

111TH CONGRESS  
1ST SESSION

# S. 584

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.

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## 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

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## 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-

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

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

4 (A) the defined Federal functional classi-  
5 fication roadway system;

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

9 (C) each bridge structure providing a con-  
10 nection for such a roadway system.

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

13 (7) SENIOR MANAGER.—The term “senior man-  
14 ager” means—

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

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

19 (C) the director of a regional, county, or  
20 city transportation agency that is primarily re-  
21 sponsible for planning and approval of trans-  
22 portation projects (or a designee).

23 (8) TRANSPORTATION IMPROVEMENT PRO-  
24 GRAM.—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.

○