

115TH CONGRESS
2D SESSION

H. R. 4739

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 8, 2018

Mr. HASTINGS 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 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 2018”.

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; and

16 (2) transfer portions of those funds to the Ad-
17 ministrators of the Federal Highway Administration,
18 the Federal Transit Administration, the Federal
19 Railroad Administration, and the Maritime Adminis-
20 tration.

21 (o) PERIOD FOR OBLIGATION OF FUNDS.—

22 (1) IN GENERAL.—Funds made available for a
23 fiscal year to carry out the program shall remain
24 available to the Secretary for obligation under the

1 program for a period of 3 years after the last day
2 of the fiscal year for which the funds are authorized.

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

8 (p) FUNDING.—There shall be available, without fur-
9 ther appropriation, from the National Infrastructure In-
10 vestment Trust Fund for expenditure by the Secretary to
11 carry out the program \$3,000,000,000 for each fiscal
12 year.

13 **SEC. 3. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.**

14 (a) FUNDING.—There shall be available from the
15 Fixed Guideway Capital Investment Trust Fund, without
16 further appropriation, for expenditure by the Secretary of
17 Transportation to carry out section 5309 of title 49,
18 United States Code, \$9,000,000,000 for each fiscal year.

19 (b) ADMINISTRATIVE EXPENSES.—Of the amounts
20 made available for a fiscal year under subsection (a) to
21 carry out section 5309 of title 49, United States Code,
22 the Secretary may retain not more than 1 percent of the
23 total funds made available to carry out such section to
24 administer the award and oversee grants made under the
25 program.

1 (c) PERIOD FOR OBLIGATION OF FUNDS.—

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

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

14 **SEC. 4. ESTABLISHMENT OF TRUST FUNDS.**

15 (a) IN GENERAL.—Subchapter A of chapter 28 of the
16 Internal Revenue Code of 1986 (relating to the trust fund
17 code) is amended by adding at the end thereof the fol-
18 lowing:

19 **“SEC. 9512. NATIONAL INFRASTRUCTURE INVESTMENT**
20 **TRUST FUND.**

21 “(a) CREATION OF TRUST FUND.—There is estab-
22 lished in the Treasury of the United States a trust fund
23 to be known as the ‘National Infrastructure Investment
24 Trust Fund’, consisting of such amounts as may be appro-
25 priated or credited to the National Infrastructure Invest-

1 ment Trust Fund as provided in this section or section
2 9602(b).

3 “(b) TRANSFER TO NATIONAL INFRASTRUCTURE IN-
4 VESTMENT TRUST FUND OF AMOUNTS EQUIVALENT TO
5 CERTAIN TAXES.—There are hereby appropriated to the
6 National Infrastructure Investment Trust Fund amounts
7 equivalent to the portion of the taxes received in the
8 Treasury under subsections (a)(1) and (b) of section 5701
9 that are attributable to the increase in tax imposed by
10 such subsections by reason of the amendments made by
11 section 5 of the Build America Act of 2018.

12 “(c) EXPENDITURES FROM NATIONAL INFRASTRUC-
13 TURE INVESTMENT TRUST FUND.—Amounts in the Na-
14 tional Infrastructure Investment Trust Fund shall be
15 available, without further appropriation, to the Secretary
16 of Transportation for making expenditures under the na-
17 tional infrastructure investment program authorized by
18 section 2 of the Build America Act of 2018.

19 **“SEC. 9513. FIXED GUIDEWAY CAPITAL INVESTMENT TRUST**
20 **FUND.**

21 “(a) CREATION OF TRUST FUND.—There is estab-
22 lished in the Treasury of the United States a trust fund
23 to be known as the ‘Fixed Guideway Capital Investment
24 Trust Fund’, consisting of such amounts as may be appro-
25 priated or credited to the Fixed Guideway Capital Invest-

1 ment Trust Fund as provided in this section or section
2 9602(b).

3 “(b) TRANSFER TO FIXED GUIDEWAY CAPITAL IN-
4 VESTMENT TRUST FUND OF AMOUNTS EQUIVALENT TO
5 CERTAIN TAXES.—There are hereby appropriated to the
6 Fixed Guideway Capital Investment Trust Fund amounts
7 equivalent to 25 percent of the portion of the taxes re-
8 ceived in the Treasury under the rates described in clauses
9 (i) and (iii) of section 4081(a)(2)(A), and section
10 4081(a)(2)(D), but only to the extent such amounts are
11 attributable to the increase in rates under such clauses,
12 and such section, by reason of the amendments made by
13 section 6 of the Build America Act of 2018. For purposes
14 of the preceding sentence, taxes received under section
15 4041 and 4081 shall be determined without reduction for
16 credits under section 6426.

17 “(c) EXPENDITURES FROM FIXED GUIDEWAY CAP-
18 ITAL INVESTMENT TRUST FUND.—Amounts in the Fixed
19 Guideway Capital Investment Trust Fund shall be avail-
20 able, without further appropriation, to the Secretary of
21 Transportation for making expenditures after October 1,
22 2019, under section 5309 of title 49, United States Code,
23 pursuant to the authorization in section 3 of the Build
24 America Act of 2018.”.

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.
 “Sec. 9513. Fixed Guideway Capital Investment Trust Fund.”.

5 **SEC. 5. INCREASE IN TAX ON CIGARETTES AND SMALL CI-**
 6 **GARS.**

7 (a) SMALL CIGARS.—Section 5701(a)(1) of the Inter-
 8 nal Revenue Code of 1986 is amended by striking “\$50.33
 9 per thousand” and inserting “\$75.30 per thousand”.

10 (b) CIGARETTES.—Section 5701(b) of such Code is
 11 amended—

12 (1) by striking “\$50.33 per thousand” in para-
 13 graph (1) and inserting “\$75.30 per thousand”; and

14 (2) by striking “\$105.69 per thousand” in
 15 paragraph (2) and inserting “\$130.69 per thou-
 16 sand”.

17 **SEC. 6. INCREASE IN TAX ON MOTOR FUELS.**

18 (a) GASOLINE OTHER THAN AVIATION GASOLINE.—
 19 Section 4081(a)(2)(A)(i) of the Internal Revenue Code of
 20 1986 is amended by striking “18.3 cents” and inserting
 21 “53.3 cents”.

22 (b) DIESEL FUEL OR KEROSENE.—Section
 23 4081(a)(2)(A)(iii) of such Code is amended by striking
 24 “24.3 cents” and inserting “59.3 cents”.

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

4 “(E) ADJUSTMENT FOR INFLATION.—In
5 the case of any calendar year beginning after
6 2018, the rates of tax contained in clauses (i)
7 and (iii) of subparagraph (A) shall each be in-
8 creased by an amount equal to—

9 “(i) such rate, multiplied by

10 “(ii) the cost of living adjustment de-
11 termined under section 1(f)(3) for the cal-
12 endar year, determined by substituting
13 ‘calendar year 2016’ for ‘calendar year
14 1992’ in subparagraph (B) thereof.

15 Any increase under the preceding sentence shall
16 be rounded to the nearest 0.1 cents.”.

17 (d) DIESEL-WATER FUEL EMULSION.—Section
18 4081(a)(2)(D) of such Code is amended by striking “sub-
19 stituting ‘19.7 cents’ for ‘24.3 cents’.” and inserting “sub-
20 stituting a rate equal to 81 percent of the rate in effect
21 for the calendar year under such subparagraph.”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to fuels removed, entered, or sold
24 after October 1, 2018.

1 **SEC. 7. HIGHWAY TRUST FUND.**

2 (a) COORDINATION WITH FIXED GUIDEWAY CAP-
 3 ITAL INVESTMENT TRUST FUND.—Section 9503(b)(4) of
 4 the Internal Revenue Code of 1986 is amended by striking
 5 “or” at the end of subparagraph (C), by striking the pe-
 6 riod at the end of subparagraph (D) and inserting “, or”,
 7 and by adding at the end the following new subparagraph:

8 “(E) clauses (i) and (iii) of section
 9 4081(a)(2)(A), and section 4081(a)(2)(D), but
 10 only to the extent of amounts equivalent to the
 11 portion of such taxes as are appropriated to the
 12 Fixed Guideway Capital Investment Trust
 13 Fund under section 9513(b).”.

14 (b) MASS TRANSIT PORTION ADJUSTED.—Section
 15 9503(e)(2)(A) of such Code is amended by striking “2.86
 16 cents” and inserting “6.25 cents”.

17 (c) TRANSFER OF UNOBLIGATED NATIONAL INFRA-
 18 STRUCTURE INVESTMENT AND FIXED GUIDEWAY CAP-
 19 ITAL INVESTMENT AMOUNTS.—Section 9503(f) of the In-
 20 ternal Revenue Code of 1986 is amended by redesignating
 21 paragraph (10) as paragraph (11) and by inserting after
 22 paragraph (9) the following new paragraph:

23 “(10) FURTHER TRANSFERS TO TRUST
 24 FUND.—

25 “(A) IN GENERAL.—There is hereby ap-
 26 propriated to the Highway Trust Fund

1 amounts to be transferred to the Trust Fund
2 pursuant to sections 2(o) and 3(c)(2) of the
3 Build America Act of 2018.

4 “(B) TRANSFER OF PORTION TO MASS
5 TRANSIT ACCOUNT.—From such amounts, the
6 Secretary shall transfer to the Mass Transit Ac-
7 count so much as bears the same ratio to such
8 amount as the mass transit portion (as defined
9 in subsection (e)(2)) bears to all taxes imposed
10 with respect to fuel by sections 4041 and 4081
11 and otherwise deposited into the Highway Trust
12 Fund.”.

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