



Proposed Short Line Rail Maintenance Tax Credit Renewal Bills

H.R. 1584 and S. 881

Soy Transportation Coalition Briefing Paper

Prepared for the Soy Transportation Coalition and United Soybean Board by Market Solutions LLC

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Summary. Legislation being considered by the U.S. Congress would renew and increase the level of a rail track maintenance tax credit available to short line railroads that expires on December 31, 2007. The legislation would also protect the credit from the Alternative Minimum Tax (AMT) and make it available to short line railroads that have been created since the credit was originally adopted in 2004.

Introduction.

The Short Line Railroad Investment Act of 2007 would amend Section 45G of the U.S. Internal Revenue Code to increase and extend the tax credit for Class II and III railroads for expenditures on railroad track maintenance.

The Senate bill (S.881) sponsored by Sen. Blanche Lincoln (AR) was introduced on March 14, 2007 and has 34 cosponsors as of late September. It has been referred to the Senate Finance Committee. The House bill, H.R. 1584, sponsored by Rep. Earl Pomeroy (ND), was introduced on March 20, 2007 and has 183 cosponsors. It has been referred to the House Ways and Means Committee. No hearings have yet been scheduled.

Major Points of the Bills

Legislation adopted by the 108th Congress in 2004 provides that Class II and III railroads may receive a tax credit of 50 percent of the cost of maintenance of roadbed, bridges and related track structures up to a ceiling of \$3,500 per mile per year per railroad. This legislation expires on December 31, 2007. Regional and Short Line railroads eligible for the credit have annual operating revenues of less than \$320 million, often referred to collectively as "Short lines."

S. 881/H.R.1584 would extend the credit through the tax year ending on December 31, 2010, and increase the ceiling to \$4,500 per mile. It would also allow the tax credit to be used against alternative minimum tax liabilities and expand the credit to cover railroad track owned or leased as of January 1, 2007,

Since its enactment railroad track maintenance tax credit supporters report that hundreds of short line railroads have increased the volume and rate of track rehabilitation and improvements. They argue that that extension and expansion of the credit is necessary to ensure continued investment in track maintenance.

The original credit was available to short lines created before January 1, 2005. Since that time, 20 new railroads have been created. H.R. 1584/S. 881 extends the credit to railroads created during 2005 and 2006.

Supporters argue that increased infrastructure investment stimulated by the original tax credit contributed to some price increases for the materials, and that major increases in world steel prices have increased the costs of maintenance. To offset these increased costs, the bills increase the mileage based credit limitation to \$4,500 per mile each year.

The American Short Line and Regional Railroad Association (ASLRRA) estimates that as much as one-third of the tax credit claimed by short line railroads is lost to the Alternative Minimum Tax (AMT). As a result of the AMT many railroads are unable to use the credit in the same year as the qualified expenditures and have to carry their tax credits forward. The argument is that this reduces the credit's value as an incentive. In order to address this problem and ensure that the tax credit fulfills its goal of providing incentives for track rehabilitation, H.R. 1584/S. 881 allow the credit to be used against alternative minimum tax liabilities.

Some Considerations for Soybean Producers

In making the case for the proposed legislation, the American Short Line and Regional Railroad Association (ASLRRA) states that:

“In 2001 the most conservative studies estimated the need for \$7 billion in track improvements to overcome the dilemma facing light density railroads coping with the demand for increased rail car weights. Since the enactment of Section 45G, hundreds of short line railroads rapidly increased the volume and rate of track rehabilitation and improvement programs. For example, the replacement of railroad ties, one of the critical components of handling heavier cars, has increased by half a million ties per year in both 2005 and 2006 as a result of the credit.

“By preserving rail infrastructure, Section 45G improves customer service to 12,000 short line-served employers and their 1 million employees. Short line railroads have grown from 8,000 miles in 1980 to almost 50,000 miles today, as large railroads have shed less profitable lines. Without short lines, hundreds of communities would be without rail service. In 2004, short lines used 184 million gallons of diesel to move 10.6 million carloads of freight. Trucks would have required 540 million gallons to move the same freight. Short line railroads save \$1.3 billion per year in highway damage costs, and short lines are on average 20% to 50% cheaper than truck transportation, especially for grains and other bulk commodities. The continued existence of short line railroads removes over 30 million truckloads per year from the nation's highways.”

The group cites numerous grain and oilseed shippers testifying to the importance of short line railroads to their businesses. They also provide a number of examples of investments in track improvements and maintenance that might not have been as economically attractive in the absence of the credit.

Short line railroads play an important role in providing services to agricultural shippers and rural areas. One source estimates that one-third of grain and oilseeds travel on short line railroads at some point in their trip to market. Some of those railroads report that the tax credit has

enabled them to make investments in track improvements to handle heavier grain cars and other freight. On the face of it, this would seem to be a program that offers some important benefits to agriculture and rural America. The critical issue for soybean producers is to have some understanding of how large the benefit to agriculture and rural areas is likely to be compared to the likely cost, which based on assumptions used to score the original bill in 2004, is likely to be on the order of \$650 million.

All tax credits have to be paid for by either reducing other public expenditures or increasing tax revenues. The original tax credit was among a variety of business incentives adopted by Congress in 2004 as part of a bill to comply with international obligations related to treatment of exporter earnings (PL108-357). Total cost of the business tax incentives over 2005-09 was estimated at \$10.8 billion by the Congressional Budget Office (CBO). The estimated cost of the short line railroad tax credit was \$501 million of this, based on the assumption that the \$3,500 per mile credit was used on nearly all of the 50,000 miles of track operated by the nation's short line railroads. The ASLRRRA suggests that this overestimated the actual cost because one third of the credit is carried over because of the AMT. Since the proposed bills eliminate the AMT impact and expand coverage and reimbursement rates, a \$650 million cost estimate may be on target.

As part of the STC analysis agenda, a look at the importance of short lines for agriculture and rural areas, and for shipping soybeans and products compared to other uses can help to put costs and benefits this tax credit in perspective.



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Bill Sponsors and Cosponsors as of September, 2007

H.R. 1584

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