

109TH CONGRESS
1ST SESSION

H. R. 4071

To amend Public Law 109–59 to provide additional transportation flexibility
and to rescind certain amounts of Federal funding.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2005

Mr. FLAKE introduced the following bill; which was referred to the Committee
on Transportation and Infrastructure

A BILL

To amend Public Law 109–59 to provide additional transportation flexibility and to rescind certain amounts of Federal funding.

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 “Accountability and
5 Flexibility Associated With Spending on Transportation
6 Act of 2005”.

7 **SEC. 2. TRANSPORTATION FUNDING FLEXIBILITY.**

8 (a) HIGHWAY BRIDGE PROGRAM.—Section 144(g)(1)
9 of title 23, United States Code, is amended by adding at
10 the end the following:

1 “(D) FUNDING FLEXIBILITY.—If a State
2 is provided funds under subparagraph (A) for a
3 project described in subparagraph (A), the
4 State may use all or any portion of such funds
5 to carry out such project or any other project
6 eligible for assistance under this section that
7 the State designates.”.

8 (b) PROJECTS OF NATIONAL AND REGIONAL SIG-
9 NIFICANCE.—Section 1301 of the Safe, Accountable,
10 Flexible, Efficient Transportation Equity Act: A Legacy
11 for Users (Public Law 109–59) is amended by adding at
12 the end the following:

13 “(n) FUNDING FLEXIBILITY.—If a State is provided
14 funds under this section for a project described in the
15 table contained in subsection (m), the State may use all
16 or any portion of such funds to carry out such project
17 or any other project eligible for assistance under this sec-
18 tion that the State designates.”.

19 (c) NATIONAL CORRIDOR INFRASTRUCTURE IM-
20 PROVEMENT PROGRAM.—Section 1302 such Act is
21 amended by adding at the end the following:

22 “(f) FUNDING FLEXIBILITY.—If a State is provided
23 funds under this section for a project described in the
24 table contained in subsection (e), the State may use all
25 or any portion of such funds to carry out such project

1 or any other project eligible for assistance under this sec-
2 tion that the State designates.”.

3 (d) HIGH PRIORITY PROJECTS PROGRAM.—Section
4 117 of title 23, United States Code, is amended by adding
5 at the end the following:

6 “(i) FUNDING FLEXIBILITY.—If a State is provided
7 funds under this section for a project described in the
8 table contained in section 1702 of the Safe, Accountable,
9 Flexible, Efficient Transportation Equity Act: A Legacy
10 for Users (Public Law 109–59), the State may use all or
11 any portion of such funds to carry out such project or
12 any other project eligible for assistance under the surface
13 transportation program in section 133 that the State des-
14 ignates.”.

15 (e) TRANSPORTATION IMPROVEMENTS.—Section
16 1934 of such Act is amended by adding at the end the
17 following:

18 “(d) FUNDING FLEXIBILITY.—If a State is provided
19 funds under this section for a project described in the
20 table contained in subsection (c), the State may use all
21 or any portion of such funds to carry out such project
22 or any other project eligible for assistance under the sur-
23 face transportation program in section 133 of title 23,
24 United States Code, that the State designates.”.

1 (f) PROJECTS FOR BUS AND BUS-RELATED FACILI-
2 TIES AND CLEAN FUNDS GRANT PROGRAM.—Section
3 3044 of such Act is amended by adding at the end the
4 following:

5 “(d) FUNDING FLEXIBILITY.—If a recipient is pro-
6 vided funds under this section or section 5308 of title 49,
7 United States Code, or both, for a project described in
8 the table contained in subsection (a), the recipient may
9 use all or any portion of such funds to carry out such
10 project or any other project eligible for assistance under
11 this section or section 5308 of such title, other than a
12 project to fund any operations of buses or bus-related fa-
13 cilities.”.

14 **SEC. 3. SENSE OF CONGRESS.**

15 It is the sense of Congress that State departments
16 of transportation should take project descriptions in sec-
17 tion 144(g)(1)(A) of title 23, United States Code, and in
18 the tables contained in sections 1301, 1302, 1702, 1934,
19 and 3044 of the Safe, Accountable, Flexible, Efficient
20 Transportation Equity Act: A Legacy for Users (Public
21 Law 109–59) into consideration if such projects involve
22 improving transportation safety.

23 **SEC. 4. ACROSS-THE-BOARD RESCISSIONS.**

24 (a) FISCAL YEAR 2006.—

1 (1) IN GENERAL.—On September 30, 2006,
2 there is rescinded \$4,718,047,269 of the unobligated
3 balances of funds apportioned before such date to
4 the States for the Interstate maintenance, national
5 highway system, bridge, congestion mitigation and
6 air quality improvement, surface transportation
7 (other than the STP set-aside programs), metropoli-
8 tan planning, minimum guarantee, Appalachian de-
9 velopment highway system, recreational trails, safe
10 routes to school, freight intermodal connectors, co-
11 ordinated border infrastructure, high risk rural road,
12 high priority projects, and transportation improve-
13 ments programs and each of the STP set-aside pro-
14 grams.

15 (2) ALLOCATION AMONG STATES.—The Sec-
16 retary shall determine each State's share of the
17 amount to be rescinded by paragraph (1) by multi-
18 plying \$4,718,047,269 by the ratio of the aggregate
19 amount apportioned to such State for fiscal year
20 2006 for all the programs referred to in paragraph
21 (1) to the aggregate amount apportioned to all
22 States for such fiscal year for those programs.

23 (3) CALCULATIONS.—To determine the alloca-
24 tion of the amount to be rescinded for a State under
25 paragraph (2) among the programs referred to in

1 paragraph (1), the Secretary of Transportation shall
2 make the following calculations:

3 (A) The Secretary shall multiply such
4 amount to be rescinded by the ratio that the
5 aggregate amount of unobligated funds avail-
6 able to the State on September 30, 2006, for
7 each such program bears to the aggregate
8 amount of unobligated funds available to the
9 State on September 30, 2006, for all such pro-
10 grams.

11 (B) The Secretary shall multiply such
12 amount to be rescinded by the ratio that the
13 aggregate of the amount apportioned to the
14 State for each such program for fiscal year
15 2006 bears to the aggregate amount appor-
16 tioned to the State for all such programs for
17 fiscal year 2006.

18 (4) ALLOCATION AMONG PROGRAMS.—

19 (A) IN GENERAL.—The Secretary, in con-
20 sultation with the State, shall rescind for the
21 State from each program referred to in para-
22 graph (1) the amount determined for the pro-
23 gram under paragraph (3)(A).

24 (B) SPECIAL RULE.—

1 (i) RESTORATION OF FUNDS FOR COV-
2 ERED PROGRAMS.—If the rescission cal-
3 culated under paragraph (3)(A) for a cov-
4 ered program exceeds the amount cal-
5 culated for the covered program under
6 paragraph (3)(B), the State shall imme-
7 diately restore to the apportionment ac-
8 count for the covered program from the
9 unobligated balances of programs referred
10 to in paragraph (1) (other than covered
11 programs) the amount of funds required so
12 that the net rescission from the covered
13 program does not exceed the amount cal-
14 culated for the covered program under
15 paragraph (3)(B).

16 (ii) TREATMENT OF RESTORED
17 FUNDS.—Any funds restored under clause
18 (i) shall be deemed to be the funds that
19 were rescinded for the purposes of obliga-
20 tion.

21 (C) COVERED PROGRAM DEFINED.—In
22 subparagraph (B), the term “covered program”
23 means a program authorized under sections 130
24 and 152 of title 23, United States Code, para-
25 graph (2) or (3) of section 133(d) of that title,

1 section 144 of that title, section 149 of that
2 title, or section 1404 of the Safe, Accountable,
3 Flexible, Efficient Transportation Equity Act:
4 A Legacy for Users (Public Law 109–59).

5 (5) LIMITATION ON RECALCULATION OF EQ-
6 UITY BONUS PROGRAM.—Notwithstanding any other
7 provision of law, the amounts determined, and the
8 amounts allocated, under section 105 of title 23,
9 United States Code, for fiscal year 2006 shall not be
10 recalculated to take into account a rescission made
11 pursuant to this subsection.

12 (6) STP SET-ASIDE PROGRAM DEFINED.—In
13 this subsection, the term “STP set-aside program”
14 means the amount set aside under section 133(d) of
15 title 23, United States Code, for each of transpor-
16 tation enhancement activities and the division be-
17 tween urbanized areas of over 200,000 population
18 and other areas.

19 (b) FISCAL YEAR 2007, 2008, AND 2009.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 there is rescinded 10 percent of each amount au-
22 thorized to be appropriated for each of fiscal years
23 2007, 2008, and 2009 by the Safe, Accountable,
24 Flexible, Efficient Transportation Equity Act: A
25 Legacy for Users (Public Law 109–59), including

1 any amendment made by such Act, and including
2 any amount authorized to be appropriated for the
3 equity bonus program under section 105 of title 23,
4 United States Code, but excluding any amount au-
5 thorized to be appropriated for the highway safety
6 improvement program.

7 (2) TIMING.—A rescission made by paragraph
8 (1) of an amount authorized to be appropriated for
9 a fiscal year shall take affect on October 1 of such
10 fiscal year before any apportionment or allocation of
11 such amount and before such amount is subject to
12 any set aside or subtraction.

13 (3) LIMITATION ON RECALCULATION OF EQ-
14 UITY BONUS PROGRAM.—Notwithstanding any other
15 provision of law, the amounts determined, and the
16 amounts allocated, under section 105 of title 23,
17 United States Code, for a fiscal year shall not be re-
18 calculated to take into account a rescission made by
19 this subsection.

20 (c) SEPTEMBER 30, 2009.—Section 10212 of the
21 Safe, Accountable, Flexible, Efficient Transportation Eq-
22 uity Act: A Legacy for Users (Public Law 109–59) is
23 amended in subsection (a) by inserting after “high risk
24 rural road,” the following: “high priority projects, trans-
25 portation improvements,”.

1 (d) REPORTS.—Not later than the 60th day following
2 the date of each rescission made by subsection (a) or (b),
3 the Secretary of Transportation, in consultation with the
4 Director of the Office of Management and Budget shall
5 submit to the appropriate committees of Congress a report
6 containing the amount rescinded for each program re-
7 ferred to in subsection (a) and the amount rescinded for
8 each program or activity for which there is a rescission
9 made by subsection (b).

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