Statement of

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This written testimony is being submitted to the Senate Finance Committee’s Cost Recovery Task Force in connection with its consideration of extending the short line railroad rehabilitation tax credit known as 4G. My name is Chuck Baker and I am President of the American Short Line and Regional Railroad Association (ASLRRA), the national trade association representing the nation’s 603 Class II and Class III railroads (referred to here collectively as “short lines”). These railroads operate in 49 states over nearly 55,000 miles of track, or about one third of the nation’s railroad network. In the six states represented by the Members of this Task Force short lines are an integral part of your freight transportation networks. In Oregon short lines operate 54% of the total track miles; in Iowa they operate 49%; Idaho 39%; Indiana 37%; Maryland 25%; and Nevada 13%.

The Short Line Tax Credit was first enacted in 2004 and has been extended six times through 2017. Each time, stand-alone legislation to extend the credit has been one of the most heavily co-sponsored and bipartisan pieces of legislation introduced in that Session of Congress. In the last Session the extension legislation was the most heavily co-sponsored federal tax bill in the Senate. In this Session of Congress, S.203, legislation to make the credit permanent sponsored by Senator Crapo and Senator Wyden, has already garnered 45 Senate co-sponsors (21 Republicans, 23 Democrats and one Independent).

[Attachment 1]

The Short Line Railroad Tax Credit is Justified and it Works

This Credit was enacted to help short line railroads address three issues that severely jeopardized their ability to continue rail service in areas of the country no longer served by the Class I railroads.

- Eliminating long deferred rehabilitation on under-maintained Class I branch lines that were headed for abandonment
- Making short line track and bridges capable of handling the heavier 286,000-pound rail cars that were becoming the new industry standard
- Reducing track related derailments both to improve safety and give shippers the confidence to keep moving freight traffic on short line rail track

The Short Line Tax Credit is a simple and direct way for short lines to spend more of what they earn rehabilitating track and bridges to meet these three objectives. Because their task was to bring back to life previously under-maintained Class I branch lines that were headed for abandonment, and because virtually none of these branch lines were 286,000 pound capable, short lines have invested on average from 25 to 33 percent of their annual revenues back into their railroads, making them one of the most capital intensive industries in the country. At the same time, due to the relatively short distances involved in most short line routes, revenues are limited making it very difficult to maintain that level of investment.

To this end the credit has allowed short lines to spend an additional $2.1 billion of earned revenues on track and bridge rehabilitation. It is a critical part of how these small businesses can meet critical capital investment needs still have enough to keep the lights on and meet payrolls. This spending has helped short lines eliminate a decent amount of the deferred maintenance they inherited when they purchased the lines and significantly reduced the number of train accidents.
The credit’s unique structure maximizes capital investment in two ways:

1. It requires the railroad to spend two dollars for every dollar in credit, up to a credit cap equivalent to $3,500/track mile. Short lines must invest significant amounts to earn the credit.
2. The ability to assign eligible tax credit miles to a shipper or another railroad that can use the resulting tax credit allows smaller railroads with insufficient cash flow to fund expensive rehabilitation that would otherwise be out of reach.

Here are two compelling data points that show the credit works. For decades the Railway Tie Association has kept comprehensive statistics on railroad tie purchases. RTA estimates that the 45G credit results in an average increase of 800,000 short line tie purchases beyond their normalized annual purchases. This data is discussed in more detail in the PwC study that we have included in our submitted materials.

Another measure of improved short line railroad infrastructure supported by the 45G credit is improved safety performance. Since enactment of the credit in 2045, train accidents on short line railroads have declined by more than 50 percent, from a rate of 6.84 per million train miles in 2004 to 3.18 in 2017. Short line safety performance is now approaching that of the larger Class I railroads and has improved at a faster rate than Class I railroads over the life of the 45G credit. [Attachment 2 and 3]

The Short Line Tax Credit works because it maximizes private investment in railroad infrastructure, and it is also the most efficient way for the railroad to allocate scarce capital resources. While federal and state grants can be helpful, they require a lengthy and complex application process and because of limited government resources can only benefit a few projects a year. 45G allows every railroad to address their most important needs by spending their own dollars to recoup another portion of their own revenue to spend on projects. Because it is the short line’s capital it will be spent where it will produce the greatest economic benefit.

45G is broadly supported

The ultimate beneficiaries of short line rehabilitation are the thousands of rail shippers that require short lines to remain connected to the national railroad network, and they have come out in force to publicly support extending the credit. In your states companies such as Simpson Lumber Company in
Idaho, Lehigh Cement Company in Maryland, Indianapolis Power and Light in Indiana, Certified DEF in Nevada, ADM in Iowa, and Seneca Sawmill in Oregon are among the thousands of shippers that have actively supported the credit.

Maintaining rail service is particularly important for rural and small-town America where the large Class I carriers no longer operate. That is why the American Farm Bureau Federation has strongly endorsed the credit’s extension and why so many economic development officials in those areas have testified to the importance of maintaining adequate and reliable short line rail service. The need to maintain balanced freight transportation, and all the environmental and infrastructure benefits of putting freight on the typically privately-owned freight railroads versus the public roadway network, is why the American Association of State Highway and Transportation Officials called for making the Short Line Tax Credit permanent. The critical linkage short lines provide in the logistics of import/export commerce led the American Association of Port Authorities to also call for making the Credit permanent.

The credit’s broad support is evident in the large number of House and Senate co-sponsors of stand-alone legislation that would make the credit permanent. The provision has been extended six times as part of the extenders package, and each time the stand-alone legislation has been one of the most heavily co-sponsored bills of the Session, always garnering a bi-partisan majority in both House and Senate. In the last Session of Congress, the extension legislation was the most heavily co-sponsored federal tax bill in the Senate. In this Session of Congress, S.203 has garnered 45 Senate co-sponsors (21 Republicans, 23 Democrats and one Independent) and an identical companion bill in the House (H.R. 510) has garnered 214 co-sponsors (108 Democrats and 106 Republicans). [As of June 5, 2019]

**This Credit Was Not Addressed in TCJA**

Failure to include 45G in the 2017 tax reform legislation was not a failure on the merits, but the result of a difficult and complex legislative process. At some point in the process the powers the decision was reached that none of the then existing tax extenders would be included in the final bill.

Notwithstanding that result the House Ways and Means Committee held extensive hearings last year on all these extenders to determine which should be made permanent, which should be phased out, and which should be eliminated. Their conclusion was that one and only one – the short line tax credit – should be made permanent. While we understand the Senate must come to its own conclusion on this subject, this conclusion is consistent with the Crapo/Wyden S.203 bill which calls for making the credit permanent and which has 43 co-sponsors.

Last year the ASLRA engaged PricewaterhouseCoopers (PwC) to take an independent look at the 45G tax credit and the economic contribution of the short line industry. The report determined that the 45G credit is a much more powerful incentive at the margin than the two main investment incentives provided in the TCJA – the lower corporate tax rate and full expensing for equipment. The combination of these two incentives reduces the user cost of capital by 1.2 percent for short lines, which is associated with a 0.9 percent increase in investment, while according to the PwC analysis, 45G reduces the user cost of capital by 63 percent which is associated with a 47.3 percent increase in investment for investments up to the amount needed to receive the full credit.

**The Short Line Tax Credit is Critically Important to the Nation’s Economy**

As described in the PwC report:
The short line industry directly provided 17,000 jobs annually, paying labor income of $1.1 billion and adding $2.2 billion to the nation’s GDP;

Operational spending by the industry supported 33,730 indirect and induced jobs and capital spending supported another 10,240 jobs;

Across the US economy .51 percent of business inputs rely on transportation services provided by short lines, amounting to 478,820 jobs, $26.1 billion in labor income and $56.2 billion in value added.

I would not pretend that short line railroads are the largest or the most important part of the nation’s transportation network. Our importance is not our size but who and where we serve. For large areas of the country, particularly rural and small-town America, short lines are the only connection for shippers to the national railroad network. The importance of that connection is why shippers and local communities fight so hard to avoid rail line abandonment in their towns.

When we first began work on this legislative effort in the early 2000’s we were privileged to have Senator Crapo visit the Eastern Idaho Railroad where he toured a track rehabilitation project and talked with the railroad’s shippers. One of those shippers, Amalgamated Sugar, made a point that Senator Crapo has repeatedly told us made an impression on him. Amalgamated Sugar is a huge company that ships their product to every corner of the country. They depend on Class I railroads to reach their markets thousands of miles away. But they can’t reach the Class I without short line railroad service to get them there. That story can be repeated in thousands of communities across the country and is what makes small railroads so important to the big picture.

Preserving short line connections to local communities is not just a matter of service but a matter of economics. In testimony our Association Chair Judy Petry presented last year to the House Ways & Means Committee, she noted that on her railroad, Farmrail, the cost of moving the 95 miles from Clinton to Enid, Oklahoma is $2.24 per mile versus $3.75 per mile for comparable truck service. You multiply that by the over 10,000 short line shippers traveling over 50,000 miles of short line track and you are starting to talk about real money.

The 45G credit maximizes short line investment in its infrastructure, but it also leverages additional investment and job creation by shippers because the promise of faster more competitively priced service gives shippers an incentive to invest in new on-line facilities. In South Dakota, for example, the improvements made by the 670-mile Rapid City, Pierre & Eastern (RCP&E) since it began operations in 2014 has attracted over $311 million in new facility investments by six South Dakota companies, creating over 270 new industrial and agricultural sector jobs. For years, shippers would not invest in facilities along the RCP&E’s line because of unreliable service and an uncertain future. The 45G credit helped fund the improvements that changed that reality, restored shipper confidence and became a catalyst for new industrial development. This result has been replicated on short lines across the country. In that regard I commend to your attention the attached article by South Dakota Governor Dennis Daugaard on the importance of this investment. [Attachment 4]

Bottom line: Our Customers and Transportation Partners support 45G. [Attachments 5, 6, 7, 8, 9, and 10]
Short lines still have work to do

Short lines have made significant progress in rehabilitating their lines. In particular we have used much of the tax credit installing tens of millions of ties to stabilize our most vulnerable track which has allowed for faster speeds and a greatly reduced risk of derailment. New ties will last up to 40 years, so it has been an important investment for long term success.

But making track and bridges 286,000 pound capable remains a hugely expensive challenge. Lacking the ability to interchange the longer heavier trains increasingly utilized by the Class I’s effectively cuts off our shippers from the national network. Moving these trains requires much heavier rail which is very expensive to buy and install. Moreover, a short line is only 286-capable when the entire line is 286-capable. A 50-mile line that can handle 286 cars for the first 40 miles but not the last 10 is not 286-capable. You cannot set up a detour on a rail line.

Short lines serve mostly small customers who ship light volumes so earning additional revenue for capital investment will always be a challenge. The 4G credit allows us to stretch the revenue we do earn much further than would otherwise be the case. It is an important and effective tool in making the national railroad network whole.

For 12 years the Short Line Tax Credit has proven its worth. It has maximized capital investment by both railroads and customers, it has significantly improved competitive rail service for shippers, it has helped improve railroad safety and it has been the difference between piecemeal and corridor improvements. It has worked as intended and when you find something that works, the best thing to do is let it work.

[Attachments 11, 12, 13 and 14]

Supporting documentation

For your information I am providing you the following information which will supplement the points I have made.

S. 203/H.R. 510 Co-sponsor lists (1)
PwC Report one-page summary (2)
Full PwC report (3)
South Dakota Governor Daugaard article (4)
Endorsements
  Save our Service (5)
  Rail Shipper Transportation Advisory Council (6)
  American Association of Ports Authorities (7)
  Farm Bureau (8)
  UTU-SMART (9)
  AASHTO Standing Committee on Rail Transportation (10)
S. 203/H.R. 51 White Paper (11)
House March 2018 testimony (12)
House March 2019 testimony (13)
Before and After Pictures (14)