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To ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2009

Mr. HARKIN (for himself and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

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 “Complete Streets Act
5 of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COMPLETE STREET.—The term “complete
 2 street” means a roadway that accommodates all
 3 travelers, particularly public transit users, bicyclists,
 4 pedestrians (including individuals of all ages and in-
 5 dividuals with mobility, sensory, neurological, or hid-
 6 den disabilities), and motorists, to enable all trav-
 7 elers to use the roadway safely and efficiently.

8 (2) COMPLETE STREETS POLICY; COMPLETE
 9 STREETS PRINCIPLE.—The terms “complete streets
 10 policy” and “complete streets principle” mean a
 11 transportation law, policy, or principle at the local,
 12 State, regional, or Federal level that ensures—

13 (A) the adequate accommodation, in all
 14 phases of project planning and development, of
 15 all users of the transportation system, including
 16 pedestrians, bicyclists, public transit users, chil-
 17 dren, older individuals, motorists, and individ-
 18 uals with disabilities; and

19 (B) the consideration of the safety and
 20 convenience of all users in all phases of project
 21 planning and development.

22 (3) LOCAL JURISDICTION.—The term “local ju-
 23 risdiction” means any unit of local government.

24 (4) METROPOLITAN PLANNING ORGANIZA-
 25 TION.—The term “metropolitan planning organiza-

tion” has the meaning given the term in section 134(b) of title 23, United States Code.

(5) ROADWAY.—The term “roadway” means—

(A) the defined Federal functional classification roadway system;

(B) a roadway system for which funds are provided under the equity bonus program under section 105 of title 23, United States Code; and

(C) each bridge structure providing a connection for such a roadway system.

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

(7) SENIOR MANAGER.—The term “senior manager” means—

(A) the director of a State department of transportation (or a designee);

(B) the director of a metropolitan planning organization (or a designee); and

(C) the director of a regional, county, or city transportation agency that is primarily responsible for planning and approval of transportation projects (or a designee).

(8) TRANSPORTATION IMPROVEMENT PROGRAM.—The term “transportation improvement pro-

1 gram” has the meaning given the term “TIP” in
 2 section 134(b) of title 23, United States Code.

3 **SEC. 3. COMPLETE STREETS POLICY REQUIREMENT.**

4 (a) LAW OR POLICY.—Not later than October 1 of
 5 the fiscal year that begins 2 years after the date of enact-
 6 ment of this Act each State and metropolitan planning
 7 organization shall have in effect—

8 (1) in the case of a State—

9 (A) a law requiring that, beginning on the
 10 effective date of the State law, all transpor-
 11 tation projects in the State shall accommodate
 12 the safety and convenience of all users in ac-
 13 cordance with complete streets principles; or

14 (B) an explicit State department of trans-
 15 portation policy that, beginning on the effective
 16 date of the policy, all transportation projects in
 17 the State shall accommodate the safety and
 18 convenience of all users in accordance with com-
 19 plete streets principles; and

20 (2) in the case of a metropolitan planning orga-
 21 nization, an explicit statement of policy that, begin-
 22 ning on the effective date of the policy, all transpor-
 23 tation projects under the jurisdiction of the metro-
 24 politan planning organization shall accommodate the

1 safety and convenience of all users in accordance
2 with complete streets principles.

3 (b) INCLUSIONS.—

4 (1) IN GENERAL.—A law or policy described in
5 subsection (a) shall—

6 (A) apply to each federally funded project
7 of each State department of transportation or
8 metropolitan planning organization transpor-
9 tation improvement program;

10 (B) include a statement that each project
11 under the transportation improvement program
12 makes streets or affected rights-of-way acces-
13 sible to users of all ages and abilities, including
14 pedestrians, bicyclists, transit vehicles and
15 users, and motorists;

16 (C) except as provided in paragraph (2),
17 apply to new road construction and road modi-
18 fication projects, including design, planning,
19 construction, reconstruction, rehabilitation,
20 maintenance, and operations, for the entire
21 right-of-way;

22 (D) indicate that improvements for the
23 safe and convenient travel by pedestrians or
24 bicyclists on or across streets shall be fully as-

1 sessed, considered, and documented as a rou-
 2 tine element of pavement resurfacing projects;

3 (E) delineate a clear procedure by which
 4 transportation improvement projects may be ex-
 5 empted from complying with complete streets
 6 principles, which shall require—

7 (i) approval by the appropriate senior
 8 manager, in accordance with subsection
 9 (d)(2); and

10 (ii) documentation, with supporting
 11 data, that indicates the basis for such an
 12 exemption;

13 (F) comply with up-to-date design stand-
 14 ards, particularly standards relating to pro-
 15 viding access for individuals with disabilities;

16 (G) require that complete streets principles
 17 be applied in due consideration of the urban,
 18 suburban, or rural context in which a project is
 19 located; and

20 (H) include a list of performance stand-
 21 ards with measurable outcomes to ensure that
 22 the transportation improvement program ad-
 23 heres to complete streets principles.

24 (2) EXCEPTION.—A law or policy described in
 25 subsection (a) shall not apply to a new road con-

1 construction or modification project for which, as of the
 2 effective date of the law or policy, at least 30 per-
 3 cent of the design phase is completed.

4 (c) PROMOTION.—Each State department of trans-
 5 portation and metropolitan planning organization shall
 6 promote the development of complete streets policies in
 7 applicable local jurisdictions.

8 (d) EXEMPTION REQUIREMENTS AND PROCE-
 9 DURES.—A law or policy described in subsection (a) shall
 10 allow for a project-specific exemption from an applicable
 11 complete streets policy only if—

12 (1)(A) an affected roadway prohibits, by law,
 13 use of the roadway by specified users, in which case
 14 a greater effort shall be made to accommodate those
 15 specified users elsewhere, including on roadways that
 16 cross or otherwise intersect with the affected road-
 17 way;

18 (B) the cost to the exempted project in achiev-
 19 ing compliance with the applicable complete streets
 20 policy would be excessively disproportionate (as de-
 21 fined in the 2001 Department of Transportation
 22 Guidance on Accommodating Bicycle and Pedestrian
 23 Travel), as compared to the need or probable use of
 24 a particular complete street; or

1 (C) the existing and planned population and
 2 employment densities or level of transit service
 3 around a particular roadway is so low, as deter-
 4 mined by the Secretary, that there is a documented
 5 absence of a need to implement the applicable com-
 6 plete streets policy; and

7 (2) the project-specific exemption is approved
 8 by—

9 (A) a senior manager of the metropolitan
 10 planning organization that approved the trans-
 11 portation improvement program containing the
 12 exempted project;

13 (B) a senior manager of the relevant State
 14 department of transportation; or

15 (C) in the case of a project for which nei-
 16 ther the metropolitan planning organization nor
 17 the State department of transportation is the
 18 agency with primary transportation planning
 19 authority, a senior manager of the regional,
 20 county, or city agency responsible for planning
 21 and approval of the project.

22 (e) INTEGRATION.—Each State department of trans-
 23 portation and metropolitan planning organization imple-
 24 menting a complete streets policy shall incorporate com-
 25 plete streets principles into all aspects of the transpor-

1 tation project development, programming, and delivery
 2 process, including project planning and identification,
 3 scoping procedures, design approvals, design manuals, and
 4 performance measures.

5 (f) REPORTS.—

6 (1) IN GENERAL.—Each State department of
 7 transportation shall submit to the Secretary a report
 8 describing the implementation by the State of meas-
 9 ures to achieve compliance with the requirements of
 10 this section, at such time, in such manner, and con-
 11 taining such information as the Secretary may re-
 12 quire.

13 (2) DETERMINATION BY SECRETARY.—On re-
 14 ceipt of a report under paragraph (1), the Secretary
 15 shall determine whether the applicable State has
 16 achieved compliance with the requirements of this
 17 section.

18 **SEC. 4. USER ACCESS AND CONSIDERATION.**

19 Section 217 of title 23, United States Code, is
 20 amended by striking subsection (g) and inserting the fol-
 21 lowing:

22 “(g) PLANNING AND DESIGN.—

23 “(1) IN GENERAL.—Subject to paragraph (4),
 24 all users shall be given due consideration in each
 25 comprehensive transportation plan developed by a

1 metropolitan planning organization or a State in ac-
 2 cordance with section 134 or 135, respectively.

3 “(2) ACCESS FOR ALL USERS.—Subject to
 4 paragraph (4), each project for new construction or
 5 reconstruction of a transportation facility shall in-
 6 clude consideration of appropriate bicycle transpor-
 7 tation facilities, pedestrian walkways, and safe ac-
 8 cess to existing and planned public transportation,
 9 except in any case in which bicycle or pedestrian use
 10 is not permitted.

11 “(3) SAFETY CONSIDERATIONS.—Subject to
 12 paragraph (4), each transportation plan and project
 13 shall provide due consideration for safety and contig-
 14 uous routes for all users, including—

15 “(A) safe access to transit stops and facili-
 16 ties; and

17 “(B) the installation, where appropriate,
 18 and maintenance of audible traffic signals and
 19 signs at street crossings.

20 “(4) EXEMPTIONS.—A transportation plan or
 21 project may receive an exemption from an applicable
 22 requirement under paragraph (1), (2), or (3) only
 23 if—

24 “(A)(i) a roadway affected by the transpor-
 25 tation plan or project prohibits, by law, use of

1 the roadway by specified users, in which case a
2 greater effort shall be made to accommodate
3 those specified users elsewhere, including on
4 roadways that cross or otherwise intersect with
5 the affected roadway;

6 “(ii) the cost to the exempted transpor-
7 tation plan or project in achieving compliance
8 with the requirement would be excessively dis-
9 proportionate (as defined in the 2001 Depart-
10 ment of Transportation Guidance on Accommo-
11 dating Bicycle and Pedestrian Travel), as com-
12 pared to the need or probable use of a roadway
13 affected by the transportation plan or project;
14 or

15 “(iii) the existing and planned population
16 and employment densities or level of transit
17 service around a particular roadway affected by
18 the transportation plan or project is so low, as
19 determined by the Secretary, that there is a
20 documented absence of a need to implement the
21 applicable requirement; and

22 “(B) the exemption is approved by—

23 “(i) a senior manager of the metro-
24 politan planning organization that ap-
25 proved the transportation plan or project;

1 “(ii) a senior manager of the relevant
2 State department of transportation; or

3 “(iii) in the case of a transportation
4 plan or project for which neither the met-
5 ropolitan planning organization nor the
6 State department of transportation is the
7 agency with primary transportation plan-
8 ning authority, a senior manager of the re-
9 gional, county, or city agency responsible
10 for planning and approval of the transpor-
11 tation plan or project.”.

12 **SEC. 5. CERTIFICATION AND COMPLIANCE.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary shall establish
15 a method of ensuring compliance by State departments of
16 transportation and metropolitan planning organizations
17 with the requirements of this Act, including a requirement
18 that each State department of transportation and metro-
19 politan planning organization shall submit to the Sec-
20 retary a report describing—

21 (1) each complete streets policy adopted by the
22 State department of transportation or metropolitan
23 planning organization;

1 (2) the means of implementation by the State
2 department of transportation or metropolitan plan-
3 ning organization of the complete streets policy; and

4 (3) any exemptions provided, and the process
5 for providing an exemption, from the requirements
6 of the complete streets policy of the State depart-
7 ment of transportation or metropolitan planning or-
8 ganization.

9 (b) REPORT.—Not later than 3 years after the date
10 of enactment of this Act, the Secretary shall submit to
11 Congress a report describing—

12 (1) the method established under subsection
13 (a);

14 (2) the status of activities for adoption and im-
15 plementation by State departments of transportation
16 and metropolitan planning organizations of complete
17 streets policies;

18 (3) the tools and resources provided by the Sec-
19 retary to State departments of transportation and
20 metropolitan planning organizations to assist with
21 that adoption and implementation; and

22 (4) other measures carried out by the Secretary
23 to encourage the adoption of complete streets poli-
24 cies by local jurisdictions.

25 (c) PROJECT CERTIFICATION.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), each State shall require that each agency
 3 with primary design, construction, or financial re-
 4 sponsibility for a federally funded project located
 5 within the jurisdiction of a transportation improve-
 6 ment program of the State shall—

7 (A) review the project at the final design
 8 stage to ensure incorporation in the project of
 9 each applicable complete streets policy described
 10 in section 3; and

11 (B) not later than 1 year after the date on
 12 which the project is opened for public use, sub-
 13 mit to the State a certification that the project
 14 achieves compliance with each applicable com-
 15 plete streets policy.

16 (2) EXCEPTIONS.—A State may provide an ex-
 17 ception to the requirements of paragraph (1) for a
 18 project the cost of which is less than an amount to
 19 be determined by the Secretary, by regulation.

20 (3) SUBSEQUENT CERTIFICATIONS.—During
 21 the period beginning on the date of submission of
 22 the initial certification under paragraph (1) and end-
 23 ing on the date on which construction of the applica-
 24 ble project is completed, when the project undergoes
 25 a substantial design change, as determined by the

1 Secretary, each agency described in paragraph (1)
2 shall submit to the State a recertification that the
3 project is in compliance with each applicable com-
4 plete streets policy.

5 **SEC. 6. SAFETY FUNDING IN NONCOMPLIANT STATES.**

6 (a) DEFINITION OF NONCOMPLIANT STATE.—In this
7 section, the term “noncompliant State” means a State
8 that fails to achieve compliance with the requirements of
9 section 3 by the date described in that section.

10 (b) REQUIREMENT.—Of the funds apportioned to a
11 noncompliant State under section 104(b)(3) of title 23,
12 United States Code, for the applicable fiscal year, the non-
13 compliant State shall use to carry out a highway safety
14 program under section 402 of title 23, United States
15 Code—

16 (1) 1 percent for the first fiscal year of non-
17 compliance;

18 (2) 2 percent for the second fiscal year of non-
19 compliance; and

20 (3) 3 percent for the third fiscal year of non-
21 compliance and each fiscal year thereafter until the
22 noncompliant State achieves compliance with the re-
23 quirements of section 3.

1 **SEC. 7. ACCESSIBILITY STANDARDS.**

2 (a) FINAL STANDARDS.—Not later than 1 year after
 3 the date of enactment of this Act, the Architectural and
 4 Transportation Barriers Compliance Board established by
 5 section 502(a)(1) of the Rehabilitation Act of 1973 (29
 6 U.S.C. 792(a)(1)) shall promulgate final standards for ac-
 7 cessibility of new construction and alteration of pedestrian
 8 facilities for public rights-of-way.

9 (b) TEMPORARY STANDARDS.—During the period be-
 10 ginning on the date of enactment of this Act and ending
 11 on the date on which the Architectural and Transportation
 12 Barriers Compliance Board promulgates final standards
 13 under subsection (a), a State or metropolitan planning or-
 14 ganization shall apply to public rights-of-way—

15 (1) the standards for accessible transportation
 16 facilities contained in section 37.9 of title 49, Code
 17 of Federal Regulations (as in effect on the date of
 18 enactment of this Act); or

19 (2) if the standards referred to in paragraph
 20 (1) do not address, or are inapplicable to, an af-
 21 fected public right-of-way, the revised draft guide-
 22 lines for accessible public rights-of-way of the Archi-
 23 tectural and Transportation Barriers Compliance
 24 Board dated November 23, 2005.

1 **SEC. 8. RESEARCH, TECHNICAL GUIDANCE, AND IMPLE-**
2 **MENTATION ASSISTANCE.**

3 (a) RESEARCH.—

4 (1) IN GENERAL.—The Secretary shall conduct
5 research regarding complete streets to assist States,
6 metropolitan planning organizations, and local juris-
7 dictions in developing, adopting, and implementing
8 plans, projects, procedures, policies, and training
9 programs that comply with complete streets prin-
10 ciples.

11 (2) PARTICIPATION.—The Secretary shall solicit
12 participation in the research program under para-
13 graph (1) by—

14 (A) the American Association of State
15 Highway and Transportation Officials;

16 (B) the Institute of Transportation Engi-
17 neers;

18 (C) the American Public Transportation
19 Association;

20 (D) the American Planning Association;

21 (E) the National Association of Regional
22 Councils;

23 (F) the Association of Metropolitan Plan-
24 ning Organizations;

1 (G) representatives of disability, motoring,
 2 bicycling, walking, transit user, aging, and air
 3 quality organizations; and

4 (H) other affected communities.

5 (3) REQUIREMENTS.—The research under para-
 6 graph (1) shall—

7 (A) be based on the applicable statement
 8 of complete streets research needs of the Trans-
 9 portation Research Board, as described in TR
 10 Circular E110; and

11 (B) seek to develop new areas of inquiry,
 12 in addition to that statement.

13 (4) AUTHORIZATION OF APPROPRIATIONS.—
 14 There is authorized to be appropriated to the Sec-
 15 retary \$2,000,000 for each applicable fiscal year to
 16 carry out this subsection.

17 (b) BENCHMARKS AND GUIDANCE.—

18 (1) IN GENERAL.—The research conducted
 19 under subsection (a) shall be designed to result in
 20 the establishment of benchmarks and the provision
 21 of practical guidance on methods of effectively im-
 22 plementing complete streets policies and complete
 23 streets principles that will accommodate all users
 24 along a facility or corridor, including vehicles, pedes-
 25 trians, bicyclists, and transit users.

1 (2) FOCUS.—The benchmarks and guidance
2 under paragraph (1) shall—

3 (A) focus on modifying scoping, design,
4 and construction procedures to more effectively
5 combine particular methods of use into inte-
6 grated facilities that meet the needs of each
7 method in an appropriate balance; and

8 (B) indicate the expected operational and
9 safety performance of alternative approaches to
10 facility design.

11 (c) TECHNICAL GUIDANCE.—

12 (1) REPORT.—Not later than 15 months after
13 the date of enactment of this Act, the Secretary
14 shall prepare and make available to all States, met-
15 ropolitan planning organizations, and local jurisdic-
16 tions a report that describes the best practices by
17 which transportation agencies throughout the United
18 States have implemented complete streets principles
19 in accordance with, or in anticipation of, the require-
20 ments of this Act.

21 (2) TOPICS FOR EMPHASIS.—In preparing the
22 report under paragraph (1), the Secretary shall
23 place particular emphasis on the following topics:

1 (A) Procedures for identifying the needs of
 2 users of all ages and abilities of a particular
 3 roadway.

4 (B) Procedures for identifying the types
 5 and designs of facilities needed to serve each
 6 class of users.

7 (C) Benefits provided by the implementa-
 8 tion of complete streets principles.

9 (D) Common barriers to the implementa-
 10 tion of complete streets principles.

11 (E) Procedures for overcoming the most
 12 common barriers to the implementation of com-
 13 plete streets principles.

14 (F) Procedures for identifying the costs as-
 15 sociated with the implementation of complete
 16 streets principles.

17 (G) Procedures for maximizing local co-
 18 operation in the introduction and implementa-
 19 tion of complete streets principles.

20 (H) Procedures for assessing and modi-
 21 fying the facilities and operational characteris-
 22 tics of existing roadways to improve consistency
 23 with complete streets principles.

24 (d) DATA COLLECTION.—In addition to preparing
 25 the report under subsection (c), the Secretary shall col-

1 laborate with the Bureau of Transportation Statistics, the
2 Federal Transit Administration, and appropriate commit-
3 tees of the Transportation Research Board—

4 (1) to collect data regarding a baseline non-
5 motorized and transit use survey to be integrated
6 into the National Household Transportation Survey;
7 and

8 (2) to develop a survey tool for use by State de-
9 partments of transportation in identifying the
10 multimodal capacity of State and local roadways.

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