

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose:

**IN THE SENATE OF THE UNITED STATES—108th Cong., 2d Sess.**

**S. 1072**

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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  
\_\_\_\_\_

Viz:

1 At the end of subtitle F of title V, insert the fol-  
2 lowing:

3 **SEC. \_\_\_\_ . CREDIT FOR MAINTENANCE OF RAILROAD**  
4 **TRACK;**

5 (a) CREDIT FOR MAINTENANCE OF RAILROAD  
6 TRACK.—

7 (1) IN GENERAL.—Subpart D of part IV of  
8 subchapter A of chapter 1 (relating to business-re-  
9 lated credits) is amended by adding at the end the  
10 following new section:

1 **“SEC. 45I. RAILROAD TRACK MAINTENANCE CREDIT.**

2       “(a) GENERAL RULE.—For purposes of section 38,  
3 the railroad track maintenance credit determined under  
4 this section for the taxable year is 50 percent of the  
5 amount of qualified railroad track maintenance expendi-  
6 tures paid or incurred by an eligible taxpayer during the  
7 taxable year.

8       “(b) LIMITATION.—The credit allowed under sub-  
9 section (a) shall not exceed the product of—

10               “(1) \$20,000, and

11               “(2) the number of miles of railroad track  
12 owned or leased by the taxpayer as of the close of  
13 the taxable year.

14       “(c) QUALIFIED RAILROAD TRACK MAINTENANCE  
15 EXPENDITURES.—For purposes of this section, the term  
16 ‘qualified railroad track maintenance expenditures’ means  
17 expenditures (whether or not otherwise chargeable to cap-  
18 ital account) for maintaining railroad track (including  
19 roadbed, bridges, and related track structures) owned or  
20 leased as of January 1, 2004, by the taxpayer of Class  
21 II or Class III railroads (as determined by the Surface  
22 Transportation Board).

23       “(d) CONTROLLED GROUPS.—For purposes of sub-  
24 section (b), rules similar to the rules of paragraph (1) of  
25 section 41(f) shall apply for purposes of this subsection.

1           “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
2 title, if a credit is allowed under this section with respect  
3 to any railroad track, the basis of such track shall be re-  
4 duced by the amount of the credit so allowed.

5           “(f) APPLICATION OF SECTION.—This section shall  
6 apply to qualified railroad track maintenance expenditures  
7 paid or incurred during taxable years beginning after De-  
8 cember 31, 2003, and before January 1, 2009.

9           “(g) ELIGIBLE TAXPAYER.—For purposes of this  
10 subsection, the term ‘eligible taxpayer’ means—

11                   “(1) any person who transports property using  
12 the rail facilities of the taxpayer or who furnishes  
13 railroad-related property or services to the taxpayer,  
14 and

15                   “(2) any Class II or Class III railroad.”.

16           “(2) LIMITATION ON CARRYBACK.—Section  
17 39(d) (relating to transition rules), as amended by  
18 section 5453, is amended by adding at the end the  
19 following new paragraph:

20                   “(14) NO CARRYBACK OF RAILROAD TRACK  
21 MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—  
22 No portion of the unused business credit for any  
23 taxable year which is attributable to the railroad  
24 track maintenance credit determined under section

1 45G may be carried to a taxable year beginning be-  
2 fore January 1, 2004.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Section 38(b) (relating to general busi-  
5 ness credit), as amended by section 5253 of this  
6 Act, is amended by striking “plus” at the end  
7 of paragraph (18), by striking the period at the  
8 end of paragraph (19) and inserting “, plus”,  
9 and by adding at the end the following new  
10 paragraph:

11 “(20) the railroad track maintenance credit de-  
12 termined under section 45I(a).”.

13 (B) Subsection (a) of section 1016 is  
14 amended by striking “and” at the end of para-  
15 graph (27), by striking the period at the end of  
16 paragraph (28) and inserting “, and”, and by  
17 adding at the end the following new paragraph:

18 “(29) in the case of railroad track with respect  
19 to which a credit was allowed under section 45I, to  
20 the extent provided in section 45I(e).”.

21 (4) CLERICAL AMENDMENT.—The table of sec-  
22 tions for subpart D of part IV of subchapter A of  
23 chapter 1, as amended by this Act, is amended by  
24 inserting after the item relating to section 45H the  
25 following new item:

“Sec. 45I. Railroad track maintenance credit.”.

1           (5) EFFECTIVE DATE.—The amendments made  
2           by this section shall apply to taxable years beginning  
3           after December 31, 2003.

4           (b) RAILROAD REVITALIZATION AND SECURITY IN-  
5 VESTMENT CREDIT.—

6           (1) IN GENERAL.—Subpart D of part IV of  
7           subchapter A of chapter 1 (relating to business-re-  
8           lated credits) is amended by adding at the end the  
9           following new section:

10       **“SEC. 45J. RAILROAD REVITALIZATION AND SECURITY IN-**  
11                               **VESTMENT CREDIT.**

12       “(a) GENERAL RULE.—For purposes of section 38,  
13       the railroad revitalization and security investment credit  
14       determined under this section for the taxable year is the  
15       amount of qualified project expenditures paid or incurred  
16       by an eligible taxpayer during the taxable year.

17       “(b) QUALIFIED PROJECT EXPENDITURES.—For  
18       purposes of this section, the term ‘qualified project ex-  
19       penditures’ means expenditures (whether or not otherwise  
20       chargeable to capital account) with respect to rail lines  
21       which are included in a State rail plan (within the mean-  
22       ing of section 22101 of title 49, United States Code) for—

23                               “(A) planning and environmental review,

24                               “(B) rail line rehabilitation,

1           “(C) upgrades and development of rail  
2           lines,

3           “(D) projects for safety and security with  
4           respect to rail lines,

5           “(E) passenger equipment acquisition with  
6           respect to rail lines,

7           “(F) rail station improvement, and

8           “(G) intermodal facilities development.

9           An expenditure shall not be a qualified project ex-  
10          penditure unless there is a written agreement be-  
11          tween a State and the owner of the infrastructure  
12          improved by the expenditures regarding the use and  
13          ownership of such infrastructure, including com-  
14          pensation for such use and assurances regarding the  
15          capacity of such infrastructure.

16          “(c) LIMITATIONS.—

17                 “(1) IN GENERAL.—The credit allowed under  
18                 subsection (a) shall not exceed 50 percent of the  
19                 amount allocated to such project under this sub-  
20                 section.

21                 “(2) NATIONAL LIMITATION.—There is a rail-  
22                 road revitalization and security investment credit  
23                 limitation of \$167,000,000 for each calendar year.

24                 “(3) ALLOCATION OF LIMITATION.—The limita-  
25                 tion under paragraph (2) shall be allocated by the

1 Secretary to each State with a State rail plan (with-  
2 in the meaning of section 22101 of title 49, United  
3 States Code) based on the following considerations:

4 “(A) the number of rail miles in active use  
5 in the State;

6 “(B) the number of rail cars loaded in the  
7 State;

8 “(C) the number of railroad and public  
9 road grade crossings in the State;

10 “(D) the number of intercity passenger rail  
11 miles; and

12 “(E) the number of intercity passenger  
13 embarkations.

14 “(d) ELIGIBLE TAXPAYER.—For purposes of this  
15 section, the term ‘eligible taxpayer’ means a taxpayer who  
16 is an employer for purposes of the Railroad Retirement  
17 Act of 1974 and who is a carrier for purposes of the Rail-  
18 way Labor Act (unless such person is a commuter rail pas-  
19 senger transportation (as defined in section 24102 of title  
20 49, United States Code) operator of a State or local au-  
21 thority (as defined in section 5302 of such title) or an  
22 Alaska railroad or its contractor).

23 “(e) CONTROLLED GROUPS.—For purposes of sub-  
24 section (b), rules similar to the rules of paragraph (1) of  
25 section 41(f) shall apply for purposes of this subsection.

1           “(f) BASIS ADJUSTMENT.—For purposes of this sub-  
2 title, if a credit is allowed under this section with respect  
3 to any railroad track, the basis of such track shall be re-  
4 duced by the amount of the credit so allowed.

5           “(g) APPLICATION OF SECTION.—This section shall  
6 apply to qualified railroad track maintenance expenditures  
7 paid or incurred during taxable years beginning after De-  
8 cember 31, 2003, and before January 1, 2009.

9           “(h) CREDIT TRANSFERABILITY.—

10           “(1) IN GENERAL.—Any credit allowable under  
11 this section may be transferred (but not more than  
12 once) as provided by the Secretary, and the deter-  
13 mination as to whether the credit is allowable shall  
14 be made without regard to the tax-exempt status of  
15 the transferor.

16           “(2) MINIMUM PRICE FOR TRANSFER.—No  
17 transfer shall be allowed under this subsection un-  
18 less the transferor receives compensation for the  
19 credit transfer equal to at least 50 percent of the  
20 amount of credit transferred. The excess of the  
21 amount of credit transferred over the compensation  
22 received by the transferor for such transfer shall be  
23 included in the gross income of the transferee.”.

24           “(2) LIMITATION ON CARRYBACK.—Section  
25 39(d) (relating to transition rules), as amended by

1 subsection (a), is amended by adding at the end the  
2 following new paragraph:

3 “(16) NO CARRYBACK OF SECTION 45J CREDIT  
4 BEFORE EFFECTIVE DATE.—No portion of the un-  
5 used business credit for any taxable year which is  
6 attributable to the credit determined under section  
7 45J(a) may be carried back to a taxable year begin-  
8 ning on or before the date of the enactment of sec-  
9 tion 45J.”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Section 38(b) (relating to general busi-  
12 ness credit), as amended by subsection (a), is  
13 amended by striking “plus” at the end of para-  
14 graph (19), by striking the period at the end of  
15 paragraph (20) and inserting “, plus”, and by  
16 adding at the end the following new paragraph:

17 “(21) the railroad revitalization and security in-  
18 vestment credit determined under section 45J(a).”.

19 (B) Subsection (a) of section 1016 is  
20 amended by striking “and” at the end of para-  
21 graph (28), by striking the period at the end of  
22 paragraph (29) and inserting “, and”, and by  
23 adding at the end the following new paragraph:

1           “(30) in the case of qualified projects with re-  
2           spect to which a credit was allowed under section  
3           45J, to the extent provided in section 45J(f).”.

4           (4) CLERICAL AMENDMENT.—The table of sec-  
5           tions for subpart D of part IV of subchapter A of  
6           chapter 1, as amended by subsection (a), is amended  
7           by inserting after the item relating to section 45I  
8           the following new item:

                  “Sec. 45J. Railroad revitalization and security investment cred-  
                  it.”.

9           (5) EFFECTIVE DATE.—The amendments made  
10          by this section shall apply to taxable years beginning  
11          after December 31, 2003.

12 **SEC. \_\_\_\_ . CONSISTENT AMORTIZATION OF PERIODS FOR**  
13 **INTANGIBLES.**

14 (a) START-UP EXPENDITURES.—

15           (1) ALLOWANCE OF DEDUCTION.—Paragraph  
16           (1) of section 195(b) (relating to start-up expendi-  
17           tures) is amended to read as follows:

18           “(1) ALLOWANCE OF DEDUCTION.—If a tax-  
19           payer elects the application of this subsection with  
20           respect to any start-up expenditures—

21                   “(A) the taxpayer shall be allowed a deduc-  
22                   tion for the taxable year in which the active  
23                   trade or business begins in an amount equal to  
24                   the lesser of—

1                   “(i) the amount of start-up expendi-  
2                   tures with respect to the active trade or  
3                   business, or

4                   “(ii) \$5,000, reduced (but not below  
5                   zero) by the amount by which such start-  
6                   up expenditures exceed \$50,000, and

7                   “(B) the remainder of such start-up ex-  
8                   penditures shall be allowed as a deduction rat-  
9                   ably over the 180-month period beginning with  
10                  the month in which the active trade or business  
11                  begins.”.

12                  (2) CONFORMING AMENDMENT.—Subsection (b)  
13                  of section 195 is amended by striking “AMORTIZE”  
14                  and inserting “DEDUCT” in the heading.

15                  (b) ORGANIZATIONAL EXPENDITURES.—Subsection  
16                  (a) of section 248 (relating to organizational expenditures)  
17                  is amended to read as follows:

18                  “(a) ELECTION TO DEDUCT.—If a corporation elects  
19                  the application of this subsection (in accordance with reg-  
20                  ulations prescribed by the Secretary) with respect to any  
21                  organizational expenditures—

22                  “(1) the corporation shall be allowed a deduc-  
23                  tion for the taxable year in which the corporation be-  
24                  gins business in an amount equal to the lesser of—

1           “(A) the amount of organizational expendi-  
2           tures with respect to the taxpayer, or

3           “(B) \$5,000, reduced (but not below zero)  
4           by the amount by which such organizational ex-  
5           penditures exceed \$50,000, and

6           “(2) the remainder of such organizational ex-  
7           penditures shall be allowed as a deduction ratably  
8           over the 180-month period beginning with the month  
9           in which the corporation begins business.”.

10          (c) TREATMENT OF ORGANIZATIONAL AND SYNDICA-  
11          TION FEES OR PARTNERSHIPS.—

12           (1) IN GENERAL.—Section 709(b) (relating to  
13           amortization of organization fees) is amended by re-  
14           designating paragraph (2) as paragraph (3) and by  
15           amending paragraph (1) to read as follows:

16           “(1) ALLOWANCE OF DEDUCTION.—If a tax-  
17           payer elects the application of this subsection (in ac-  
18           cordance with regulations prescribed by the Sec-  
19           retary) with respect to any organizational  
20           expenses—

21           “(A) the taxpayer shall be allowed a deduc-  
22           tion for the taxable year in which the partner-  
23           ship begins business in an amount equal to the  
24           lesser of—

1 “(i) the amount of organizational ex-  
2 penses with respect to the partnership, or

3 “(ii) \$5,000, reduced (but not below  
4 zero) by the amount by which such organi-  
5 zational expenses exceed \$50,000, and

6 “(B) the remainder of such organizational  
7 expenses shall be allowed as a deduction ratably  
8 over the 180-month period beginning with the  
9 month in which the partnership begins busi-  
10 ness.

11 “(2) DISPOSITIONS BEFORE CLOSE OF AMORTI-  
12 ZATION PERIOD.—In any case in which a partner-  
13 ship is liquidated before the end of the period to  
14 which paragraph (1)(B) applies, any deferred ex-  
15 penses attributable to the partnership which were  
16 not allowed as a deduction by reason of this section  
17 may be deducted to the extent allowable under sec-  
18 tion 165.”.

19 (2) CONFORMING AMENDMENT.—Subsection (b)  
20 of section 709 is amended by striking “AMORTIZA-  
21 TION” and inserting “DEDUCTION” in the heading.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to amounts paid or incurred after  
24 the date of the enactment of this Act.