

117TH CONGRESS  
1ST SESSION

# S. 2802

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

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## 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

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## 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  
4 of amounts not distributed under paragraphs  
5 (1) and (2) of this subsection; bears to

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  
12 by subsection (a), less the aggregate amounts  
13 not distributed under paragraphs (1) and (2), for  
14 each of the programs (other than programs to which  
15 paragraph (1) applies) that are allocated by the Secretary  
16 under this Act and title 23, United States  
17 Code, or apportioned by the Secretary under section  
18 202 or 204 of that title, by multiplying—

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

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

24 (5) shall distribute the obligation authority provided  
25 by subsection (a), less the aggregate amounts

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

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

5 (A) are authorized to be appropriated for  
6 the fiscal year for Federal-aid highway pro-  
7 grams; and

8 (B) the Secretary determines will not be  
9 allocated to the States (or will not be appor-  
10 tioned to the States under section 204 of title  
11 23, United States Code), and will not be avail-  
12 able for obligation, for the fiscal year because  
13 of the imposition of any obligation limitation for  
14 the fiscal year.

15 (2) **RATIO.**—Funds shall be distributed under  
16 paragraph (1) in the same proportion as the dis-  
17 tribution of obligation authority under subsection  
18 (b)(5).

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

23 **SEC. 3. OBLIGATION LIMITATION.**

24 Section 5338 of title 49, United States Code, is  
25 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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