H. R. __________

To amend the Internal Revenue Code of 1986 to index the gas and diesel tax and rebuild our roads, bridges, and transit systems.

IN THE HOUSE OF REPRESENTATIVES

Mr. DeFazio introduced the following bill; which was referred to the
Committee on __________

A BILL

To amend the Internal Revenue Code of 1986 to index the gas and diesel tax and rebuild our roads, bridges, and transit systems.

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 “Investing in America:
5 A Penny for Progress Act”.
SEC. 2. DOUBLE INDEXATION OF GASOLINE AND DIESEL FUELS TAX.

(a) In General.—Paragraph (2) of section 4081(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(E) INDEX FOR HIGHWAY CONSTRUCTION COST INFLATION AND FUEL EFFICIENCY.—

(i) In General.—In the case of any calendar year after 2017, the 18.3 cents rate in subparagraph (A)(i), the 24.3 cents rate in subparagraph (A)(iii), and the 19.7 cents rate in subparagraph (D), shall each be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the double indexation for the calendar year.

Any increase determined under this subparagraph shall be rounded to the nearest tenth of a cent.

(ii) Exception for Fuel Used in Aviation.—The adjustment under clause (i) shall not apply with respect to the rate of tax under subparagraph (A)(iii) for fuel referred to in subparagraph (C).
“(iii) Special rules to stabilize rates.—

“(I) If an adjustment of rates under clause (i) for a calendar year would result in rates in subparagraphs (A)(i), (A)(iii), and (D) in effect for the calendar year greater than 1.5 cents more than the rates in effect under such subparagraphs for the preceding calendar year—

“(aa) the rates in subparagraphs (A)(i), (A)(iii), and (D) for the calendar year shall be the rates in effect under such subparagraphs for the preceding calendar year plus 1.5 cents,

“(bb) any adjustment of rates that would have occurred under clause (i) if item (aa) were not in effect shall be applied under that clause—

“(AA) in the succeeding calendar year or years after the rate is established under clause (i) for that year, and
“(BB) until the cumulative adjustment of rates equals the adjustment that would have applied under clause (i) if item (aa) were not in effect, and

“(cc) an adjustment of rates under item (bb) remains subject to item (aa).

“(II) If an adjustment of rates under clause (i) for a calendar year would result in rates in subparagraphs (A)(i), (A)(iii), and (D) in effect for the calendar year less than the rates in effect under such subparagraphs for the preceding calendar year—

“(aa) no adjustment of such rates shall be made for the calendar year, and

“(bb) the rates in subparagraphs (A)(i), (A)(iii), and (D) for the calendar year shall be the rates in effect under such sub-
paragraphs for the preceding calendar year.

“(iv) DOUBLE INDEXATION.—For purposes of clause (i), the double indexation for any calendar year is the sum of—

“(I) the highway construction cost adjustment, and

“(II) the CAFE fuel saved adjustment.

“(v) HIGHWAY CONSTRUCTION COST ADJUSTMENT.—For purposes of clause (iv), the highway construction cost adjustment for any calendar year is the percentage (if any) by which—

“(I) the National Highway Construction Cost Index for the preceding calendar year, exceeds

“(II) the National Highway Construction Cost Index for calendar year 2016 or, if applicable, the first year of a successor index.

“(vi) NATIONAL HIGHWAY CONSTRUCTION COST INDEX FOR ANY CALENDAR YEAR.—For purposes of clause (v), the National Highway Construction Cost Index
for any calendar year is the average of the
National Highway Construction Cost Index
as of the close of the 12-month period end-
ing on June 30 of such calendar year.

“(vii) NATIONAL HIGHWAY CON-
STRUCTION COST INDEX.—For purposes of
clause (v), the term ‘National Highway
Construction Cost Index’ means the last
National Highway Construction Cost Index
published by the Department of Transpor-
tation or successor index.

“(viii) CAFE FUEL SAVED ADJUST-
MENT.—For purposes of clause (iv), the
CAFE fuel saved adjustment for a cal-
endar year is the percentage (if any) by
which annual motor fuel use is reduced by
the estimated CAFE fuel saved for that
calendar year from the annual motor fuel
use for the prior calendar year.

“(ix) ESTIMATED CAFE FUEL
SAVED.—The term ‘estimated CAFE fuel
saved’ for a calendar year means—

“(I) In the case of the 18.3 cents
rate in subparagraph (A)(i), the com-
bined gasoline fuel saved estimates
issued by the National Highway Traffic Safety Administration and the Environmental Protection Agency for passenger automobiles and light trucks published in the Federal Register on May 7, 2010, and October 15, 2012 and for medium and heavy-duty engines and vehicles published in the Federal Register on September 15, 2011, and October 25, 2016, as part of final rules to implement corporate average fuel economy standards, and such successor estimates included in successor rules.

"(II) In the case of the 24.3 cents rate in subparagraph (A)(iii) and the 19.7 cents rate in subparagraph (D), the combined diesel fuel saved estimates issued by the National Highway Traffic Safety Administration and the Environmental Protection Agency for medium and heavy-duty engines and vehicles published in the Federal Register on September 15, 2011, and October 25, 2016, as
part of final rules to implement corporate average fuel economy standards, and such successor estimates included in successor rules.

"(x) Annual motor fuel use.—

The term ‘annual motor fuel use’ means—

"(I) In the case of the 18.3 cents rate in subparagraph (A)(i), the total number of gallons of gasoline used in a calendar year in highway use, as published by the Federal Highway Administration as part of its annual motor fuel data survey, and

"(II) In the case of the 24.3 cents rate in subparagraph (A)(iii) and the 19.7 cents rate in subparagraph (D), the total number of gallons of diesel used in a calendar year in highway use, as published by the Federal Highway Administration as part of its annual motor fuel data survey.

"(xi) Notice.—Not later than December 15, 2017, and annually thereafter, the Secretary shall publish the rates of tax
as adjusted under this subparagraph for the succeeding calendar year:’.

(b) RETAIL FUEL EXCISE TAX.—Subsection (a) of section 4041 of such Code is amended by adding at the end the following new paragraph:

“(4) HIGHWAY INFLATION ADJUSTMENT.—If an increase in rates is made under section 4081(a)(2)(E) for any calendar year after 2017, then each dollar amount in paragraphs (1)(C)(iii)(I), (2)(B)(i), (2)(B)(ii), (2)(B)(iv), and (3)(A) of this subsection and in subsections (b)(2)(A)(i), (b)(2)(C)(i), and (m)(1) shall be increased in the same manner and subject to the same conditions that are applicable under section 4081(a)(2)(E).”.

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 4081(a)(2) of such Code is amended by striking “The rate” and inserting “Except as provided in subparagraph (C), the rate”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after July 31, 2017.

SEC. 3. TRANSPORTATION BONDS.

(a) ISSUANCE.—The Secretary of the Treasury shall, pursuant to subchapter I of chapter 31 of title 31, United States Code, issue bonds, to be known as “Invest in Amer-
ica Bonds”, which meet the terms and conditions of subsection (b), and the bond revenue shall be transferred to the Highway Trust Fund with 80 percent allocated to the Highway Account (as defined in section 9503(e)(5)(B) of the Internal Revenue Code of 1986) and 20 percent allocated to the Mass Transit Account.

(b) TERMS AND CONDITIONS.—

(1) TERM.—Bonds issued under subsection (a) shall have terms of 30 years.

(2) FREQUENCY.—Bonds shall be issued under subsection (a) every fiscal year.

(3) FACE AMOUNT FORMULA FOR FISCAL YEARS 2017 THROUGH 2020.—Bonds issued under subsection (a) for each of fiscal years 2017 through 2020 shall have a face amount that equals, for that fiscal year—

(A) the Federal share (as defined in section 503(b)(8)(C)(v) of title 23, United States Code, and section 308(e)(3)(E) of title 49, United States Code) of the most recent estimates required under section 503(b)(8)(C)(iv) of title 23, United States Code, and section 308(e)(3)(D) of title 49, United States Code; minus
(B) the sum of the amount authorized in section 5338(a)(1) of title 49, United States Code, the amounts authorized in section 1101(a) of the FAST Act (Public Law 114–94; 129 Stat. 1322), the amounts authorized in section 4001(a) of the FAST Act (Public Law 114–94; 129 Stat. 1497), and the amounts authorized in section 31104(a) and 31110(a) of title 49, United States Code, for that fiscal year.

(4) FACE AMOUNT FORMULA FOR FISCAL YEARS 2021 THROUGH 2030.—Bonds issued under subsection (a) for each of fiscal years 2021 through 2030 shall have a face amount that equals, for that fiscal year—

(A) the Federal share (as defined in section 503(b)(8)(C)(v) of title 23, United States Code, and section 308(e)(3)(E) of title 49, United States Code) of the most recent estimates required under section 503(b)(8)(C)(iv) of title 23, United States Code, and section 308(e)(3)(D) of title 49, United States Code; minus

(B) the expected revenue deposited into the Highway Trust Fund for the corresponding fis-
(5) AMOUNT OUTSTANDING.—Notwithstanding paragraphs (3) and (4), the total face amount of bonds issued under subsection (a) may not exceed the amount the Secretary of the Treasury and the Secretary of Transportation determines can be redeemed, taking into account this section and section 9503(g) of the Internal Revenue Code of 1986.

(6) SUNSET.—No bonds may be issued under subsection (a) after September 30, 2030.

c) CAPITAL INVESTMENT GRANT SPECIAL RULE.—

Prior to the application of section 105 of title 23, United States Code, for a fiscal year, an amount equal to a percentage of bond revenue transferred to the Highway Trust Fund and allocated to the Mass Transit Account equal to the ratio of the funds appropriated in the preceding fiscal year to carry out section 5309 of title 49, United States Code, to the funds made available in the same fiscal year to carry out section 5338(a)(1) of title 49, United States Code, shall be available to make additional grants pursuant to section 5309 of title 49, United States Code.

d) SET-ASIDE SPECIAL RULE.—

(1) IN GENERAL.—In determining the additional amounts of contract authority to be made
available under section 105 of title 23, United States
Code, for a fiscal year, the Secretary shall make ad-
justments under section 105(c)(1) of title 23, United
States Code, for a set-aside from the Highway Ac-
count (as defined in section 9503(e)(5)(B) of the In-
ternal Revenue Code of 1986) or Mass Transit Ac-
count referred to in paragraph (2)—

(A) by determining the ratio that—

(i) the amount authorized to be ap-
propriated for the set-aside from the ac-
count for that fiscal year; bears to

(ii) the total amount authorized to be
appropriated for that fiscal year for all
programs (except as provided in section
105(d) of title 23, United States Code)
under such account;

(B) by multiplying the ratio determined
under subparagraph (A) by the amount of the
adjustment for the account determined under
section 105(b)(1)(B) of title 23, United States
Code; and

(C) by adjusting the amount that the Sec-
retary would have allocated for the set-aside for
that fiscal year but for section 105 of title 23,
United States Code, by the amount calculated under subparagraph (B).

(2) SET-ASIDES.—The set-asides referred to in paragraph (1) are the amounts reserved for a fiscal year under each of—

(A) section 104(b)(5)(B) of title 23, United States Code;

(B) sections 104(h)(1) and 104(h)(2) of title 23, United States Code;

(C) section 130(e)(1) of title 23, United States Code;

(D) section 133(h)(1)(A) of title 23, United States Code;

(E) section 1519(a) of MAP-21 (126 Stat. 524), as amended by section 1418 of the FAST Act (129 Stat. 1423); and

(F) section 5336(h)(1) of title 49, United States Code.

(3) CONFORMING AMENDMENTS.—Section 105(g) of title 23, United States Code, is amended—

(A) in paragraph (2) by inserting “or the Temporary Transportation Bond Repayment Account” before the period at the end; and

(B) by adding at the end the following:
“(4) Temporary Transportation Bond Repayment Account.—The term ‘Temporary Transportation Bond Repayment Account’ means the Temporary Transportation Bond Repayment Account of the Highway Trust Fund established under section 9503(g) of the Internal Revenue Code of 1986.”.

(e) Temporary Transportation Bond Repayment Account.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) Establishment of Temporary Transportation Bond Repayment Account.—

“(1) Creation of Account.—There is established in the Highway Trust Fund a separate account to be known as the ‘Temporary Transportation Bond Repayment Account’ consisting of such amounts as may be transferred or credited to the Temporary Transportation Bond Repayment Account as provided in this section.

“(2) Transfers to Temporary Transportation Bond Repayment Account.—The Secretary of the Treasury shall transfer to the Temporary Transportation Bond Repayment Account the portion of the amounts appropriated to the Highway
Trust Fund under subsection (b) which are attributable to the increase in taxes under—

"(A) section 4041 by reason of section 4041(a)(4), and

"(B) section 4081 by reason of section 4081(a)(2)(E).

"(3) EXPENDITURES FROM ACCOUNT.—
 Amounts in the Temporary Transportation Bond Repayment Account shall be available for redeeming bonds and paying interest payments issued under section 3 of the Investing in America: A Penny for Progress Act.

"(4) TERMINATION.—When all bonds issued under section 3 of the Investing in America: A Penny for Progress Act have been redeemed—

"(A) the Temporary Transportation Bond Repayment Account shall close; and

"(B) all amounts in the account (and all future revenue that, absent this paragraph, would have been transferred to the account pursuant to paragraph (2)) shall be transferred to the Highway Trust Fund with 80 percent allocated to the Highway Account (as defined in section 9503(e)(5)(B) of the Internal Revenue
Code of 1986) and 20 percent allocated to the Mass Transit Account.”.

(f) CONFORMING AMENDMENT.—Section 9503(e)(5)(B) of the Internal Revenue Code of 1986 is amended by inserting “or the Temporary Transportation Bond Repayment Account” before the period at the end.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply upon enactment of this law.

SEC. 4. CONDITIONS AND PERFORMANCE REPORTING.

(a) REPORT ON INFRASTRUCTURE INVESTMENT NEEDS.—Section 503(b)(8) of title 23, United States Code, is amended to read as follows:

“(8) REPORT ON INFRASTRUCTURE INVESTMENT NEEDS.—

“(A) IN GENERAL.—Not later than July 31, 2018, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

“(i) the current conditions and performance of highway and bridge facilities in the United States, including the backlog of current highway and bridge needs; and
“(ii) the future needs of highway and bridge facilities in the United States.

“(B) COMPARISONS.—A report under this paragraph shall include all information necessary to relate and compare the conditions and performance measures used in the previous biennial reports to the conditions and performance measures used in the current report.

“(C) REPORT REQUIREMENTS.—In developing a report under this paragraph, the Secretary shall—

“(i) prepare a complete assessment of highway and bridge facilities in the United States;

“(ii) for the succeeding 20-year period, estimate future capital requirements for highway and bridge facilities in the United States at specified levels of service;

“(iii) for the succeeding 20-year period, estimate the annual expenditures necessary to fund capital projects in the United States that—

“(I) are necessary to address the current and future needs of highway and bridge facilities; and
“(II) have a benefit-cost ratio greater than or equal to 1;

“(iv) for the period ending December 31, 2036, estimate the annual expenditures necessary to fund capital projects in the United States that—

“(I) are necessary to address the current and future needs of highway and bridge facilities; and

“(II) have a benefit-cost ratio greater than or equal to 1; and

“(v) for the preceding 10-year period, estimate the average annual percentage of the total expenditures made for highway and bridge capital projects by all levels of government that was derived from Federal funds.”.

(b) REPORT ON PUBLIC TRANSPORTATION INVESTMENT NEEDS.—Section 308(e) of title 49, United States Code, is amended to read as follows:

“(e) REPORT ON PUBLIC TRANSPORTATION INVESTMENT NEEDS.—

“(1) IN GENERAL.—Not later than July 31, 2018, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on
Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that describes—

"(A) the current conditions and performance of public transportation systems in the United States, including the state of good repair backlog among existing public transportation systems; and

"(B) the future needs of public transportation systems in the United States.

"(2) COMPARISONS.—A report under this subsection shall include all information necessary to relate and compare the conditions and performance measures used in the previous biennial reports to the conditions and performance measures used in the current report.

"(3) CONTENTS.—In developing a report under this subsection, the Secretary shall—

"(A) prepare a complete assessment of public transportation systems in the United States;

"(B) for the succeeding 20-year period, estimate the future capital requirements for pub-
lic transportation systems in the United States
at specified levels of service;

"(C) for the succeeding 20-year period, es-

timate the annual capital expenditures nec-

essary to fund capital projects in the United
States that have a benefit-cost ratio greater
than 1 and are necessary—

"(i) to achieve and maintain a state of
good repair for public transportation sys-
tems; and

"(ii) to support the long-term trend
rate of public transportation ridership
growth, plus an additional 0.3 percent; and

"(D) for the period ending December 31,
2036, estimate the annual capital expenditures
necessary to fund capital projects in the United
States that have a benefit-cost ratio greater
than 1 and are necessary—

"(i) to achieve and maintain a state of
good repair for public transportation sys-
tems; and

"(ii) to support the long-term trend
rate of public transportation ridership
growth, plus an additional 0.3 percent; and
“(E) for the preceding 10-year period, estimate the average annual percentage of the total expenditures made by all levels of government for public transportation capital expenditures that was derived from Federal funds.”.

(c) INTERIM REPORTING METHOD.—Prior to the publication of the reports required under the amendments made by subsections (a) and (b), the Secretary of Transportation shall provide to the Secretary of the Treasury the data necessary to calculate the bond face amount under section 3(b) using the most recent published reports required by section 503(b)(8) of title 23, United States Code, and section 308(e) of title 49, United States Code.

SEC. 5. REPEAL OF FAST ACT RESCISSION.

Section 1438 of the FAST Act (Public Law 114–94; 129 Stat. 1432), and the item relating to that section in section 1(b) of that Act, are repealed.