118TH CONGRESS
1ST SESSION

To prohibit through December 31, 2024, the imposition of a mask mandate on passengers of air carriers or public transit and in educational settings within the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. VANCE introduced the following bill; which was read twice and referred to the Committee on _________________

A BILL

To prohibit through December 31, 2024, the imposition of a mask mandate on passengers of air carriers or public transit and in educational settings within the United States, and for other purposes.

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Be it enacted by the Senate and House of Representa-
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tives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE.

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This Act may be cited as the “Freedom to Breathe
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Act”.

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SEC. 2. DEFINITIONS.

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In this Act:
(1) AIR CARRIER.—The term "air carrier" means an air carrier conducting passenger operations under part 121 of title 14, Code of Federal Regulations.

(2) APPLICABLE PERIOD.—The term "applicable period" means the period that begins on the date of enactment of this Act and ends on December 31, 2024.

(3) COMMUTER RAIL PASSENGER TRANSPORTATION.—The term "commuter rail passenger transportation" has the meaning given the term in section 24102 of title 49, United States Code.

(4) ESEA definitions.—The terms "elementary school" and "secondary school" have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.).

(5) COVERED EDUCATIONAL INSTITUTION.—The term "covered educational institution" means an elementary school, secondary school, or institution of higher education, that receives Federal funds.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).
(7) **Mask.**—The term “mask” means a material covering the nose and mouth of the wearer, excluding face shields.

(8) **Mask Mandate.**—The term “mask mandate” means an order, directive, or ordinance which requires an individual to wear a mask to travel on any conveyance, or to enter or remain in any place within the United States, in response to a public health emergency.

(9) **National Airspace System.**—The term “national airspace system” has the meaning given such term in section 245.5 of title 32, Code of Federal Regulations (or a successor regulation).

(10) **Public Transit.**—The term “public transit”—

(A) means a regular, continuing shared-ride surface transportation service that is open to the general public or open to a segment of the general public defined by age, disability, or low income; and

(B) includes—

(i) intercity passenger rail transportation provided by the entity described in chapter 243 of title 49, United States Code (or a successor to such entity);
(ii) intercity bus service;
(iii) charter bus service;
(iv) school bus service;
(v) sightseeing service;
(vi) courtesy shuttle service for patrons of 1 or more specific establishments;
(vii) intra-terminal or intra-facility shuttle services; and
(viii) commuter rail passenger transportation.

SEC. 3. RESTRICTIONS ON THE USE OF FEDERAL FUNDS.

During the applicable period, notwithstanding any other provision of law, no Federal funds may be obligated or expended to propose, establish, implement, or enforce, directly or indirectly through the imposition of a condition on receipt of Federal funds, any requirement that an individual wear a mask or comply with a mask mandate while traveling as a passenger of an air carrier in the national airspace system, using public transit, or while in any elementary school, secondary school, or institution of higher education.
SEC. 4. PROHIBITIONS ON IMPOSING A MASK MANDATE ON
PASSENGERS OF AIR CARRIERS IN THE NA-
TIONAL AIRSPACE SYSTEM.

(a) No Mask Requirements on Passengers of Air Carriers in the National Airspace System.—
Notwithstanding any other provision of law, during the app-
licable period, neither the President nor any other Fed-
eral officer, employee, agency, or office shall issue or en-
force an order requiring an air carrier to impose a mask
mandate on individuals who are passengers of the air car-
rier in the national airspace system.

(b) No Authority to Refuse Air Transportation.—During the applicable period, no certificate
holder under part 119 of title 14, Code of Federal Regu-
lations, which conducts scheduled operations under part 121
of that title, nor any other air carrier who provides pas-
senger air transportation in the national airspace system,
shall refuse transportation to a passenger on the basis
that the passenger refuses to wear a mask or comply with
a mask mandate while traveling in the national airspace
system.

(c) No Authority to Issue or Enforce Mask
Mandates on Passenger Air Carrier Operations in
Response to a Public Health Emergency.—Section
361 of the Public Health Service Act (42 U.S.C. 264) is
amended by adding at the end the following:
“(f) Nothing in this section authorizes the Secretary to require individuals to comply with a mask mandate (as defined in section 2 of the Freedom to Breathe Act) while traveling as a passenger of an air carrier (as defined in such section) in the national airspace system (as defined in such section) in response to a public health emergency declared under section 319 during the applicable period (as defined in such section).”.

SEC. 5. PROHIBITIONS ON IMPOSING A MASK MANDATE ON PASSENGERS USING PUBLIC TRANSIT.

(a) No Mask Requirements on Passengers Using Public Transit.—Notwithstanding any other provision of law, during the applicable period, neither the President nor any other Federal officer, employee, agency, or office shall issue or enforce an order requiring a Federal, State, or local public transit agency or authority to impose a mask mandate on passengers using public transit.

(b) No Authority to Refuse Public Transit.—During the applicable period, no public transit operator shall refuse transportation to a passenger on the basis that the passenger refuses to wear a mask or comply with a mask mandate.

(c) No Authority to Issue or Enforce Mask Mandates on Passenger Air Carrier Operations in
RESPONSE TO A PUBLIC HEALTH EMERGENCY.—Section 361 of the Public Health Service Act (42 U.S.C. 264), as amended by section 4(c), is amended by adding at the end the following:

“(g) Nothing in this section authorizes the Secretary to require individuals to comply with a mask mandate (as defined in section 2 of the Freedom to Breathe Act) while using public transit (as defined in such section) in response to a public health emergency declared under section 319 during the applicable period (as defined in such section).”.

SEC. 6. PROHIBITIONS ON IMPOSING A MASK MANDATE IN EDUCATION SETTINGS.

(a) No Mask Requirements in Schools or Institutions of Higher Education.—Notwithstanding any other provision of law, during the applicable period, neither the President nor any other Federal officer, employee, agency, or office, shall issue or enforce a mask mandate requiring individuals to wear a mask in any elementary school, secondary school, or institution of higher education.

(b) No Authority to Refuse Access to Education.—During the applicable period, a covered educational institution shall not refuse entry to or participation in any educational service or activity to a student,
teacher, parent, or other individual on the basis that the
student, teacher, parent, or other individual refuses to
wear a mask or comply with a mask mandate during the
educational service or activity.

(c) **No Authority to Issue or Enforce Mask Mandates in Educational Settings in Response to a Public Health Emergency.**—Section 361 of the Public Health Service Act (42 U.S.C. 264), as amended by section 5(c), is further amended by adding at the end the following:

“(h) Nothing in this section authorizes the Secretary to require individuals to comply with a mask mandate (as defined in section 2 of the Freedom to Breathe Act) in any elementary school or secondary school (as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965) or institution of higher education (as defined in section 102 of the Higher Education Act of 1965) in response to a public health emergency declared under section 319 of the applicable period (as defined in such section).”.

**SEC. 7. REGULATIONS.**

Not later than 90 days after the date of enactment of this Act, the head of each Federal agency or office to which this Act applies shall issue such new or revised regulations as are necessary to carry out this Act.
SEC. 8. PREEMPTION.

The provisions of this Act shall supersede any provision of Federal, State, Tribal, territorial, or local law, declaration, guidance, or directive to the extent that such laws, declarations, guidance, or directives are inconsistent with this Act.