would require states to track carbon emissions from driving*, WASH. POST, (July 7, 2022) *available at* <https://www.washingtonpost.com/transportation/2022/07/07/dot-greenhouse-gas-emissions/>; Press Release, FHWA, *Biden-Harris Administration Takes Step Forward to Combat Climate Change, Announces Proposed Transportation Greenhouse Gas Emission Reduction Framework*, (July 7, 2022), *available at* <https://highways.dot.gov/newsroom/biden-harris-administration-takes-step-forward-combat-climate-change-announces-proposed>; *IJJA*, *supra* note 1; H. Comm. on Transp. and Infrastructure Staff conversations with S. Comm. on Environment and Public Works Staff (Dec. 2022); Letter from Rep. Shelley Moore Capito, Ranking Member, S. Comm. on Environment and Public Works, et. al. to Stephanie Pollack, Adm'r, FHWA, (Oct. 13, 2022), *available at* [https://www.epw.senate.gov/public/\\_cache/files/3/9/39e04649-c8b0-4407-9d5f-3f871a8a6c06/1D2F2CF32C13CBD96816CC0EDAF704DA.10.13.2022-senate-republicans-letter-to-fhwa-re-docket-no.-fhwa-2021-0004.pdf](https://www.epw.senate.gov/public/_cache/files/3/9/39e04649-c8b0-4407-9d5f-3f871a8a6c06/1D2F2CF32C13CBD96816CC0EDAF704DA.10.13.2022-senate-republicans-letter-to-fhwa-re-docket-no.-fhwa-2021-0004.pdf).

#### IV. Additional Challenges

While *IJJA* provided historic levels of funding to address America’s infrastructure needs, stakeholders have raised concerns that persistently high inflation is undermining those funding increases.<sup>39</sup> The majority of funding in *IJJA*, under FHWA, FTA, and OST, allows recipients up to four years to obligate funding. If high inflation levels continue to hold, *IJJA*’s funding increases in the outyears also would “erode.”<sup>40</sup> However, if the higher inflation levels experienced since early 2021 drop, *IJJA*’s buying power may not be affected in the outyears.

Inflation began rising in January 2021, reaching a 41-year record high of 9.1 percent in June 2022.<sup>41</sup> As of February 2023, the 12-month inflation rate had fallen to 6.0 percent.<sup>42</sup> This marks the 24th consecutive month that the rate remains far above the two percent the Federal Reserve targets for a stable economy.<sup>43</sup> Additionally, producer prices — representing prices paid by businesses producing goods — increased 4.6 percent year-over-year.<sup>44</sup>

In early 2022, the Eno Center for Transportation warned that if inflation for highway costs averaged higher than seven percent through 2027, the increased funding provided for highways under *IJJA* could be eliminated entirely.<sup>45</sup> In June 2022, the AASHTO also raised concerns about the ability of states to capitalize on *IJJA* funding due to inflation, saying “[t]he cost of those projects is going up by 20 percent, by 30 percent, and just wiping out that increase from the Federal government that they were so excited about earlier in the year.”<sup>46</sup> Prices for construction materials remain particularly steep. In February, the Associated General Contractors of America again warned that although inflation may be moderating in some areas, construction

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<sup>39</sup> Jenni Bergal, *Inflation is Cutting Into States’ Big Infrastructure Windfall*, THE PEW CHARITABLE TRUSTS, (Nov. 30, 2022), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/11/30/inflation-is-cutting-intostates-big-infrastructure-windfall>; David A. Lieb & Michael Casey, *Inflation Taking a Bite Out of New Infrastructure Projects*, ASSOCIATED PRESS, (June 19, 2022), available at <https://apnews.com/article/inflation-us-infrastructure-projects-e89dcd5f3e623e532353f087265f9a63>.

<sup>40</sup> Jeff Davis, *How Much Could Inflation Erode IJJA Buying Power?*, ENO CTR. FOR TRANSP., (Apr. 27, 2022), available at <https://www.enotrans.org/article/how-much-could-inflation-erode-iija-buying-power/>.

<sup>41</sup> Press Release, U.S. BUREAU OF LABOR STAT., *Consumer Prices Up 9.1 Percent Over the Year ended June 2022, Largest Increase in 40 Years* (July 18, 2022), available at <https://www.bls.gov/opub/ted/2022/consumer-prices-up-9-1-percent-over-the-year-ended-june-2022-largest-increase-in-40-years.htm>.

<sup>42</sup> Press Release, U.S. BUREAU OF LABOR STAT., *Consumer Price Index – March 2023*, (Mar. 14, 2023), available at <https://www.bls.gov/news.release/cpi.htm>.

<sup>43</sup> *12-Month Percentage Change, Consumer Price Index, selected categories*, U.S. BUREAU OF LABOR STAT., available at <https://www.bls.gov/charts/consumer-price-index/consumer-price-index-by-category-line-chart.htm>; BOARD OF GOVERNORS OF THE FED. RESERVE SYSTEM, *What is an Acceptable Level of Inflation?*, <https://www.federalreserve.gov/faqs/5D58E72F066A4DBDA80BBA659C55F774.htm> (last updated July 25, 2011).

<sup>44</sup> Press Release, U.S. BUREAU OF LABOR STAT., *Producer Price Indexes – February 2023* (Mar. 15, 2023), available at <https://www.bls.gov/news.release/ppi.nr0.htm>.

<sup>45</sup> Jeff Davis, *How Much Could Inflation Erode IJJA Buying Power?*, ENO CTR. FOR TRANSP. (Apr. 27, 2022), available at <https://www.enotrans.org/article/how-much-could-inflation-erode-iija-buying-power/>.

<sup>46</sup> David A. Lieb & Michael Casey, *Inflation Taking a Bite Out of New Infrastructure Projects*, ASSOCIATED PRESS, (June 19, 2022), available at <https://apnews.com/article/inflation-us-infrastructure-projects-e89dcd5f3e623e532353f087265f9a63>.

costs were still rising and squeezing businesses.<sup>47</sup> However, in testimony before the Senate Committee on Environment and Public Works in November 2022, the ARTBA stated it “interprets the combination of available data as pointing to real—albeit heavily muted—market growth over the last year.<sup>48</sup> Additionally, ARTBA stated, “Without the infrastructure law ... we would likely be looking at a market contraction.”<sup>49</sup>

Fuel costs also began increasing in 2021, and over the past year, gasoline and diesel prices surpassed record highs.<sup>50</sup> The rate at which these prices increased were also record-breaking.<sup>51</sup> These historically high prices contribute to increased business costs at multiple points in supply chains. After reaching a record high of \$5.81 per gallon last summer, the National average price for a gallon of diesel fuel was \$4.19 per gallon as of March 20, 2023, an increase of \$1.10 per gallon from January 2021.<sup>52</sup> The average price for a gallon of regular gasoline reached an all-time National high of \$5.00 in June 2022, but as of March 2023 has fallen to \$3.42 per gallon.<sup>53</sup>

Like many industries spanning the United States economy, construction businesses are experiencing workforce challenges. Stakeholders have raised concerns about the shortage of workers and the impact it is having on building capital projects funded by *IJJA*.<sup>54</sup> According a 2023 outlook survey conducted by the Associated General Contractors of America, some 83 percent of members cited workforce shortage as a challenge.<sup>55</sup> The DOT’s Inspector General stated that skilled labor shortages could affect the ability of grant recipients to complete projects on time and on budget.<sup>56</sup> The report goes on to note that, in order to help address these

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<sup>47</sup> Press Release, ASSOCIATED GEN. CONTRACTORS OF AM., *Prices for Construction Materials Diverge Sharply in January as Demand Shifts from Homebuilding to Factory and Infrastructure Projects*, (Feb. 16, 2023), available at <https://www.agc.org/news/2023/02/16/prices-construction-materials-diverge-sharply-january-demand-shifts-homebuilding-factory-and-0>.

<sup>48</sup> *Putting the Bipartisan Infrastructure Law to Work: The Private Sector Perspective Hearing Before the S. Comm. on Environment & Public Works*, 117th Cong., (2022) (statement of Dave Bauer, President & CEO, Am. Road & Transp. Builders Ass’n), available at [https://www.epw.senate.gov/public/\\_cache/files/c/a/ca2062bc-d8ed-4fe8-b1fd-17ed6d84e4c2/AC308B484A2FBC9F2384FB9F68A4ED9C.11-30-2022-bauer-testimony.pdf](https://www.epw.senate.gov/public/_cache/files/c/a/ca2062bc-d8ed-4fe8-b1fd-17ed6d84e4c2/AC308B484A2FBC9F2384FB9F68A4ED9C.11-30-2022-bauer-testimony.pdf).

<sup>49</sup> See *id.*

<sup>50</sup> See U.S. ENERGY INFO. ADMIN., *Weekly U.S. No 2 Diesel Retail Prices*, available at

[https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD\\_EPD2D\\_PTE\\_NUS\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_NUS_DPG&f=W).

<sup>51</sup> Data Spotlight, BUREAU OF TRANSP. STATISTICS, *Record Breaking Increases in Motor Fuel Prices in 2022*, (Aug. 18, 2022), available at <https://www.bts.gov/data-spotlight/record-breaking-increases-motor-fuel-prices-2022>.

<sup>52</sup> See U.S. ENERGY INFO. ADMIN., *Weekly U.S. No 2 Diesel Retail Prices*, available at

[https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD\\_EPD2D\\_PTE\\_NUS\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2D_PTE_NUS_DPG&f=W).

<sup>53</sup> See U.S. ENERGY INFO. ADMIN., *Weekly U.S. Regular All Formations Retail Gasoline Prices*, available at [https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMM\\_EPMR\\_PTE\\_NUS\\_DPG&f=W](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMM_EPMR_PTE_NUS_DPG&f=W).

<sup>54</sup> Press Release, ASSOCIATED BUILDERS AND CONTRACTORS, *Construction Workforce Shortage Tops Half a Million in 2023, Says ABC*, (Feb. 9, 2023), available at <https://www.abc.org/News-Media/News-Releases/entryid/19777/construction-workforce-shortage-tops-half-a-million-in-2023-says-abc>;

Verbal Information from Stakeholder Meetings with H. Comm. on Transp. and Infrastructure Staff, (Jan.–Mar. 2023).

<sup>55</sup> ASSOCIATED GEN. CONTRACTORS OF AM., SAGE, HIGH HOPES FOR PUBLIC FUNDING AMID WORKFORCE AND SUPPLY CHAIN CHALLENGES: THE 2023 CONSTRUCTION HIRING AND BUSINESS OUTLOOK (2023), available at [https://www.agc.org/sites/default/files/users/user22633/2023\\_Construction\\_Hiring\\_and\\_Business\\_Outlook\\_Report\\_Final.pdf](https://www.agc.org/sites/default/files/users/user22633/2023_Construction_Hiring_and_Business_Outlook_Report_Final.pdf).

<sup>56</sup> Memorandum from Eric J. Soskin, Inspector Gen. to the Sec’y of Transp., (Oct. 5, 2022), available at <https://www.oig.dot.gov/sites/default/files/OIG%20Correspondence%20-%20Challenges%20Facing%20DOT%20in%20Implementing%20IJA.pdf>.



challenges, DOT and its operating administrations have undertaken workforce development projects to support transportation industry efforts to recruit and retain employees.

*IJA* includes provisions to support worker training and retention. These include an allowance for highway formula funds—including National Highway Performance Program, Surface Transportation Block Grant Program, Highway Safety Improvement Program, and Congestion Mitigation and Air Quality Program funds—to be used for workforce development.<sup>57</sup>

V. **WITNESSES**

**Mr. Marc D. Williams**  
Executive Director  
Texas Department of Transportation  
*on behalf of*  
American Association of State Highway and Transportation Officials

**Mr. Dwayne Boyd**  
Regional President  
CRH  
*on behalf of*  
National Stone, Sand & Gravel Association

**Mr. Aric Dreher**  
Assistant General Manager  
Cianbro  
*on behalf of*  
Associated Builders and Contractors

**Ms. Paula Hammond**  
Senior Vice President  
WSP USA  
*on behalf of*  
American Road & Transportation Builders Association

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<sup>57</sup> See FHWA, *Highway Funding for Workforce*, available at [https://www.fhwa.dot.gov/innovativeprograms/centers/workforce\\_dev/OST\\_Workforce\\_Development\\_Fact\\_Sheet.aspx](https://www.fhwa.dot.gov/innovativeprograms/centers/workforce_dev/OST_Workforce_Development_Fact_Sheet.aspx).