To establish an intercity passenger rail service investment grant program.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To establish an intercity passenger rail service investment grant program.

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

SECTION 1. SHORT TITLES.

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

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

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

“§26107. Intercity passenger rail service investment
program

“(a) DEFINITIONS.—In this section:

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

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

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

“(B) expenses incidental to the acquisition
or construction (including designing, engineer-
ing, location surveying, mapping, environmental
studies, and acquiring active or out of service
rights-of-way); and
“(C) payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing.

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

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

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

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

“(b) ESTABLISHMENT.—
“(1) IN GENERAL.—The Secretary shall establish an intercity passenger rail service investment program to promote high-performance rail transportation options.

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

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

“(d) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

“(1) IN GENERAL.—The Secretary shall—

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

“(B) conduct a national solicitation for applications; and

“(C) award grants on a competitive basis.

“(2) GRANT CRITERIA.—In selecting the recipients of intercity passenger rail grants under subsection (b)(2), the Secretary shall—
“(A) require—

“(i) the project to be part of a State rail plan developed under chapter 227, or under the plan required under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);

“(ii) the applicant or recipient to have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

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

“(iv) the applicant to provide sufficient information upon which the Secretary can make the findings required under this subsection;

“(v) if an applicant has selected the proposed operator of its service, the applicant to provide written justification to the Secretary showing why the proposed oper-
ator is the best, taking into account costs and other factors;

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

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

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

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

“(B) select high-performance rail projects—

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

“(I) levels of estimated ridership, increased on-time performance, reduced trip time, or additional service frequency to meet anticipated or existing demand;

“(II) anticipated provision of intercity passenger rail service in his-
torically and persistently unconnected
and under-connected regions;

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

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

“(I) the project’s
precommencement compliance with
environmental protection require-
ments;

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

“(III) other relevant factors de-
termined by the Secretary;

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

“(C) give greater consideration to projects
that—

“(i) are anticipated to result in bene-
fits to other modes of transportation and
to the public at large, including consideration of the project’s—

“(I) encouragement of intermodal connectivity through provision of direct connections between train and transit stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

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

“(III) use of positive train control technologies;

“(IV) environmental benefits, including projects that involve the purchase of environmentally sensitive, fuel-efficient or electrified, and cost-effective passenger rail equipment;

“(V) anticipated reduction of greenhouse gas emissions;

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

“(VII) anticipated positive economic and employment impacts, including development in the areas near
passenger stations, historic districts, or other opportunity zones;

“(VIII) encouragement of State and private contributions toward station development, energy and environmental efficiency, and economic benefits; and

“(IX) provision of enhanced access for persons with disabilities to intercity passenger rail service; and

“(ii) incorporate equitable financial participation in the project’s financing, including consideration of—

“(I) donated or discounted interests in real or personal property;

“(II) donated services;

“(III) financial contributions by intercity passenger, freight, and commuter rail carriers commensurate with the benefit expected to their operations;

“(IV) financial commitments from host railroads, non-Federal governmental entities, nongovernmental entities, and others; and

“(3) Grant Conditions.—The Secretary shall require each recipient of a grant under this chapter to comply with the grant requirements under section 22905.

“(4) State Rail Plans.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22706, shall be deemed by the Secretary to have met the requirements of paragraph (2)(A)(i) of this subsection.

“(e) Federal Share.—

“(1) In general.—The Federal share of the cost of a capital project financed under this section shall not exceed 80 percent of the project’s net capital cost.

“(2) In-kind match.—The fair market value of in-kind contributions to a capital project financed under this section shall be treated as non-Federal matching funds for purposes of paragraph (1).
“(3) LOANS.—The value of any Federal loans paid back with non-Federal funds shall be treated as non-Federal matching funds for purposes of paragraph (1).

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

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section $5,000,000,000 for each of the fiscal years 2021 through 2025.

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

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 261 of title 49, United States Code, is amended by adding at the end the following:

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