

117TH CONGRESS
1ST SESSION

H. R. 5434

IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2021

Received

AN ACT

To provide an extension of Federal-aid highway, highway safety, and transit programs, 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 “Surface Transpor-
3 tation Extension Act of 2021”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) COVERED LAW.—The term “covered law”
7 means any of the following:

8 (A) Titles I, II, III, IV, V, VI, VII, VIII,
9 XI, and XXIV of the FAST Act (Public Law
10 114–94; 129 Stat. 1312).

11 (B) Division A, division B, subtitle A of
12 title I and title II of division C, and division E
13 of MAP–21 (Public Law 112–141; 126 Stat.
14 405).

15 (C) Titles I, II, and III of the SAFETEA–
16 LU Technical Corrections Act of 2008 (Public
17 Law 110–244; 122 Stat. 1572).

18 (D) Titles I, II, III, IV, V, and VI of
19 SAFETEA–LU (Public Law 109–59; 119 Stat.
20 1144).

21 (E) Titles I, II, III, IV, and V of the
22 Transportation Equity Act for the 21st Century
23 (Public Law 105–178; 112 Stat. 107).

24 (F) Titles II, III, and IV of the National
25 Highway System Designation Act of 1995
26 (Public Law 104–59; 109 Stat. 568).

1 (G) Titles I, II, III, IV, V, and VI of the
2 Intermodal Surface Transportation Efficiency
3 Act of 1991 (Public Law 102–240; 105 Stat.
4 1914).

5 (H) Title 23, United States Code.

6 (I) Sections 116, 117, 330, 5128, 5505,
7 and 24905 and chapters 53, 139, 303, 311,
8 313, 701, and 702 of title 49, United States
9 Code.

10 (J) Division B of the Continuing Appro-
11 priations Act, 2021 and Other Extensions Act
12 (Public Law 116–159; 134 Stat. 725).

13 (2) EXTENSION END DATE.—The term “exten-
14 sion end date” means October 31, 2021.

15 (3) EXTENSION FRACTION.—The term “exten-
16 sion fraction” means the quotient, expressed as a
17 fraction, obtained by dividing—

18 (A) the number of days in the extension
19 period; by

20 (B) 365.

21 (4) EXTENSION PERIOD.—The term “extension
22 period” means the period that begins on October 1,
23 2021, and ends on the extension end date.

1 (5) HIGHWAY ACCOUNT.—The term “Highway
2 Account” means the portion of the Highway Trust
3 Fund that is not the Mass Transit Account.

4 (6) MASS TRANSIT ACCOUNT.—The term “Mass
5 Transit Account” means the portion of the Highway
6 Trust Fund established under section 9503(e)(1) of
7 the Internal Revenue Code of 1986.

8 (7) SECRETARY.—The term “Secretary” means
9 the Secretary of Transportation.

10 (8) STATE.—The term “State” means the 50
11 States and the District of Columbia.

12 **TITLE I—SURFACE** 13 **TRANSPORTATION PROGRAMS**

14 **SEC. 101. EXTENSION OF FEDERAL SURFACE TRANSPOR-** 15 **TATION PROGRAMS.**

16 (a) IN GENERAL.—Except as otherwise provided in
17 this Act, the requirements, authorities, conditions, eligi-
18 bilities, limitations, and other provisions authorized under
19 the covered laws, which would otherwise expire on or cease
20 to apply after September 30, 2021, are incorporated by
21 reference and shall continue in effect through the exten-
22 sion end date.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) HIGHWAY TRUST FUND.—

1 (A) HIGHWAY ACCOUNT.—There is author-
2 ized to be appropriated from the Highway Ac-
3 count for fiscal year 2022, for each program
4 with respect to which amounts are authorized
5 to be appropriated from such account for fiscal
6 year 2021, an amount equal to the extension
7 fraction of the amount authorized for appro-
8 priation with respect to the program from such
9 account under the covered laws for fiscal year
10 2021.

11 (B) MASS TRANSIT ACCOUNT.—There is
12 authorized to be appropriated from the Mass
13 Transit Account for fiscal year 2022, for each
14 program with respect to which amounts are au-
15 thorized to be appropriated from such account
16 for fiscal year 2021, an amount equal to the ex-
17 tension fraction of the amount authorized for
18 appropriation with respect to the program from
19 such account under the covered laws for fiscal
20 year 2021.

21 (2) GENERAL FUND.—There is authorized to be
22 appropriated for fiscal year 2022, for each program
23 under the covered laws with respect to which
24 amounts are authorized to be appropriated for fiscal
25 year 2021 from an account other than the Highway

1 Account or the Mass Transit Account, an amount
2 that is not less than the extension fraction of the
3 amount authorized for appropriation with respect to
4 the program under the covered laws for fiscal year
5 2021.

6 (c) USE OF FUNDS.—

7 (1) IN GENERAL.—Except as described in para-
8 graph (2), amounts authorized to be appropriated
9 for fiscal year 2022 with respect to a program under
10 subsection (b) shall be distributed, administered,
11 limited, and made available for obligation in the
12 same manner as amounts authorized to be appro-
13 priated with respect to the program for fiscal year
14 2021 under the covered laws.

15 (2) APPORTIONMENT TO STATES.—

16 (A) IN GENERAL.—Notwithstanding sub-
17 sections (c)(2) or (e)(1) of section 104 of title
18 23, United States Code, the Secretary—

19 (i) shall not apportion on October 1,
20 2021, amounts authorized to be appro-
21 priated for fiscal year 2022 under sub-
22 section (b)(1)(A) with a respect to a pro-
23 gram described in subparagraph (B); and

24 (ii) shall not apportion such amounts
25 before October 15, 2021.

1 (B) PROGRAMS DESCRIBED.—A program
2 referred to in subparagraph (A)(i) is a pro-
3 gram—

4 (i) for which amounts are authorized
5 to be appropriated under subsection
6 (b)(1)(A); and

7 (ii) under which amounts described in
8 clause (i) will be apportioned to States as
9 described in section 104 of title 23, United
10 States Code.

11 (C) NOTICE TO STATES.—Section
12 104(e)(2) of title 23, United States Code, shall
13 not apply for fiscal year 2022.

14 (d) OBLIGATION LIMITATION.—

15 (1) IN GENERAL.—Subject to paragraph (2), a
16 program for which amounts are authorized to be ap-
17 propriated under subsection (b)(1) shall be subject
18 to a limitation on obligations for fiscal year 2022 in
19 an amount equal to the extension fraction of the lim-
20 itation on obligations for the program for fiscal year
21 2021 and in the same manner as the limitation ap-
22 plicable with respect to the program for fiscal year
23 2021.

24 (2) FEDERAL-AID HIGHWAYS.—

1 (A) IN GENERAL.—In distributing a limi-
2 tation on obligations for Federal-aid highways
3 for qualifying programs, the Secretary—

4 (i) shall reserve, for qualifying pro-
5 grams, an amount of the limitation on obli-
6 gations for Federal-aid highways equal to
7 the amount calculated for the extension pe-
8 riod for qualifying programs in effect on
9 the date of enactment of this Act; and

10 (ii) if H.R. 3684 (117th Congress) is
11 enacted, may distribute the amount deter-
12 mined under clause (i) among qualifying
13 programs (including any qualifying pro-
14 grams established pursuant to such H.R.
15 3684) in a manner determined to be ap-
16 propriate by the Secretary.

17 (B) CALCULATION.—Notwithstanding the
18 enactment of H.R. 3684 (117th Congress), the
19 Secretary shall calculate the amount under sub-
20 paragraph (A)(i) in the manner described in
21 section 120(a)(4) of division L of the Consoli-
22 dated Appropriations Act, 2021 (Public Law
23 116–260).

24 (C) DEFINITION OF QUALIFYING PRO-
25 GRAM.—In this paragraph, the term “qualifying

1 program” means a program for Federal-aid
2 highways that is—

3 (i) allocated by the Secretary under—

4 (I) title 23, United States Code;

5 (II) subsection (c)(1); or

6 (III) H.R. 3684 (117th Con-
7 gress), if enacted; or

8 (ii) apportioned by the Secretary
9 under section 202 or 204 of title 23,
10 United States Code.

11 **SEC. 102. NATIONALLY SIGNIFICANT FREIGHT AND HIGH-**
12 **WAY PROJECTS.**

13 During the extension period, until H.R. 3684 (117th
14 Congress) is enacted, the matter preceding clause (i) in
15 section 117(d)(2)(A) of title 23, United States Code, shall
16 be applied—

17 (1) by substituting “\$700,000,000” for
18 “\$600,000,000”; and

19 (2) by substituting “2022” for “2021”.

20 **SEC. 103. HIGHWAY SAFETY RESEARCH AND DEVELOP-**
21 **MENT.**

22 During the extension period, until H.R. 3684 (117th
23 Congress) is enacted, section 403(h)(2) of title 23, United
24 States Code, shall be applied—

25 (1) by substituting “2022” for “2021”; and

1 (2) by substituting “\$31,872,000” for
2 “\$26,560,000”.

3 **SEC. 104. RAIL-RELATED PROVISIONS.**

4 During the extension period, until H.R. 3684 (117th
5 Congress) is enacted, section 502(b)(3) of the Railroad
6 Revitalization and Regulatory Reform Act of 1976 (45
7 U.S.C. 822(b)(3)) shall be applied by substituting the ex-
8 tension end date for “September 30, 2021”.

9 **SEC. 105. PROHIBITION ON USE OF FUNDS.**

10 None of the funds authorized in this Act or any other
11 Act may be used to adjust apportionments for the Mass
12 Transit Account or withhold funds from apportionments
13 for the Mass Transit Account pursuant to section
14 9503(e)(4) of the Internal Revenue Code of 1986 in fiscal
15 year 2022.

16 **SEC. 106. APPALACHIAN REGIONAL COMMISSION.**

17 During the extension period, until H.R. 3684 (117th
18 Congress) is enacted—

19 (1) section 14703 of title 40, United States
20 Code, shall be applied—

21 (A) in subsection (a)(5), by substituting
22 “2022” for “2021”; and

23 (B) in subsection (c), by substituting
24 “2022” for “2021”; and

1 (2) section 14704 of title 40, United States
2 Code, shall be applied by substituting “2022” for
3 “2021”.

4 **SEC. 107. SPORT FISHING.**

5 During the extension period, until H.R. 3684 (117th
6 Congress) is enacted, section 4 of the Dingell-Johnson
7 Sport Fish Restoration Act (16 U.S.C. 777c) shall be ap-
8 plied by substituting—

9 (1) “fiscal year 2022” for “fiscal year 2021” in
10 subsections (a) and (b)(1)(A); and

11 (2) “fiscal years 2016 through 2022” for “fis-
12 cal years 2016 through 2021” in subsection
13 (b)(2)(A).

14 **SEC. 108. FEDERAL EMPLOYEE COMPENSATION FOL-**
15 **LOWING HIGHWAY TRUST FUND EXPIRATION.**

16 (a) IN GENERAL.—Each employee of the United
17 States Government furloughed as a result of a covered
18 lapse in Highway Trust Fund expenditure authority shall
19 be paid for the period of the covered lapse, and each ex-
20 cepted employee who is required to perform work during
21 a covered lapse shall be paid for such work, at the employ-
22 ee’s standard rate of pay, at the earliest date possible after
23 the covered lapse ends, regardless of scheduled pay dates,
24 and subject to availability of funds.

1 (b) COVERED LAPSE.—In this section, the term “cov-
 2 ered lapse in Highway Trust Fund expenditure authority”
 3 means any lapse in authority to make expenditures from
 4 the Highway Trust Fund that begins on October 1, 2021
 5 and ends on or before the date of enactment of this Act.

6 **TITLE II—TRUST FUNDS**

7 **SEC. 201. EXTENSION OF EXPENDITURE AUTHORITY FOR** 8 **HIGHWAY TRUST FUND, SPORT FISH RES-** 9 **TORATION AND BOATING TRUST FUND, AND** 10 **LEAKING UNDERGROUND STORAGE TANK** 11 **TRUST FUND.**

12 (a) HIGHWAY TRUST FUND.—Section 9503 of the
 13 Internal Revenue Code of 1986 is amended—

14 (1) by striking “October 1, 2021” in sub-
 15 sections (b)(6)(B), (c)(1), and (e)(3) and inserting
 16 “November 1, 2021”, and

17 (2) by striking “Continuing Appropriations Act,
 18 2021 and Other Extensions Act” in subsections
 19 (c)(1) and (e)(3) and inserting “Surface Transpor-
 20 tation Extension Act of 2021”.

21 (b) SPORT FISH RESTORATION AND BOATING TRUST
 22 FUND.—Section 9504 of such Code is amended—

23 (1) by striking “Continuing Appropriations Act,
 24 2021 and Other Extensions Act” each place it ap-

1 pears in subsection (b)(2) and inserting “Surface
2 Transportation Extension Act of 2021”, and

3 (2) by striking “October 1, 2021” in subsection
4 (d)(2) and inserting “November 1, 2021”.

5 (c) LEAKING UNDERGROUND STORAGE TANK TRUST
6 FUND.—Section 9508(e)(2) of such Code is amended by
7 striking “October 1, 2021” and inserting “November 1,
8 2021”.

9 (d) SPECIAL RULE FOR EXECUTION OF AMEND-
10 MENTS.—On the date of enactment of H.R. 3684 (117th
11 Congress)—

12 (1) this section and the amendments made by
13 this section shall cease to be effective;

14 (2) the text of the laws amended by this section
15 shall revert back so as to read as the text read on
16 the day before the date of enactment of this section;
17 and

18 (3) the amendments made by H.R. 3684 (117th
19 Congress) shall be executed as if this section had not
20 been enacted.

**TITLE III—REPLACEMENT
AUTHORIZATION**

SEC. 301. RESCISSION OF DUPLICATIVE CONTRACT AUTHORITY.

(a) IN GENERAL.—Upon enactment of H.R. 3684 (117th Congress), subject to subsections (c) and (d), for each program described in subsection (b), there is permanently rescinded an amount of contract authority equal to the contract authority made available for that program under section 101.

(b) PROGRAMS DESCRIBED.—A program referred to in subsection (a) is a program for which contract authority was made available for fiscal year 2022 under both section 101 and H.R. 3684 (117th Congress).

(c) IMPLEMENTATION.—

(1) APPLICATION OF RESCISSION AMONG CERTAIN PROGRAMS.—The amount of contract authority rescinded under subsection (a) shall be applied among States for apportioned programs in the same amounts that contract authority would be apportioned to such States and distributed for such apportioned programs under section 101.

(2) SUBSTANTIALLY SIMILAR AND SUCCESSOR PROGRAMS.—The Secretary may implement subsection (a) in a manner that, as determined appro-

1 piate by the Secretary, accommodates a cir-
2 cumstance in which—

3 (A) section 101 makes available contract
4 authority for fiscal year 2022 for a program;
5 and

6 (B) H.R. 3684 (117th Congress) makes
7 available contract authority for fiscal year 2022
8 for a program that is, in the judgment of the
9 Secretary, substantially similar or a successor
10 to the program referred to in subparagraph
11 (A).

12 (d) DEADLINE.—The Secretary shall implement the
13 rescission under subsection (a) not later than September
14 30, 2022.

15 (e) APPORTIONMENT EXCEPTION.—Notwithstanding
16 subsection (c)(2) or (e)(1) of section 104 of title 23,
17 United States Code, or section 101(c)(2), the Secretary
18 shall not be required to apportion any amounts of contract
19 authority that are rescinded pursuant to this section.

Passed the House of Representatives October 1 (legislative day September 30), 2021.

By GLORIA J. LETT,

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