RAILROAD-SHIPPER TRANSPORTATION ADVISORY COUNCIL
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Position Paper

Section 45G Railroad Track Maintenance Credit and the Short Line Railroad Investment Act of 2007

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Section 45G Railroad Track Maintenance Credit

The Railroad-Shipper Transportation Advisory Council (RSTAC) is charged to provide a private sector forum for the discussion of matters of concern to small rail shippers and small railroads and to provide advice on regulatory, policy and legislative matters to the Surface Transportation Board (STB), Secretary of Transportation and Congress.

The continued survival and viability of America's short line and regional railroad network is one of the greatest areas of concern to small shippers and small railroads. Short line and regional railroads are predominately light density lines that connect communities and railroad customers to the national freight railroad network. Short line railroads operate in 49 states, and in 30 states they operate at least one quarter of the state's rail network. Over 550 short line railroads preserve nearly 50,000 miles of track serving 12,000 customer facilities. Without short line railroads the majority of this track would have been abandoned long ago and thousands of railroad customers would be disconnected from the national railroad network.

Much of the infrastructure acquired by short line railroads in the past three decades received little investment by previous owners and must now be upgraded if small shippers and rural America are to stay connected to the national railroad network. The upgrade is made more urgent as the demand for heavier rail cars has made the 286,000-pound car the industry standard. Private and government studies (1) indicate it will cost between $7 and $11 billion to upgrade the national short line system to ensure that communities and shippers can safely and efficiently receive freight by rail in the future.

Freight rail transportation is much more energy efficient than its main competing mode of transportation, the trucking industry. Short line railroads use approximately 184 million gallons of fuel to move 10.6 million carloads of freight annually. Trucks would require 540 million gallons to move the same freight. For example, if all freight shifted from short lines to trucks, the impact on the economy of additional diesel fuel costs would be $1.068 billion at $3 per gallon of diesel fuel. Short lines save shippers 20% to 50% over comparable truck transportation. Short lines take 30 million truckloads per year off the highway, saving $1.3 billion per year in highway damage costs. (2)

In recognition of these public benefits, in 2004 Congress enacted the Section 45G railroad track maintenance tax credit as part of the American Jobs Creation Act (Public Law No. 108-357). The House bill, HR 876, had 267 co-sponsors, more than any other substantive piece of Legislation in the 108th Congress, and enjoyed broad bi-partisan support, the support of shippers from across the nation and the support of rail labor organizations. The Section 45G credit provides a 50 percent tax credit for qualified railroad track maintenance expenditures made by railroads, and railroad customers, contractors, and suppliers. The maximum credit per year that may be earned from improvements to a railroad is capped at $3,500 per total railroad mile. The Section 45G credit encourages the support of railroad customers, contractors, and suppliers to preserve and maintain the short line railroad network including short line railroads owned by local and state government. Unless extended by Congress, the Section 45G tax credit will expire at the end of 2007.

Short Line Railroad Investment Act of 2007

As the original advocates for the creation of Section 45G, Senators Blanche Lincoln (D-AR) and Gordon Smith (R-OR), and Representatives Earl Pomeroy (D-ND), Dave Camp (R-MI), and Jerry Moran (R-KS) recognize the importance of small shippers and small railroads. In an effort to continue and improve upon the Section 45G credit, these Senators and Representatives have introduced S. 881 and H.R. 1584, the Short Line Railroad Investment Act of 2007.

This legislation seeks to extend the Section 45G credit for an additional three years through 2010, provide relief from the alternative minimum tax (AMT), allow short lines created in 2005 and 2006 to qualify for the credit, and increase the mileage based credit limitation from $3,500 to $4,500 per track mile.

Congress should take affirmative action to extend the Section 45G tax credit, so it will not expire at the end of 2007. Since small railroads must begin to plan their 2008 capital and maintenance budgets during 2007, Congress must extend this credit as early as possible in 2007 to avoid a reduction in rail improvements during 2008 and beyond.

In 2004, Congress estimated that the Section 45G tax credit would generate $501 million in tax credits. Therefore, improvements must be made to the legislation to ensure that this intended investment level can be achieved. The alternative minimum tax (AMT) has prevented many railroads from utilizing the investment incentive provided by Section 45G. By drastically reducing, or in many cases eliminating the ability to use the credit contemporaneously with qualified expenditures, the AMT has removed the economic incentive for many short lines to increase investment in track improvements. The Short Line Railroad Investment Act would reduce the impediment to investment caused by the AMT.

Over the past two and a half years, the Section 45G credit has assisted short line railroads and their shippers in making hundreds of millions of dollars in short line infrastructure investments. These investments have improved safety, efficiencies, and service offerings to all shippers. In recognition of the benefits provided to small shippers and small railroads by Section 45G, RSTAC commends Congress for the original enactment of the Section 45G credit. RSTAC urges the extension and improvement of the credit as called for in S. 881 and H.R. 1584 before Section 45G expires at the end of 2007.

(1) 286,000 needs study, Zeta-Tech, September 2002; Railroad Shipper Transportation Advisory Council, White Paper III, April 2000, based on 1999 survey by American Association of State Highway and Transportation Officials (AASHTO).

(2) Short Line Data Study, Texas Transportation Institute, 2003.