



## Proposed Freight Rail Infrastructure Tax Credit Bills

S. 1125 and H.R. 2116

### Soy Transportation Coalition Briefing Paper

Prepared for the Soy Transportation Coalition and United Soybean Board by Market Solutions LLC

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**Summary.** Legislation being considered by the U.S. Congress is intended to increase investment in freight rail-related infrastructure through investment tax credits and accelerated depreciation treatment for investments by railroads and some others. Freight rail traffic is projected to increase 70 percent by 2020. Taxpayers invest heavily in highway and waterway transportation infrastructure but generally count on private investment to finance rail infrastructure. This creates an incentive to shift traffic to publicly maintained transportation modes. The proposed bills are aimed at encouraging more private investment in rail infrastructure. Most rail infrastructure investment is currently being directed at supporting movements of coal and container freight. A question for soybean producers and others in agriculture is how investment incentives can be structured to help ensure reliable rail service and competitive costs for soybean producers and their customers.

**Introduction.** The Freight Rail Infrastructure Capacity Expansion Act of 2007, H.R. 2116/S. 1125 is designed to encourage investment in freight railroad infrastructure and enhance equity among transportation modes in order to ensure that rail capacity is sufficient to meet expected future demand. H.R. 2116 is sponsored by Kendrick Meek (FL) and has 36 cosponsors. S. 1125 is sponsored by Sen. Trent Lott (MS) and has 14 cosponsors as of September, 2007. The bills have been referred to the House Ways and Means Committee and Senate Finance Committee.

S. 1125 and H.R. 2116 would provide investment incentives for expanding freight rail infrastructure capacity. Qualifying expenditures include track, grading, tunnels, signals, bridges, yards, terminals and intermodal transfer and transloading facilities. The expansion credit would be available for expenditures for new locomotives if they increase the horsepower capacity of a railroad's fleet and meet EPA standards.

**Major Points of the Bills.** The first incentive is a tax credit targeted at capacity expenditures. Taxpayers making expenditures for new freight infrastructure where such property currently does not exist would be eligible for a 25 percent tax credit. Qualifying expenditures for this credit would include:

- a. adding of a new second or third main line to an existing right-of-way to allow traffic to move in both directions at the same time;
- b. adding new and extending existing siding to improve traffic flow and speed
- c. constructing new intermodal facilities; and
- d. installing new, technology-based systems.

The second investment incentive would permit the expensing of all qualifying rail infrastructure capital expenditures. This will allow the deduction of the cost of capital investment in the year the investment is made, rather than depreciating it over many years. This will accelerate the availability of capital necessary to expand capacity.

Both incentives would be available to any taxpayer, not just railroads, making a qualified expenditure. Consequently, its sponsors say it would provide a stimulus for truckers, ports and airports to invest in the construction of intermodal facilities, thereby reducing back-ups and delays throughout the freight transportation system. This could potentially benefit grain elevators, feed manufacturers, soybean processors and biofuels producers as well if the rules governing the credits are targeted to support the types of investment grain and oilseed customers make to take advantage of economies in shipping. For example, an elevator that builds a spur onto an existing rail line would qualify for the tax credit.

### **Some Considerations for Soybean Producers.**

Freight rail traffic is projected to increase 70 percent by 2020, according to studies by the U.S. Department of Transportation, AASHTO and a variety of others. Freight rail plays a critical role in moving soybeans, soybean meal and oil and biofuels to customers.

Because taxpayers invest heavily in highway and waterway transportation infrastructure but generally count on private investment to finance rail infrastructure, railroads have an incentive to provide only the most profitable service and shift other traffic to publicly maintained transportation modes. This has led to economies in shipping by larger unit and shuttle trains, but has also resulted in reduced rail service and increased use of truck transportation in locations that cannot handle large numbers of cars rapidly.

*The proposed bills are aimed at encouraging more private investment in rail infrastructure. Such investment is critical to the future competitiveness of American soybean producers and their customers and others in U.S. agriculture and agribusiness. However most rail infrastructure investment is currently being directed at supporting movements of coal and intermodal container freight. So it stands to reason that investment incentives are likely to have the most impact on these shippers.*

*In promoting this specific proposal, representatives of the Class I railroads have argued that there will be important benefits to agriculture and rural America. Since most likely railroad investment targets other customers, the key question for soybean producers and their customers is how large the potential benefits to agriculture are compared to the likely costs.*

*The challenge facing soybean producers, their customers and others in agriculture is to understand how such incentives might be structured to help ensure the investment needed to support reliable, cost effective rail transportation for agriculture. A planned Soy Transportation Coalition survey of soybean producers' grain and feed, processor and biofuels customers will attempt to assess some of the critical infrastructure challenges they face, and how they might benefit from proposed tax incentives.*

Other issues to be considered are how approval of such credits might affect the way that the Surface Transportation Board (STB) assesses the financial health of the railroads, and implications for the way they are regulated. There are already sharp differences in the way railroad financial health is evaluated by the regulatory system and investors on Wall Street. Expectations of limited railroad capacity and with it, the ability to raise rates and to be more selective about the cargo they handle, has already pushed railroad stocks higher.

One observer voiced the concern that if investment tax credits are to be approved, it will be important to consider how best to ensure that they encourage new infrastructure investments, and not just investments that would have been made anyway. Along this same line, it was suggested that there may be a need to ensure that the proposed tax credits do not simply free up funds for stock buy-backs

The bottom line is that rail infrastructure investment will be critical to having the reliable, cost competitive rail service needed to ensure a healthy financial future for soybean producers and their customers. Since the Staggers Act of 1980, responsibility for investment in rail infrastructure and equipment has been shifted primarily to private investors and railroads. It is becoming increasingly clear that some combination of investment incentives, public investment and a more balanced regulatory system are all keys to ensuring that American agriculture has the transportation service it needs to compete.



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## Bill Sponsors and Cosponsors as of September, 2007

### S. 1125

Sen Lott, Trent [MS] (introduced 4/17/2007)  
Sen Casey, Robert P., Jr. [PA] - 9/4/2007  
Sen Cochran, Thad [MS] - 4/17/2007  
Sen Coleman, Norm [MN] - 6/13/2007  
Sen Conrad, Kent [ND] - 4/17/2007  
Sen Crapo, Mike [ID] - 4/17/2007  
Sen Graham, Lindsey [SC] - 4/17/2007  
Sen Hagel, Chuck [NE] - 4/17/2007  
Sen Isakson, Johnny [GA] - 4/17/2007  
Sen Landrieu, Mary L. [LA] - 4/17/2007  
Sen Nelson, Bill [FL] - 4/19/2007  
Sen Nelson, E. Benjamin [NE] - 4/17/2007  
Sen Salazar, Ken [CO] - 4/23/2007  
Sen Smith, Gordon H. [OR] - 4/17/2007  
Sen Stevens, Ted [AK] - 4/17/2007

### H.R. 2116

Rep Meek, Kendrick B. [FL-17] (introduced 5/2/2007)  
Rep Aderholt, Robert B. [AL-4] - 7/11/2007  
Rep Akin, W. Todd [MO-2] - 7/17/2007  
Rep Bachus, Spencer [AL-6] - 7/11/2007  
Rep Bonner, Jo [AL-1] - 9/5/2007  
Rep Boozman, John [AR-3] - 7/11/2007  
Rep Brady, Kevin [TX-8] - 6/13/2007  
Rep Brown, Corrine [FL-3] - 7/17/2007  
Rep Buchanan, Vern [FL-13] - 7/17/2007  
Rep Cantor, Eric [VA-7] - 5/2/2007  
Rep Carnahan, Russ [MO-3] - 6/19/2007  
Rep Clay, Wm. Lacy [MO-1] - 7/11/2007  
Rep Cleaver, Emanuel [MO-5] - 9/5/2007  
Rep Crenshaw, Ander [FL-4] - 5/7/2007  
Rep DeFazio, Peter A. [OR-4] - 8/3/2007  
Rep Graves, Sam [MO-6] - 7/24/2007  
Rep Herger, Wally [CA-2] - 7/24/2007  
Rep Kanjorski, Paul E. [PA-11] - 6/13/2007  
Rep LaTourette, Steven C. [OH-14] - 6/13/2007  
Rep Lewis, Ron [KY-2] - 6/13/2007  
Rep Nunes, Devin [CA-21] - 6/6/2007  
Rep Paul, Ron [TX-14] - 7/24/2007  
Rep Peterson, Collin C. [MN-7] - 7/17/2007  
Rep Pickering, Charles W. "Chip" [MS-3] - 8/3/2007  
Rep Porter, Jon C. [NV-3] - 9/5/2007

Rep Ramstad, Jim [MN-3] - 5/15/2007  
Rep Regula, Ralph [OH-16] - 6/19/2007  
Rep Schakowsky, Janice D. [IL-9] - 6/13/2007  
Rep Shuster, Bill [PA-9] - 5/15/2007  
Rep Smith, Adrian [NE-3] - 7/17/2007  
Rep Space, Zachary T. [OH-18] - 5/15/2007  
Rep Terry, Lee [NE-2] - 7/17/2007  
Rep Tiberi, Patrick J. [OH-12] - 5/15/2007  
Rep Turner, Michael R. [OH-3] - 7/24/2007  
Rep Westmoreland, Lynn A. [GA-3] - 8/3/2007  
Rep Wicker, Roger F. [MS-1] - 8/3/2007  
Rep Wilson, Joe [SC-2] - 9/20/2007