



January 6, 2021



Consolidated Appropriations Act Includes Important Provisions Affecting Short Line Railroads

The Consolidated Appropriations Act, 2021 (CAA) includes sections important to railroads, including payroll assistance and permanence of the 45G short line tax credit. *See below in Legislative News for additional details on the extension of the Emergency Paid Sick*

Leave Act (EPSLA).

The CAA includes an extension of the Employee Retention Credit (ERC), which was first introduced in the Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020. The ERC is a fully refundable tax credit meant to encourage businesses affected by the COVID-19 pandemic to retain employees on their payroll.

Under the CAA, the ERC has been extended through June, 2021 and the credit amount is increased to 70 percent of qualified wages, capped at \$7,000 for each of the first two quarters of 2021. The law also changes employer eligibility, allowing those with gross receipts less than 80 percent of receipts in the same quarter in 2019 to qualify. Businesses with 500 employees or less are also eligible, up from the previous 100-employee threshold.

One of the most significant changes to the ERC is the ability of companies that received a Paycheck Protection Program (PPP) loan to now qualify for the ERC, which was prohibited in the CARES Act. However, a company cannot claim wages eligible for the ERC that were paid using a PPP loan that was forgiven. Eligibility is retroactive to March, 2020.

More information on the CAA and its impact on Short Line railroads is covered on ASLRRRA's [COVID website](#).

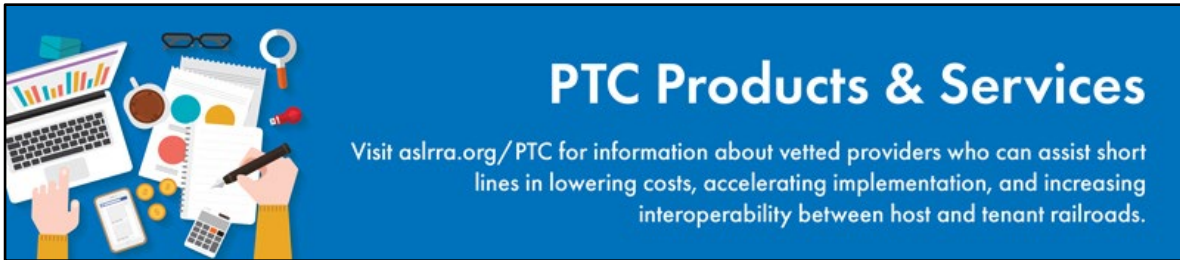
Also included in the CAA was permanency for the 45G short line tax credit, which ASLRRRA applauded in a recent [press release](#).

Railroads Complete PTC Implementation and FRA's Batory Thanks ASLRRRA for its Support

Positive train control (PTC) technology is [now in operation](#) on all required freight and passenger railroad route miles, an accomplishment completed before the Dec. 31 deadline set by Congress.

In addition to this milestone, the Federal Railroad Administration (FRA) certified that each host railroad's PTC system complies with all technical requirements, and all applicable host and tenant railroads operating on PTC-governed main lines have achieved interoperability.

In the FRA's press release, Administrator Ronald Batory thanked industry associations, including ASLRRRA, for demonstrating "an unwavering commitment to supporting this unprecedented undertaking."

A blue banner with white text and icons. The icons include a laptop, a smartphone, a calculator, a magnifying glass, a coffee cup, a notebook, and a pen. The text reads: "PTC Products & Services" and "Visit aslrra.org/PTC for information about vetted providers who can assist short lines in lowering costs, accelerating implementation, and increasing interoperability between host and tenant railroads."/>

PTC Products & Services

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Railroad Retirement Updates Due To CAA

The recently passed Consolidated Appropriations Act, 2021 (CAA) included changes to railroad retirement benefits.

Of note, the [sequestration order](#) has been lifted until 30 days past the expiration of the Emergency Order related to COVID, the availability of \$600 per pay period/\$300 per week for furloughed workers through March 14, and extension of maximum weeks paid from 39 to 50 weeks.

For more information on RUIA benefits during the COVID-19 outbreak, see the [RRB website](#) for details and a [FAQ](#) .pdf.

More information on the CAA and its impact on Short Line railroads is covered on ASLRRRA's [COVID website](#).

US DOT Launches Program to Establish Regional Infrastructure Accelerators, Issues NOFO for Accelerator Applications

The U.S. Department of Transportation (DOT) is [starting](#) a new demonstration program to establish [Regional Infrastructure Accelerators](#) (RIA). The program will help expedite delivery of transportation infrastructure projects.

In conjunction with the plan, DOT's Build America Bureau has issued a [notice of funding opportunity](#) (NOFO) to implement the program and solicit applications for designating and funding RIA.

The RIAs will serve a certain geographic area, act as a resource to qualified entities in that area and prove their effectiveness in helping speed up eligible project delivery through various financing methods such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Railroad Rehabilitation and Improvement Financing (RRIF) credit program and others.

The bureau plans to select at least three, but no more than five, RIAs. The goal is to have at least one state or multi-state application, an urban or metropolitan application and one rural application.

Increase to Part 225 Monetary Reporting Threshold Effective This Friday

In a final rule published Dec. 9, the Federal Railroad Administration (FRA) amended its accident/incident reporting regulation, which, in part, increases the [monetary reporting threshold](#). Railroads must report all rail equipment accidents/incidents above the threshold for that calendar year.

Effective Jan. 8, the Part 225 monetary reporting threshold will increase from \$10,700 to \$11,200. Officials are currently working to update the post-accident toxicological testing (PATT) app for Apple and Android to reflect those changes.

Revised versions of the FRA post-accident guidance and definitions sheet and FRA post-accident testing criteria flow chart are available to members in the [Compliance Templates](#) section under the Safety & Compliance tab.

STB Declines to Issue Declaratory Order in Response to AAR Petition

In response to a petition from the Association of American Railroads (AAR), supported by comments provided by ASLRRRA on December 19, 2019 and [April 24, 2020](#), which expounded on the significant burden that short lines would face complying with a multitude of state permitting laws, the Surface Transportation Board (STB) declined to issue a declaratory order concerning the National Pollutant Discharge Elimination System (NPDES).

The AAR's petition asked the STB to issue a declaratory order stating that 49 U.S.C. § 10501(b) preempts the Clean Water Act's discharge prohibition and NPDES permitting regime as applied to discharge related to the normal operation of rail cars in transit.

The STB declined to issue the order because there is no current dispute pending or future dispute imminent that would necessitate such a declaration. However, the STB did issue guidance stating that the NPDES permitting program and discharge prohibition would most likely be preempted by 49 U.S.C. § 10501(b) when related to incidental discharge, in part because the NPDES program requirements cannot likely be harmonized with § 10501(b).

Click [here](#) to read the STB's full decision.

Two FAA Final Rules Set Guidelines for Operation of Drones

The Federal Aviation Administration (FAA) issued two final rules concerning unmanned aircraft (UA), more commonly known as drones. The rules concern drone identification and operation of drones over people and at night.

The FAA's [Remote ID rule](#) applies to all drone operators requiring FAA registration, providing identification of drones in flight as well as the location of their control systems. Operators required to register can do so through one of three options: operating a standard Remote ID drone; operating a drone with a Remote ID broadcast module; or operating a drone without Remote ID only in a specific FAA-recognized identification area.

The [second rule](#) allows expanded routine operation of small drones over people without a waiver or exemption as long as the operation meets the requirements of one of four operational categories. UAs are prohibited from sustained flight over moving vehicles when operated outside a closed- or restricted-access site. Of note to railroads, the FAA confirms that trains are included in the definition of "vehicle."

Operation of small UA at night are also now allowed under two conditions, which concern training of the drone operator and anti-collision lighting on the drone. Finally the rule sets forth requirements related to inspection, testing and demonstrations of compliance and clarifies other sections.



Consolidated Appropriations Act Includes Extension of EPSLA

Under the Emergency Paid Sick Leave Act (EPSLA), established last March in the Families First Coronavirus Response Act, employers having fewer than 500 employees were required to provide paid sick leave to employees. The EPSLA mandated that full-time employees could receive up to 80 hours of paid leave depending on the circumstances. At the same time, Congress also enacted the Emergency Family and Medical Leave Act (EFMLEA) to provide for sick leave in the event of school and child care facility closures

resulting from COVID, providing partial pay for as many as 10 weeks. Both EPSLA and EFMLEA expired at the end of 2020.

As a result of the December enactment of the Consolidated Appropriations Act of 2021 (CAA), an employer may elect to continue providing paid leave in accordance with EPSLA and EFMLEA to employees after the Dec. 31 expiration of the two mandates. An employer doing so will continue to receive federal tax credits/refunds for work performed through March 31, 2021, which can apply to April employee compensation for work occurring in March.

Further, employers are now permitted to review requests for leave on a case-by-case basis rather than providing blanket protections for all employees. However, where an employee has fully utilized the permissible leave, the employer cannot receive the federal tax benefits for leave incurred in 2021 even in the instance of the employee having drawn upon the leave benefits while working for a prior employer. Employers are advised to document all instances of paid leave, and employers will have to comply with the return-to-work standards from EPSLA and EFMLEA.

More information on the CAA and its impact on Short Line railroads is covered on ASLRRRA's [COVID website](#).

ASLRRRA Members Receive Bulk of Grant Money From NCDOT

ASLRRRA-member railroads [comprise](#) 15 of the 17 short lines receiving matching grant funds from the North Carolina Department of Transportation's (NCDOT) Freight Rail and Rail Crossing Safety Improvement Program.

The program, which is meant to support rail infrastructure health, safety and performance, provided approximately \$16.7 million in matching funding to projects that will make infrastructure improvements across the state.

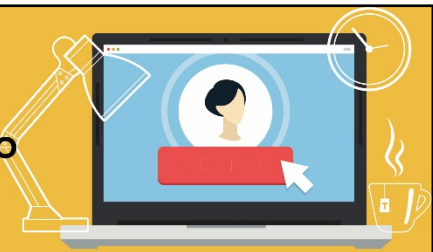
Congratulations to all those members receiving funds.

Please remember, ASLRRRA's [Member Discount Program](#) features preferred providers who can help members apply for various railroad grant programs.

ASLRRRA SAFETY & TRAINING

Post-Accident Toxicological Testing Video

Visit www.aslrra.org/safety for more info



ASLRRA Announcements

Space is Limited, Register Now for the Short Line Safety Institute's Leadership Development Course

The Short Line Safety Institute (SLSI) will offer an online version of its Leadership Development Training Program Feb. 16-19.

SLSI [developed](#) the program to help railroad managers at all levels improve their leadership skills, focusing on such areas as effective communication, constructive feedback and team building. Helping managers become better leaders addresses an industry need, identified through years of data collected from the SLSI's completed safety culture assessments.

The course consists of four hours of instruction each of the four days. Participation is free but registration is required, as the course will be limited to 20 attendees to ensure an excellent interactive experience for participants. Follow [this link](#) to learn more or to register.

Want to schedule a class for your railroad only? Contact the SLSI's Director of Safety Culture Programs [Sam Cotton](#) today.

In addition to the Leadership Development Program, the SLSI offers many other free tips, tools and training opportunities online to railroads looking to enhance safety culture. Railroads can take advantage of the 600+ years of safety expertise available from the staff to provide Technical Assistance in a number of challenging areas that can be handled remotely including:

- Recognition of Safe Practices - Develop a plan to increase positive feedback to individual employees and teams in order to further reinforce safe behavior.
- Safety Action Plan - Creating or revising a plan to incorporate new business and process changes.
- Reporting Systems & Accountability - Creating and managing a system for reporting safety concerns including reporting safety resolutions.
- Safety Communication Quality/Quantity - How best to execute a solid communication strategy from the top down.

Find [live and recorded webinars](#), [safety tips](#), [resources and templates](#), [hazmat guides](#) and more all on the SLSI's website.

ASLRRA's Preferred Providers Offer PTC Products and Services

Positive Train Control (PTC) is one of the most complex technologies mandated for freight railroads to date and its implementation has been an unprecedented challenge, particularly for short line railroads.

ASLRRA has secured grant funding and leveraged capabilities under its own Member Discount Program to qualify sources, develop products and services, and secure agreements to aid Class II and III railroads in PTC implementation and compliance. These vetted companies are able to provide solutions that will assist short lines in lowering costs, accelerating implementation, and increasing interoperability between host and tenant operations.

Visit [aslrro.org/discounts](#) and select PTC Products & Services to learn more about these ASLRRA's preferred providers.

ASLRRRA SAFETY & TRAINING
**Reasonable Suspicion Drug & Alcohol Signs
and Symptoms Training Video**
Visit www.aslrra.org/safety for more info



ASLRRRA Webinars – Live or On-Demand

Make January a Month of Learning with ASLRRRA's Live Webinars

ASLRRRA is working hard to develop and present webinars helping rail professionals keep abreast of the most pressing issues facing the railroad industry. These early months of 2021 are full of webinars on topics like FRA Part 243 compliance, ASLRRRA's Coalition Health Plan, and more. View our webinar [list](#) here, and register today!

[Repair Reporting for Cars with Alerts and Early Warnings](#) - January 12, 2021

In the last webinar of this three-part series, car repair billing expert and Railinc Product Manager Robin McFalls will review Industry-compliant reporting of repairs. This informative session will enable your team to manage the repair reporting process smoothly. Registration is free for ASLRRRA members.

Sponsored by:



[Part 225 Back to Basics, Part 2: Rail Equipment](#) - January 14, 2021

In part two of this three-part series FRA Railroad Safety Specialist Mike Wissman will cover Reporting/Recordkeeping Rail Equipment Accident/Incidents - FRA F 6180.54, FRA F 6180.81 & FRA F 6180.78. Registration is free for ASLRRRA members.

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[Short Line Business Development, Growth and Marketing Panel](#) - January 21, 2021

Join Rob Russell of OmniTRAX, Paul Tonsager of Patriot Rail and Ports and Dan Kippley of Ellis and Eastern Company to discuss growing the railroad business and pitching the benefits of rail to shippers and the communities where short lines operate. ASLRRRA President Chuck Baker will facilitate the panel. Registration is free for ASLRRRA members.

Sponsored by:



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Catch Up On Rail Industry Education During Down Time with ASLRRA's Recorded Content

If winter's cold weather is keeping you indoors more often, consider curling up with some educational content from ASLRRA's website and On-Demand Webinar Library.

ASLRRA has a wealth of recorded webinars available online, covering a variety of topics for those in a number of career fields. [On-demand webinars](#) are free for ASLRRA members, and paid subscriptions are available to non-members.

ASLRRA also offers hours of recently recorded content from the [2020 Virtual Convention](#) and [Virtual General Counsel Symposium](#). Access is free for those who attended the events, and for a fee to others.

[Click here](#) for more ASLRRA events.

Industry Events and Announcements

[Click here](#) for a listing of industry events.

Views & News is published by American Short Line and Regional Railroad Association. Please contact [Amy Krouse](#), editor, with questions or comments.