

117TH CONGRESS
1ST SESSION

S. 1852

To establish an intercity passenger rail service investment grant program.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2021

Mr. MARKEY (for himself and Ms. WARREN) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To establish an intercity passenger rail service investment
grant program.

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 TITLES.**

4 This Act may be cited as the “Building Rail Across
5 Intercity Networks To Ride Around Interior of the Nation
6 Act” or the “BRAIN TRAIN Act”.

1 **SEC. 2. ESTABLISHMENT OF GRANT PROGRAM FOR HIGH-**
 2 **PERFORMANCE INTERCITY PASSENGER RAIL**
 3 **SERVICE.**

4 (a) IN GENERAL.—Chapter 261 of title 49, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 **“§ 26107. Intercity passenger rail service investment**
 8 **program**

9 “(a) DEFINITIONS.—In this section:

10 “(1) APPLICANT.—The term ‘applicant’ means
 11 Amtrak or a State, group of States, interstate com-
 12 pact, or public agency established by 1 or more
 13 States with responsibility for providing intercity pas-
 14 senger rail service.

15 “(2) CAPITAL PROJECT.—The term ‘capital
 16 project’ means a project or program in a State rail
 17 plan developed under chapter 227 for—

18 “(A) acquiring, constructing, improving, or
 19 inspecting equipment, track, and track struc-
 20 tures, or a facility of use in or for the primary
 21 benefit of intercity passenger rail service;

22 “(B) expenses incidental to the acquisition
 23 or construction (including designing, engineer-
 24 ing, location surveying, mapping, environmental
 25 studies, and acquiring active or out of service
 26 rights-of-way); and

1 “(C) payments for the capital portions of
2 rail trackage rights agreements, highway-rail
3 grade crossing improvements related to intercity
4 passenger rail service, mitigating environmental
5 impacts, communication and signalization im-
6 provements, relocation assistance, acquiring re-
7 placement housing sites, and acquiring, con-
8 structing, relocating, and rehabilitating replace-
9 ment housing.

10 “(3) HIGH-PERFORMANCE RAIL.—The term
11 ‘high-performance rail’ means intercity passenger
12 rail service that is designed to meet the current and
13 future market demand for the transportation of peo-
14 ple, in terms of capacity, travel times, reliability, and
15 efficiency.

16 “(4) INTERCITY PASSENGER RAIL SERVICE.—
17 The term ‘intercity passenger rail service’ has the
18 meaning given the term ‘intercity rail passenger
19 transportation’ in section 24102.

20 “(5) SECRETARY.—The term ‘Secretary’ means
21 the Secretary of Transportation.

22 “(6) STATE.—The term ‘State’ means any of
23 the 50 States or the District of Columbia.

24 “(b) ESTABLISHMENT.—

1 “(1) IN GENERAL.—The Secretary shall estab-
 2 lish an intercity passenger rail service investment
 3 program to promote high-performance rail transpor-
 4 tation options.

5 “(2) GRANTS AUTHORIZED.—The Secretary
 6 may award grants under this section to an applicant
 7 to finance capital projects for high-performance rail,
 8 including grants awarded in installments for projects
 9 lasting longer than 1 year.

10 “(c) APPLICATIONS.—Each applicant seeking a grant
 11 under this section shall submit an application to the Sec-
 12 retary in such form and containing such information as
 13 the Secretary shall reasonably require.

14 “(d) COMPETITIVE GRANT SELECTION AND CRI-
 15 TERIA FOR GRANTS.—

16 “(1) IN GENERAL.—The Secretary shall—

17 “(A) establish criteria for selecting among
 18 capital projects that meet the criteria specified
 19 in paragraph (2);

20 “(B) conduct a national solicitation for ap-
 21 plications; and

22 “(C) award grants on a competitive basis.

23 “(2) GRANT CRITERIA.—In selecting the recipi-
 24 ents of intercity passenger rail grants under sub-
 25 section (b)(2), the Secretary shall—

1 “(A) require—

2 “(i) the project to be part of a State
3 rail plan developed under chapter 227, or
4 under the plan required under section 211
5 of the Passenger Rail Investment and Im-
6 provement Act of 2008 (49 U.S.C. 24902
7 note);

8 “(ii) the applicant or recipient to have
9 the legal, financial, and technical capacity
10 to carry out the project, satisfactory con-
11 tinuing control over the use of the equip-
12 ment or facilities, and the capability and
13 willingness to maintain the equipment or
14 facilities;

15 “(iii) the project to be based on the
16 results of preliminary engineering studies
17 or other planning;

18 “(iv) the applicant to provide suffi-
19 cient information upon which the Secretary
20 can make the findings required under this
21 subsection;

22 “(v) if an applicant has selected the
23 proposed operator of its service, the appli-
24 cant to provide written justification to the
25 Secretary showing why the proposed oper-

1 ator is the best, taking into account costs
2 and other factors;

3 “(vi) each proposed project to meet all
4 safety and security requirements that are
5 applicable to the project under law; and

6 “(vii) each project to be compatible
7 with, and operated in conformance with—

8 “(I) plans developed pursuant to
9 the requirements under section 135 of
10 title 23; and

11 “(II) the national rail plan (if
12 available);

13 “(B) select high-performance rail
14 projects—

15 “(i) that are anticipated to result in
16 significant improvements to intercity rail
17 passenger service, including consideration
18 of the project’s—

19 “(I) levels of estimated ridership,
20 increased on-time performance, re-
21 duced trip time, or additional service
22 frequency to meet anticipated or exist-
23 ing demand;

24 “(II) anticipated provision of
25 intercity passenger rail service in his-

1 torically and persistently unconnected
2 and under-connected regions; and

3 “**(III)** anticipated favorable im-
4 pact on air or highway traffic conges-
5 tion, capacity, or safety;

6 “(ii) for which there is a high degree
7 of confidence that the proposed project is
8 feasible and will result in the anticipated
9 benefits, as indicated by—

10 “**(I)** the project’s
11 precommencement compliance with
12 environmental protection require-
13 ments;

14 “**(II)** the readiness of the project
15 to be commenced; and

16 “**(III)** other relevant factors de-
17 termined by the Secretary; and

18 “(iii) for which the level of the antici-
19 pated benefits compares favorably to the
20 amount of Federal funding requested
21 under this section; and

22 “**(C)** give greater consideration to projects
23 that—

24 “(i) are anticipated to result in bene-
25 fits to other modes of transportation and

1 to the public at large, including consider-
2 ation of the project's—

3 “(I) encouragement of intermodal
4 connectivity through provision of di-
5 rect connections between train and
6 transit stations, airports, bus termi-
7 nals, subway stations, ferry ports, and
8 other modes of transportation;

9 “(II) anticipated improvement of
10 conventional intercity passenger,
11 freight, or commuter rail operations;

12 “(III) use of positive train con-
13 trol technologies;

14 “(IV) environmental benefits, in-
15 cluding projects that involve the pur-
16 chase of environmentally sensitive,
17 fuel-efficient or electrified, and cost-
18 effective passenger rail equipment;

19 “(V) anticipated reduction of
20 greenhouse gas emissions;

21 “(VI) anticipated improvement of
22 air quality and public health;

23 “(VII) anticipated positive eco-
24 nomic and employment impacts, in-
25 cluding development in the areas near

1 passenger stations, historic districts,
2 or other opportunity zones;

3 “(VIII) encouragement of State
4 and private contributions toward sta-
5 tion development, energy and environ-
6 mental efficiency, and economic bene-
7 fits; and

8 “(IX) provision of enhanced ac-
9 cess for persons with disabilities to
10 intercity passenger rail service; and

11 “(ii) incorporate equitable financial
12 participation in the project’s financing, in-
13 cluding consideration of—

14 “(I) donated or discounted inter-
15 ests in real or personal property;

16 “(II) donated services;

17 “(III) financial contributions by
18 intercity passenger, freight, and com-
19 muter rail carriers commensurate with
20 the benefit expected to their oper-
21 ations;

22 “(IV) financial commitments
23 from host railroads, non-Federal gov-
24 ernmental entities, nongovernmental
25 entities, and others; and

1 “(V) Federal loans, including
2 loans under title V of the Railroad
3 Revitalization and Regulatory Reform
4 Act of 1976 (45 U.S.C. 821 et seq.).

5 “(3) GRANT CONDITIONS.—The Secretary shall
6 require each recipient of a grant under this chapter
7 to comply with the grant requirements under section
8 22905.

9 “(4) STATE RAIL PLANS.—State rail plans com-
10 pleted before the date of enactment of the Passenger
11 Rail Investment and Improvement Act of 2008 (divi-
12 sion B of Public Law 110–432) that substantially
13 meet the requirements of chapter 227 of this title,
14 as determined by the Secretary pursuant to section
15 22706, shall be deemed by the Secretary to have met
16 the requirements of paragraph (2)(A)(i).

17 “(e) FEDERAL SHARE.—

18 “(1) IN GENERAL.—The Federal share of the
19 cost of a capital project financed under this section
20 shall not exceed 90 percent of the project’s net cap-
21 ital cost.

22 “(2) IN-KIND MATCH.—The fair market value
23 of in-kind contributions to a capital project financed
24 under this section shall be treated as non-Federal
25 matching funds for purposes of paragraph (1).

1 “(3) LOANS.—The value of any Federal loans
2 paid back with non-Federal funds shall be treated as
3 non-Federal matching funds for purposes of para-
4 graph (1).

5 “(f) ISSUANCE OF REGULATIONS.—Not later than 1
6 year after the date of the enactment of this section, the
7 Secretary shall issue regulations to carry out this section.

8 “(g) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) IN GENERAL.—There are authorized to be
10 appropriated to the Secretary to carry out this sec-
11 tion \$5,000,000,000 for each of the fiscal years
12 2022 through 2026.

13 “(2) AVAILABILITY OF FUNDS.—Any amounts
14 appropriated for a fiscal year pursuant to paragraph
15 (1) that remain unobligated at the end of such fiscal
16 year shall be made available for eligible projects in
17 the following fiscal year.”.

18 (b) CLERICAL AMENDMENT.—The chapter analysis
19 for chapter 261 of title 49, United States Code, is amend-
20 ed by adding at the end the following:

“26107. Intercity passenger rail service investment program.”.

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