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ALERT

Biden Announces $2 Trillion Infrastructure Plan Aimed to Boost U.S. Manufacturing

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On March 31, 2021, President Joe Biden announced a $2 trillion infrastructure plan, named the "American Jobs Plan." In addition to seeking upgrades to U.S. highways, bridges, ports, airports, transit systems, and waterways, the plan would make significant investments in areas outside of traditional infrastructure, including the electric grid, high-speed broadband, housing, schools, and commercial buildings. It aims to not only revitalize American manufacturing, create U.S. jobs, and strengthen U.S. supply chains, but also to address climate change, "long-standing and persistent racial injustice," and "the ambitions of an autocratic China."

While the plan does not specifically reference iron or steel or identify the infrastructure investments to which Buy America/n requirements will apply, the plan asks Congress to include a "commitment to increasing American jobs through Buy America," and would provide incentives to "re-shore" jobs and manufacturing.

The key provisions of the eight-year plan, and how the Biden Administration would fund it, are summarized below:

TRADITIONAL INFRASTRUCTURE:

- Roads & Bridges: The plan would provide $621 billion for transportation infrastructure, including $115 billion to modernize bridges, highways, and roads that are "in most critical need of repair." Additionally, it calls for $174 billion in investments in the electric vehicle (EV) market, including a tax incentive for American-made EVs. Specifically, the plan seeks to spur domestic supply chains and retool factories to supply the EV market.

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- Water, Airport Infrastructure: The plan would provide $17 billion for investments in inland waterways, coastal ports, land ports of entry, and ferries. Additionally, it would upgrade lead pipes and modernize drinking water, wastewater, and stormwater systems. The plan also calls for $25 billion in new airport investment.
- Freight Rail: The plan would invest $80 billion to address Amtrak's repair backlog, modernize the Northeast Corridor, improve existing routes, and add additional routes.
- Public Transit: The plan calls for $85 billion to modernize existing transit systems and help agencies expand their systems to meet rider demand.

MANUFACTURING & SUPPLY CHAINS:

- R&D: The plan would invest in the National Science Foundation, climate research, and other critical areas, including pandemic preparedness.
- Supply Chains: The plan would create a new office at the U.S. Department of Commerce dedicated to monitoring domestic industrial capacity and funding investments to support the funding of critical goods. It would also call for $50 billion in semiconductor manufacturing and research.
- Access to Capital: The plan would invest $52 billion in existing capital access programs and specific supports for modernizing manufacturing supply chains, including the auto sector.
- Innovation: The plan would invest $20 billion in regional innovation hubs and a Community Revitalization Fund. The plan also calls for investing $46 billion in federal buying power for clean energy.
- Workforce Development: The plan calls for $40 billion in the creation of a Dislocated Workers Program and sector-based training in addition to building the capacity of existing workforce development programs. The proposal asks Congress to pass pro-union legislation. It also seeks to improve wages and benefits for essential home care workers to "solidify the infrastructure of our care economy" by expanding access to long-term care services under Medicaid and making it easier for these workers to unionize.

ELECTRIC, DIGITAL INFRASTRUCTURE:

- The plan would invest $100 billion to expand access to high-speed broadband to reach 100% coverage. It also calls for $100 billion to improve the electric grid, including through a number of tax credits and other incentives.

FUNDING:

- To pay for the infrastructure plan, President Biden proposed the "Made in America Tax Plan," which would raise taxes by $2 trillion over the next 15 years. The plan would raise the corporate tax rate to 28%, set a global minimum tax for multinational corporations, attempt to crack down on tax haven jurisdictions, deny companies expense deductions for offshoring jobs, create an onshoring tax credit, and enact a minimum tax on corporate book incomes, among other things.

- This funding proposal makes securing broad-based bipartisan support for the infrastructure package unlikely.

What happens next?

It's up to Congress to decide where to take infrastructure from here. It appears increasingly likely that Democrats will use reconciliation, which is a fast-track budgetary process that eliminates the need for Republican support in the Senate, to pass an infrastructure package. Democrats hold slim majorities in both chambers, so it may be challenging to push the plan through. Some Congressional Democrats have said that they don't think the plan goes far enough, while others are threatening to hold up the plan over the restoration of the state and local tax (SALT) deduction. Congress may also consider a more modest infrastructure package.

Wiley's cross-disciplinary team is continuing to monitor developments in this area, including potential changes in Buy America/n priorities and enforcement in the new Administration.

Nicole Hager, a Law Clerk at Wiley Rein LLP, contributed to this alert.