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Senate Commerce Committee, Transportation and Safety Subcommittee

Hearing:
Connecting America: Examining Intermodal Connections Across Our Surface Transportation Network

Thank you Chairwoman Fischer, Ranking Member Duckworth and Members of the Subcommittee. 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"). I appreciate the opportunity to talk about the role short line railroads play in the national transportation network.

Together, short line railroads operate nearly 50,000 miles of track, or approximately 30 percent of the national railroad network. They operate in 49 states and in 36 of those states they operate at least one quarter of the state's total rail network. In five states, short lines operate 100% of the state's rail network. In the states represented by this Subcommittee's Members, there are 207 short lines operating over 20,000 track miles. Short lines are often called the first mile/last mile of the nation's railroad system and handle in origination or destination one out of every five rail cars moving on the national system.

Although short lines are most often associated with small town and rural America, they also serve large urban areas and many of the nation's ports. Indeed, short line railroads provide rail service into three of the nation's busiest ports – Miami, Los Angeles and Long Beach. Likewise various short line railroads operate as neutral switch carriers for multiple Class I railroads in Chicago, New Orleans and St. Louis. The nation's short lines are much more than a quaint name on the Monopoly Board.

The name "short line" can create the mistaken impression that all of these railroads are very short rail lines. The fact is we come in all sizes. The Peru Industrial Railroad in Senator Duckworth's state of Illinois is 3 miles long. The Nebraska Central Railroad in Senator Fischer's state is 340 miles long. Pan Am Railways, headquartered in Senator Markey's state of Massachusetts, is the nation's longest short line, operating approximately 1,700 route miles, and provides crucial rail service in much of New England. Our common denominator is that we operate track that would not be viable under the structure of the larger national Class 1 railroads.

Short lines have four defining characteristics.

1. <u>Short lines are small businesses</u>. Our combined annual revenues are less than the annual revenues of any single one of the nation's four largest Class I railroads. The average short line employs 30 people or less, and a significant number are run with less than a dozen employees. Like all small businesses, we are forced to do more with less.

2. <u>Our importance is not our size or our total market share, but in who and where we serve</u>. For large areas of the country and particularly for small town and rural America, short line railroad service is the only connection to the national railroad network. For the businesses and farmers in those areas, our ability to take a 25-car train 75 miles to the nearest Class I interchange is just

as important as the Class I's ability to attach that block of traffic to a 100-car train and move it across the country. While Midwestern grain shippers could not complete the journey to poultry farm markets in the southeastern United States without Class I railroad service, they could not start or end the journey without short line service.

Short lines serve over 10,000 shippers nationwide and we find those shippers quite willing to testify to the importance of this first mile/last mile service. I have included at the end of my testimony a list of quotes from short line customers. We have selected a wide variety from across the country to give you a sense of the important relationship between shippers and their short lines. In general, they sound like this: *"Our serving short line railroad is truly a partner for our paper mill. The services provided, including freight haul in and out, daily switches, and rail car maintenance help us keep our mill running successfully day in and day out. It is critical to the 400 plus people employed here that our short line railroad be able to continue to operate successfully."*

3. The majority of short lines operate track that was headed for abandonment under previous Class I owners. These were light density branch lines that could not generate enough profit under the cost structure of the big national carriers. Because these were marginal or money losing lines they received little investment prior to their sale, resulting in significant deferred maintenance. To be successful, short line owners must not only eliminate that deferred maintenance but upgrade their tracks to handle the heavier, longer trains that are becoming the national standard. To do that, short lines invest on average from 25 to 33 percent of their annual revenues in rehabilitating their infrastructure and this makes short line railroading one of the most capital intensive industries in the country. To provide some dollar perspective, to rehabilitate one mile of typical 90-pound track up to the 115-pound rail needed to handle today's modern railcars costs between $400,000 and $500,000, and we need to do that across much of a 50,000 mile network.

   Likewise a single bridge replacement is a multi-million dollar project. We estimate the total short line cost for what needs to be done just for track and bridges is $10.8 billion.

4. Without upgrades to short line tracks and bridges, customers served by short lines face potential competitive disadvantages. If a short line is not able to handle an industry-standard, heavier-weight freight car, they must ship or receive rail shipments in smaller rail cars. This will become a more pronounced problem with time, as the older, smaller freight cars used in the national railroad fleets reach their mandatory retirement age and become unavailable. At that point shippers will either have to use the newer, more expensive freight cars and light load them, or divert their shipments to trucks.

Before I discuss the various infrastructure and safety programs under the jurisdiction of the Commerce Committee, let me emphasize that the most important and effective infrastructure program for the short line industry is the **Short Line Railroad Rehabilitation Tax Credit**, sometimes known by its US Code section number **45G**. Congress enacted the credit in 2004 and has renewed it six times through 2017. In the 115th Congress a bi-partisan majority in both the House and Senate co-sponsored legislation to make the credit permanent. In the Senate it was the most heavily co-sponsored bill of all the tax bills introduced in that Session of Congress. Unfortunately that legislation, along with the other tax extenders, didn't pass Congress in 2018 or as of yet in 2019. However, new House and Senate bills, H.R.510 and S.203, have been introduced in this session of Congress and have already attracted 21 co-sponsors in the Senate and 116 in the House.

While I know there are deep partisan divisions on tax issues I believe the short line rehabilitation tax credit has characteristics that are widely supported by both political parties and by most economists, and that is evidenced by the bipartisan support of both bills.

The credit maximizes private investment in important transportation infrastructure. The railroad must spend two dollars for every dollar in credit up to a credit cap equivalent to $3,500 per mile of track. The government is not giving these small businesses a dollar, but rather letting them invest more of their own money in capital improvements. Since 2005 the credit has leveraged over $4 billion in capital projects. This additional spending power allows short lines to speed up projects that are in the works and take on new projects that would otherwise be unaffordable.

Investing in better track leverages significant additional investment by railroad customers. For example, in South Dakota the improvements made by the 670 mile Rapid City, Pierre & Eastern Railroad since it began operations in 2015 has already attracted over $311 million in new facility investments by 6 South Dakota companies. Those facilities employ 260 workers. This result is being duplicated in the 49 states that are served by short line railroads.

Railroads are an **all-American** proposition. They can't take their operations or their jobs overseas. Virtually everything they buy for infrastructure improvement – the ties, the steel rail, the ballast, the locomotives and the freight cars – are made in America. The Railway Tie Association reports that the 45G credit has resulted in short line **tie purchases** of between 500,000 and one million over and above their normalized annual purchases.

Railroad rehabilitation is a **labor intensive** effort. As small businesses most short lines do not have the necessary in-house labor force or specialized equipment to complete major rehabilitation projects so they must hire contractors and lease heavy machinery for the majority of the work. The Federal Railroad Administration estimates that half of every dollar spent on short line track rehabilitation goes to pay workers.

We know and appreciate that many of you agree. The majority of this Subcommittee serving in the last Congress were co-sponsors of the legislation extending the credit. Likewise full Committee Chairman Wicker and Ranking Member Cantwell were co-sponsors. We look forward to newly elected Senator Scott of Florida joining as a co-sponsor in 2019.

I know that tax legislation is not the purview of this Committee but as the Committee that is the most knowledgeable when it comes to railroad infrastructure matters, I urge you to take our tax credit message to your Senate colleagues whenever and however the subject of transportation infrastructure is addressed in this Congress, and to address **tax extenders** expeditiously.

With regard to that which is directly in this Committee's jurisdiction, let me comment on a number of specific programs and conclude with some thoughts on infrastructure programs in general.

We strongly support the **CRISI** program as it specifically provides for short line eligibility and puts a focus on benefit-cost analysis. We think with that level playing field, short line projects will fare well. Further it includes a special category for Railroad Safety Technology Grants which can potentially be very helpful as we work to implement and pay for the Positive Train Control mandate. We are pleased that Congress has provided a robust $255 million for CRISI in FY 2019 and we hope that at least that level continues in the future. We believe CRISI can be an important and effective program that you should incorporate into whatever transportation infrastructure legislation you are able to advance.

We strongly support the **BUILD** grant program and are likewise pleased with the $900m in FY19 funding provided for this program. While the benefit-cost analysis hurdles are steep for short lines operating in rural areas and serving relatively small shippers, short lines have succeeded in securing numerous grants over the life of the program. The application process is extraordinarily time consuming and the competition is fierce for these grants, but year after year many short lines are willing to go through the process and in general we have found that short line projects stack up pretty well against projects from other modes when measured on any sort of apples-to-apples basis.

We are also supportive of the **INFRA** grant program. There is value in a merit-based discretionary grant program open to multiple modes of transportation, especially one that is focused on freight and goods movement. While the main category of INFRA is targeted at mega projects that exceed the size of most short line work, the small project portion of the program is of value to us. We would be supportive of a significant expansion of INFRA in a new infrastructure package, but would suggest an expanded small project component and also a removal of the arbitrary and counterproductive limit on how much of the program can be spent on non-highway projects, especially in a scenario where the program is not being 100% funded by a highway use fee. As the committee knows, as evidenced by this very hearing, the national transportation system is multi-modal and intermodal in nature, so stove-piping of major programs for one transportation mode should be avoided if at all possible, especially if the funding is not entirely provided by users of one mode.

Similarly, we are supportive of the **state freight program** included in the FAST Act, and similarly we would support an expansion of this program in the next surface transportation reauthorization bill with a removal of counterproductive limits on how much of the program can be spent on rail, port, and other non-highway projects.

Many of you are likely familiar with the **RRIF** loan program and the many efforts by Congress and both Republican and Democratic Administrations over the years to improve the program – efforts that have met with limited success. I will not repeat all that history here, but I do want to caution the Committee with regard to RRIF's potential to address short line infrastructure issues. The RRIF program is just an authorization for $35 billion in loan authority. It is not contract authority or authority for an appropriation, it is just a loan that needs to be paid back. In the 20 year history of the program only $5.3 billion in loans have been approved and the vast majority of that has gone to Amtrak and public transit agencies. It typically takes over two years to get a single loan approved and the cost of processing is extraordinarily high.

RRIF loans are not going to be the solution for any meaningful number of short line rail rehabilitation projects and we hope that Congress will not use the large loan authority number to "check the short line box" as it puts together an infrastructure or surface transportation reauthorization package.

While there appears to be general agreement that Congress should enact a significant infrastructure funding package, the specifics are still to be determined. As you consider how to proceed we believe there are **six general provisions that will be important for short line participation in any major grant program**:

1) Short lines should be **directly eligible** applicants for project grants, similar to CRISI. Too often in the past, federal programs have been only open for application to local units of government, which in turn requires short lines to create unnecessarily complex and burdensome applicant structures and which sometimes favors politically popular projects over economically beneficial projects.

2) The application process needs to be as **simple and transparent** as possible. Short lines are small businesses and generally the individuals writing and engaging with the government on our applications are employees with other duties on the railroad. We don't have full time grant writers or the resources to hire expensive consulting firms.

3) The analysis used to judge a project should **not be a rigid one-size-fits-all** process. For example, the process to apply, the public planning and the engineering required, and the appropriate benefit-cost analysis format for incrementally upgrading a ten-mile segment of existing track serving five small grain elevators should not be the same as building a new subway line or adding lanes to an interstate highway.

4) If there is to be an associated **environmental approval** process, it has to be completed in a reasonable period of time. Approval processes that last for years are a deal-killer to those running a business.

5) Giving preference to grant requests with **"over-matching"** may appear logical, but can lead to discounting otherwise important short line projects that from a financial standpoint cannot provide an overmatch of non-federal funding.

6) Imposing limits on a **state DOT's number of grant submissions** allowed in a round of a program forces pre-application competition between smaller short line projects and other larger projects, often putting the smaller short line project at a disadvantage.

Whether it be in the form of a free-standing infrastructure package or the reauthorization of the FAST Act, infrastructure legislation that this committee advances will be a target vehicle for those who want to increase **truck size and weight**. Short lines are part of a broad coalition of interests, including safety advocates, law enforcement officials, rail labor, truck labor, independent truckers, Class I railroads, and even some truckload carriers, who oppose bigger and heavier trucks. Bigger trucks mean diversion from rail to truck and thus more expensive damage to our highways and bridges, more highway congestion, more environmental damage, and more danger for the motoring public . The biggest hurdle to enacting new infrastructure funding legislation is finding the funding. Including a provision that guarantees higher infrastructure repair costs makes the hurdle all the more difficult to overcome and that just doesn't make sense.

On many occasions, those who support bigger trucks have attempted to make that change through the appropriations process. We hope that any consideration of bigger trucks will be tied to a full vetting by the appropriate authorizing committee and include a full understanding of the diversion from rail to highway, the true infrastructure cost of accommodating larger trucks, and the safety implications of such a change.

As you know the **Surface Transportation Board (STB)** now has three Board Members and may have a full complement of five sooner rather than later and as such will likely be taking up many substantive issues. The Board's decisions have a significant impact on the short line industry, particularly on regulatory matters related to the Staggers Act. In many respects the short line industry is the child of the economic freedoms and regulatory flexibility embodied in the Staggers Act of 1980, allowing railroads to save light density branch lines rather than abandoning them. The results are quite remarkable. Short lines have grown from 8,000 miles of track in 1980 to nearly 50,000 today, insuring that huge areas of rural and small town America stay connected to the national railroad network. The STB has played an important role in that outcome and we urge the Committee to pay careful attention to their deliberations and decisions.

Finally, let me briefly address the subject of **government regulation** which has a direct impact on our ability to maximize capital investment. The short line railroad industry is awash in unnecessary and expensive regulations that divert precious investment dollars from infrastructure improvements that are the best way to improve safety. Most damaging for short lines are the kind of one-size-fits-all regulations that provide no basis for the presumed benefits and that don't take into consideration our unique operating characteristics. Two stand out in particular:

1) The **Part 243 minimum training standards rules** pursuant to the Rail Safety Improvement Act of 2008 impose a huge paperwork requirement on top of what are already substantial training and qualification requirements. The rules add a federal requirement about how to train our employees to meet other already existing federal requirements, and are attempting to fix a non-existent problem. Congress should repeal this rule or at the very least require the Federal Railroad Administration (FRA) to retract this rule and revise it in a much simpler fashion.

2) **Mandatory two-person crews** are also an attempt to impose a solution on a non-existent problem. There is absolutely no evidence of a safety benefit generated by a second crew member. It is particularly ironic that as the government is spending billions of dollars to facilitate the move to driverless vehicles on the complex open architecture of the highway system, it is considering making the railroads do just the opposite on the simpler closed architecture of the railroad system.

We believe that every dollar spent on these kind of excessive regulatory requirements is a dollar that could be better spent on improving track, rebuilding bridges or adopting new technologies. Those are the dollars that do the most to improve safety and make transportation costs as competitive as possible for the nation's shippers.

I know this Committee does not write these rules but you have jurisdiction over the FRA which does and I urge you be continually vigilant in your oversight of their work. Chairwoman Fischer introduced an FRA regulatory reform bill in the last session of Congress and we would be eager to work with this Committee on an updated version of such legislation for inclusion in an infrastructure or surface transportation reauthorization bill.

Over the years this Committee has been diligent in exploring and understanding what makes for an efficient, seamless multi-modal transportation network that better connects communities and businesses across the country. Connecting communities, particularly rural, industrial, and agricultural communities, to the national rail network and domestic and international markets is exactly what short lines do every day, and we very much appreciate the Committee's willingness to consider our suggestions regarding how to improve our ability to do that important work.

I'll be more than happy to answer any questions. Thank you.

Short Line Railroad Customers Talk about Short Line Service

Dana Shellberg, of Allweather Wood LLC, in Loveland, CO
A customer of the Great Western Railway of Colorado
"Without the Great Western Railway of Colorado we would have to truck all our lumber in from Oregon, Washington, Alabama, and Arkansas. This would not allow us to stay competitive in the lumber market."

Robert Glezen, of Mont Eagle Mills, Inc., in Oblong and Palestine, IL
A customer of the Indiana Rail Road
"Short line railroads are an increasingly important piece of our nation's infrastructure. Our business depends upon the Indiana Rail Road to serve the agricultural base of southeastern Illinois."

David Doti, of Jadcore, LLC, in Terra Haute, IN
A customer of the Indiana Rail Road
"The Indiana Rail Road is our only connection to the main line. All of the other carriers have either merged or are out of business. The plastics industry relies on the railroad for its delivery of finished products all over the country."

Daniel Semsak, of Pacific Woodtech Corporation, in Saginaw, MI
A customer of the Lake State Railway
"We depend on short lines to get into our customers' facilities. Rail access is essential for our company and our customers to be able to grow. As the Class 1 railroads have focused more and more on unit trains for inefficiencies, small business has relied on short lines for survival. We need the short lines for the "last mile"."

Brian Arnhalt, of Minn-Kota Ag Products, in Breckenridge, MN
A customer of the Red River Valley & Western Railroad
"Our rail service from the Red River Valley & Western Railroad is outstanding. The personalized attention to our customer needs is a big help in the success of our business."

Curt Warfel, of Akzo Nobel, Inc., in Columbus, MS
A customer of the Alabama and Gulf Coast Railway
"Akzo Nobel has long been supportive of the short line railroad tax credit. We see this as an excellent way in which short line railroads may "stretch" a dollar to upgrade their railroads and improve service to rail shippers."

Chuck Hunter, of PSC Metals, Inc., in St. Louis, MO
A customer of the Terminal Railroad Association of St. Louis
"The six short lines that serve our facilities have and will play a vital role in the growth of our company. They have worked with us to add rail service to several of our facilities, issued rates to incent rail service -vs- truck. Their local presence and willingness to partnership in problem solving has been a blessing. These service providers are an essential part of our continued success in the North American marketplace."

Levi Ross, of Dead River Company, in North Walpole, NH

A customer of the Green Mountain Railroad

"Our retail petroleum business is dependent on the service of short lines for a dependable regional supply chain."

Jason Tininenko, of Freeport McMoRan, in Hurley, NM

A customer of the Southwestern Railway

"There are several short line railroads that are integral to our business. They provide a consistent, cost effective option for us to move large volumes of freight both to and from our mining locations."

Mike Sawyer, of Western Producers Cooperative, in Dill City, Rocky, and Sentinel, OK

A customer of Farmrail

"Our livelihood depends on railroads shipping our grain. Farmrail does a great job in taking care of our needs. We need their services!"

Steve Stivala, of MacMillan-Piper, in Tacoma, WA

A customer of Tacoma Rail

"Tacoma Rail is an integral part of our business and overall operation in Tacoma. The short line railroad provides us with consistent and reliable service on a daily basis. By meeting our needs and requirements, we are better able to service our customers. This would not be possible without the assist from Tacoma Rail."

Maurice Bohrer, of Michels Materials, in Janesville and Waterloo, WI

A customer of the Wisconsin & Southern Railroad

"Our short line and regional railroad, the Wisconsin & Southern Railroad, is the only railroad that provides service to our black granite quarry and without them we would not be able to sell our granite to many of our customers and the other railroads that use our ballast!"