

108TH CONGRESS  
1ST SESSION

# H. R. 3578

To amend title 49, United States Code, to ensure the continuation of fixed guideway system projects, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Mr. HONDA (for himself, Mrs. TAUSCHER, Mr. CASE, Mr. ACEVEDO-VILÁ, Ms. LOFGREN, Mrs. JONES of Ohio, Mr. GEORGE MILLER of California, Mr. MEEKS of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Mr. BLUMENAUER, and Mr. ABERCROMBIE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to ensure the continuation of fixed guideway system projects, and for other purposes.

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 TITLE.**

4 This Act may be cited as the “New Starts Enhance-  
5 ment and Local Investment Promotion Act of 2003”.

1 **SEC. 2. DETERMINATION OF PROJECT JUSTIFICATION CRI-**  
2 **TERIA FOR FIXED GUIDEWAY PROJECTS.**

3 Section 5309(e)(6) of title 49, United States Code,  
4 is amended—

5 (1) by striking “A proposed project” and insert-  
6 ing the following:

7 “(A) IN GENERAL.—A proposed project”;

8 and

9 (2) by adding at the end the following:

10 “(B) DETERMINATION OF COST EFFEC-  
11 TIVENESS.—

12 “(i) IN GENERAL.—For purposes of  
13 paragraph (1)(B), the Secretary shall use  
14 the new starts cost to determine the cost  
15 effectiveness of a project.

16 “(ii) NEW STARTS COST DEFINED.—  
17 In this subparagraph, the term ‘new starts  
18 cost’ means the amounts allocated for the  
19 project from amounts made available to  
20 carry out this section.”.

21 **SEC. 3. UNDERTAKING PROJECTS IN ADVANCE.**

22 Section 5309(n) is amended by adding at the end the  
23 following:

24 “(4) If a State or local governmental authority agrees  
25 to provide 60 percent or more of the net cost of a project  
26 from non-Federal funds, the Secretary, at the request of

1 the State or local governmental authority, shall waive the  
2 requirement of paragraph (1)(C) with respect to the  
3 project, thereby allowing the State or local governmental  
4 authority to carry out any pre-construction part of the  
5 project without regard to whether the Secretary has ap-  
6 proved in advance the plans and specifications for that  
7 part. If a State or local governmental authority requests  
8 a waiver for a project under this paragraph, the agreed  
9 upon non-Federal share shall continue to apply through  
10 completion of the project.”.

11 **SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SE-**  
12 **LECTION.**

13 Section 182 of title 23, United States Code, is  
14 amended—

15 (1) in subsection (a)—

16 (A) paragraph (2) by adding at the end  
17 the following: “The application process for a  
18 new starts project approved for a full funding  
19 grant agreement under section 5309(g) of title  
20 49, shall serve jointly as an application for a se-  
21 cured loan, line of credit, and loan guarantee  
22 under this subchapter.”; and

23 (B) in paragraph (3) by adding at the end  
24 the following:

1           “(C) NEW STARTS PROJECTS.—In the case  
2 of a new starts project approved for a full fund-  
3 ing grant agreement described in section 5309  
4 of title 49, eligible project costs shall be deter-  
5 mined in accordance with the allowable cost  
6 thresholds in such section.”; and

7 (2) in subsection (b)(2)—

8           (A) subparagraph (A) by striking “The se-  
9 lection criteria” and inserting the following:  
10 “Except as provided in subparagraph (B), the  
11 selection criteria”;

12           (B) by redesignating subparagraph (B) as  
13 subparagraph (C); and

14           (C) by inserting after subparagraph (A)  
15 the following:

16           “(B) NEW STARTS PROJECTS.—Approval  
17 of a full funding grant agreement for the new  
18 starts program under section 5309 of title 49  
19 shall constitute eligibility for selection in this  
20 subsection subject to confirmation of a prelimi-  
21 nary rating opinion letter in subparagraph  
22 (C).”

23 **SEC. 5. LINES OF CREDIT.**

24           Section 184 of title 23, United States Code, is  
25 amended—

1 (1) in subsection (a) by striking paragraph (2)  
2 and inserting the following:

3 “(2) USE OF PROCEEDS.—

4 “(A) The proceeds of a line of credit made  
5 available under this section shall be available to  
6 pay eligible project costs, including debt service  
7 on project obligations issued to finance eligible  
8 project costs, extraordinary repair and replace-  
9 ment costs, operation and maintenance ex-  
10 penses, and costs associated with unexpected  
11 Federal or State environmental restrictions.

12 “(B) For projects with an approved full  
13 funding grant agreement under section 5309 of  
14 title 49 and a non-Federal revenue share of at  
15 least 60 percent of the project cost, the pro-  
16 ceeds of a line of credit made available under  
17 this section shall be available to pay eligible  
18 project costs as defined in subparagraph (A)  
19 and to provide liquidity for a variable rate re-  
20 marketing program.”; and

21 (2) in subsection (b)—

22 (A) by striking paragraphs (3) and (4) and  
23 inserting the following:

24 “(3) DRAWS.—Any draw on the line of credit  
25 shall not represent a guarantee of debt payment, but

1 shall represent a direct loan and shall be made and  
2 repaid only under the terms, rate, and conditions as  
3 agreed to by the project sponsor and Secretary.

4 “(4) INTEREST RATE.—The interest rate on a  
5 direct loan resulting from a draw on the line of cred-  
6 it shall be not less than one of the following rates  
7 as selected by the obligor:

8 “(A) FIXED RATE.—The fixed rate shall  
9 be the yield on 30-year marketable United  
10 States Treasury securities as of the date on  
11 which the line of credit is obligated.

12 “(B) VARIABLE RATE.—The variable rate  
13 shall be the yield on a 30-day Treasury bill auc-  
14 tioned for the preceding 3-month period to be  
15 reset monthly on the first business day of each  
16 month.”;

17 (B) by striking paragraph (6) and insert-  
18 ing the following:

19 “(6) PERIOD OF AVAILABILITY.—

20 “(A) IN GENERAL.—Except as provided in  
21 subparagraph B, the line of credit shall be  
22 available during the period beginning on the  
23 date of substantial completion of the project, as  
24 determined by the project sponsor, and ending  
25 not later than 10 years after that date.

1           “(B) AVAILABILITY.—For projects with an  
2           approved full funding grant agreement under  
3           section 5309 of title 49, the line of credit shall  
4           be available during the period beginning on the  
5           date of approval of the full funding grant agree-  
6           ment and ending not later than 10 years after  
7           the date of substantial completion of the  
8           project.”; and

9           (C) by striking paragraph (9) and insert-  
10          ing the following:

11          “(9) FEES.—The Secretary may establish fees  
12          at a level sufficient to cover all or a portion of the  
13          costs to the Government in providing a line of credit  
14          under this section. Fees shall be waived for projects  
15          with an approved full funding grant agreement  
16          under section 5309 of title 49.”.

17 **SEC. 6. FUNDING.**

18          Section 188(a) of title 23 is amended by inserting  
19          “and section 5340 of title 49” after “this subchapter”.

20 **SEC. 7. ASSURANCE OF EXISTING FULL FUNDING GRANT**  
21 **AGREEMENT.**

22          Chapter 53 of title 49, United States Code, is amend-  
23          ed—

24          (1) by redesignating section 5339 as section  
25          5341; and

1           (2) by inserting after section 5338 the fol-  
2           lowing:

3   **“§ 5339. New starts full funding grant agreement au-**  
4                           **thorizations**

5           “(a) PURPOSE.—The purpose of this section is to en-  
6           sure that agreements made pursuant to section 5309(g)  
7           are honored in the annual appropriations process.

8           “(b) GENERAL AUTHORITY.—In conjunction with the  
9           report required each February under section 5309(o), the  
10          Secretary shall provide information in such report regard-  
11          ing the project readiness and the difference between the  
12          full funding grant agreement amount for a fiscal year and  
13          the amount appropriated in the same year for such  
14          project.

15          “(c) APPORTIONMENTS.—

16                 “(1) IN GENERAL.—Subject to section 5309,  
17                 each new starts project with a full funding grant  
18                 agreement shall be funded from amounts made  
19                 available from the capital program grants and loans  
20                 under section 5338(b) for each of fiscal years 2004  
21                 through 2009 to carry out such project in accord-  
22                 ance with the annual schedule contained in each  
23                 agreement.

24                 “(2) FULL FUNDING GRANT AGREEMENTS.—

1           “(A) EXISTING FULL FUNDING GRANT  
2 AGREEMENT PROJECTS.—The following is a list  
3 of existing projects with full funding grant  
4 agreements:

5           “(i) Atlanta-North Springs Extension.

6           “(ii) Baltimore-Central LRT Double  
7 Tracking.

8           “(iii) Boston-Piers-MOS-2 (So. Sta.  
9 to Wo. Tr.).

10          “(iv) Chicago-Douglas Branch Recon-  
11 struction.

12          “(v) Chicago-North Central Corridor  
13 Commuter Rail.

14          “(vi) Chicago-Metra Southwest Cor-  
15 ridor Commuter Rail.

16          “(vii) Chicago-Union-Pacific West  
17 Line Extension.

18          “(viii) Dallas-North Central LRT Ex-  
19 tension.

20          “(ix) Denver Southeast Corridor  
21 LRT.

22          “(x) Fort Lauderdale-Tri-Rail Com-  
23 muter Rail Upgrade.

24          “(xi) Los Angeles-North Hollywood.

1 “(xii) Memphis-Medical Center Exten-  
2 sion.

3 “(xiii) Minneapolis-Hiawatha Corridor  
4 LRT.

5 “(xiv) New Jersey Urban Core-Hud-  
6 son-Bergen LRT.

7 “(xv) Newark Rail Link (MOS-1).

8 “(xvi) New Orleans-Canal Street

9 “(xvii) Northern New Jersey-Hudson-  
10 Berger LRT MOS-2.

11 “(xviii) Pittsburgh-Stage II LRT Re-  
12 construction.

13 “(xix) Portland-Interstate MAX LRT  
14 Extension.

15 “(xx) Salt Lake City-CBD to Univer-  
16 sity LRT.

17 “(xxi) Salt Lake City-Medical Center.

18 “(xxii) San Diego-Mission Valley East  
19 LRT Extension.

20 “(xxiii) San Diego-Oceanside Escon-  
21 dido.

22 “(xxiv) San Francisco-BART Exten-  
23 sion to San Francisco Airport.

24 “(xxv) San Juan-Tren Urbano.

1 “(xxvi) St. Louis St. Clair MetroLink  
2 Extension [Phase IIa].

3 “(xxvii) Washington DC/MD-Largo  
4 Metrorail Extension.

5 “(B) FUTURE FULL FUNDING GRANT  
6 AGREEMENTS.—The provisions of paragraph  
7 (1) shall apply to all future full funding grant  
8 agreements approved by the Secretary of  
9 Transportation.

10 “(d) FAILURE TO COMPLY.—If the Secretary deter-  
11 mines that a project delay is the result of a cause other  
12 than a delay in receipt of funding per the full funding  
13 grant agreement payment schedule, this section shall not  
14 apply.”.

15 **“SEC. 5340. NEW STARTS PROJECT STABILITY LOAN PRO-**  
16 **GRAM.**

17 “(a) PURPOSE.—The purpose of this section is to en-  
18 sure that new starts projects with an approved full fund-  
19 ing grant agreement are held financially harmless in the  
20 event that the annual Federal appropriation falls short of  
21 the annual amounts identified in the full funding grant  
22 agreement payment schedule.

23 “(b) GENERAL AUTHORITY.—

24 “(1) IN GENERAL.—The Secretary of Transpor-  
25 tation shall make loans available to a new starts

1 project sponsor in an amount equal to the difference  
2 between the full funding grant agreement amount  
3 for a fiscal year, and the amount appropriated in the  
4 same year for such project if the amount appro-  
5 priated is lower than the full funding agreement  
6 amount for such year.

7 “(2) Except as provided in this paragraph, the  
8 secured loan shall be made in accordance with sec-  
9 tion 183 of title 23.

10 “(A) MAXIMUM AMOUNT.—The maximum  
11 amount of the secured loan available to a new  
12 starts project sponsor shall equal the amount of  
13 the difference between the full funding grant  
14 agreement amount for a fiscal year and the  
15 amount appropriated for a project in the same  
16 year if the amount appropriated is lower than  
17 the full funding agreement amount for such  
18 year.

19 “(B) PAYMENT.—The secured loan shall  
20 be repaid by the Federal Government through  
21 a subsequent appropriation from the new starts  
22 program as authorized in section 5338(b). Any  
23 interest expense paid shall not be assigned to a  
24 specific new starts project, and therefore, shall  
25 not result in any change to the full funding

1 grant agreement, schedule, or commitment  
2 under section 5309.

3 “(C) FEES.—No fees shall be established  
4 or charged for secured loans made subject to  
5 this section.

6 “(D) REPAYMENT.—

7 “(i) COMMENCEMENT.—Scheduled  
8 loan repayments of principal or interest on  
9 a secured loan under this section shall  
10 commence with the next available appro-  
11 priations of new starts funding for the  
12 project.

13 “(ii) SOURCES OF REPAYMENT OF  
14 FUNDS.—The source of funds for sched-  
15 uled loan repayments under this section  
16 shall be new starts funding as authorized  
17 under section 5338(b) of title 49 or other  
18 Federal funds as determined by the Sec-  
19 retary.

20 “(3) For purposes of calculating the threshold  
21 of 33 percent of the eligible project cost under sec-  
22 tion 184(b)(10) of title 23, any secured loans made  
23 pursuant to this section shall be excluded.”.

1 **SEC. 8. NEW STARTS AMENDMENTS.**

2 (a) GRANTS AS CONTRACTUAL OBLIGATIONS.—Sec-  
3 tion 5309 of title 49 is amended—

4 (1) in subsection (g)(1)(D) by inserting before  
5 the period the following: “or as made available for  
6 grant agreements under section 5339 and loans  
7 under section 5340”;

8 (2) in subsection (g)(2)(A)—

9 (A) in clause (iii) by striking “and” after  
10 the semicolon;

11 (B) in clause (iv) by striking the period  
12 and inserting a semicolon; and

13 (C) by adding at the end the following:

14 “(v) authorize a project sponsor as el-  
15 igible for a line of credit under subchapter  
16 II of chapter 1 of title 23; and

17 “(vi) provide the maximum amount of  
18 Government financial assistance for inter-  
19 est expenses incurred through a new starts  
20 project financial stability loan authorized  
21 under section 5340.”;

22 (3) by striking subsection (g)(2)(B) and insert-  
23 ing the following:

24 “(B)(i) An agreement under this para-  
25 graph obligates an amount of available budget  
26 authority specified in law and may include a

1           commitment, contingent on amounts to be spec-  
2           ified in law in advance for commitments under  
3           this paragraph, to obligate an additional  
4           amount from future available budget authority  
5           specified in law. The agreement shall state that  
6           the contingent commitment is not an obligation  
7           of the Government. Interest and other financing  
8           costs of efficiently carrying out a part of the  
9           project within a reasonable time are a cost of  
10          carrying out the project under a full funding  
11          grant agreement, except that eligible costs may  
12          not be more than the cost of the most favorable  
13          financing terms reasonably available for the  
14          project at the time of borrowing. The applicant  
15          shall certify, in a manner satisfactory to the  
16          Secretary of Transportation, that the applicant  
17          has shown reasonable diligence in seeking the  
18          most favorable financing terms. The amount  
19          stipulated in an agreement under this para-  
20          graph for a fixed guideway project shall be suf-  
21          ficient to complete at least an operable seg-  
22          ment.

23                   “(ii) An amount equal to the difference be-  
24                   tween the full funding grant agreement amount  
25                   for a fiscal year, and the amount appropriated

1 in the same year if the amount appropriated is  
2 lower than the full funding agreement amount  
3 for such year, may be loaned to the project  
4 sponsor through a new starts financial stability  
5 loan authorized under section 5340. Interest ex-  
6 penses associated with a new starts financial  
7 stability loan shall—

8 “(I) shall be funded from amounts  
9 made available under section 5338(b); and

10 “(II) not be assigned to a specific new  
11 starts project for purposes of full funding  
12 grant agreement calculations.”; and

13 (4) by striking subsection (k) and inserting the  
14 following:

15 “(k) LIMITATION ON MAKING LOANS AND GRANTS  
16 FOR PROJECTS.—Except as provided under subchapter II  
17 of chapter 1 of title 23, the Secretary of Transportation  
18 may not make a loan under this section for a project for  
19 which a grant (except a relocation payment grant) is made  
20 under this section. Notwithstanding the preceding sen-  
21 tence and subchapter II of chapter 1 of title 23, the Sec-  
22 retary may make a project grant under this section in a  
23 case in which real property for the project has been or  
24 shall be acquired through a loan under subsection (b) of  
25 this section.”.

1 **SEC. 9. FIXED GUIDEWAY PROJECTS.**

2 Section 5309(e) of title 49, United States Code, is  
3 amended by adding at the end the following:

4 “(9) PROHIBITION ON IMPOSITION OF OVERALL  
5 FUNDING LIMITS.—The Secretary may not impose  
6 an overall limitation on the amount of Government  
7 financial assistance that may be expended for—

8 “(A) alternatives analysis and preliminary  
9 engineering for a project under this subsection;

10 or

11 “(B) a full funding grant agreement for a  
12 project entered into under paragraph (7).”.

13 **SEC. 10. DEFINITIONS.**

14 Section 181 of title 23, United States Code, is  
15 amended—

16 (1) by redesignating paragraph (6) as para-  
17 graph (8);

18 (2) by redesignating paragraphs (3) through  
19 (5) as paragraphs (4) through (6), respectively;

20 (3) by inserting after paragraph (6), as redesi-  
21 gnated, the following:

22 “(7) LIQUIDITY.—The term ‘liquidity’ means  
23 an agreement by the Federal Government to provide  
24 a credit support instrument that will provide for the  
25 potential purchase of any variable or other short-  
26 term security issued in conjunction with the financ-

1       ing plan that cannot be remarketed or resold under  
2       the marketing or remarketing agreement signed by  
3       the project sponsor. Any such draw or use of the li-  
4       quidity shall then constitute a secured loan to be re-  
5       paid under terms consistent with this section and  
6       approved by the Secretary.”.

○