

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of Transportation to carry out a grant program to provide financial assistance for local rail line relocation projects.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LOTT (for himself and Mr. KERRY)

Viz:

1 On page _____, between lines _____ and _____, insert

2 the following:

3 **SEC. . CAPITAL GRANTS FOR RAIL LINE RELOCATION**
4 **PROJECTS.**

5 (a) ESTABLISHMENT OF PROGRAM.—

6 (1) PROGRAM REQUIREMENTS.—Chapter 201 of
7 title 49, United States Code, is amended by adding

1 at the end of subchapter II the following new sec-
2 tion:

3 **“§ 20154. Capital grants for rail line relocation**
4 **projects**

5 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
6 of Transportation shall carry out a grant program to pro-
7 vide financial assistance for local rail line relocation
8 projects.

9 “(b) ELIGIBILITY.—A State is eligible for a grant
10 under this section for any project for the improvement of
11 the route or structure of a rail line passing through a mu-
12 nicipality of the State that—

13 “(1) is carried out for the purpose of mitigating
14 the adverse effects of rail traffic on safety, motor ve-
15 hicle traffic flow, or economic development in the
16 municipality;

17 “(2) involves a lateral or vertical relocation of
18 any portion of the rail line within the municipality
19 to avoid a closing of a grade crossing or the con-
20 struction of a road underpass or overpass; and

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

23 “(c) COSTS-BENEFITS REQUIREMENT.—A grant may
24 be awarded under this section for a project for the reloca-
25 tion of a rail line only if the benefits of the project for

1 the period equal to the estimated economic life of the relo-
2 cated rail line exceed the costs of the project for that pe-
3 riod, as determined by the Secretary considering the fol-
4 lowing factors:

5 “(1) The effects of the rail line and the rail
6 traffic on motor vehicle and pedestrian traffic, safe-
7 ty, and area commerce if the rail line were not so
8 relocated.

9 “(2) The effects of the rail line, relocated as
10 proposed, on motor vehicle and pedestrian traffic,
11 safety, and area commerce.

12 “(3) The effects of the rail line, relocated as
13 proposed, on the freight and passenger rail oper-
14 ations on the rail line.

15 “(d) CONSIDERATIONS FOR APPROVAL OF GRANT
16 APPLICATIONS.—In addition to considering the relation-
17 ship of benefits to costs in determining whether to award
18 a grant to an eligible State under this section, the Sec-
19 retary shall consider the following factors:

20 “(1) The capability of the State to fund the rail
21 line relocation project without Federal grant fund-
22 ing.

23 “(2) The requirement and limitation relating to
24 allocation of grant funds provided in subsection (e).

1 “(3) Equitable treatment of the various regions
2 of the United States.

3 “(e) ALLOCATION REQUIREMENTS.—

4 “(1) GRANTS NOT GREATER THAN
5 \$20,000,000.—At least 50 percent of all grant funds
6 awarded under this section out of funds appro-
7 priated for a fiscal year shall be provided as grant
8 awards of not more than \$20,000,000 each.

9 “(2) LIMITATION PER PROJECT.—Not more
10 than 25 percent of the total amount available for
11 carrying out this section for a fiscal year may be
12 provided for any one project in that fiscal year.

13 “(f) FEDERAL SHARE.—The total amount of a grant
14 awarded under this section for a rail line relocation project
15 shall be 90 percent of the shared costs of the project, as
16 determined under subsection (g)(4).

17 “(g) STATE SHARE.—

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

21 “(2) FORMS OF CONTRIBUTIONS.—The share
22 required by paragraph (1) may be paid in cash or
23 in kind.

24 “(3) IN-KIND CONTRIBUTIONS.—The in-kind
25 contributions that are permitted to be counted under

1 paragraph (2) for a project for a State are as fol-
2 lows:

3 “(A) A contribution of real property or
4 tangible personal property (whether provided by
5 the State or a person for the State).

6 “(B) A contribution of the services of em-
7 ployees of the State, calculated on the basis of
8 costs incurred by the State for the pay and ben-
9 efits of the employees, but excluding overhead
10 and general administrative costs.

11 “(C) A payment of any costs that were in-
12 curred for the project before the filing of an ap-
13 plication for a grant for the project under this
14 section, and any in-kind contributions that were
15 made for the project before the filing of the ap-
16 plication, if and to the extent that the costs
17 were incurred or in-kind contributions were
18 made, as the case may be, to comply with a
19 provision of a statute required to be satisfied in
20 order to carry out the project.

21 “(4) COSTS NOT SHARED.—

22 “(A) IN GENERAL.—For the purposes of
23 subsection (f) and this subsection, the shared
24 costs of a project in a municipality do not in-
25 clude any cost that is defrayed with any funds

1 or in-kind contribution that a source other than
2 the municipality makes available for the use of
3 the municipality without imposing at least one
4 of the following conditions:

5 “(i) The condition that the munici-
6 pality use the funds or contribution only
7 for the project.

8 “(ii) The condition that the avail-
9 ability of the funds or contribution to the
10 municipality is contingent on the execution
11 of the project.

12 “(B) DETERMINATIONS OF THE SEC-
13 RETARY.—The Secretary shall determine the
14 amount of the costs, if any, that are not shared
15 costs under this paragraph and the total
16 amount of the shared costs. A determination of
17 the Secretary shall be final.

18 “(h) MULTISTATE AGREEMENTS TO COMBINE
19 AMOUNTS.—Two or more States (not including po-
20 litical subdivisions of States) may, pursuant to an
21 agreement entered into by the States, combine any
22 part of the amounts provided through grants for a
23 project under this section if—

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

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

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

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

8 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary for use
10 in carrying out this section \$350,000,000 for each of the
11 fiscal years 2004 through 2008.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of such chapter is amended
14 by adding at the end the following new item:

“20154. Capital grants for rail line relocation projects.”.

15 (b) REGULATIONS.—

16 (1) INTERIM REGULATIONS.—Not later than
17 October 1, 2003, the Secretary of Transportation
18 shall issue temporary regulations to implement the
19 grant program under section 20154 of title 49,
20 United States Code, as added by subsection (a).
21 Subchapter II of chapter 5 of title 5, United States
22 Code, shall not apply to the issuance of a temporary
23 regulation under this subsection or of any amend-
24 ment of such a temporary regulation.

1 (2) FINAL REGULATIONS.—Not later than April
2 1, 2004, the Secretary shall issue final regulations
3 implementing the program.