

117TH CONGRESS
1ST SESSION

H. R. 227

To provide dedicated funding for the national infrastructure investment program and the capital investment grant program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2021

Mr. HASTINGS (for himself and Mrs. HAYES) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide dedicated funding for the national infrastructure investment program and the capital investment grant program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Build America Act of
5 2021”.

1 **SEC. 2. NATIONAL INFRASTRUCTURE INVESTMENT PRO-**
2 **GRAM.**

3 (a) **ESTABLISHMENT.**—The Secretary of Transpor-
4 tation shall carry out a national infrastructure investment
5 program (in this section referred to as the “program”)
6 for capital investments in surface transportation infra-
7 structure in accordance with the requirements of this sec-
8 tion.

9 (b) **DISCRETIONARY GRANTS.**—The Secretary shall
10 distribute funds made available to carry out the program
11 as discretionary grants to be awarded to a State, local gov-
12 ernment, or transit agency, or a collaboration among such
13 entities, on a competitive basis for projects that will have
14 a significant impact on the Nation, a metropolitan area,
15 or a region.

16 (c) **ELIGIBLE PROJECTS.**—Projects that are eligible
17 for funding under the program include, at a minimum,
18 the following:

19 (1) Highway and bridge projects eligible under
20 title 23, United States Code.

21 (2) Public transportation projects eligible under
22 chapter 53 of title 49, United States Code.

23 (3) Passenger and freight rail transportation
24 projects.

25 (4) Port infrastructure investments (including
26 inland port infrastructure and land ports of entry).

1 (d) TIFIA.—The Secretary may use up to 20 percent
2 of the funds made available to carry out the program for
3 a fiscal year for the purpose of paying the subsidy and
4 administrative costs of projects eligible for Federal credit
5 assistance under chapter 6 of title 23, United States Code,
6 if the Secretary finds that such use of the funds would
7 advance the purposes of the program.

8 (e) DISTRIBUTION OF FUNDS.—In distributing funds
9 provided under the program, the Secretary shall take
10 measures to ensure—

11 (1) an equitable geographic distribution of
12 funds;

13 (2) an appropriate balance in addressing the
14 needs of urban and rural areas; and

15 (3) investment in a variety of transportation
16 modes.

17 (f) FAIR CONSIDERATION.—The Secretary shall en-
18 sure that—

19 (1) eligible projects receive fair consideration
20 under the program; and

21 (2) funds made available to carry out the pro-
22 gram are used to provide funding for eligible
23 projects to the maximum extent practicable.

1 (g) GRANT AMOUNTS.—A grant funded under the
2 program shall be not less than \$5,000,000 and not greater
3 than \$45,000,000.

4 (h) AWARDS IN SINGLE STATE.—Not more than 10
5 percent of the funds made available under the program
6 for a fiscal year may be awarded to projects in a single
7 State.

8 (i) FEDERAL SHARE.—The Federal share of the
9 costs for which an expenditure is made under the program
10 shall be, at the option of the recipient, up to 80 percent.

11 (j) PRIORITY PROJECTS.—In carrying out the pro-
12 gram, the Secretary shall give priority to projects that re-
13 quire a contribution of Federal funds in order to complete
14 an overall financing package.

15 (k) RURAL AREAS.—

16 (1) SET ASIDE.—Not less than 20 percent of
17 the funds provided under the program for a fiscal
18 year shall be for projects located in rural areas (as
19 defined in section 101(a) of title 23, United States
20 Code).

21 (2) GRANT AMOUNTS; FEDERAL SHARE.—For
22 projects located in rural areas—

23 (A) the minimum grant size under the pro-
24 gram shall be \$1,000,000; and

1 (B) the Secretary may increase the Fed-
2 eral share of costs above 80 percent.

3 (l) WAGE RATE REQUIREMENTS.—Projects con-
4 ducted using funds provided under the program must com-
5 ply with the requirements of subchapter IV of chapter 31
6 of title 40, United States Code.

7 (m) ANNUAL COMPETITIONS.—For each fiscal year,
8 the Secretary shall conduct a new competition to select
9 projects for grants and credit assistance awarded under
10 the program.

11 (n) ADMINISTRATIVE EXPENSES.—To fund the
12 award and oversight of grants and credit assistance made
13 under the program, the Secretary may—

14 (1) retain up to \$25,000,000 of the funds pro-
15 vided to carry out the program for a fiscal year, in-
16 cluding to appoint and fix the pay of additional per-
17 sonnel; and

18 (2) transfer portions of those funds to the Ad-
19 ministrators of the Federal Highway Administration,
20 the Federal Transit Administration, the Federal
21 Railroad Administration, and the Maritime Adminis-
22 tration.

23 (o) PERIOD FOR OBLIGATION OF FUNDS.—

24 (1) IN GENERAL.—Funds made available for a
25 fiscal year to carry out the program shall remain

1 available to the Secretary for obligation under the
2 program for a period of 3 years after the last day
3 of the fiscal year for which the funds are authorized.

4 (2) TRANSFER OF UNOBLIGATED FUNDS.—Any
5 amounts made available to carry out the program
6 that remain unobligated at the end of the 3-year pe-
7 riod referred to in paragraph (1) shall be transferred
8 to the Highway Trust Fund.

9 (p) FUNDING.—There shall be available, without fur-
10 ther appropriation, from the National Infrastructure In-
11 vestment Trust Fund for expenditure by the Secretary to
12 carry out the program \$3,000,000,000 for each fiscal
13 year.

14 **SEC. 3. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.**

15 (a) FUNDING.—There shall be available from the Na-
16 tional Infrastructure Investment Trust Fund, without fur-
17 ther appropriation, for expenditure by the Secretary of
18 Transportation to carry out section 5309 of title 49,
19 United States Code, \$9,000,000,000 for each fiscal year.

20 (b) ADMINISTRATIVE EXPENSES.—Of the amounts
21 made available for a fiscal year under subsection (a) to
22 carry out section 5309 of title 49, United States Code,
23 the Secretary may retain not more than 1 percent of the
24 total funds made available to carry out such section to
25 administer the award and oversee grants made under the

1 program, including to appoint and fix the pay of additional
2 personnel.

3 (c) PERIOD FOR OBLIGATION OF FUNDS.—

4 (1) IN GENERAL.—Funds made available for a
5 fiscal year under subsection (a) to carry out section
6 5309 of title 49, United States Code, shall remain
7 available to the Secretary for obligation under that
8 section for a period of 4 years after the last day of
9 the fiscal year for which the funds are authorized.

10 (2) TRANSFER OF UNOBLIGATED FUNDS.—Any
11 amounts made available under subsection (a) to
12 carry out section 5309 of title 49, United States
13 Code, that remain unobligated at the end of the 4-
14 year period referred to in paragraph (1) shall be de-
15 posited in the Highway Trust Fund.

16 **SEC. 4. ESTABLISHMENT OF TRUST FUND.**

17 (a) IN GENERAL.—Subchapter A of chapter 98 of the
18 Internal Revenue Code of 1986 is amended by adding at
19 the end thereof the following:

20 **“SEC. 9512. NATIONAL INFRASTRUCTURE INVESTMENT**
21 **TRUST FUND.**

22 “(a) CREATION OF TRUST FUND.—There is estab-
23 lished in the Treasury of the United States a trust fund
24 to be known as the ‘National Infrastructure Investment
25 Trust Fund’, consisting of such amounts as may be appro-

1 priated or credited to the National Infrastructure Invest-
2 ment Trust Fund as provided in this section or section
3 9602(b).

4 “(b) TRANSFER TO NATIONAL INFRASTRUCTURE IN-
5 VESTMENT TRUST FUND OF AMOUNTS EQUIVALENT TO
6 CERTAIN TAXES.—There are hereby appropriated to the
7 National Infrastructure Investment Trust Fund amounts
8 equivalent to 25 percent of the portion of the taxes re-
9 ceived in the Treasury under the rates described in clauses
10 (i) and (iii) of section 4081(a)(2)(A), and section
11 4081(a)(2)(D), but only to the extent such amounts are
12 attributable to the increase in rates under such clauses,
13 and such section, by reason of the amendments made by
14 section 5 of the Build America Act of 2021. For purposes
15 of the preceding sentence, taxes received under section
16 4041 and 4081 shall be determined without reduction for
17 credits under section 6426.

18 “(c) EXPENDITURES FROM NATIONAL INFRASTRUC-
19 TURE INVESTMENT TRUST FUND.—Amounts in the Na-
20 tional Infrastructure Investment Trust Fund shall be
21 available, without further appropriation, to the Secretary
22 of Transportation for making expenditures after October
23 1, 2020, under section 5309 of title 49, United States
24 Code, pursuant to the authorization in section 3 of the
25 Build America Act of 2021.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subchapter A of chapter 98 of the Internal Revenue
3 Code of 1986 is amended by adding at the end thereof
4 the following new items:

“Sec. 9512. National Infrastructure Investment Trust Fund.”.

5 **SEC. 5. INCREASE IN TAX ON MOTOR FUELS.**

6 (a) GASOLINE OTHER THAN AVIATION GASOLINE.—
7 Section 4081(a)(2)(A)(i) of the Internal Revenue Code of
8 1986 is amended by striking “18.3 cents” and inserting
9 “53.3 cents”.

10 (b) DIESEL FUEL OR KEROSENE.—Section
11 4081(a)(2)(A)(iii) of such Code is amended by striking
12 “24.3 cents” and inserting “59.3 cents”.

13 (c) INCREASE FOR INFLATION.—Section 4081(a)(2)
14 of such Code is amended by adding at the end the fol-
15 lowing new subparagraph:

16 “(E) ADJUSTMENT FOR INFLATION.—In
17 the case of any calendar year beginning after
18 2021, the rates of tax contained in clauses (i)
19 and (iii) of subparagraph (A) shall each be in-
20 creased by an amount equal to—

21 “(i) such rate, multiplied by

22 “(ii) the cost of living adjustment de-
23 termined under section 1(f)(3) for the cal-
24 endar year, determined by substituting

1 ‘calendar year 2020’ for ‘calendar year
2 1992’ in subparagraph (B) thereof.

3 Any increase under the preceding sentence shall
4 be rounded to the nearest 0.1 cents.”.

5 (d) DIESEL-WATER FUEL EMULSION.—Section
6 4081(a)(2)(D) of such Code is amended by striking “sub-
7 stituting “19.7 cents” for “24.3 cents”.” and inserting
8 “substituting a rate equal to 81 percent of the rate in ef-
9 fect for the calendar year under such subparagraph.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to fuels removed, entered, or sold
12 after October 1, 2021.

13 **SEC. 6. HIGHWAY TRUST FUND.**

14 (a) COORDINATION WITH NATIONAL INFRASTRUC-
15 TURE INVESTMENT TRUST FUND.—Section 9503(b)(4) of
16 the Internal Revenue Code of 1986 is amended by striking
17 “or” at the end of subparagraph (C), by striking the pe-
18 riod at the end of subparagraph (D) and inserting “, or”,
19 and by adding at the end the following new subparagraph:

20 “(E) clauses (i) and (iii) of section
21 4081(a)(2)(A), and section 4081(a)(2)(D), but
22 only to the extent of amounts equivalent to the
23 portion of such taxes as are appropriated to the
24 National Infrastructure Investment Trust Fund
25 under section 9513(b).”.

1 (b) MASS TRANSIT PORTION ADJUSTED.—Section
2 9503(e)(2)(A) of such Code is amended by striking “2.86
3 cents” and inserting “6.25 cents”.

4 (c) TRANSFER OF UNOBLIGATED NATIONAL INFRA-
5 STRUCTURE INVESTMENT AMOUNTS.—Section 9503(f) of
6 the Internal Revenue Code of 1986 is amended by redesignig-
7 nating paragraph (10) as paragraph (11) and by inserting
8 after paragraph (9) the following new paragraph:

9 “(10) FURTHER TRANSFERS TO TRUST
10 FUND.—

11 “(A) IN GENERAL.—There is hereby ap-
12 propriated to the Highway Trust Fund
13 amounts to be transferred to the Trust Fund
14 pursuant to sections 2(o) and 3(c)(2) of the
15 Build America Act of 2021.

16 “(B) TRANSFER OF PORTION TO MASS
17 TRANSIT ACCOUNT.—From such amounts, the
18 Secretary shall transfer to the Mass Transit Ac-
19 count so much as bears the same ratio to such
20 amount as the mass transit portion (as defined
21 in subsection (e)(2)) bears to all taxes imposed
22 with respect to fuel by sections 4041 and 4081
23 and otherwise deposited into the Highway Trust
24 Fund.”.

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