

Calendar No. 548

107TH CONGRESS
2^D SESSION**S. 1220****[Report No. 107-238]**

To authorize the Secretary of Transportation to establish a grant program for the rehabilitation, preservation, or improvement of railroad track.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2001

Mr. BREAUX (for himself, Mr. SMITH of Oregon, Mr. SCHUMER, Mr. SPECTER, Mr. DURBIN, Mr. BROWNBACK, Mr. WYDEN, Mr. GRASSLEY, Mrs. LINCOLN, Ms. SNOWE, Mr. MILLER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 1, 2002

Reported by Mr. HOLLINGS, with amendments

[Omit the part struck through and insert the part printed in *italic*]**A BILL**

To authorize the Secretary of Transportation to establish a grant program for the rehabilitation, preservation, or improvement of railroad track.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Railroad Track Mod-
3 ernization Act of ~~2001~~”. 2002”.

4 **SEC. 2. CAPITAL GRANTS FOR RAILROAD TRACK.**

5 (a) AMENDMENT.—Chapter 223 of title 49, United
6 States Code, is amended to read as follows:

7 **“CHAPTER 223—CAPITAL GRANTS FOR**
8 **RAILROAD TRACK**

“Sec.

“22301. Capital grants for railroad track.

“22302. *Capital grants for rail line relocation projects.*

9 **“§ 22301. Capital grants for railroad track**

10 “(a) ESTABLISHMENT OF PROGRAM.—

11 “(1) ESTABLISHMENT.—The Secretary of
12 Transportation shall establish a program of capital
13 grants for the rehabilitation, preservation, or im-
14 provement of railroad track (including roadbed,
15 bridges, and related track structures) of class II and
16 class III railroads. Such grants shall be for rehabili-
17 tating, preserving, or improving track used primarily
18 for freight transportation to a standard ensuring
19 that the track can be operated safely and efficiently,
20 including grants for rehabilitating, preserving, or im-
21 proving track to handle 286,000 pound rail cars.
22 Grants may be provided under this chapter—

23 “(A) directly to the class II or class III
24 railroad; or

1 “(B) with the concurrence of the class II
2 or class III railroad, to a State or local govern-
3 ment.

4 “(2) STATE COOPERATION.—Class II and class
5 III railroad applicants for a grant under this chap-
6 ter are encouraged to utilize the expertise and assist-
7 ance of State transportation agencies in applying for
8 and administering such grants. State transportation
9 agencies are encouraged to provide such expertise
10 and assistance to such railroads.

11 “(3) INTERIM REGULATIONS.—Not later than
12 December 31, ~~2001~~, 2002, the Secretary shall issue
13 temporary regulations to implement the program
14 under this section. Subchapter II of chapter 5 of
15 title 5 does not apply to a temporary regulation
16 issued under this paragraph or to an amendment to
17 such a temporary regulation.

18 “(4) FINAL REGULATIONS.—Not later than Oc-
19 tober 1, ~~2002~~, 2003, the Secretary shall issue final
20 regulations to implement the program under this
21 section.

22 “(5) CRITERIA.—*In developing interim and*
23 *final regulations, the Secretary shall establish criteria*
24 *that—*

1 “(A) condition the award of a grant to a
 2 railroad on reasonable assurances by the rail-
 3 road that the facilities to be rehabilitated and
 4 improved will be economically and efficiently
 5 utilized;

6 “(B) ensure that the award of a grant is
 7 justified by present and probable future demand
 8 for rail services by the railroad to which the
 9 grant is to be awarded;

10 “(C) ensure that consideration is given to
 11 projects that are part of a State-sponsored rail
 12 plan; and

13 “(D) ensure that all such grants are award-
 14 ed on a competitive basis.

15 “(b) MAXIMUM FEDERAL SHARE.—The maximum
 16 Federal share for carrying out a project under this section
 17 shall be 80 percent of the project cost. The non-Federal
 18 share may be provided by any non-Federal source in cash,
 19 equipment, or supplies. Other in-kind contributions may
 20 be approved by the Secretary on a case by case basis con-
 21 sistent with this chapter.

22 “(c) PROJECT ELIGIBILITY.—For a project to be eli-
 23 gible for assistance under this section the track must have
 24 been operated or owned by a class II or class III railroad

1 as of the date of the enactment of the Railroad Track
2 Modernization Act of ~~2001~~, 2002.

3 “(d) USE OF FUNDS.—Grants provided under this
4 section shall be used to implement track capital projects
5 as soon as possible. In no event shall grant funds be con-
6 tractually obligated for a project later than the end of the
7 third Federal fiscal year following the year in which the
8 grant was awarded. Any funds not so obligated by the end
9 of such fiscal year shall be returned to the Secretary for
10 reallocation.

11 “(e) ADDITIONAL PURPOSE.—In addition to making
12 grants for projects as provided in subsection (a), the Sec-
13 retary may also make grants to supplement direct loans
14 or loan guarantees made under title V of the Railroad Re-
15 vitalization and Regulatory Reform Act of 1976 (45
16 U.S.C. 822(d)), for projects described in the last sentence
17 of section 502(d) of such title. Grants made under this
18 subsection may be used, in whole or in part, for paying
19 credit risk premiums, lowering rates of interest, or pro-
20 viding for a holiday on principal payments.

21 “(f) EMPLOYEE PROTECTION.—The Secretary shall
22 require as a condition of any grant made under this sec-
23 tion that the recipient railroad provide a fair arrangement
24 at least as protective of the interests of employees who
25 are affected by the project to be funded with the grant

1 as the terms imposed under section 11326(a), as in effect
2 on the date of the enactment of the Railroad Track Mod-
3 ernization Act of 2001.

4 “(g) LABOR STANDARDS.—

5 “(1) PREVAILING WAGES.—The Secretary shall
6 ensure that laborers and mechanics employed by
7 contractors and subcontractors in construction work
8 financed by a grant made under this section will be
9 paid wages not less than those prevailing on similar
10 construction in the locality, as determined by the
11 Secretary of Labor under the Act of March 3, 1931
12 (known as the Davis-Bacon Act; 40 U.S.C. 276a et
13 seq.). The Secretary shall make a grant under this
14 section only after being assured that required labor
15 standards will be maintained on the construction
16 work.

17 “(2) WAGE RATES.—Wage rates in a collective
18 bargaining agreement negotiated under the Railway
19 Labor Act (45 U.S.C. 151 et seq.) are deemed for
20 purposes of this subsection to comply with the Act
21 of March 3, 1931 (known as the Davis-Bacon Act;
22 40 U.S.C. 276a et seq.).

23 “(h) STUDY.—The Secretary shall conduct a study
24 of the projects carried out with grant assistance under this
25 section to determine the public interest benefits associated

1 with the light density railroad networks in the States and
 2 their contribution to a multimodal transportation system.
 3 Not later than March 31, 2003, the Secretary shall report
 4 to Congress any recommendations the Secretary considers
 5 appropriate regarding the eligibility of light density rail
 6 networks for Federal infrastructure financing.

7 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
 8 are authorized to be appropriated to the Secretary of
 9 Transportation \$350,000,000 for each of the fiscal years
 10 ~~2002 through 2004~~ *2003 through 2005* for carrying out
 11 this section.

12 **“§22302. Capital grants for rail line relocation**
 13 ***projects***

14 “(a) *ESTABLISHMENT OF PROGRAM.—The Secretary*
 15 *of Transportation shall carry out a grant program to pro-*
 16 *vide financial assistance for local rail line relocation*
 17 *projects.*

18 “(b) *ELIGIBILITY.—A State is eligible for a grant*
 19 *under this section for any project for the improvement of*
 20 *the route or structure of a rail line passing through a mu-*
 21 *nicipality of the State that—*

22 “(1) *is carried out for the purpose of mitigating*
 23 *the adverse effects of rail traffic on safety or motor ve-*
 24 *hicle traffic flow in the municipality;*

1 “(2) involves a lateral or vertical relocation of
 2 any portion of the rail line within the municipality
 3 to avoid a closing of a grade crossing or the construc-
 4 tion of a road underpass or overpass; and

5 “(3) meets the costs-benefits requirement set forth
 6 in subsection (c).

7 “(c) *COSTS-BENEFITS REQUIREMENT.*—A grant may
 8 be awarded under this section for a project for the relocation
 9 of a rail line only if the benefits of the project for the period
 10 equal to the estimated economic life of the relocated rail line
 11 exceed the costs of the project for that period, as determined
 12 by the Secretary considering the following factors:

13 “(1) The effects of the rail line and the rail traf-
 14 fic on motor vehicle and pedestrian traffic, safety,
 15 and area commerce if the rail line were not so relo-
 16 cated.

17 “(2) The effects of the rail line, relocated as pro-
 18 posed, on motor vehicle and pedestrian traffic, safety,
 19 and area commerce.

20 “(3) The effects of the rail line, relocated as pro-
 21 posed, on the freight and passenger rail operations on
 22 the rail line.

23 “(d) *CONSIDERATIONS FOR APPROVAL OF GRANT AP-*
 24 *PLICATIONS.*—In addition to considering the relationship
 25 of benefits to costs in determining whether to award a grant

1 *to an eligible State under this section, the Secretary shall*
 2 *consider the following factors:*

3 “(1) *The capability of the State to fund the rail*
 4 *line relocation project without Federal grant funding.*

5 “(2) *The requirement and limitation relating to*
 6 *allocation of grant funds provided in subsection (e).*

7 “(3) *Equitable treatment of the various regions*
 8 *of the United States.*

9 “(e) *ALLOCATION REQUIREMENTS.—*

10 “(1) *GRANTS NOT GREATER THAN \$20,000,000.—*
 11 *At least 50 percent of all grant funds awarded under*
 12 *this section out of funds appropriated for a fiscal*
 13 *year shall be provided as grant awards of not more*
 14 *than \$20,000,000 each.*

15 “(2) *LIMITATION PER PROJECT.—Not more than*
 16 *25 percent of the total amount available for carrying*
 17 *out this section for a fiscal year may be provided for*
 18 *any one project in that fiscal year.*

19 “(f) *FEDERAL SHARE.—The total amount of a grant*
 20 *awarded under this section for a rail line relocation project*
 21 *shall be 90 percent of the shared costs of the project, as deter-*
 22 *mined under subsection (g)(4).*

23 “(g) *STATE SHARE.—*

1 “(1) *PERCENTAGE.*—*A State shall pay 10 per-*
 2 *cent of the shared costs of a project that is funded in*
 3 *part by a grant awarded under this section.*

4 “(2) *FORMS OF CONTRIBUTIONS.*—*The share re-*
 5 *quired by paragraph (1) may be paid in cash or in*
 6 *kind.*

7 “(3) *IN-KIND CONTRIBUTIONS.*—*The in-kind*
 8 *contributions that are permitted to be counted under*
 9 *paragraph (2) for a project for a State are as fol-*
 10 *lows:*

11 “(A) *A contribution of real property or*
 12 *tangible personal property (whether provided by*
 13 *the State or a person for the State).*

14 “(B) *A contribution of the services of em-*
 15 *ployees of the State, calculated on the basis of*
 16 *costs incurred by the State for the pay and ben-*
 17 *efits of the employees, but excluding overhead*
 18 *and general administrative costs.*

19 “(C) *A payment of any costs that were in-*
 20 *curred for the project before the filing of an ap-*
 21 *plication for a grant for the project under this*
 22 *section, and any in-kind contributions that were*
 23 *made for the project before the filing of the ap-*
 24 *plication, if and to the extent that the costs*
 25 *were incurred or in-kind contributions were*

1 made, as the case may be, to comply with a
2 provision of a statute required to be satisfied in
3 order to carry out the project.

4 “(4) COSTS NOT SHARED.—

5 “(A) IN GENERAL.—For the purposes of
6 subsection (f) and this subsection, the shared
7 costs of a project in a municipality do not in-
8 clude any cost that is defrayed with any funds
9 or in-kind contribution that a source other than
10 the municipality makes available for the use of
11 the municipality without imposing at least one
12 of the following conditions:

13 “(i) The condition that the munici-
14 pality use the funds or contribution only
15 for the project.

16 “(ii) The condition that the avail-
17 ability of the funds or contribution to the
18 municipality is contingent on the execution
19 of the project.

20 “(B) DETERMINATIONS OF THE SEC-
21 RETARY.—The Secretary shall determine the
22 amount of the costs, if any, that are not shared
23 costs under this paragraph and the total
24 amount of the shared costs. A determination of
25 the Secretary shall be final.

1 “(h) MULTISTATE AGREEMENTS TO COMBINE
2 AMOUNTS.—Two or more States (not including po-
3 litical subdivisions of States) may, pursuant to an
4 agreement entered into by the States, combine any
5 part of the amounts provided through grants for a
6 project under this section if—

7 “(1) the project will benefit each of the
8 States entering into the agreement; and

9 “(2) the agreement is not a violation of a
10 law of any such State.

11 “(i) REGULATIONS.—The Secretary shall prescribe
12 regulations for carrying out this section.

13 “(j) STATE DEFINED.—In this section, the term
14 ‘State’ includes, except as otherwise specifically provided,
15 a political subdivision of a State.

16 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary for use
18 in carrying out this section \$350,000,000 for each of the
19 fiscal years 2003 through 2007.”.

20 (b) CONFORMING AMENDMENT.—The item relating
21 to chapter 223 in the table of chapters of subtitle V of
22 title 49, United States Code, is amended to read as fol-
23 lows:

 “223. CAPITAL GRANTS FOR RAILROAD TRACK 22301”.

24 (c) *REGULATIONS.*—

1 (1) *INTERIM REGULATIONS.*—Not later than Oc-
2 tober 1, 2002, the Secretary of Transportation shall
3 issue temporary regulations to implement the grant
4 program under section 22302 of title 49, United
5 States Code. Subchapter II of chapter 5 of title 5,
6 United States Code, shall not apply to the issuance of
7 a temporary regulation under this subsection or of
8 any amendment of such a temporary regulation.

9 (2) *FINAL REGULATIONS.*—Not later than April
10 1, 2003, the Secretary shall issue final regulations
11 implementing the program.

12 (3) *CRITERIA.*—In developing regulations under
13 paragraph (1), and in any final regulations, the Sec-
14 retary shall establish criteria that ensure that all
15 grants under section 22303 of title 49, United States
16 Code, are awarded on a competitive basis.

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