

117TH CONGRESS
1ST SESSION

H. R. 1864

To amend title 23, United States Code, with respect to funding the recreational trails program, to require a study to determine the best available estimate of the total amount of nonhighway recreational fuel taxes received by the Secretary of the Treasury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2021

Mr. WELCH (for himself, Mr. CURTIS, Mr. SIMPSON, Mr. LARSEN of Washington, Mr. STEWART, Mr. KILMER, Mr. STIVERS, Mr. O'HALLERAN, Mr. NEAL, Mr. SAN NICOLAS, Ms. STRICKLAND, Mrs. NAPOLITANO, and Mr. HUFFMAN) 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 amend title 23, United States Code, with respect to funding the recreational trails program, to require a study to determine the best available estimate of the total amount of nonhighway recreational fuel taxes received by the Secretary of the Treasury, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “RTP Full Funding
3 Act of 2021”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the recreational trails program under sec-
7 tion 206 of title 23, United States Code—

8 (A) funds development and maintenance of
9 valuable trail infrastructure across the United
10 States;

11 (B) benefits millions of diverse trail users,
12 including users who participate in hiking, bicy-
13 cling, in-line skating, equestrian use, cross-
14 country skiing, snowmobiling, off-road
15 motorcycling, all-terrain vehicle riding, 4-wheel
16 off-highway vehicle driving, and other off-road
17 motorized vehicle use; and

18 (C)(i) embraces the user-pay-user-benefit
19 model of the Highway Trust Fund; and

20 (ii) is funded by a Federal tax on fuel used
21 for nonhighway recreation;

22 (2) to ensure that Federal taxes collected from
23 nonhighway recreation are appropriately returned to
24 the States for the recreational trails program, an ac-
25 curate estimate of the total amount of nonhighway
26 fuel taxes collected is necessary; and

1 (3) an accurate study to produce a best avail-
2 able estimate of the total amount of nonhighway rec-
3 reational fuel taxes received by the Secretary of the
4 Treasury will help inform Congress in continuing to
5 authorize the recreational trails program.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Federal
10 Highway Administration.

11 (2) HIGHWAY TRUST FUND.—The term “High-
12 way Trust Fund” means the Highway Trust Fund
13 established by section 9503(a) of the Internal Rev-
14 enue Code of 1986.

15 (3) NONHIGHWAY RECREATIONAL FUEL
16 TAXES.—The term “nonhighway recreational fuel
17 taxes” means taxes under section 4041 and 4081 of
18 the Internal Revenue Code of 1986 with respect to
19 fuel used in vehicles on recreational trails or back
20 country terrain (including vehicles registered for
21 highway use when used on recreational trails, trail
22 access roads not eligible for funding under title 23,
23 United States Code, or back country terrain).

24 (4) RECREATIONAL TRAILS PROGRAM.—The
25 term “recreational trails program” means the rec-

1 recreational trails program under section 206 of title
2 23, United States Code.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of Transportation.

5 **SEC. 4. NONHIGHWAY RECREATIONAL FUEL STUDY.**

6 (a) ASSESSMENT; REPORT.—

7 (1) ASSESSMENT.—Not later than 1 year after
8 the date of enactment of this Act and not less fre-
9 quently than once every 5 years thereafter, as deter-
10 mined by the Secretary, the Secretary shall carry
11 out an assessment of the best available estimate of
12 the total amount of nonhighway recreational fuel
13 taxes received by the Secretary of the Treasury and
14 transferred to the Highway Trust Fund for the pe-
15 riod covered by the assessment.

16 (2) REPORT.—After carrying out each assess-
17 ment under paragraph (1), the Secretary shall sub-
18 mit to the Committees on Finance and Environment
19 and Public Works of the Senate and the Committees
20 on Ways and Means and Transportation and Infra-
21 structure of the House of Representatives a report
22 that includes—

23 (A) a description of the results of the as-
24 sessment;

1 (B) an evaluation of whether the current
2 recreational trails program funding level of each
3 participating State accurately reflects the ap-
4 portionment criteria described in section
5 133(h)(5) of title 23, United States Code; and

6 (C) in the case of the first report sub-
7 mitted under this paragraph, an estimate of the
8 frequency with which the Secretary anticipates
9 carrying out the assessment under paragraph
10 (1), subject to the condition that such an as-
11 sessment shall be carried out not less frequently
12 than once every 5 years.

13 (b) CONSULTATION.—In carrying out an assessment
14 under subsection (a)(1), the Secretary may consult with,
15 as the Secretary determines to be appropriate—

16 (1) the heads of—

17 (A) State agencies designated by Gov-
18 ernors pursuant to section 206(c)(1) of title 23,
19 United States Code, to administer the rec-
20 reational trails program; and

21 (B) division offices of the Department of
22 Transportation;

23 (2) the Secretary of the Treasury;

24 (3) the Administrator; and

1 (4) groups representing recreational activities
2 and interests, including hiking, biking and mountain
3 biking, horseback riding, water trails, snowshoeing,
4 cross-country skiing, snowmobiling, off-highway
5 motorcycling, all-terrain vehicles, recreational off-
6 highway vehicles, and other offroad motorized vehi-
7 cle activities, and recreational trail advocates.

8 (c) FUNDING.—

9 (1) IN GENERAL.—For the first fiscal year be-
10 ginning after the date of enactment of this Act, the
11 Secretary shall set aside from funds available to the
12 Secretary to carry out the recreational trails pro-
13 gram and not otherwise obligated an amount not
14 greater than \$3,000,000 to conduct the assessment
15 under subsection (a)(1).

16 (2) RESERVATION.—The amount set aside
17 under this subsection shall be proportionately re-
18 served from the apportionment to each State partici-
19 pating in the recreational trails program during that
20 fiscal year, after making any reallocation to partici-
21 pating States, as described in section 133(h)(1)(B)
22 of title 23, United States Code.

23 **SEC. 5. REPORTING.**

24 (a) ESTABLISHMENT OF NEW FINANCIAL MANAGE-
25 MENT INFORMATION SYSTEM CODES.—To provide addi-

1 tional transparency into meeting objectives of the rec-
2 reational trails program, the Administrator shall establish
3 financial management information system codes for each
4 of the following:

5 (1) Nonmotorized single use project.

6 (2) Nonmotorized diverse use project.

7 (3) Diverse use project including both motor-
8 ized and nonmotorized uses.

9 (4) Motorized single use project.

10 (5) Motorized diverse use project.

11 (b) STATE REPORTS.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), not less frequently than annually, each
14 State that carries out projects under the recreational
15 trails program shall submit to the Administrator a
16 report describing the expenditures relating to those
17 projects, as listed—

18 (A) based on each code described in sub-
19 section (a); and

20 (B) relating to projects for the State on
21 Federal land.

22 (2) EXEMPTION.—Paragraph (1) shall not
23 apply to a State that is described in section
24 206(d)(3)(B) of title 23, United States Code.

1 (c) ASSESSMENT.—Not less frequently than annually,
2 the Administrator shall—

3 (1) carry out an assessment of State expendi-
4 tures on recreational trails projects under subsection
5 (b); and

6 (2) submit to Congress a report that describes
7 the results of the assessment.

8 **SEC. 6. STP SET-ASIDE.**

9 Section 133(h) of title 23, United States Code, is
10 amended—

11 (1) by striking paragraph (1) and inserting the
12 following:

13 “(1) RESERVATION OF FUNDS.—Of the funds
14 apportioned to a State under section 104(b)(2) for
15 each fiscal year, the Secretary shall reserve an
16 amount such that—

17 “(A) subject to subparagraph (B), the Sec-
18 retary reserves a total under this subsection
19 of—

20 “(i) \$835,000,000 for each of fiscal
21 years 2016 and 2017; and

22 “(ii) \$850,000,000 for each of fiscal
23 years 2018 through 2020;

1 “(B) for each fiscal year, the amount of
2 twice the covered funds is added to the amount
3 reserved under subparagraph (A);

4 “(C) the State’s share of that total is de-
5 termined by multiplying the amount under sub-
6 paragraphs (A) and (B) by the ratio that—

7 “(i) the amount apportioned to the
8 State for the transportation enhancements
9 program for fiscal year 2009 under sub-
10 section (d)(2), as in effect on the day be-
11 fore the date of enactment of MAP–21;
12 bears to

13 “(ii) the total amount of funds appor-
14 tioned to all States for the transportation
15 enhancements program for fiscal year
16 2009; and

17 “(D) for administrative, research, technical
18 assistance, and training expenses (including the
19 costs of entering into cooperative agreements
20 with other Federal departments or agencies, in-
21 stitutions of higher education, or nonprofit or-
22 ganizations to carry out such an activity) for
23 the recreational trails program under section
24 206, an amount of up to 1 percent of the
25 amount apportioned to carry out that program,

1 but not to exceed \$1,500,000, which reservation
2 shall be made before making any apportionment
3 under paragraph (5) to a State.”;

4 (2) in paragraph (5)—

5 (A) by striking “For each fiscal year” and
6 inserting the following:

7 “(A) IN GENERAL.—For each fiscal year”;

8 (B) by redesignating subparagraphs (A)
9 through (C) as clauses (i) through (iii), respec-
10 tively, and indenting the clauses appropriately;

11 (C) by amending clause (i), as so redesign-
12 nated, to read as follows:

13 “(i) obligate an amount of funds re-
14 served under this section equal to the
15 amount calculated under subparagraph
16 (B);”;

17 (D) by adding at the end the following:

18 “(B) CALCULATION OF STATE SHARE OF
19 RECREATIONAL TRAIL PROGRAM FUNDS.—For
20 each State, the required amount of funds to be
21 obligated by such State under subparagraph
22 (A)(i) shall be calculated by adding—

23 “(i) covered funds divided by the
24 number of States reserving amounts under
25 this subsection; and

1 “(ii) covered funds proportioned to
2 such State to the degree that—

3 “(I) non-highway recreational
4 fuel use in such State during the pre-
5 ceding year; bears to

6 “(II) non-highway recreational
7 fuel use in all States, as reflected in
8 the most recent nonhighway rec-
9 reational fuel study required of the
10 Secretary under the RTP Full Fund-
11 ing Act of 2021.

12 “(C) COVERED FUNDS DEFINED.—In this
13 subsection, the term ‘covered funds’ means—

14 “(i) until the date on which the first
15 report is submitted under section 4 of the
16 RTP Full Funding Act of 2021,
17 \$125,000,000; and

18 “(ii) after the date on which the first
19 report is submitted under section 4 of the
20 RTP Full Funding Act of 2020, 50 per-
21 cent of the best available estimate of the
22 total annual amount of nonhighway rec-
23 reational fuel taxes transferred to the
24 Highway Trust Fund.”; and

25 (3) in paragraph (6)(A)—

1 (A) by striking “A State” and inserting
2 the following:

3 “(i) IN GENERAL.—A State”; and

4 (B) by adding at the end the following:

5 “(ii) NO FUNDS FOR OPT OUT.—In
6 the case of a State that opts out of the
7 recreational trails program under clause (i)
8 for any fiscal year—

9 “(I) such State shall not receive
10 an apportionment for such program
11 for such fiscal year; and

12 “(II) the apportionment de-
13 scribed in subclause (I) shall be equi-
14 tably reallocated to all States partici-
15 pating in the recreational trails pro-
16 gram.”.

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