



American Forest & Paper Association®



National Association of Wheat Growers



Agriculture Ocean Transportation Coalition



NPRA



National Barley Growers Association



CONGRESS SHOULD ENSURE THAT RAIL CUSTOMERS BENEFIT FROM A RAILROAD INVESTMENT TAX CREDIT

BACKGROUND

The major railroads are earning record profits. Rail customers from across the economic spectrum of the nation are not receiving reliable rail service at reasonable rates. The Surface Transportation Board, which is charged with the responsibility of supervising the nation's railroads, is not effective in addressing rail customer service problems. Real questions are being raised about the railroad industry's obligation to serve its customers and the nation's transportation needs.

Against this backdrop, the major railroads are launching a legislative effort to obtain a 25% federal investment tax credit and first year expensing provision for investments in railroad infrastructure. Some level of investment tax credit may be sound national policy, but only if it is part of a comprehensive solution to rail reliability problems. The railroad desire for this tax credit may also give the Congress, for the first time in decades, an opportunity to address both the concerns of the major railroads and the legitimate concerns of rail customers in such a manner that a strengthened national rail system may emerge.

To be effective, any investment tax credit provided the rail industry must be focused and must be coupled with provisions that address the concerns of rail customers.

POTENTIAL POLICY OPTIONS TO FOCUS THE PROPOSED INVESTMENT TAX CREDIT AND TO ADDRESS THE CONCERNS OF RAIL CUSTOMERS

- The investment tax credit must be coupled with a provision that removes all of the railroad industry's exemptions from antitrust law.
- To ensure reliable rail service, the investment tax credit must be coupled with a defined, mandatory and enforceable "obligation to serve" that is provided as new authority to the Surface Transportation Board.

- The investment tax credit must be coupled with specific provisions from S.919 and H.R.2047 that overturn the anticompetitive rulings of the STB that allow the railroads to block rail customer access to competing railroads.
- The investment tax credit must be coupled with specific provisions from S.919 and H.R.2047 that require a new rate reasonableness standard based on railroad cost of service for the movement in question, provide filing fees in line with filing fees in U.S. District Court and require the railroad to justify a rate when the complainant has proved the rate is within the jurisdiction of the STB and the complainant is subject to railroad monopoly power for the movement in question.
- The investment tax credit must be available to non-railroad companies that make investments in railroad infrastructure.
- The investment tax credit must be focused on providing railroad infrastructure that:
 - ensures the timely delivery at fair prices of domestic energy supplies within the United States for ultimate consumption in the United States;
 - ensures the timely delivery at fair prices of domestically produced commodities and products both to U.S. and foreign markets;
 - ensures the timely delivery at fair prices of packages and mail originating in the United States for the United States market;
 - is operated in a pro-competitive manner and does not enhance railroad monopoly power over specific movements; and
 - does not favor imports into the nation over traffic generated within the nation for delivery either to U.S. or foreign markets.