

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.

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## 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

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## 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 redesign-  
 7 ating 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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