

117TH CONGRESS
1ST SESSION

S. 2802

To limit spending from the Highway Trust Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 21), 2021

Mr. LEE introduced the following bill; which was read twice and referred to
the Committee on Environment and Public Works

A BILL

To limit spending from the Highway Trust Fund, 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 “Balance the Highway
5 Trust Fund Act”.

6 **SEC. 2. OBLIGATION LIMITATION.**

7 (a) GENERAL LIMITATION.—Subject to subsection
8 (d) and notwithstanding any other provision of law, for
9 each fiscal year, the obligations for Federal-aid highway
10 and highway safety construction programs shall not exceed
11 the net highway receipts most recently estimated by the

1 Secretary of the Treasury for that fiscal year under sec-
 2 tion 9503(d)(1)(B) of the Internal Revenue Code of 1986.

3 (b) DISTRIBUTION OF OBLIGATION AUTHORITY.—

4 For each fiscal year, the Secretary of Transportation (re-
 5 ferred to in this section as the “Secretary”)—

6 (1) shall not distribute obligation authority pro-
 7 vided by subsection (a) for the fiscal year for—

8 (A) amounts authorized for administrative
 9 expenses and programs by section 104(a) of
 10 title 23, United States Code; and

11 (B) amounts authorized for the Bureau of
 12 Transportation Statistics;

13 (2) shall not distribute an amount of obligation
 14 authority provided by subsection (a) that is equal to
 15 the unobligated balance of amounts—

16 (A) made available from the Highway
 17 Trust Fund (other than the Mass Transit Ac-
 18 count) for Federal-aid highway and highway
 19 safety construction programs for previous fiscal
 20 years the funds for which are allocated by the
 21 Secretary (or apportioned by the Secretary
 22 under section 202 or 204 of title 23, United
 23 States Code); and

24 (B) for which obligation authority was pro-
 25 vided in a previous fiscal year;

1 (3) shall determine the proportion that—

2 (A) the obligation authority provided by
3 subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

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6 (B) the total of the sums authorized to be
7 appropriated for the Federal-aid highway and
8 highway safety construction programs, less the
9 aggregate of the amounts not distributed under
10 paragraphs (1) and (2) of this subsection;

11 (4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts
12 not distributed under paragraphs (1) and (2), for
13 each of the programs (other than programs to which
14 paragraph (1) applies) that are allocated by the Secretary under this Act and title 23, United States
15 Code, or apportioned by the Secretary under section
16 202 or 204 of that title, by multiplying—

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19 (A) the proportion determined under paragraph (3); by

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21 (B) the amounts authorized to be appropriated for each such program for the fiscal
22 year; and

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24 (5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts
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1 not distributed under paragraphs (1) and (2) and
 2 the amounts distributed under paragraph (4), for
 3 Federal-aid highway and highway safety construc-
 4 tion programs that are apportioned by the Secretary
 5 under title 23, United States Code (other than the
 6 amounts apportioned under sections 202 and 204 of
 7 title 23, United States Code) in the proportion
 8 that—

9 (A) amounts authorized to be appropriated
 10 for the programs that are apportioned under
 11 title 23, United States Code, to each State for
 12 the fiscal year; bears to

13 (B) the total of the amounts authorized to
 14 be appropriated for the programs that are ap-
 15 portioned under title 23, United States Code, to
 16 all States for the fiscal year.

17 (c) REDISTRIBUTION OF UNUSED OBLIGATION AU-
 18 THORITY.—Notwithstanding subsection (b), the Secretary
 19 shall, after August 1 of each fiscal year—

20 (1) revise a distribution of the obligation au-
 21 thority made available under subsection (b) if an
 22 amount distributed cannot be obligated during that
 23 fiscal year; and

24 (2) redistribute sufficient amounts to those
 25 States able to obligate amounts in addition to those

1 previously distributed during that fiscal year, giving
2 priority to those States having large unobligated bal-
3 ances of funds apportioned under sections 144 (as in
4 effect on the day before the date of enactment of
5 MAP-21 (Public Law 112-141)) and 104 of title
6 23, United States Code.

7 (d) APPLICABILITY OF OBLIGATION LIMITATIONS TO
8 TRANSPORTATION RESEARCH PROGRAMS.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), obligation limitations imposed by sub-
11 section (a) shall apply to contract authority for
12 transportation research programs carried out under
13 chapter 5 of title 23, United States Code.

14 (2) EXCEPTION.—Obligation authority made
15 available under paragraph (1) shall—

16 (A) remain available for a period of 4 fis-
17 cal years; and

18 (B) be in addition to the amount of any
19 limitation imposed on obligations for Federal-
20 aid highway and highway safety construction
21 programs for future fiscal years.

22 (e) REDISTRIBUTION OF CERTAIN AUTHORIZED
23 FUNDS.—

24 (1) IN GENERAL.—Not later than 30 days after
25 the date of distribution of obligation authority under

subsection (b) for each fiscal year, the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) **RATIO.**—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (b)(5).

(3) **AVAILABILITY.**—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

SEC. 3. OBLIGATION LIMITATION.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

1 “(i) OBLIGATION LIMITATION.—Notwithstanding
2 subsection (a) or any other provision of law, for each fiscal
3 year, the total of all obligations from amounts made avail-
4 able from the Mass Transit Account of the Highway Trust
5 Fund by subsection (a) and any other provision of law
6 shall not exceed the net mass transit receipts most re-
7 cently estimated for that fiscal year by the Secretary of
8 the Treasury under section 9503(e)(4) of the Internal
9 Revenue Code of 1986.”.

10 **SEC. 4. EFFECTIVE DATE.**

11 This Act and the amendments made by this Act take
12 effect October 1, 2021.

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