



**RAILROAD REGULATORY REFORM ISSUES  
CURE PRIORITIES**

- 1. Reform the rate challenge process to make it workable and accessible for captive rail customers:**
  - **filing fees no higher than comparable fees in federal district court**
  - **after rail customer proves it is subject to railroad monopoly power (captive paying over 180%R/VC rate), burden shifts to the railroad to justify the rate**
  - **the rate reasonableness standard changed from “stand alone cost” to “cost to the railroad of providing the service plus a reasonable rate of return” (normal PSC rate standard)**
  
- 2. Competition issues:**
  - **overturn bottleneck decision**
  - **remove paper barriers that limit short line access to a single major RR**
  - **reciprocal switching/terminal access; burden of proof to be the public interest, not monopoly abuse**
  
- 3. Service Component**
  - **Authorize STB to deal with service problems for rail customers that move freight by tariff (currently, the STB interprets its authority narrowly to apply only when there is a total service “meltdown”; STB can then provide emergency relief for 270 days)**
  
- 4. Proactive STB**
  - **Staggers passed under President Carter, implemented initially under President Reagan; rules adopted under Reagan have not changed substantially; Reagan ICC interpreted its authority as passively as possible to be only a forum of last resort; in 2006 testimony before the Commerce Committee Acting STB Chair Buttrey said the STB only has authority to address issues presented to it in a rail customer petition.**
  - **Authorize STB to suspend and investigate proposed railroad actions that are unlawful or unreasonable; proposed action is suspended until justified to the STB by the railroad.**
  
- 5. Apply the Nation’s Antitrust Laws to the Railroads and STB**
  - **Railroads are the only American industry that is largely exempt from the nation’s antitrust laws. The railroads are the only American industry subject to federal regulation that is not also covered by the nation’s antitrust laws on the issues subject to federal regulation. Because of this exemption, the STB has been free to make the anti-competitive interpretations of law that are listed in item (2) above.**

## LEGISLATIVE STATUS

### **Railroad Regulatory Reform Issues**

- These issues are jurisdictional to the House Transportation and Infrastructure Committee and the Senate Commerce, Science and Transportation Committee
- Chairman Oberstar (D-MN) of the House committee and Senator Rockefeller, expected incoming chairman of the Senate committee, are the lead sponsors of legislation to address these issues (H.R.2125 and S.953 in the 111<sup>th</sup> Congress)
- Chairman Oberstar has indicated that enacting this legislation is a high priority for the 111<sup>th</sup> Congress. If, as anticipated, Senator Rockefeller becomes Chairman of the Senate Commerce, Science and Transportation Committee for the 111<sup>th</sup> Congress, we expect him to make this issue a high priority on the agenda of the committee.

### **Railroad Antitrust Legislation**

- Both the House Judiciary Committee and the Senate Judiciary Committee, on bipartisan voice votes, reported antitrust legislation in the 111<sup>th</sup> Congress (H.R.1650 and S.772)
- Both the Senate lead sponsor, Senator Kohl (D-WI), who is the Antitrust Subcommittee Chairman, and Chairman John Conyers (D-MI) and Cong. Baldwin (D-WI) have indicated that enacting this legislation in the 111<sup>th</sup> Congress is a high priority.
- On November 10<sup>th</sup>, Chairman Conyers and Congresswoman Baldwin wrote a letter to Speaker Pelosi asking that this legislation be included in any stimulus package because it will help reduce railroad monopoly rates on American consumers, farmers and rural America and American manufacturers.