

116TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To establish an intercity passenger rail service investment grant program.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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 of 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;

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

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;

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 that  
12                  substantially meet the requirements of chapter 227  
13                  of this title, as determined by the Secretary pursu-  
14                  ant to section 22706, shall be deemed by the Sec-  
15                  retary to have met the requirements of paragraph  
16                  (2)(A)(i) of this subsection.

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 80 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          2021 through 2025.

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.”.