

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Benjamin L. Cline

3. **Committee** House Finance

4. **Title** Rail Company Tax Credit

2. **Bill Number** HB 2553

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create a tax credit for railroad companies that improve intermodal rail lines located in western Virginia. The credit would be equal to 100% of the direct costs incurred in undertaking the rail improvements. The total amount that could be claimed under the credit would be limited to \$2.5 million.

The bill would be effective for taxable years beginning on or after January 1, 2006, and before January 1, 2011.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

6a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	\$0	GF
2005-06	\$6,750	GF
2006-07	\$97,800	GF
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	\$0	GF
2010-11	\$0	GF

7. **Budget amendment necessary:** Yes.

ITEM(S): 284 and 286, Department of Taxation

8. **Fiscal implications:**

The Department would incur costs of \$6,750 in Fiscal Year 2006 and \$97,800 for Fiscal Year 2007 to implement this bill, including necessary systems changes.

It is not known how much railroad companies would expend in rail improvements that would qualify for this credit. As such, the negative revenue impact of this bill is unknown. Assuming that the cap would be for all railroads, the revenue loss for Fiscal Year 2006 through Fiscal Year 2011 could not exceed \$2.5 million for the five-year period. If,

however, each railroad company were eligible for a credit of up to \$2.5 million, the General Fund revenue impact of this bill would increase significantly.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

If the intent is to limit the credit to \$2.5 million for all railroads in the state (which was assumed in the revenue estimate), then the following amendments are suggested:

Page 1, Line 18, after allowed

Insert: to all taxpayers

Page 1, Line 23, after C.

Strike: the rest of line 23 and all of lines 24 and 25

Insert: The Tax Commissioner shall establish guidelines regarding (i) procedures for claiming the tax credit provided by this section and (ii) providing for the allocation of tax credits among taxpayers requesting credits in the event the amount of credits for which requests are made exceeds the available amount of credits. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) but shall be published as provided in § 58.1-204. Actions of the Tax Commissioner pursuant to such guidelines shall be sustained unless unreasonable or plainly inconsistent with applicable law.

11. Other comments:

Under this bill, a tax credit would be created for the improvement of rail lines located in western Virginia by railroad companies and used for intermodal transportation (e.g., freight moved by truck and rail on a single bill of lading). The credit would be equal to 100% of the direct costs incurred in undertaking the rail improvements.

According to the Virginia Railroad Association, 5 of the 12 railroad companies in Virginia would qualify for a tax credit under this bill. The eligible companies include CSX Corporation, Norfolk Southern Corporation, Shenandoah Valley Railroad, Winchester and Western Railroad Company, and Chesapeake Western Railway Company.

The bill would be effective for taxable years beginning on or after January 1, 2006, and before January 1, 2011 and the total amount that could be claimed under the credit would be capped at \$2.5 million for the five-year period.

The bill is not clear as to whether the cap would apply to all railroads or whether each railroad company would be eligible for a credit up to \$2.5 million. In addition, the bill does not include a provision for allocating the \$2.5 million among eligible railroad companies. Amendments are suggested to clarify the intent of this credit.

cc : Secretary of Finance
Date: 1/30/2005 dtm
HB2553F161