The Need for Balanced Railroad Regulation

ASSOCIATION OF AMERICAN RAILROADS **JULY 2017**

WHAT SHOULD BE DONE?	**Retain the existing balanced regulatory structure** that protects railroad customers against unreasonable railroad actions while allowing railroads and their customers to work together without undue government interference.
WHY?	Recognizing the tremendous harm that excessive railroad regulation was inflicting on the economy, Congress passed the Staggers Rail Act of 1980. Since then, America's railroads have been able to plow back more than $635 billion (of their own funds, not taxpayer funds) into their networks, in the process vastly improving rail safety and reliability. Rail spending in recent years has been higher than ever before. Returning to an era of excessive regulation would be a colossal mistake. It would prevent America's railroads from making the massive investments a best-in-the-world freight rail system requires. Policymakers should be taking actions that enhance, rather than impair, railroads' ability and willingness to make those investments.

The Staggers Rail Act of 1980: Balanced Regulation That Works

- By the 1970s, eight decades of over-regulation had brought America's freight railroads to the brink of ruin. More than 20 percent of rail mileage was owned by bankrupt railroads; safety was deteriorating; and tracks, locomotives, and freight cars were falling apart and railroads couldn't afford to repair them. Railroads were unable to provide the safe, efficient, cost-effective rail service that American businesses need to grow.
- Recognizing the tremendous harm this was inflicting on the economy, Congress passed the Staggers Rail Act of 1980. Under the Staggers Act, regulators retained authority to protect shippers against unreasonable railroad conduct and unreasonable railroad pricing. **Regulators at the Surface Transportation Board (STB) still have this authority today**. However, the Staggers Act eliminated many damaging regulations that prevented railroads from providing reliable, cost-effective service to their customers.
- A balanced approach to rail regulation works. Since the Staggers Act was passed:
  - ✓ Average inflation-adjusted rail rates (measured by revenue per ton-mile) **were 45 percent lower in 2016 than in 1981**, meaning that the average rail shipper today can move **close to twice as much freight** for about the same price it paid more than 35 years ago.
  - ✓ Lower rail shipping costs and improved rail service have **saved American firms** (and, ultimately, all of us) **hundreds of billions of dollars** over the years, greatly enhancing America's competitiveness in the tough global economy.

✓ From 1980 to 2016, America's freight railroads spent more than **$635 billion — their own funds, not taxpayer funds** — on capital expenditures and maintenance expenses related to locomotives, freight cars, tracks, bridges, tunnels and other infrastructure and equipment. These outlays, which have allowed railroads to nearly double their traffic volume since Staggers, were made possible by improvements in railroad financial health.

✓ **Railroads have become much safer.** The train accident rate in 2016 was the lowest ever; in 2016, it was down 42 percent from 2000; the employee injury rate in 2016 was down 46 percent from 2000; and the grade crossing collision rate in 2016 was down 39 percent from 2000. By all these measures, recent years have been the safest in history. The train derailment rate, the train collision rate, and the rate of accidents caused by defective track were all the lowest ever in 2016.

✓ Service and reliability have greatly improved as America's freight railroads have become the most efficient and productive in the world.

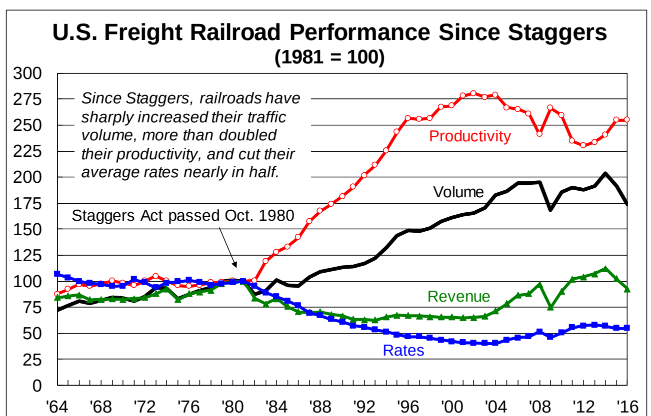
Why Keep the Deregulatory Reforms of the Staggers Act?

- All of the outcomes listed above were results that **Congress intended the Staggers Act to generate** and **could not have been achieved without the Staggers Act reforms**. It's no surprise that The Economist magazine has noted that the American freight rail system is "one of the unsung transport successes of the past 30 years" and is "universally recognized in the industry as the best in the world."

- Nevertheless, some rail shippers support legislative and regulatory changes that would re-impose excessive and counterproductive regulation on railroads. That would be a colossal mistake.

- Trucks and barges operate over highways and waterways that the government largely pays for. By contrast, America's **freight railroads pay the vast majority of the costs of their tracks, bridges, and tunnels themselves**. To keep their networks in top condition and to build the new capacity that America will need in the years ahead, railroads must be able to earn enough to pay for it.

- But new heavy-handed regulation **would send railroads down the wrong track** — away from financial sustainability. It would force railroads to lower their rates to certain customers to below-market levels at the expense of other customers, rail employees, and the public at large. Billions of dollars in rail revenue could be lost each year.



"Rates" is inflation-adjusted revenue per ton-mile. "Volume" is ton-miles. "Productivity" is revenue ton-miles per constant dollar operating expense. "Revenue" is operating revenue in 2016 $. Source: AAR

- Nothing good could come of this. **Artificially cutting rail earnings would severely harm railroads' ability to reinvest in their networks**. It would mean less new rail capacity and less reliable rail service. This would be a serious problem at any time, but it would be an especially serious problem today when railroads are being called upon more than ever to help achieve key policy goals such as reducing highway congestion and cutting fuel consumption and air pollution.

- At a time when the pressure to reduce government spending on just about everything is enormous, it makes no sense to enact public policies that would discourage our privately-owned freight railroads from making investments in their networks that would boost our nation's economy and enhance our competitiveness.

Railroads Operate in a Highly Competitive Environment

- Whether it's competition between two or more railroads, competition from trucks and barges, or the influence of other competitive forces, freight railroads operate in a highly competitive environment. Moreover, **the STB protects shippers from unreasonable railroad pricing and unreasonable railroad conduct**.

- Those who want to over-regulate railroads say that if a shipper is served by only one railroad, that railroad by definition has unconstrained market power. That's wrong. In the long run, two railroads can serve the same shipper only when there is sufficient demand to sustain two railroads. Otherwise, one railroad eventually fails. That's why most shippers have always been served by just one railroad. Claiming that every shipper should be served by two railroads just because some shippers are is like saying that every city should have two major league baseball teams just because Chicago and New York do.

- Supporters of over-regulation also claim that what they want is consistent with the Staggers Act. But the Staggers Act was about getting the government out of the business of running railroads. Proponents of more regulation are really asking to put Washington back in control of railroads. That's the opposite of what the Staggers Act was all about.

- In recent years, rail industry profitability has improved, and **railroads have responded by plowing record amounts back into the infrastructure and equipment they need to keep the U.S. freight rail network in world-best condition** and to meet our nation's growing transportation needs. Take away rail earnings today and you limit rail capacity and service capability for tomorrow.