

A Rational Regulatory Environment for the U.S. Freight Rail Industry

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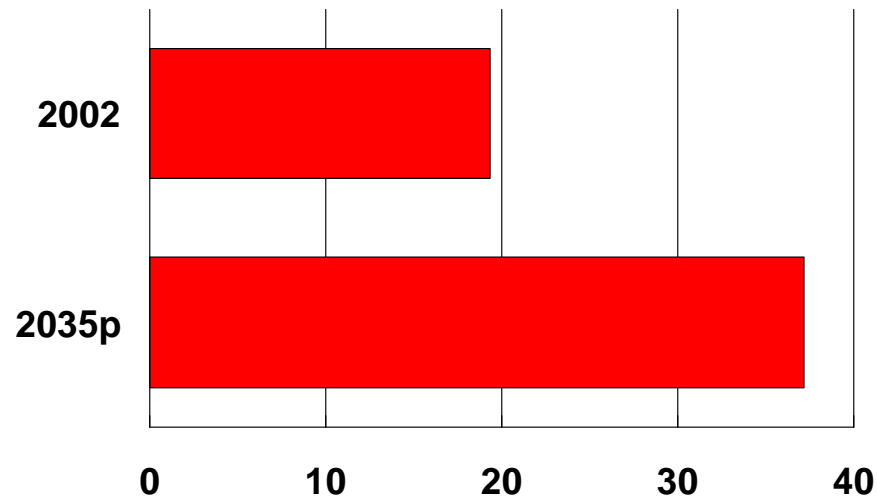
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For Railroads, the Debate is about Capacity

- America's demand for safe, affordable and environmentally responsible transportation has never been greater than it is today—and that demand will grow in the future.
- Railroads are the most sensible way to meet that demand.

Billions of Tons of Freight Transported in the U.S.



p – U.S. DOT projection



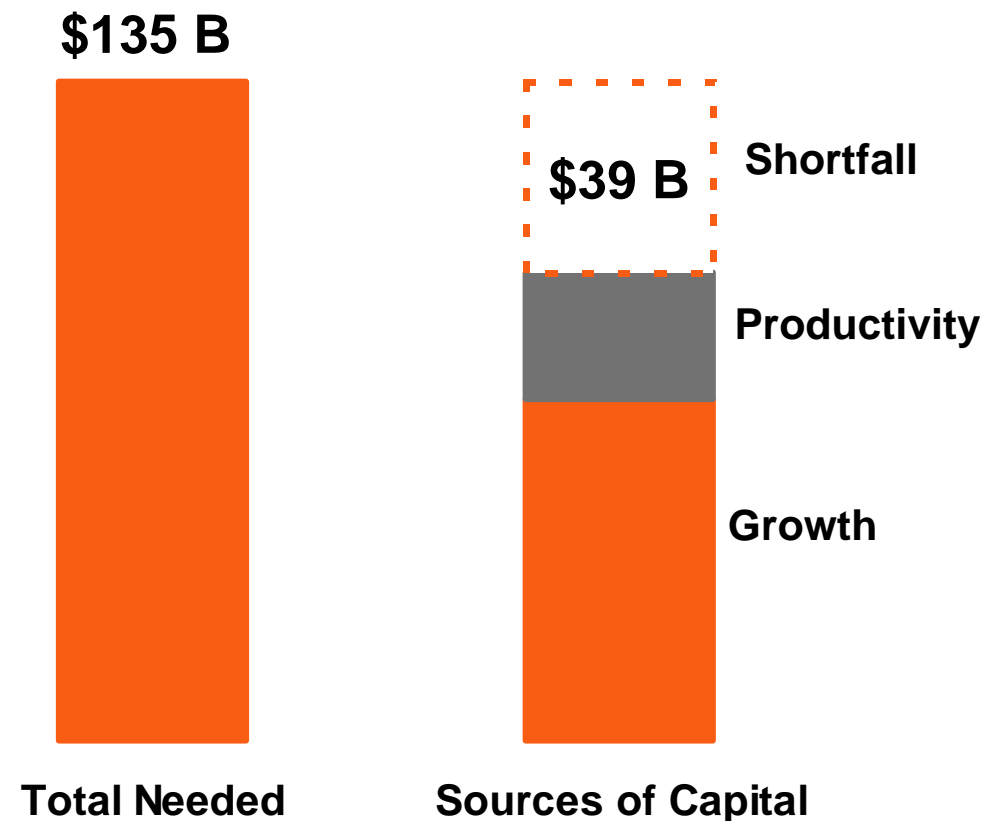
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Railroad Capacity: AAR/Cambridge Study

- Assessed long-term capacity needs of primary rail freight corridors
- Assumed no shift in modal tonnage shares among rail, truck and water beyond those projected by U.S. DOT
- \$39 billion shortfall will occur without a stimulus to bring investments up sooner in their cycle

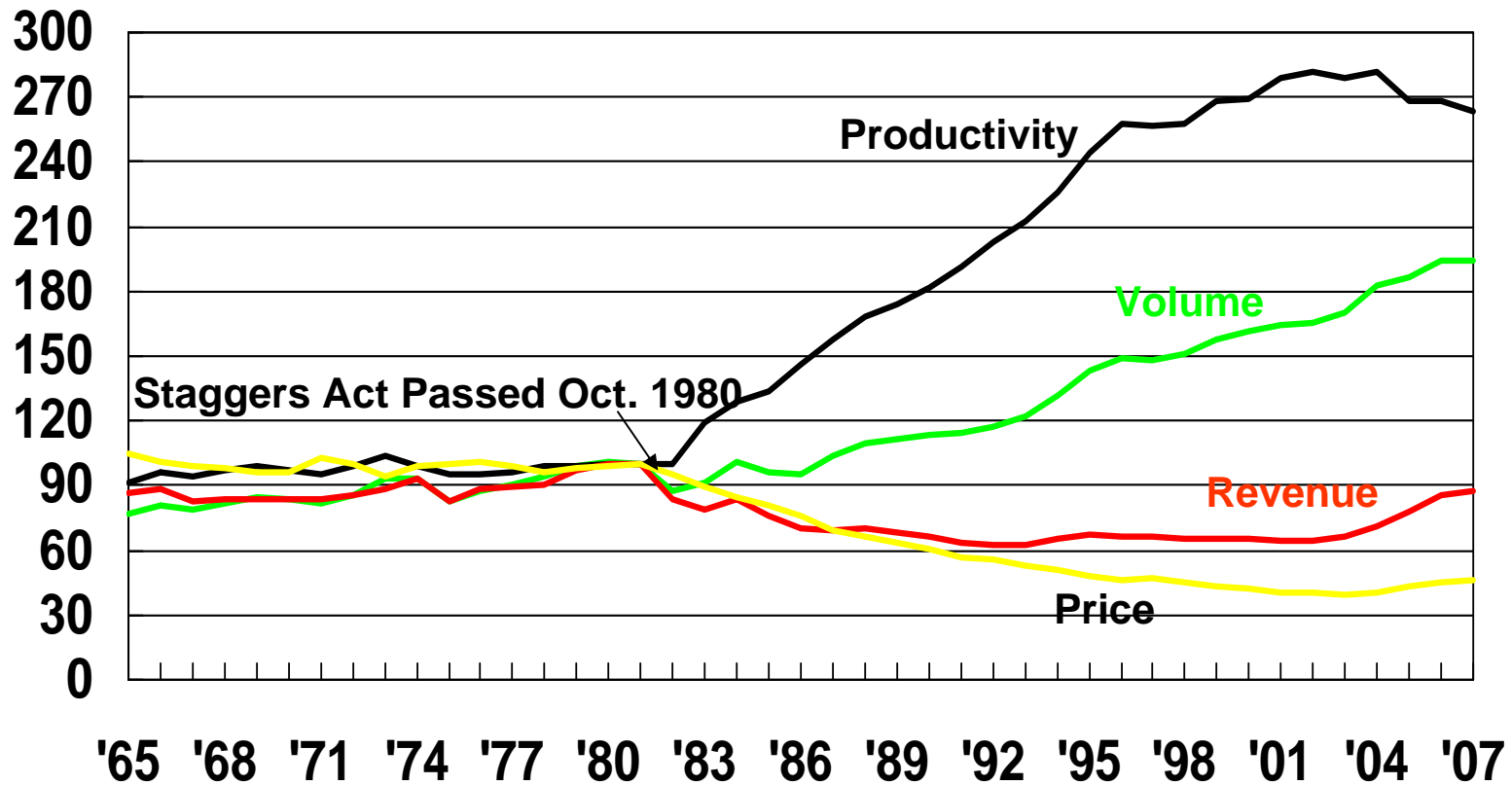
Class 1 capital investments needed to meet 2035 volume demand



Source: National Rail Freight Infrastructure Capacity and Investment Study September 2007

The Staggers Act: Balanced Regulation Works

(Index 1981 = 100)



Source: AAR

111th Congress – State of Play

Rail antitrust legislation

- **Bills introduced by Senator Herb Kohl (D-WI) and Congresswoman Tammy Baldwin (D-WI). Senate Committee approved last week**
- **The legislation would repeal limited antitrust exemptions which exist to avoid duplicative and potentially conflicting regulatory oversight of the rail industry.**
- **There are no anti-competitive loopholes in the rail regulatory regime, merely a division of oversight between government agencies.**
- **Railroads have constructively engaged in this debate—Congress must consider how the antitrust laws will fit in and function with the regulatory scheme that currently exists for railroads (and is currently evolving).**



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111th Congress – State of Play, cont'd

Rail “competition/captive shipper” legislation

- **New dynamic: Bill sponsor Senator Jay Rockefeller (D-WV) ascends to chairmanship of Senate Commerce Committee**
- **House Transportation Committee counterpart, Chairman Jim Oberstar (D-MN), remains a steadfast supporter of the legislation**
- **The traditional “captive shipper” legislation has not yet been introduced this Congress. Instead, staff discussions indicate a potential willingness to look at fresh approaches.**
- **Railroads and shippers should approach this issue by asking the question: Will a changed regulatory environment support and encourage continued investment to meet rail capacity needs?**
- **In the meantime, the STB has been a very busy agency. . .**



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Surface Transportation Board Activities

Expedited rate case process

- DuPont wins first small shipment rate cases against CSX

Cost of capital methodology

- Kansas City Power & Light wins \$30M rate case against Union Pacific

“Paper Barriers”

- New disclosure rules with examination of interchange commitments



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Surface Transportation Board Activities

Replacement cost methodology

- AAR petition denied

Competition study

- Report released November 2008

Large rate case (SAC) rule changes

- BNSF Railway-Western Fuels/Laramie River decision—potentially largest award for any shipper in the history of coal rate litigation



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BNSFSM
RAILWAY