

House Legislation will Reform Surface Transportation Board, Help Build Rail System for the 21st Century

On May 3, House Transportation and Infrastructure Committee Chairman James L. Oberstar (MN-08) and Congressman Richard H. Baker (LA-06) introduced the Rail Competition and Service Improvement Act of 2007 (H.R. 2125) in an effort to fix the nation's broken rail system, a system that is harming rail customers and harming our nation's competitiveness.

The legislation will correct policies of the Surface Transportation Board (STB) that have contributed to a growing crisis in our rail system: a lack of rail competition, a lack of railroad accountability and unreliable rail service. Ours is a rail system that does not meet the needs of the 21st century.

In 1980, Congress passed much-needed legislation that deregulated the competitive activities of the nation's railroads, while directing the Interstate Commerce Commission, now the STB, to protect rail customers against railroad monopolistic practices. Unfortunately, the STB has proven unable or unwilling to safeguard rail customers against railroad abuses of monopoly power.

This bipartisan legislation reflects a growing momentum in Congress to direct the STB to do the job entrusted to it.

H.R. 2125 would:

- **Ensure rail customer access to rail competition:** The Government Accountability Office (GAO), in an October 2006 report, found both a lack of competition in the rail industry and a lack of focus on this issue by the STB.
- **Ensure a workable rate challenge process at the STB for those rail customers without access to transportation competition:** The GAO report and congressional testimony by STB Chairs demonstrate that the rate challenge process at the STB simply does not work. Rail customers must pay exorbitant filing fees, bear all burdens of proof and must prove they can build and operate their own hypothetical railroad for less than the rates they are being charged. This legislation removes these large filing fees, ensures that the rate standard will be the same standard normally used by American regulatory agencies (cost plus a reasonable rate of return) and distributes the burden of proof more equitably between the railroad and the rail customer.
- **Ensure a Proactive STB:** In testimony to the Senate Commerce, Science and Transportation Committee last June, the Acting Chair of the STB testified that the STB has no power to address rail problems proactively. Rather, the STB must wait for a case to be brought by rail customers. Even when the STB found earlier this year that the railroads have overcharged rail customers for fuel surcharges by as much as \$2 billion over the last two years, the STB neither suspended the practice nor ordered refunds. This legislation empowers and directs the STB to suspend and investigate unreasonable rail practices.
- **Clarifies and Enforces the Railroad Obligation to Serve:** In congressional hearings and a Federal Energy Regulatory Commission workshop last year involving electric utilities and the railroads, it became apparent that the STB has no power to address rail service problems, except in the most extreme emergencies. This legislation clarifies the obligation of the railroads to serve their customers and empowers the STB to enforce that obligation.

The Rail Competition and Service Improvement Act does not regulate the competitive activities of the railroads nor does it allow one railroad to operate on the tracks of another. Rather, this legislation ensures that the STB will adopt the pro-competitive policies and railroad accountability that Congress intends as fundamental elements of the nation's railroad policy.