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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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Build America Act of 2021''.

SEC. 2. NATIONAL INFRASTRUCTURE INVESTMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall carry out a national infrastructure investment program (in this section referred to as the "program") for capital investments in surface transportation infrastructure in accordance with the requirements of this section.

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

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

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

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

(3) Passenger and freight rail transportation projects.

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

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

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

(1) an equitable geographic distribution of funds;

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

(3) investment in a variety of transportation modes.

(f) FAIR CONSIDERATION.—The Secretary shall ensure that—

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

(2) funds made available to carry out the program are used to provide funding for eligible projects to the maximum extent practicable.

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

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

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

(j) PRIORITY PROJECTS.—In carrying out the program, the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package.

(k) RURAL AREAS.—

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

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

(A) the minimum grant size under the program shall be $1,000,000; and

(B) the Secretary may increase the Federal share of costs above 80 percent.

(l) WAGE RATE REQUIREMENTS.—Projects conducted using funds provided under the program must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

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

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

(1) retain up to $25,000,000 of the funds provided to carry out the program for a fiscal year, including to appoint and fix the pay of additional personnel; and

(2) transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, and the Maritime Administration.

(o) PERIOD FOR OBLIGATION OF FUNDS.—

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

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

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

(p) FUNDING.—There shall be available, without further appropriation, from the National Infrastructure Investment Trust Fund for expenditure by the Secretary to carry out the program $3,000,000,000 for each fiscal year.

SEC. 3. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) FUNDING.—There shall be available from the National Infrastructure Investment Trust Fund, without further appropriation, for expenditure by the Secretary of Transportation to carry out section 5309 of title 49, United States Code, $9,000,000,000 for each fiscal year.

(b) ADMINISTRATIVE EXPENSES.—Of the amounts made available for a fiscal year under subsection (a) to carry out section 5309 of title 49, United States Code, the Secretary may retain not more than 1 percent of the total funds made available to carry out such section to administer the award and oversee grants made under the program, including to appoint and fix the pay of additional personnel.

(c) PERIOD FOR OBLIGATION OF FUNDS.—

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

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

SEC. 4. ESTABLISHMENT OF TRUST FUND.

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

"SEC. 9512. NATIONAL INFRASTRUCTURE INVESTMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Infrastructure Investment Trust Fund', consisting of such amounts as may be appropriated or credited to the National Infrastructure Investment Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO NATIONAL INFRASTRUCTURE INVESTMENT TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the National Infrastructure Investment Trust Fund amounts equivalent to 25 percent of the portion of the taxes received in the Treasury under the rates described in clauses (i) and (iii) of section 4081(a)(2)(A), and section 4081(a)(2)(D), but only to the extent such amounts are attributable to the increase in rates under such clauses, and such section, by reason of the amendments made by section 5 of the Build America Act of 2021. For purposes of the preceding sentence, taxes received under section 4041 and 4081 shall be determined without reduction for credits under section 6426.

"(c) EXPENDITURES FROM NATIONAL INFRASTRUCTURE INVESTMENT TRUST FUND.—Amounts in the National Infrastructure Investment Trust Fund shall be available, without further appropriation, to the Secretary of Transportation for making expenditures after October 1, 2020, under section 5309 of title 49, United States Code, pursuant to the authorization in section 3 of the Build America Act of 2021.".

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

"Sec. 9512. National Infrastructure Investment Trust Fund.".

SEC. 5. INCREASE IN TAX ON MOTOR FUELS.

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

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

(c) INCREASE FOR INFLATION.—Section 4081(a)(2) of such Code is amended by adding at the end the following new subparagraph:

"(E) ADJUSTMENT FOR INFLATION.—In the case of any calendar year beginning after 2021, the rates of tax contained in clauses (i) and (iii) of subparagraph (A) shall each be increased by an amount equal to—

"(i) such rate, multiplied by

"(ii) the cost of living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2020' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase under the preceding sentence shall be rounded to the nearest 0.1 cents.''.

(d) DIESEL-WATER FUEL EMULSION.—Section 4081(a)(2)(D) of such Code is amended by striking ''substituting ''19.7 cents'' for ''24.3 cents''.'' and inserting ''substituting a rate equal to 81 percent of the rate in effect for the calendar year under such subparagraph.''.

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

SEC. 6. HIGHWAY TRUST FUND.

(a) COORDINATION WITH NATIONAL INFRASTRUCTURE INVESTMENT TRUST FUND.—Section 9503(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', or'', and by adding at the end the following new subparagraph:

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

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

(c) TRANSFER OF UNOBLIGATED NATIONAL INFRASTRUCTURE INVESTMENT AMOUNTS.—Section 9503(f) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) FURTHER TRANSFERS TO TRUST FUND.—

"(A) IN GENERAL.—There is hereby appropriated to the Highway Trust Fund amounts to be transferred to the Trust Fund pursuant to sections 2(o) and 3(c)(2) of the Build America Act of 2021.

"(B) TRANSFER OF PORTION TO MASS TRANSIT ACCOUNT.—From such amounts, the Secretary shall transfer to the Mass Transit Account so much as bears the same ratio to such amount as the mass transit portion (as defined in subsection (e)(2)) bears to all taxes imposed with respect to fuel by sections 4041 and 4081 and otherwise deposited into the Highway Trust Fund.".

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