

CALIFORNIA SENATE OFFICE OF RESEARCH

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Federal Update

THE INFRASTRUCTURE INVESTMENT AND JOBS ACT: TRANSPORTATION INVESTMENT OPPORTUNITIES

OVERVIEW

Enacted by Congress in November 2021, the Infrastructure Investment and Jobs Act (IIJA) represents the largest increase in federal transportation investment in decades. IIJA authorizes \$567 billion in spending through fiscal year (FY) 2026 for federal transportation programs to support highway, transit, and rail investments. This represents an increase of \$274 billion above the last five-year federal authorization.

Most federal transportation funding is apportioned annually to states by formula to support highways (including roads, bridges, active transportation, and related investments) and public transportation. IIJA increased formula apportionments for highways and public transportation each by approximately 30 percent above Fixing America's Surface Transportation (FAST) Act levels. The law also increased competitive funding for highways, transit, and passenger rail, expanding the size and scope of existing programs and adding more than a dozen new ones targeting various priorities.

FORMULA APPORTIONMENTS

In total, California expects to receive \$28.6 billion (an average of \$5.7 billion annually) for highway-related investments over the life of IIJA, an increase of \$1.7 billion annually. This includes adjustments to several existing programs, including a \$450 million annual increase for national highway system improvements through the National Highway Performance Program (NHPP) and establishment of new programs addressing climate resilience, carbon reduction, electric vehicle charging, and bridge rehabilitation. Through these new programs alone, the state will receive, on average, approximately \$860 million annually in additional funding.

The California Department of Transportation (Caltrans) allocates federal highway funding through the state budget process pursuant to federal requirements, state

statutes, and administration policy. Historically, the state allocates 60 percent of total federal highway funds for state purposes and 40 percent for local needs. In recent years, most of the state's share has funded maintenance and rehabilitation projects.

IIJA also provides California approximately \$10.3 billion (\$2.1 billion per year) for public transportation, an increase of \$600 million annually. However, unlike with the highway program, most transit funding does not flow through the state budget. Instead, the Federal Transit Administration (FTA) apportions this funding regionally, distributing it directly to metropolitan planning organizations for suballocation to operators. Only a small share, administered by Caltrans on behalf of small operators, is included in the budget. Generally, federal transit apportionments fund capital investments, although under certain circumstances, some portion may be used to support operations.

COMPETITIVE GRANT FUNDING

State and local governments, transit and rail agencies, and other transportation stakeholders also can compete for additional transportation funding awarded annually through various discretionary grant programs. IIJA expanded the size and scope of existing competitive programs and established more than a dozen new ones, strengthening federal investment in infrastructure rehabilitation, emissions reduction, climate resilience, and roadway safety. While eligibility varies by program, state, local, and tribal governments are eligible applicants for most grants. Typically, applications are solicited, and funding is awarded annually.

Highway, Bridge, and Intermodal Grants. California appears well positioned to compete for significant discretionary funding, partly because many IIJA programs include goals and project selection criteria that seem well aligned with the state's transportation investment priorities as outlined in its Climate Action Plan for Transportation Infrastructure (CAPTI). Adopted by the California State Transportation Agency in 2021, CAPTI seeks to "outline a holistic framework that aligns the state's transportation investments with the state's climate, health, and social equity goals, while also maintaining the commitment made in Senate Bill 1 to a fix-it-first approach to transportation."

Four of the largest IIJA-authorized competitive programs, which together will make available more than \$30 billion over five years, provide significant opportunities for California to advance key priorities. The Mega Grant and Infrastructure for Rebuilding America (INFRA) programs fund large and complex projects of national and regional significance, while the Rebuilding American Infrastructure with Sustainability and

Equity (RAISE) program funds road, bridge, transit, rail and intermodal investments with significant local or regional impact. The Bridge Investment Program (BIP) supplements the expanded formula apportionments, providing additional resources for state and local governments to rehabilitate, restore, or replace aging, obsolete structures and those deemed in poor condition. All three prioritize projects that address safety, efficiency, and reliability, including investments in freight and goods movement, and encourage a focus on infrastructure resilience and intermodal connectivity.

In the FY 2022 grant cycle, California received more than \$700 million through these programs, including \$400 million from BIP for resiliency upgrades to the Golden Gate Bridge, a \$30 million Mega Grant for multimodal corridor investments in Santa Cruz County, and nearly \$120 million for eight RAISE projects statewide.

IIJA also established a number of more narrowly targeted competitive programs, providing opportunities for states, localities, and other stakeholders to address needs such as infrastructure resiliency, electric vehicle (EV) charging infrastructure, safety, and equity. Some of these include Safe Streets and Roads for All (SS4A), which funds local safety action (“Vision Zero”) plans to prevent fatalities and injuries, especially those involving cyclists and pedestrians, and the Promoting Resilient Operations for Transformative, Efficient and Cost-Saving Transportation (PROTECT) Discretionary Program, which funds infrastructure resilience projects and community resilience initiatives (such as development of evacuation routes.) Other examples include the Charging and Fueling Infrastructure Program, which will fund EV charging and alternative fueling infrastructure with an emphasis on rural, low-income, and disadvantaged communities, and the Reconnecting Communities Program (RCP), which will support planning and construction of projects to restore community connectivity through removal, retrofit, or mitigation of legacy infrastructure that has affected communities adversely.

In FY 2022, SS4A awarded more than \$25.5 million in planning grants to 43 California communities, while seven jurisdictions received more than \$107 million to implement safety countermeasures. Also, in the inaugural round of RCP grants, the city of Long Beach received a \$30 million award, which will partially fund the conversion of I-710 from an urban freeway corridor to a landscaped local roadway, and Caltrans and three local California jurisdictions received RCP planning grants totaling more than \$5.5 million to develop future conversion projects.

Transit Grants. In addition to formula apportionments, IIJA provides more than \$16 billion in competitive grant funding for public transit. Nearly half of this funding (\$8 billion) is available to state and local governments, including transit agencies, to support the development of new and expanded rail and bus-rapid transit services through the Capital Investment Grant program. Of the remainder, more than \$7.5 billion is available through two programs to assist transit operators with acquisition or rehabilitation of buses, and construction or acquisition of supporting facilities. The larger of these, totaling more than \$5.5 billion specifically funds acquisition of zero- or low-emission buses and related equipment and facilities. The zero-emission vehicle grants also include a requirement that grantees allocate at least 5 percent of the funds to workforce development and training.

Intercity Passenger Rail Grants. IIJA provides the most substantial federal investment in freight and intercity passenger rail in generations, investing at least \$66 billion over five years, a more than a sixfold increase, with the potential for as much as \$36 billion more, subject to annual appropriation by Congress. Of this, at least \$44 billion will be awarded through a series of new and expanded competitive programs administered by the Federal Railroad Administration (FRA) to expand and improve intercity passenger and freight service. While eligibility varies by program, state and local governments may apply, either individually or in some cases through multiagency (or multistate partnerships), and operators of intercity of passenger rail service may apply to some of the programs. However, transit operators that qualify to receive FTA transit funding are ineligible to apply for FRA grants, even if they operate commuter rail service.

The largest of FRA's competitive programs, the Federal-State Partnership for Intercity Passenger Rail Grant Program, will provide at least \$7.2 billion annually for construction of new passenger rail corridors, extension of existing routes, and projects to improve existing route performance. The Consolidated Rail Infrastructure and Safety Improvement (CRISI) program, the most flexible of FRA's programs, will provide at least \$1 billion per year for safety, efficiency, and reliability improvements to passenger and freight transportation, and the new Railroad Crossing Elimination Program will offer at least \$600 million annually for highway-rail or pathway-rail grade crossing improvements that improve safety and mobility. In addition, many projects with rail components are eligible to seek funding through the Mega Grant, INFRA, and RAISE programs noted above.

PRIORITIZATION OF EQUITY AND ECONOMIC OPPORTUNITY

Justice 40 (J40) Initiative. On his first day in office, President Biden signed an executive order directing various federal agencies, within the limits of existing authority, to develop plans to ensure that the benefits of at least 40 percent of certain federal investments flow to disadvantaged communities. While J40 is not codified, nor directly referenced in IIJA, in implementing the law, the U.S. Department of Transportation (USDOT) has taken various actions intended to advance its purpose.

Following IIJA's enactment, USDOT designated nearly 40 of the law's formula and competitive funding programs as covered by the initiative. In the guidance developed for many of its competitive programs, the department has included language specifying its intent to consider equity in its selection criteria. This includes factors such as the project's expected benefit to disadvantaged populations, the involvement and participation of disadvantaged communities in project planning, and the adoption by the project sponsor of equity-focused policies. These may include consideration of project applicants' attention to workforce development needs and, as appropriate, utilization of hiring preferences. With respect to formula programs, USDOT cannot direct or constrain states' use of funds beyond the limits prescribed in statute. However, the department included language as part of the implementation guidance issued for several formula programs indicating that it would "work with states to ensure consideration of using" program funding for projects and inclusion of project elements that address racial equity, support workforce and economic development, and remove barriers to opportunities.

Workforce Development. In addition, IIJA prescribes that funding from any of four core formula programs (NHPP, the Surface Transportation Block Grant Program, the Highway Safety Improvement Program, and the Congestion Mitigation and Air Quality Improvement Program) can be used for workforce development, training, and educational activities to address current workforce gaps. This provides an opportunity for the state and local governments to expand the size of and increase diversity within the state's labor pool while providing economic opportunity for disadvantaged populations. Funding can support a wide range of activities to advance development of the surface transportation workforce, such as education and training for state and local transportation agency employees, support for transportation-focused college and vocational school programs and pre-apprenticeship, apprenticeship, and on-the-job training programs, including costs for supportive services such as providing tools, transportation and childcare for participants in such programs. Funding also can support outreach activities targeting members of disadvantaged or underrepresented communities, including partnerships with industry, workforce development boards

and labor organizations, and career pathways programs supporting middle and high school students.

Hiring Preferences. IIJA allows state and local agencies to utilize local or other geographic or economic preferences when hiring for construction of federally funded highway projects, subject to any applicable state or local laws, policies, and procedures. Under this provision, factors considered in hiring can include geographic boundaries such as ZIP codes and census tracts, individual economic conditions such as prior year income or participation in public assistance programs, or geographically based economic factors such as poverty rates or per capita income levels.

Disadvantaged Business Enterprise (DBE) Program. The DBE program was established in 1980 and subsequently reauthorized, most recently in IIJA, to ensure nondiscrimination in federal transportation contract procurement. It seeks to provide a fair opportunity for small businesses owned and controlled by socially and economically disadvantaged individuals to compete for federally funded contracts.

All state and local transportation agencies receiving federal assistance are required to develop and implement a DBE program, which must include a certification process designed to ensure participation only by firms genuinely owned and controlled by qualified individuals. Each agency must establish both an overall DBE goal (adjusted periodically) and goals for individual contracts, which may vary based on factors such as type or location of work, and availability of certified DBEs. For each contract, the successful bidder on each contract is then contractually required to make a “good faith effort” to secure adequate DBE participation. However, failure to achieve the goal on a project does not result in sanction unless the contractor is shown to have acted in bad faith.

APPENDIX: FEDERAL FORMULA AND COMPETITIVE GRANT PROGRAMS

Table 1: Highway (Federal Highway Administration) Formula Programs

| Program | Purpose | Average Annual Funding (California)* |
|---|--|--------------------------------------|
| National Highway Performance Program | National Highway System improvements programmed through the State Highway Operations and Protection Program (SHOPP) | \$2.5B |
| Surface Transportation Block Grant Program (STBGP) | Flexible program/project funding (split 35/65 between state/local governments) | \$1.2B |
| Transportation Alternatives Set-Aside (10 percent from STBGP) | Flexible funds for certain purposes (i.e., active transportation, environmental mitigation, recreation, enhancements); per statute, flows to the Active Transportation Program and awarded competitively by the California Transportation Commission (CTC) | \$125m |
| Highway Safety Improvement Program | Fatality/serious injury reduction on public roads (split 50/50 between state/local agencies) | \$274m |
| Congestion Mitigation and Air Quality Improvement Program | Programs/projects to advance federal Clean Air Act compliance (suballocated, per federal formula, for use by local agencies in nonattainment/compliance areas) | \$526m |
| Metropolitan Planning Program | Multimodal short- and long-range planning activities (suballocated to regions by federal formula) | \$69m |
| National Highway Freight Program | Improve efficient freight movement (competitively awarded by CTC through the Trade Corridor Enhancement Program) | \$132m |
| NEW – National Electric Vehicle Program | Development of a national EV charging network (to be awarded through the California Energy Commission/Caltrans-administered competitive program) | \$77m |
| NEW – PROTECT Program | Climate resiliency investments (split 60/40 between state/local agencies; local share awarded competitively by CTC) | \$126m |
| NEW – Carbon Reduction Program | Projects to reduce transportation emissions (split 35/65 between state/local agencies per federal formula) | \$111m |
| NEW – Bridge Formula Program | Upgrade bridges in “National Bridge Inventory” (split roughly 55/45, programmed through SHOPP and Local Bridge Program) | \$575m |
| Total Average Annual Apportionments (California) | | \$5.7 B |

Table 2: Transit (FTA) Formula Programs

| Program | Purpose | Average Annual Funding (California)* |
|---|---|---|
| Urbanized Area Formula Grants | Planning and capital project assistance, including acquisition or replacement of vehicles, rolling stock and related equipment/facilities (operating expenses allowed in areas with less than 200,000 population) | \$1.3B |
| Rural Area Formula Grants | Planning, capital and operating assistance for agencies in rural areas (populations less than 50,000) | \$41m |
| State of Good Repair Grants | Repairs and upgrades to rail and bus rapid transit systems more than seven years old | \$660m |
| Bus/Bus Facilities Grants | Acquisition, replacement or rehabilitation of buses and related equipment and facilities. | \$82m |
| Total Average Annual Apportionments (California) | | \$2.1 B |

Table 3: Key USDOT Competitive Programs (not a comprehensive list)

| Program | Purpose | Annual Funding |
|---|---|-----------------------|
| Intermodal Programs | | |
| RAISE Program | Highway, bridge, rail, transit, port and intermodal projects of regional and local significance | \$1.5B |
| Mega Grants | Large, complex (highway, bridge, rail, or intermodal) projects providing national and regional benefit and difficult to fund through other programs | \$1B |
| Rural Surface Transportation | Highway, bridge, tunnel and freight projects providing economic, safety or demand management benefits to rural areas | \$400m |
| Highway Programs | | |
| Bridge Investment | Rehabilitation/replacement of state and local bridges to reduce inventory of structures in poor or substandard condition | \$2.5B |
| INFRA | Nationally significant freight and highway projects including enhancement of freight corridors and multimodal projects | \$1.6B |
| Safe Streets and Roads for All | Development/implementation of “Vision Zero” safety plans to prevent fatalities/serious injuries, especially among cyclists/pedestrians | \$1B |
| Charging and Fueling Infrastructure | Deployment of EV charging and alternative fueling infrastructure with focus on investment in rural and low/moderate income areas | \$500m |
| PROTECT Discretionary | Resiliency planning and construction of projects to strengthen infrastructure against climate impacts | \$280m |
| Reconnecting Communities | Planning/implementation of projects to remove or modify legacy infrastructure that adversely affects community connectivity | \$200m |
| Culvert Removal, Replacement, Restoration | State/local improvements to address anadromous fish migration | \$200m |
| Strengthening Mobility and Revolutionizing Transportation | City or community demonstration projects implementing innovative technology to improve safety and efficiency | \$100m |
| Transit Programs | | |
| Capital Investment Grants | State/local capital investment in new and expanded rail and bus rapid transit service | \$1.6B |
| Bus and Bus Facilities Grants | Assists operators with acquisition or rehabilitation of buses and related facilities | \$400m |
| Zero- or Low-Emission Bus Grants | Assists operators with acquisition of zero- or low-emission buses and related facilities | \$1.1B |
| Intercity Rail Programs | | |
| Federal-State Partnership | Development of new and expanded intercity rail corridors and performance improvements | \$7.2B |
| CRISI | Improved freight/passenger rail efficiency, safety, and reliability | \$1B |
| Railroad Crossing Elimination | Highway-rail grade crossing safety and mobility improvements | \$600m |

Prepared by Ted Link-Oberstar for the March 14, 2023, joint informational hearing of the Senate Transportation Committee and Budget Subcommittee No. 5. The California Senate Office of Research is a nonpartisan office charged with serving the research needs of the California State Senate and assisting Senate members and committees with the development of effective public policy. The office was established by the Senate Rules Committee in 1969. For more information, please visit <http://sor.senate.ca.gov> or call (916) 651-1500.