

109TH CONGRESS  
1ST SESSION

# S. 762

To amend title 23, United States Code, to increase the minimum allocation provided to States for use in carrying out certain highway programs.

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## IN THE SENATE OF THE UNITED STATES

APRIL 12, 2005

Mr. VOINOVICH (for himself, Mr. LEVIN, Mr. DEWINE, Ms. STABENOW, Mr. CORNYN, Mr. ALEXANDER, Mr. DEMINT, Mrs. DOLE, Mr. VITTER, Mr. MARTINEZ, Mr. ISAKSON, Mr. NELSON of Florida, Mr. LUGAR, Mr. BURR, Mr. COCHRAN, Mr. LOTT, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. BAYH, Mr. ALLEN, and Ms. LANDRIEU) 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 amend title 23, United States Code, to increase the minimum allocation provided to States for use in carrying out certain highway programs.

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 “Highway Funding Eq-  
5 uity Act of 2005”.

1 **SEC. 2. MINIMUM GUARANTEE.**

2 Section 105 of title 23, United States Code, is  
3 amended—

4 (1) by striking subsection (a) and subsections  
5 (c) through (f);

6 (2) by redesignating subsection (b) as sub-  
7 section (e);

8 (3) by inserting after the section heading the  
9 following:

10 “(a) GUARANTEE.—

11 “(1) IN GENERAL.—For each of fiscal years  
12 2005 through 2009, the Secretary shall allocate  
13 among the States amounts sufficient to ensure that  
14 the percentage for each State of the total apportion-  
15 ments for the fiscal year for the National Highway  
16 System under section 103(b), the high priority  
17 projects program under section 117, the Interstate  
18 maintenance program under section 119, the surface  
19 transportation program under section 133, metro-  
20 politan planning under section 134, the highway  
21 bridge replacement and rehabilitation program under  
22 section 144, the congestion mitigation and air qual-  
23 ity improvement program under section 149, the rec-  
24 reational trails program under section 206, the Ap-  
25 palachian development highway system under sub-  
26 title IV of title 40, and the minimum guarantee

1 under this paragraph, equals or exceeds the percent-  
2 age determined for the State under paragraph (2).

3 “(2) STATE PERCENTAGES.—

4 “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the percentage for each  
6 State referred to in paragraph (1) is the per-  
7 centage that is equal to 95 percent of the ratio  
8 that—

9 “(i) the estimated tax payments at-  
10 tributable to highway users in the State  
11 paid into the Highway Trust Fund (other  
12 than the Mass Transit Account) in the  
13 most recent fiscal year for which data are  
14 available; bears to

15 “(ii) the estimated tax payments at-  
16 tributable to highway users in all States  
17 paid into the Highway Trust Fund (other  
18 than the Mass Transit Account) in the  
19 most recent fiscal year for which data are  
20 available.

21 “(B) EXCEPTION.—In the case of a State  
22 having a population density of less than 50 in-  
23 dividuals per square mile according to the 2000  
24 decennial census, the percentage referred to in  
25 paragraph (1) shall be the greater of—

1                   “(i) the percentage determined under  
2                   subparagraph (A); or

3                   “(ii) the percentage specified in sub-  
4                   section (e).

5           “(b) TREATMENT OF FUNDS.—

6                   “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-  
7                   retary shall apportion the amounts made available  
8                   under this section that exceed \$2,800,000,000 so  
9                   that the amount apportioned to each State under  
10                  this paragraph for each program referred to in sub-  
11                  section (a)(1) (other than the high priority projects  
12                  program, metropolitan planning, the recreational  
13                  trails program, the Appalachian development high-  
14                  way system, and the minimum guarantee under sub-  
15                  section (a)) is equal to the product obtained by mul-  
16                  tiplying—

17                   “(A) the amount to be apportioned under  
18                   this paragraph; and

19                   “(B) the ratio that—

20                   “(i) the amount of funds apportioned  
21                   to the State for each program referred to  
22                   in subsection (a)(1) (other than the high  
23                   priority projects program, metropolitan  
24                   planning, the recreational trails program,  
25                   the Appalachian development highway sys-

1           tem, and the minimum guarantee under  
2           subsection (a)) for a fiscal year; bears to

3           “(ii) the total amount of funds appor-  
4           tioned to the State for that program for  
5           the fiscal year.

6           “(2) REMAINING DISTRIBUTION.—

7           “(A) IN GENERAL.—Subject to subpara-  
8           graph (B), the Secretary shall apportion the re-  
9           mainder of funds made available under this sec-  
10          tion to the States, and administer those funds,  
11          in accordance with section 104(b)(3).

12          “(B) INAPPLICABLE REQUIREMENTS.—  
13          Paragraphs (1), (2), and (3) of section 133(d)  
14          shall not apply to amounts apportioned in ac-  
15          cordance with this paragraph.

16          “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
17          are authorized to be appropriated out of the Highway  
18          Trust Fund (other than the Mass Transit Account) such  
19          sums as are necessary to carry out this section for each  
20          of fiscal years 2005 through 2009.

21          “(d) GUARANTEE OF 95 PERCENT RETURN.—

22          “(1) IN GENERAL.—For each of fiscal years  
23          2005 through 2009, before making any appor-  
24          tionment under this title, the Secretary shall—

1           “(A) determine whether the sum of the  
2           percentages determined under subsection (a)(2)  
3           for the fiscal year exceeds 100 percent; and

4           “(B) if the sum of the percentages exceeds  
5           100 percent, proportionately adjust the percent-  
6           ages specified in the table contained in sub-  
7           section (e) to ensure that the sum of the per-  
8           centages determined under subsection (a)(1)(B)  
9           for the fiscal year equals 100 percent.

10          “(2) ELIGIBILITY THRESHOLD FOR ADJUST-  
11          MENT.—The Secretary may make an adjustment  
12          under paragraph (1) for a State for a fiscal year  
13          only if the percentage for the State in the table con-  
14          tained in subsection (e) is equal to or exceeds 95  
15          percent of the ratio determined for the State under  
16          subsection (a)(1)(B)(i) for the fiscal year.

17          “(3) LIMITATION ON ADJUSTMENTS.—Adjust-  
18          ments of the percentages in the table contained in  
19          subsection (e) in accordance with this subsection  
20          shall not result in a total of the percentages deter-  
21          mined under subsection (a)(2) that exceeds 100 per-  
22          cent.”; and

1           (4) in subsection (e) (as redesignated by para-  
2           graph (2)), by striking “subsection (a)” and insert-  
3           ing “subsections (a)(2)(B)(ii) and (d)”.

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