

AMENDMENT NO. _____ Calendar No. _____

Purpose: To direct the Secretary of Transportation to carry out an active transportation investment program to make grants to eligible applicants to build safe and connected options for bicycles and walkers within and between communities.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. _____

To amend title 23, United States Code, to authorize funds for Federal-aid highways and highway safety construction programs, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY (for
himself and Mr. SULLIVAN)

Viz:

1 At the end of subtitle E of title I, add the following:

2 **SEC. 15 ____ . ACTIVE TRANSPORTATION INFRASTRUCTURE**

3 **INVESTMENT PROGRAM.**

4 (a) IN GENERAL.—Subject to the availability of ap-

5 propriations, the Secretary shall carry out an active trans-

6 portation infrastructure investment program to make

7 grants, on a competitive basis, to eligible organizations to

8 construct eligible projects to provide safe and connected

1 active transportation facilities in an active transportation
2 network or active transportation spine.

3 (b) APPLICATION.—

4 (1) IN GENERAL.—To be eligible to receive a
5 grant under this section, an eligible organization
6 shall submit to the Secretary an application in such
7 manner and containing such information as the Sec-
8 retary may require.

9 (2) ELIGIBLE PROJECTS PARTIALLY ON FED-
10 ERAL LAND.—With respect to an application for an
11 eligible project that is located in part on Federal
12 land, an eligible organization shall enter into a coop-
13 erative agreement with the appropriate Federal
14 agency with jurisdiction over such land to submit an
15 application described in paragraph (1).

16 (c) APPLICATION CONSIDERATIONS.—In making a
17 grant for construction of an active transportation network
18 or active transportation spine under this section, the Sec-
19 retary shall consider the following:

20 (1) Whether the eligible organization submitted
21 a plan for an eligible project for the development of
22 walking and bicycling infrastructure that is likely to
23 provide substantial additional opportunities for walk-
24 ing and bicycling, including effective plans—

1 (A) to create an active transportation net-
2 work connecting destinations within or between
3 communities, including schools, workplaces,
4 residences, businesses, recreation areas, and
5 other community areas, or create an active
6 transportation spine connecting two or more
7 communities, metropolitan regions, or States;
8 and

9 (B) to integrate active transportation fa-
10 cilities with transit services, where available, to
11 improve access to public transportation.

12 (2) Whether the eligible organization dem-
13 onstrates broad community support through—

14 (A) the use of public input in the develop-
15 ment of transportation plans; and

16 (B) the commitment of community leaders
17 to the success and timely implementation of an
18 eligible project.

19 (3) Whether the eligible organization provides
20 evidence of commitment to traffic safety, regula-
21 tions, financial incentives, or community design poli-
22 cies that facilitate significant increases in walking
23 and bicycling.

24 (4) The extent to which the eligible organiza-
25 tion demonstrates commitment of State, local, or eli-

1 gible Federal matching funds, and land or in-kind
2 contributions, in addition to the local match required
3 under subsection (f)(1), unless the applicant quali-
4 fies for an exception under subsection (f)(2).

5 (5) The extent to which the eligible organiza-
6 tion demonstrates that the grant will address exist-
7 ing disparities in bicyclist and pedestrian fatality
8 rates based on race or income level or provide access
9 to jobs and services for low-income communities and
10 communities of color.

11 (6) Whether the eligible organization dem-
12 onstrates how investment in active transportation
13 will advance safety for pedestrians and cyclists, ac-
14 cessibility to jobs and key destinations, economic
15 competitiveness, environmental protection, and qual-
16 ity of life.

17 (d) USE OF FUNDS.—

18 (1) IN GENERAL.—Of the amounts made avail-
19 able to carry out this section and subject to para-
20 graphs (2) and (3), the Secretary shall obligate—

21 (A) not less than 30 percent to eligible
22 projects that construct active transportation
23 networks that connect people with public trans-
24 portation, businesses, workplaces, schools, resi-

1 dences, recreation areas, and other community
2 activity centers; and

3 (B) not less than 30 percent to eligible
4 projects that construct active transportation
5 spines.

6 (2) PLANNING AND DESIGN GRANTS.—Each fis-
7 cal year, the Secretary shall set aside not less than
8 \$3,000,000 of the funds made available to carry out
9 this section to provide planning grants for eligible
10 organizations to develop plans for active transpor-
11 tation networks and active transportation spines.

12 (3) ADMINISTRATIVE COSTS.—Each fiscal year,
13 the Secretary shall set aside not more than
14 \$2,000,000 of the funds made available to carry out
15 this section to cover the costs of administration, re-
16 search, technical assistance, communications, and
17 training activities under the program.

18 (4) LIMITATION ON STATUTORY CONSTRUC-
19 TION.—Nothing in this subsection prohibits an eligi-
20 ble organization from receiving research or other
21 funds under title 23 or 49, United States Code.

22 (e) GRANT TIMING.—

23 (1) REQUEST FOR APPLICATION.—Not later
24 than 30 days after funds are made available to carry
25 out this section for a fiscal year, the Secretary shall

1 publish in the Federal Register a request for appli-
2 cations for grants under this section for that fiscal
3 year.

4 (2) SELECTION OF GRANT RECIPIENTS.—Not
5 later than 150 days after funds are made available
6 to carry out this section for a fiscal year, the Sec-
7 retary shall select grant recipients of grants under
8 this section for that fiscal year.

9 (f) FEDERAL SHARE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the Federal share of the cost of an eligi-
12 ble project carried out using a grant under this sec-
13 tion shall not exceed 80 percent of the total project
14 cost.

15 (2) EXCEPTION FOR DISADVANTAGED COMMU-
16 NITIES.—For eligible projects serving communities
17 with a poverty rate of over 40 percent based on the
18 majority of census tracts served by the eligible
19 project, the Secretary may increase the Federal
20 share of the cost of the eligible project up to 100
21 percent of the total project cost.

22 (g) ASSISTANCE TO INDIAN TRIBES.—In carrying
23 out this section, the Secretary may enter into grant agree-
24 ments, self-determination contracts, and self-governance
25 compacts under the Indian Self-Determination and Edu-

1 cation Assistance Act (25 U.S.C. 5301 et seq.) with Indian
2 tribes that are eligible organizations, and such agree-
3 ments, contracts, and compacts shall be administered in
4 accordance with that Act.

5 (h) REPORTS.—

6 (1) INTERIM REPORT.—Not later than Sep-
7 tember 30, 2024, the Secretary shall submit to Con-
8 gress a report containing the information described
9 in paragraph (3).

10 (2) FINAL REPORT.—Not later than September
11 30, 2026, the Secretary shall submit to Congress a
12 report containing the information described in para-
13 graph (3).

14 (3) REPORT INFORMATION.—A report sub-
15 mitted under this subsection shall contain the fol-
16 lowing, with respect to the period covered by the ap-
17 plicable report:

18 (A) A list of grants made under this sec-
19 tion.

20 (B) Best practices of eligible organizations
21 that receive grants under this section in imple-
22 menting eligible projects.

23 (C) Impediments experienced by eligible
24 organizations that receive grants under this sec-

1 tion in developing and shifting to active trans-
2 portation.

3 (i) **RULE REQUIRED.**—Not later than 1 year after
4 the date of enactment of this Act, the Secretary shall issue
5 a final rule that encourages the use of the programmatic
6 categorical exclusion, expedited procurement techniques,
7 and other best practices to facilitate productive and timely
8 expenditures for eligible projects that are small, low-im-
9 pact, and constructed within an existing built environ-
10 ment.

11 (j) **AUTHORIZATION OF APPROPRIATIONS.**—

12 (1) **IN GENERAL.**—There is authorized to be
13 appropriated to the Secretary to carry out this sec-
14 tion \$200,000,000 for each of fiscal years 2022
15 through 2026.

16 (2) **AVAILABILITY.**—The amounts made avail-
17 able to carry out this section shall remain available
18 until expended.

19 (k) **DEFINITIONS.**—In this section:

20 (1) **ACTIVE TRANSPORTATION.**—The term “ac-
21 tive transportation” means mobility options powered
22 primarily by human energy, including bicycling and
23 walking.

24 (2) **ACTIVE TRANSPORTATION NETWORK.**—The
25 term “active transportation network” means facili-

1 ties built for active transportation, including side-
2 walks, bikeways, and pedestrian and bicycle trails,
3 that connect between destinations within a commu-
4 nity or metropolitan region.

5 (3) ACTIVE TRANSPORTATION SPINE.—The
6 term “active transportation spine” means facilities
7 built for active transportation, including sidewalks,
8 bikeways, and pedestrian and bicycle trails that con-
9 nect between communities, metropolitan regions, or
10 States.

11 (4) COMMUNITY.—The term “community”
12 means a geographic area that is socioeconomically
13 interdependent and may include rural, suburban,
14 and urban jurisdictions.

15 (5) ELIGIBLE ORGANIZATION.—The term “eligi-
16 ble organization” means—

17 (A) a local or regional governmental orga-
18 nization, including a metropolitan planning or-
19 ganization or regional planning organization or
20 council;

21 (B) a multicounty special district;

22 (C) a State;

23 (D) a multistate group of governments; or

24 (E) an Indian tribe.

1 (6) ELIGIBLE PROJECT.—The term “eligible
2 project” means an active transportation project or
3 group of projects—

4 (A) within or between a community or
5 group of communities, at least one of which
6 falls within the jurisdiction of an eligible orga-
7 nization, which has submitted an application
8 under this section; and

9 (B) that has—

10 (i) a total cost of not less than
11 \$15,000,000; or

12 (ii) with respect to planning and de-
13 sign grants, planning and design costs of
14 not less than \$100,000.

15 (7) INDIAN TRIBE.—The term “Indian tribe”
16 has the meaning given the term in section 4 of the
17 Indian Self-Determination and Education Assistance
18 Act (25 U.S.C. 5304).

19 (8) TOTAL PROJECT COST.—The term “total
20 project cost” means the sum total of all costs in-
21 curred in the development of an eligible project that
22 are approved by the Secretary as reasonable and
23 necessary, including—

24 (A) the cost of acquiring real property;

1 (B) the cost of site preparation, demoli-
2 tion, and development;

3 (C) expenses related to the issuance of
4 bonds or notes;

5 (D) fees in connection with the planning,
6 execution, and financing of the eligible project;

7 (E) the cost of studies, surveys, plans, per-
8 mits, insurance, interest, financing, tax, and as-
9 sessments;

10 (F) the cost of construction, rehabilitation,
11 reconstruction, and equipping the eligible
12 project;

13 (G) the cost of land improvements;

14 (H) contractor fees;

15 (I) the cost of training and education re-
16 lated to the safety of users of any bicycle or pe-
17 destrian network or spine constructed as part of
18 an eligible project; and

19 (J) any other cost that the Secretary de-
20 termines is necessary and reasonable.