

108TH CONGRESS
2D SESSION

S. 2025

To amend title 23, United States Code, to improve highway safety.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2004

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

A BILL

To amend title 23, United States Code, to improve highway
safety.

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 “Safe Streets and High-
5 ways Act of 2004”.

6 **SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

7 (a) IN GENERAL.—Section 148 of title 23, United
8 States Code, is amended to read as follows:

9 **“§ 148. Highway safety improvement program**

10 **“(a) DEFINITIONS.—In this section:**

1 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-
2 GRAM.—The term ‘highway safety improvement pro-
3 gram’ means the program carried out under this sec-
4 tion.

5 “(2) HIGHWAY SAFETY IMPROVEMENT
6 PROJECT.—

7 “(A) IN GENERAL.—The term ‘highway
8 safety improvement project’ means a project de-
9 scribed in the State strategic highway safety
10 plan that—

11 “(i) corrects or improves a hazardous
12 road location or feature; or

13 “(ii) addresses a highway safety prob-
14 lem.

15 “(B) INCLUSIONS.—The term ‘highway
16 safety improvement project’ includes a project
17 for—

18 “(i) an intersection safety improve-
19 ment;

20 “(ii) pavement and shoulder widening
21 (including addition of a passing lane to
22 remedy an unsafe condition);

23 “(iii) installation of rumble strips or
24 another warning device, if the rumble
25 strips or other warning devices do not ad-

1 versely affect the safety or mobility of
2 bicyclists and pedestrians;

3 “(iv) installation of a skid-resistant
4 surface at an intersection or other location
5 with a high frequency of accidents;

6 “(v) an improvement for pedestrian or
7 bicyclist safety;

8 “(vi)(I) construction of any project for
9 the elimination of hazards at a railway-
10 highway crossing that is eligible for fund-
11 ing under section 130, including the sepa-
12 ration or protection of grades at railway-
13 highway crossings;

14 “(II) construction of a railway-high-
15 way crossing safety feature; or

16 “(III) the conduct of a model traffic
17 enforcement activity at a railway-highway
18 crossing;

19 “(vii) construction of a traffic calming
20 feature;

21 “(viii) elimination of a roadside obsta-
22 cle;

23 “(ix) improvement of highway signage
24 and pavement markings;

1 “(x) installation of a priority control
2 system for emergency vehicles at signalized
3 intersections;

4 “(xi) installation of a traffic control or
5 other warning device at a location with
6 high accident potential;

7 “(xii) safety-conscious planning;

8 “(xiii) improvement in the collection
9 and analysis of crash data;

10 “(xiv) planning, equipment, oper-
11 ational activities, or traffic enforcement ac-
12 tivities (including police assistance) relat-
13 ing to workzone safety;

14 “(xv) installation of guardrails, bar-
15 riers (including barriers between construc-
16 tion work zones and traffic lanes for the
17 safety of motorists and workers), and
18 crash attenuators;

19 “(xvi) the addition or retrofitting of
20 structures or other measures to eliminate
21 or reduce accidents involving vehicles and
22 wildlife; or

23 “(xvii) installation and maintenance
24 of signs (including fluorescent, yellow-
25 green signs, and signs designed to identify,

1 or reduce the number and severity of acci-
 2 dents occurring at, a hazardous location)
 3 at pedestrian-bicycle crossings and in
 4 school zones.

5 “(3) SAFETY PROJECT UNDER ANY OTHER SEC-
 6 TION.—

7 “(A) IN GENERAL.—The term ‘safety
 8 project under any other section’ means a
 9 project carried out for the purpose of safety
 10 under any other section of this title.

11 “(B) INCLUSION.—The term ‘safety
 12 project under any other section’ includes a
 13 project to—

14 “(i) promote the awareness of the
 15 public and educate the public concerning
 16 highway safety matters; or

17 “(ii) enforce highway safety laws.

18 “(4) STATE HIGHWAY SAFETY IMPROVEMENT
 19 PROGRAM.—The term ‘State highway safety im-
 20 provement program’ means projects or strategies in-
 21 cluded in the State strategic highway safety plan
 22 carried out as part of the State transportation im-
 23 provement program under section 135(f).

24 “(5) STATE STRATEGIC HIGHWAY SAFETY
 25 PLAN.—The term ‘State strategic highway safety

1 plan' means a plan developed by the State transpor-
2 tation department that—

3 “(A) is developed after consultation with—

4 “(i) a highway safety representative of
5 the Governor of the State;

6 “(ii) regional transportation planning
7 organizations, if any;

8 “(iii) representatives of major modes
9 of transportation;

10 “(iv) local traffic enforcement and en-
11 gineering officials;

12 “(v) persons responsible for admin-
13 istering section 130 at the State level;

14 “(vi) representatives conducting Oper-
15 ation Lifesaver;

16 “(vii) representatives conducting a
17 motor carrier safety program under section
18 31104 or 31107 of title 49;

19 “(viii) motor vehicle administration
20 agencies; and

21 “(ix) other major State and local safe-
22 ty stakeholders;

23 “(B) analyzes and makes effective use of
24 State, regional, or local crash data;

1 “(C) addresses engineering, management,
 2 operation, education, enforcement, and emer-
 3 gency services elements of highway safety as
 4 key factors in evaluating highway projects;

5 “(D) considers safety needs of, and high-
 6 fatality segments of, public roads;

7 “(E) considers the results of State, re-
 8 gional, or local transportation and highway
 9 safety planning processes in existence as of the
 10 date of enactment of this section;

11 “(F) describes a program of projects or
 12 strategies to reduce or eliminate safety hazards;

13 “(G) is approved by the Governor of the
 14 State or a responsible State agency; and

15 “(H) is consistent with the requirements of
 16 section 135(f).

17 “(b) PROGRAM.—

18 “(1) IN GENERAL.—The Secretary shall carry
 19 out a highway safety improvement program.

20 “(2) PURPOSE.—The purpose of the highway
 21 safety improvement program shall be to achieve a
 22 significant reduction in traffic fatalities and serious
 23 injuries on public roads.

24 “(c) ELIGIBILITY.—

1 “(1) IN GENERAL.—To receive funds under this
 2 section, a State shall have in effect a State highway
 3 safety improvement program under which the
 4 State—

5 “(A) develops and implements a State
 6 strategic highway safety plan that identifies and
 7 analyzes highway safety problems and opportu-
 8 nities as provided in paragraph (2);

9 “(B) produces a program of projects or
 10 strategies to reduce identified safety problems;
 11 and

12 “(C) evaluates the plan on a regular basis
 13 to ensure the accuracy of the data and priority
 14 of proposed improvements.

15 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
 16 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
 17 part of the State strategic highway safety plan, a
 18 State shall—

19 “(A) have in place a crash data system
 20 with the ability to perform safety problem iden-
 21 tification and countermeasure analysis;

22 “(B) based on the analysis required by
 23 subparagraph (A)—

24 “(i) identify hazardous locations, sec-
 25 tions, and elements (including roadside ob-

1 stacles, railway-highway crossing needs,
 2 and unmarked or poorly marked roads)
 3 that constitute a danger to motorists,
 4 bicyclists, pedestrians, and other highway
 5 users; and

6 “(ii) using such criteria as the State
 7 determines to be appropriate, establish the
 8 relative severity of those locations, in terms
 9 of accidents, injuries, deaths, and other
 10 relevant data;

11 “(C) adopt strategic and performance-
 12 based goals that—

13 “(i) address traffic safety, including
 14 behavioral and infrastructure problems and
 15 opportunities on all public roads;

16 “(ii) focus resources on areas of
 17 greatest need; and

18 “(iii) are coordinated with other State
 19 highway safety programs;

20 “(D) advance the capabilities of the State
 21 for traffic records data collection, analysis, and
 22 integration with other sources of safety data
 23 (such as road inventories) in a manner that—

24 “(i) complements the State highway
 25 safety program under chapter 4 and the

1 commercial vehicle safety plan under sec-
2 tion 31102 of title 49;

3 “(ii) includes all public roads;

4 “(iii) identifies hazardous locations,
5 sections, and elements on public roads that
6 constitute a danger to motorists, bicyclists,
7 and pedestrians; and

8 “(iv) includes a means of identifying
9 the relative severity of hazardous locations
10 described in clause (iii) in terms of acci-
11 dents, injuries, and deaths;

12 “(E)(i) determine priorities for the correc-
13 tion of hazardous road locations, sections, and
14 elements (including railway-highway crossing
15 improvements), as identified through crash data
16 analysis;

17 “(ii) identify opportunities for preventing
18 the development of such hazardous conditions;
19 and

20 “(iii) establish and implement a schedule
21 of highway safety improvement projects for haz-
22 ard correction and hazard prevention; and

23 “(F)(i) establish an evaluation process to
24 analyze and assess results achieved by highway
25 safety improvement projects carried out in ac-

1 cordance with procedures and criteria estab-
2 lished by this section; and

3 “(ii) use the information obtained under
4 clause (i) in setting priorities for highway safety
5 improvement projects.

6 “(d) ELIGIBLE PROJECTS.—

7 “(1) IN GENERAL.—A State may obligate funds
8 apportioned to the State under this section to carry
9 out—

10 “(A) any highway safety improvement
11 project on any public road or publicly owned bi-
12 cycle or pedestrian pathway or trail; or

13 “(B) as provided in subsection (e), for
14 other safety projects.

15 “(2) USE OF OTHER FUNDING FOR SAFETY.—

16 “(A) EFFECT OF SECTION.—Nothing in
17 this section prohibits the use of funds made
18 available under other provisions of this title for
19 highway safety improvement projects.

20 “(B) USE OF OTHER FUNDS.—States are
21 encouraged to address the full scope of their
22 safety needs and opportunities by using funds
23 made available under other provisions of this
24 title (except a provision that specifically pro-
25 hibits that use).

1 “(3) LOW-TECH, LOW-COST SAFETY IMPROVE-
2 MENTS.—

3 “(A) PROGRAM.—Each State shall carry
4 out a program for the reduction of accidents,
5 injuries, and deaths at hazardous locations
6 through means described in clauses (i), (ii), (v),
7 (ix), (xi), and (xvii) of subsection (a)(2)(B).

8 “(B) FUNDS.—Of the funds apportioned
9 to a State under this section for a fiscal year,
10 10 percent shall be available only for safety pro-
11 grams described in subparagraph (A).

12 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-
13 TEGIC HIGHWAY SAFETY PLAN.—

14 “(1) IN GENERAL.—To further the implementa-
15 tion of a State strategic highway safety plan, a State
16 may use up to 25 percent of the amount of funds
17 made available under this section for a fiscal year to
18 carry out safety projects under any other section as
19 provided in the State strategic highway safety plan.

20 “(2) OTHER TRANSPORTATION AND HIGHWAY
21 SAFETY PLANS.—Nothing in this subsection requires
22 a State to revise any State process, plan, or program
23 in effect on the date of enactment of this section.

24 “(f) REPORTS.—

1 “(1) IN GENERAL.—A State shall submit to the
2 Secretary a report that—

3 “(A) describes progress being made to im-
4 plement highway safety improvement projects
5 under this section;

6 “(B) assesses the effectiveness of those im-
7 provements;

8 “(C) describes the extent to which the im-
9 provements funded under this section contribute
10 to the goals of—

11 “(i) reducing the number of fatalities
12 on roadways;

13 “(ii) reducing the number of roadway-
14 related injuries;

15 “(iii) reducing the occurrences of
16 roadway-related accidents;

17 “(iv) mitigating the consequences of
18 roadway-related accidents; and

19 “(v) reducing the occurrences of road-
20 way-railroad grade crossing accidents;

21 “(D) describes the most severe hazardous
22 locations in the State identified under sub-
23 section (c)(2), including not less than 5 percent
24 of locations determined by the State to be most

1 hazardous or potentially hazardous in terms of
2 accidents, injuries, and deaths; and

3 “(E) contains an assessment of—

4 “(i) potential remedies to hazardous
5 locations identified;

6 “(ii) estimated costs associated with
7 those remedies; and

8 “(iii) impediments to implementation
9 other than cost associated with those rem-
10 edies.

11 “(2) CONTENTS; SCHEDULE.—The Secretary
12 shall establish the content and schedule for a report
13 under paragraph (1).

14 “(3) TRANSPARENCY.—The Secretary shall
15 make reports under paragraph (1) available to the
16 public through—

17 “(A) the Internet site of the Department;
18 and

19 “(B) such other means as the Secretary
20 determines to be appropriate.

21 “(4) WAIVER OF LIABILITY.—Notwithstanding
22 any other provision of law, no report, survey, sched-
23 ule, list, or other data compiled or collected for any
24 purpose directly or indirectly relating to paragraph

1 (1), or published by the Secretary in accordance
 2 with paragraph (3), shall be—

3 “(A) subject to discovery or admitted into
 4 evidence in any Federal or State judicial pro-
 5 ceeding; or

6 “(B) considered for any other purpose in
 7 any action for damages arising from an occur-
 8 rence at a location identified or addressed in
 9 the report, survey, schedule, list, or other collec-
 10 tion of data.

11 “(g) FEDERAL SHARE OF HIGHWAY SAFETY IM-
 12 PROVEMENT PROJECTS.—The Federal share of the cost
 13 of a highway safety improvement project carried out with
 14 funds made available under this section shall be 90 per-
 15 cent.”.

16 (2) ALLOCATIONS OF APPORTIONED FUNDS.—
 17 Section 133(d) of title 23, United States Code, is
 18 amended—

19 (A) by striking paragraph (1);

20 (B) by redesignating paragraphs (2)
 21 through (5) as paragraphs (1) through (4), re-
 22 spectively;

23 (C) in paragraph (2) (as redesignated by
 24 subparagraph (B))—

1 (i) in the first sentence of subpara-
 2 graph (A)—

3 (I) by striking “subparagraphs
 4 (C) and (D)” and inserting “subpara-
 5 graph (C)”;

6 (II) by striking “80 percent” and
 7 inserting “90 percent”;

8 (ii) by striking subparagraph (C);

9 (iii) by redesignating subparagraphs
 10 (D) and (E) as subparagraphs (C) and
 11 (D), respectively; and

12 (iv) in subparagraph (C) (as redesign-
 13 nated by clause (iii)), by adding a period
 14 at the end; and

15 (D) in paragraph (4)(A) (as redesignated
 16 by subparagraph (B)), by striking “paragraph
 17 (2)” and inserting “paragraph (1)”.

18 (3) CONFORMING AMENDMENTS.—

19 (A) The analysis for chapter 1 of title 23,
 20 United States Code, is amended by striking the
 21 item relating to section 148 and inserting the
 22 following:

“148. Highway safety improvement program.”.

23 (B) Sections 154, 164, and 409 of title 23,
 24 United States Code, are amended by striking

1 “152” each place it appears and inserting
2 “148”.

3 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
4 PROVEMENT PROGRAM FUNDS.—Section 104(b) of title
5 23, United States Code, is amended—

6 (1) in the matter preceding paragraph (1), by
7 inserting after “Improvement program,” the fol-
8 lowing: “the highway safety improvement program,”;
9 and

10 (2) by adding at the end the following:

11 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
12 GRAM.—

13 “(A) IN GENERAL.—For the highway safe-
14 ty improvement program, in accordance with
15 the following formula:

16 “(i) 25 percent of the apportionments
17 in the ratio that—

18 “(I) the total lane miles of Fed-
19 eral-aid highways in each State; bears
20 to

21 “(II) the total lane miles of Fed-
22 eral-aid highways in all States.

23 “(ii) 40 percent of the apportionments
24 in the ratio that—

1 “(I) the total vehicle miles trav-
 2 eled on lanes on Federal-aid highways
 3 in each State; bears to

4 “(II) the total vehicle miles trav-
 5 eled on lanes on Federal-aid highways
 6 in all States.

7 “(iii) 35 percent of the apportion-
 8 ments in the ratio that—

9 “(I) the estimated tax payments
 10 attributable to highway users in each
 11 State paid into the Highway Trust
 12 Fund (other than the Mass Transit
 13 Account) in the latest fiscal year for
 14 which data are available; bears to

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

21 “(B) MINIMUM APPORTIONMENT.—Not-
 22 withstanding subparagraph (A), each State
 23 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
 24 the funds apportioned under this paragraph.”.

1 (c) ELIMINATION OF HAZARDS RELATING TO HIGH-
2 WAY FACILITIES.—

3 (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-
4 tion 130(e) of title 23, United States Code, is
5 amended—

6 (A) in the heading, by striking “PROTEC-
7 TIVE DEVICES” and inserting “RAILWAY-HIGH-
8 WAY CROSSINGS”;

9 (B) by striking the first sentence and in-
10 serting the following:

11 “(1) IN GENERAL.—For each fiscal year, at
12 least \$200,000,000 of the funds authorized and ex-
13 pended under section 148 shall be available for the
14 elimination of hazards and the installation of protec-
15 tive devices at railway-highway crossings.”; and

16 (C) by striking “Sums authorized” and in-
17 serting the following:

18 “(2) OBLIGATION.—Sums authorized”.

19 (2) BIENNIAL REPORTS TO CONGRESS.—Sec-
20 tion 130(g) of title 23, United States Code, is
21 amended in the third sentence—

22 (A) by inserting “and the Committee on
23 Commerce, Science, and Transportation,” after
24 “Public Works”; and

1 (B) by striking “not later than April 1 of
2 each year” and inserting “every other year”.

3 (3) EXPENDITURE OF FUNDS; APPORTION-
4 MENT.—Section 130 of title 23, United States Code,
5 is amended by adding at the end the following:

6 “(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—
7 Funds made available to carry out this section shall be—
8 “(1) available for expenditure on compilation
9 and analysis of data in support of activities carried
10 out under subsection (g); and

11 “(2) apportioned in accordance with section
12 104(b)(5).”.

13 (d) TRANSITION.—

14 (1) IMPLEMENTATION.—Except as provided in
15 paragraph (2), to qualify for funding under section
16 148 of title 23, United States Code (as amended by
17 subsection (a)), a State shall develop and implement
18 a State strategic highway safety plan as required by
19 subsection (c) of that section not later than October
20 1 of the second fiscal year after the date of enact-
21 ment of this Act.

22 (2) INTERIM PERIOD.—

23 (A) IN GENERAL.—Before October 1 of the
24 second fiscal year after the date of enactment
25 of this Act and until the date on which a State

1 develops and implements a State strategic high-
2 way safety plan, the Secretary shall apportion
3 funds to a State for the highway safety im-
4 provement program and the State may obligate
5 funds apportioned to the State for the highway
6 safety improvement program under section 148
7 for projects that were eligible for funding under
8 sections 130 and 152 of that title, as in effect
9 on the day before the date of enactment of this
10 Act.

11 (B) NO STRATEGIC HIGHWAY SAFETY
12 PLAN.—If a State has not developed a strategic
13 highway safety plan by October 1 of the second
14 fiscal year after the date of enactment of this
15 Act, but demonstrates to the satisfaction of the
16 Secretary that progress is being made toward
17 developing and implementing such a plan, the
18 Secretary shall continue to apportion funds for
19 1 additional fiscal year for the highway safety
20 improvement program under section 148 of title
21 23, United States Code, to the State, and the
22 State may continue to obligate funds appor-
23 tioned to the State under this section for
24 projects that were eligible for funding under
25 sections 130 and 152 of that title, as in effect

1 on the day before the date of enactment of this
2 Act.

3 (C) PENALTY.—If a State has not adopted
4 a strategic highway safety plan by the date that
5 is 2 years after the date of enactment of this
6 Act, funds made available to the State under
7 section 1101(6) of the Safe, Accountable, Flexi-
8 ble, and Efficient Transportation Equity Act of
9 2003 shall be redistributed to other States in
10 accordance with section 104(b) of title 23,
11 United States Code.

12 (D) ADDITIONAL PENALTIES.—If, for any
13 of fiscal years 2005 through 2009, a State fails
14 to comply with section 148(f)(3) of title 23,
15 United States Code, not less than 5 percent of
16 funds made available to a State under para-
17 graphs (1) and (2) of section 1101 of the Safe,
18 Accountable, Flexible, and Efficient Transpor-
19 tation Equity Act of 2003 for the fiscal year
20 shall be obligated for projects described in sec-
21 tion 1101(6) of that Act.

22 **SEC. 3. STATE AND COMMUNITY GRANT PROGRAM REVI-**
23 **SIONS.**

24 Section 402(a) of title 23, United States Code, is
25 amended—

1 (1) in the fifth sentence, by inserting before the
 2 period at the end the following: “to reduce the num-
 3 ber of accidents, injuries, and deaths attributable to
 4 hazardous locations on public roads”; and

5 (2) by striking the eleventh sentence and insert-
 6 ing the following: “The criteria shall include, at a
 7 minimum, criteria on deaths and injuries resulting
 8 from police pursuits, school bus accidents, and
 9 speeding, traffic-related deaths and injuries at high-
 10 way construction sites, and the configuration of com-
 11 mercial motor vehicles involved in motor vehicle acci-
 12 dents (including as a result of hazardous or anti-
 13 quated roadway design).”.

14 **SEC. 4. OBLIGATION OF FUNDS.**

15 Section 104 of title 23, United States Code, is
 16 amended by adding at the end the following:

17 “(m) PROPORTIONAL OBLIGATION.—

18 “(1) IN GENERAL.—During each of the periods
 19 of fiscal years 2005 through 2006 and fiscal years
 20 2007 through 2009, a State shall make available for
 21 the highway safety improvement program under sec-
 22 tion 148 an amount of obligation authority distrib-
 23 uted to the State for Federal-aid highways and high-
 24 way safety construction programs that is equal to
 25 the amount obtained by multiplying—

“(A) the aggregate amount of funds apportioned to the State for the highway safety improvement program during the period; and

“(B) the proportion that—

“(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

“(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

“(2) JOINT RESPONSIBILITY.—Each State and the Secretary shall jointly ensure compliance with paragraph (1).”.

SEC. 5. STUDY ON INCREASED SPEEDS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation (referred to in this section as the “Secretary”) shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

1 (2) REQUIREMENTS.—The study shall identify
2 empirical data regarding—

3 (A) increases or decreases in driving
4 speeds on Interstate highways since 1995;

5 (B) correlations between changes in driv-
6 ing speeds and accident, injury, and fatality
7 rates;

8 (C) correlations between posted speed lim-
9 its and observed driving speeds;

10 (D) the overall impact on motor vehicle
11 safety resulting from the repeal of the national
12 maximum speed limit in 1995; and

13 (E) such other matters as the Secretary
14 determines to be appropriate.

15 (b) REPORT.—Not later than 1 year after the date
16 of completion of the study under subsection (a), the Sec-
17 retary shall submit to Congress a report that describes
18 the results of the study.

○