

116TH CONGRESS
2D SESSION

S. 3960

To require the Secretary of Transportation to withhold certain amounts from State and local governments that defund or otherwise reduce funding for certain law enforcement entities without a clear budgetary reason, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require the Secretary of Transportation to withhold certain amounts from State and local governments that defund or otherwise reduce funding for certain law enforcement entities without a clear budgetary reason, 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 “Promoting Public Safe-
5 ty and Supporting Law Enforcement Act of 2020”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1 (1) law enforcement officers provide a necessary
2 public service by enforcing the rule of law, pre-
3 venting crime and civil disorder, protecting commu-
4 nities and property, and ensuring the safety and
5 health of the people of the United States, including
6 by ensuring—

7 (A) the safe operation of motor vehicles;

8 (B) the safe use of public routes of trans-
9 portation, such as highways and other road-
10 ways, pedestrian walkways, and sidewalks; and

11 (C) that parks remain safe, open, civil, and
12 available for public enjoyment;

13 (2) police forces and other law enforcement en-
14 tities require full funding to ensure a sufficient pres-
15 ence of officers to maintain the safe use of public
16 roadways, highways, walkways, sidewalks, and city
17 blocks in every community across the United States;

18 (3) absent a fully funded police force, people
19 using roadways, community parks, city sidewalks, or
20 other public areas may be placed at increased risk
21 from—

22 (A) the unsafe operation of motor vehicles,
23 including by themselves or others; and

24 (B) other dangers to public safety;

1 (4) a fully funded police force is necessary to
2 protect—

3 (A) the public safety of the general popu-
4 lation of a community; and

5 (B) law enforcement officers in the com-
6 munity, as required by Executive Order 13774
7 (82 Fed. Reg. 10695; relating to preventing vi-
8 olence against Federal, State, Tribal, and local
9 law enforcement officers);

10 (5) defunding or otherwise reducing funding for
11 State or local law enforcement entities will result in
12 a reduction in, or the elimination of, the presence of
13 law enforcement officers in communities, resulting in
14 a State being noncompliant with the safety require-
15 ments of certain Federal programs, including the re-
16 quirements of—

17 (A) the highway safety programs under
18 section 402 of title 23, United States Code; and

19 (B) the national priority safety programs
20 under section 405 of title 23, United States
21 Code; and

22 (6) it is necessary to ensure that State and
23 local governments do not defund or otherwise reduce
24 funding for police forces and other law enforcement
25 entities absent a clear budgetary need to do so.

1 (b) PURPOSE.—The purpose of this Act is to provide
 2 authority for the Secretary, in consultation with the Attor-
 3 ney General, to withhold certain funds from State and
 4 local governments that unnecessarily put the people sub-
 5 ject to the jurisdiction of those governments at risk from
 6 a lack of sufficient law enforcement resources, including
 7 the presence of law enforcement officers, by defunding or
 8 otherwise reducing funding for police forces or other law
 9 enforcement entities absent a clear budgetary need to do
 10 so.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) CLEAR BUDGETARY NEED.—The term
 14 “clear budgetary need”, with respect to an action
 15 taken by a State or local government to defund or
 16 otherwise reduce funding for a law enforcement enti-
 17 ty, means that the action was taken—

18 (A) in the course of a State or local gov-
 19 ernment annual budget process; and

20 (B) in consideration of the revenues and
 21 expenditures of the State or local government.

22 (2) LAW ENFORCEMENT ENTITY.—The term
 23 “law enforcement entity” means a State or local
 24 agency that engages in or supervises the prevention,

1 detection, or investigation of violations of laws, in-
2 cluding criminal or traffic laws.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of Transportation.

5 **SEC. 4. WITHHOLDING OF CERTAIN DEPARTMENT OF**
6 **TRANSPORTATION FUNDING FROM STATE**
7 **AND LOCAL JURISDICTIONS.**

8 (a) IN GENERAL.—Subject to subsections (c) and (d),
9 the Secretary shall withhold from a State described in sub-
10 section (b) 5 percent of—

11 (1) the amount required to be apportioned to
12 the State under section 402 of title 23, United
13 States Code, on the first day of each fiscal year
14 after the fiscal year in which the Secretary deter-
15 mines that the State is a State described in sub-
16 section (b); and

17 (2) the amount made available to the State
18 under section 405 of title 23, United States Code,
19 for each fiscal year after the fiscal year in which the
20 Secretary determines that the State is a State de-
21 scribed in subsection (b).

22 (b) STATES DESCRIBED.—A State referred to in sub-
23 section (a) is a State in which the State or a local govern-
24 ment within that State defunds or otherwise reduces fund-

1 ing for a law enforcement entity absent a clear budgetary
2 need for doing so.

3 (c) EFFECT OF WITHHOLDING OF FUNDS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graphs (2) and (3) and subsection (d), no amounts
6 withheld from a State under subsection (a) shall be
7 apportioned or made available to that State.

8 (2) RESTRICTED USE OF FUNDS.—In the case
9 of a State that the Secretary determines is a State
10 described in subsection (b) because a local govern-
11 ment within that State has defunded or otherwise
12 reduced funding for a law enforcement entity as de-
13 scribed in that subsection, the Secretary may appor-
14 tion or make available to the State, as applicable,
15 the amounts described in subsection (a) if the State
16 agrees—

17 (A) not to make those amounts available
18 for use by that local government; and

19 (B) to the maximum extent practicable,
20 not to expend those amounts in any community
21 or location subject to the jurisdiction of that
22 local government.

23 (3) RESTORATION OF LAW ENFORCEMENT
24 FUNDING.—

1 (A) IN GENERAL.—Any amounts withheld
2 from a State under subsection (a) or local gov-
3 ernment under paragraph (2) during the fiscal
4 year in which the Secretary, in consultation
5 with the Attorney General, makes a determina-
6 tion under subparagraph (B) that funding has
7 been restored to the applicable law enforcement
8 entity at the level described in that subpara-
9 graph shall be apportioned or made available,
10 as applicable, to that State or local government.

11 (B) DETERMINATION OF FUNDING
12 LEVEL.—Amounts may be apportioned or made
13 available to a State or local government under
14 subparagraph (A) for the fiscal year described
15 in that subparagraph if the Secretary, in con-
16 sultation with the Attorney General, determines
17 that funding has been restored to the applicable
18 law enforcement agency at the lesser of—

19 (i) the level at which the law enforce-
20 ment entity was funded prior to the
21 defunding or reduction in funding that
22 caused the Secretary to determine that the
23 State is a State described in subsection
24 (b); and

1 (ii) the level at which the Secretary, in
2 consultation with the Attorney General, de-
3 termines is minimally necessary to ensure
4 the public safety.

5 (C) LIMITATION.—The Secretary may not
6 apportion or make available under this para-
7 graph any amounts withheld from a State or
8 local government during any fiscal year pre-
9 ceding the fiscal year in which the Secretary, in
10 consultation with the Attorney General, makes
11 the determination described in subparagraph
12 (B).

13 (D) EFFECT OF DETERMINATION ON FU-
14 TURE FUNDING.—Beginning on the date on
15 which the Secretary, in consultation with the
16 Attorney General, makes the determination de-
17 scribed in subparagraph (B), the applicable
18 State or local government shall not be subject
19 to the withholding described in subsection (a)
20 or paragraph (2), as applicable, with respect to
21 the defunding of, or reduction in funding for, a
22 law enforcement entity that caused the Sec-
23 retary to determine that the State was a State
24 described in subsection (b).

25 (d) REQUEST FOR REVIEW.—

1 (1) IN GENERAL.—On the request of a State
2 from which amounts have been or will be withheld
3 under subsection (a) or a local government from
4 which amounts have been or will be withheld under
5 subsection (c)(2), the Secretary, in consultation with
6 the Attorney General—

7 (A) shall review any documentation or
8 other evidence submitted by the State or local
9 government; and

10 (B) based on that review, may determine
11 that the defunding of, or other reduction in
12 funding for, a law enforcement entity that
13 caused the Secretary to determine that the
14 State is a State described in subsection (b) was
15 carried out for a clear budgetary need.

16 (2) CONSIDERATIONS.—In determining whether
17 the applicable defunding of, or reduction in funding
18 for, a law enforcement entity was carried out for a
19 clear budgetary need under paragraph (1)(B), the
20 Secretary, in consultation with Attorney General,
21 may consider—

22 (A) any actual or anticipated reduction in
23 State or local government revenue;

1 (B) any determination by the State or local
2 government that a general reduction in spend-
3 ing is required across all budget categories;

4 (C) in the case of a State or local govern-
5 ment with multiple law enforcement entities of
6 overlapping jurisdiction, whether a determina-
7 tion was made to consolidate those entities into
8 a single entity; and

9 (D) any other evidence presented by the
10 State or local government supporting an asser-
11 tion that the applicable defunding of, or reduc-
12 tion in funding for, a law enforcement entity
13 was carried out for a clear budgetary need.

14 (3) EFFECT OF DETERMINATION.—If the Sec-
15 retary, in consultation with the Attorney General,
16 determines under paragraph (1)(B) that the applica-
17 ble defunding of, or reduction in funding for, a law
18 enforcement entity was carried out for a clear budg-
19 etary need—

20 (A) the applicable State or local govern-
21 ment shall not be subject to the applicable with-
22 holding described in subsection (a) or sub-
23 section (c)(2) beginning on the date on which
24 that determination is made; and

1 (B) any amounts withheld from the State
2 or local government under subsection (a) or
3 subsection (c)(2), as applicable, during the fis-
4 cal year in which that determination is made
5 shall be apportioned or made available, as appli-
6 cable, to that State or local government.

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