

BIPARTISAN INFRASTRUCTURE INVESTMENT AND JOBS ACT PASSES LAST LEGISLATIVE HURDLE

The House of Representatives has passed the Bipartisan Infrastructure Investment and Jobs Act. The package, which had been approved in August by the Senate (with all 50 Democrats and 19 Republicans voting in favor), passed the House Friday night 228 to 206 (with six Democrats voting against and 13 Republicans voting in favor). The bill is expected to be signed by the President soon.

Passage of the infrastructure package had been held up as progressive Democrats sought assurances that the companion \$1.85 trillion Build Back Better Act (first presented this summer as an FY2022 budget resolution) would also be passed. The Build Back Better Act contains a range of social and other spending provisions that were eliminated from the bipartisan infrastructure framework to garner the necessary (nominal) Republican support, and allows Democrats to side-step Republican opposition by using the budget reconciliation process (requiring 51 votes (50 Democrats plus the Vice President) rather than 60 votes). The House voted along party lines to advance the Build Back Better Act.

The bill, with a headline price tag of \$1.2 trillion, provides for around \$550 billion in new spending above what Congress had already allocated for infrastructure, and will be financed through various means, including repurposing unspent pandemic emergency relief funds and strengthening tax enforcement in respect of cryptocurrencies. The Congressional Budget Office estimates that the package will add \$256 billion to the budget deficit over the next 10 years.

The bill provides for investments:

- to expand access to clean drinking water, principally investments in water infrastructure, and to eliminate lead service pipes (\$55 billion);
- for high-speed broadband internet, principally investment in broadband infrastructure, and to help lower costs to households for internet services (\$65 billion);
- to repair roads and bridges, and support for major, transformational projects (\$110 billion);
- to modernize the transit system and to continue existing transport programs for five years as part of surface transport reauthorization (\$39 billion). Investments will expand public transit options across the country, replace deficient transit vehicles with clean, zero emission vehicles, and improve access by the elderly and people with disabilities to the transit system;
- in port infrastructure and waterways (\$17 billion) and in airports (\$25 billion) to address repair and maintenance backlogs, reduce congestion and emissions near ports and airports, and drive adoption of electrification and other low-carbon technologies;
- in passenger rail, in particular to eliminate an Amtrak maintenance backlog, modernize the Northeast Corridor system, and bring rail services to areas beyond the northeast and mid-Atlantic (\$66 billion);
- in a national network of electric vehicle charging stations (\$7.5 billion);
- to upgrade the power infrastructure to provide clean, reliable energy and lower costs to users, and deploy technologies to accelerate the transition to a zero-emissions economy (more than \$65 billion);
- to make infrastructure resilient against the impact of climate change, extreme weather events and cyber-attacks (\$50 billion); and

- for pollution remediation to clean up Superfund and brownfield sites, reclaim abandoned mines and cap unused oil and gas wells (\$21 billion).

The investments contemplated by the infrastructure package and the Build Back Better package, which have the potential to create millions of jobs, increase the competitiveness of the United States, grow the U.S. economy and address the effects of climate change, are long overdue. They benefit all Americans in myriad ways, and should provide a needed boost for the Biden agenda and Democratic lawmakers (following the disappointing results in Virginia (Terry McAuliffe's loss) and New Jersey (Phil Murphy's narrow victory) this past week, with voters frustrated by inaction). Just to select one tangible benefit – overcoming the digital divide in the United States; imagine navigating during the pandemic, not to mention life generally, without access to the internet (one estimate highlighted by the FCC is that 17 million schoolchildren have no internet access).

The Build Back Better package remains in flux, and the delays in the overall legislative effort to get both bills passed reflect the fraught negotiations among Democrats, between the progressive and moderate wings of the party. The predicate for Friday's vote were assurances from moderate Democrats in the House that they would support the Build Back Better package when it comes up for a vote. The Build Back Better package, with relief in three principal categories: health care, family care and climate change, has been slimmed down from the original \$3.5 trillion price tag and still must gain the support of Senators Manchin and Sinema to pass in the Senate.

The infrastructure package is a key element of the President's domestic agenda, which he rightly has characterized as a once-in-a-generation investment (notwithstanding that it too is slimmed down, in this case from the American Jobs Plan announced in March). It is an investment we must hope voters will celebrate notwithstanding the ructions among Democrats on the Hill to deliver it, the time it may take to see results, the complexity of the package and overall concerns over the state of the U.S. economy. Positive views will only happen if the merits can be effectively sold. It will be equally important to get the Build Back Better package over the line quickly.

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