



*The S.T.B and
the Nation's Railroads*

**STB Vice Chairman
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**American Forest & Paper Association
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The Surface Transportation Board Today

- Created by ICC Termination Act of 1995
- Successor agency to the ICC—child of deregulation
- Residual economic regulation of the railroads
- Reduced scope of regulatory activity--
many rail movements deemed competitive
- Smaller staff



STB Mission

- Exclusive review and approval of rail mergers
- Review rail rates and practices to ensure they are reasonable and not discriminatory
- Approval, including environmental review, of
 - (i) construction of any new rail line or
 - (ii) abandonment of existing lines
- Motor carrier collective ratemaking activities
- Rates for water carriers in non-contiguous domestic trade
- Rates for pipelines not carrying energy products



STB Merger Authority

- Mergers in the post-Staggers Era
- STB merger policy in 1990's
- Merger moratorium
- Categories of merger transactions (major, significant and minor)
- Mergers and downstream impacts





STB Responsibilities over Rates and Service

- Oversee and monitor rail practices nationally
- Enforce common carrier obligation
- Ensure rail practices are reasonable
- Ensure that rates charged captive customers are reasonable
- Assist railroads to earn adequate revenues
- Determine the railroads' cost of capital and whether they are revenue adequate



Rate Case Resolution (Large Shipments)

- Determination of market dominance (180% R/VC)
- Constrained Market Pricing and Ramsey Pricing
- Stand Alone Cost Test—*Fact based approach rooted in economic reasoning approved by courts*
- No substitute for preparing a strong case with solid evidence
- Balance railroads need to earn adequate returns and shippers need for fair and reasonable rates



Alternative Approaches

- SAC approach has been criticized as artificial and overly complex
- SAC approach is very costly and time consuming
- Only feasible for large shippers—no small shipper cases
- Is it time to look for alternative approaches?
- Current Rulemaking on SAC Procedures



Rate Case Resolution (Small Shipments)

- ICC adopted procedures for small rate cases in 1987 but courts struck them down
- STB adopted Simplified Guidelines in 1996 but never used them
- 20 years without finalizing the approach
- BP/Amoco 2005 – settled through non-binding mediation but established procedural schedule
- North Dakota case?



Environmental Review

- Approval of new construction
 - DM&E
 - Yucca Mountain
- Abandonment cases
- Offers of Financial Assistance (OFAs)
- Rails to Trails
- Line sales and paper barriers





Other STB Powers

- Amtrak - Direct Service Orders
- Emergency service orders
- Operating issues (e.g. car supply, unreasonable practices)
- Industry specific meetings
- Ongoing monitoring
 - Cases of national significance
 - Certain local disputes needing STB attention
- Interchange and switch connections between railroads
- Requests for terminal access



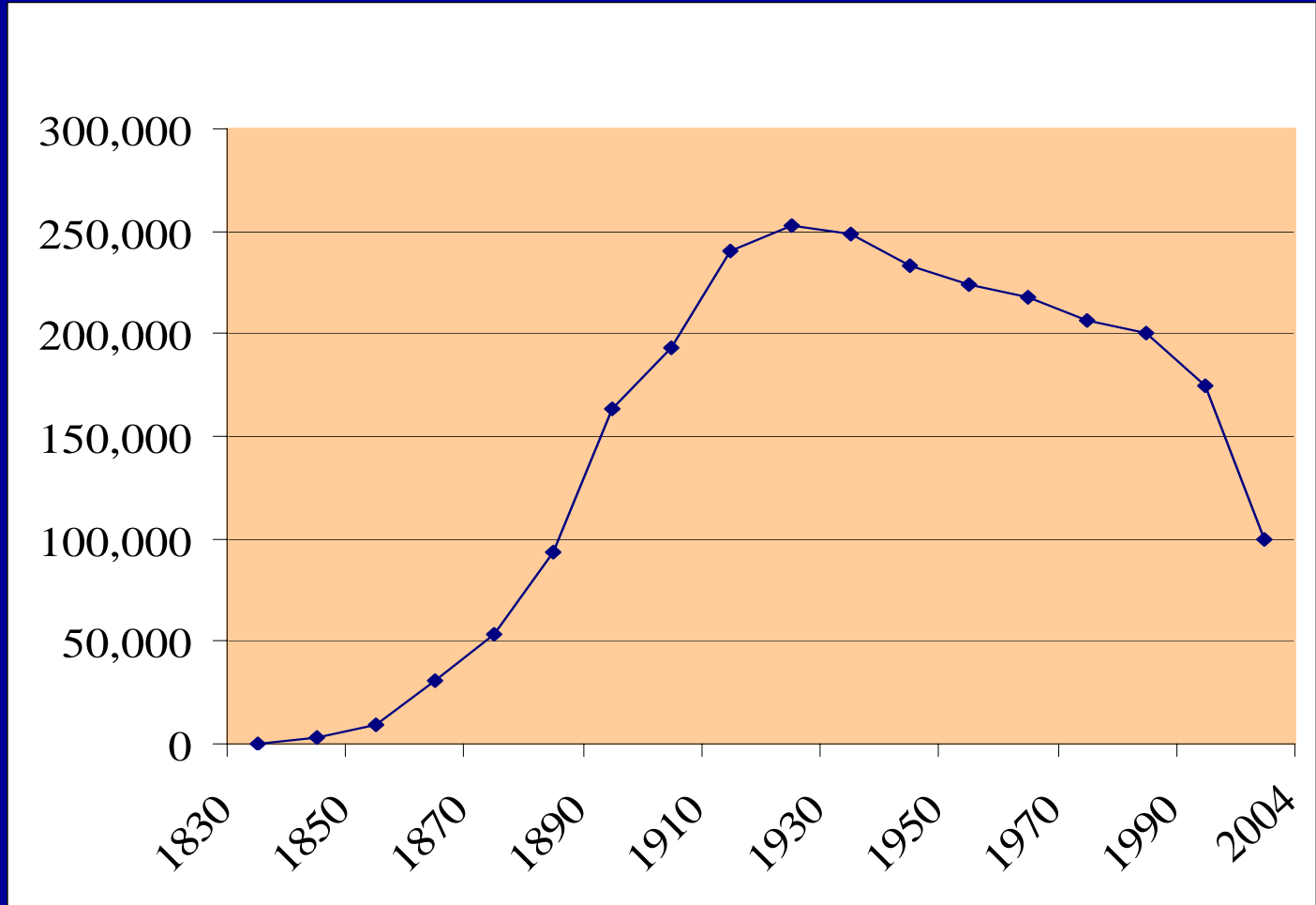
Major Issues Facing Railroads Today



Capacity & Congestion

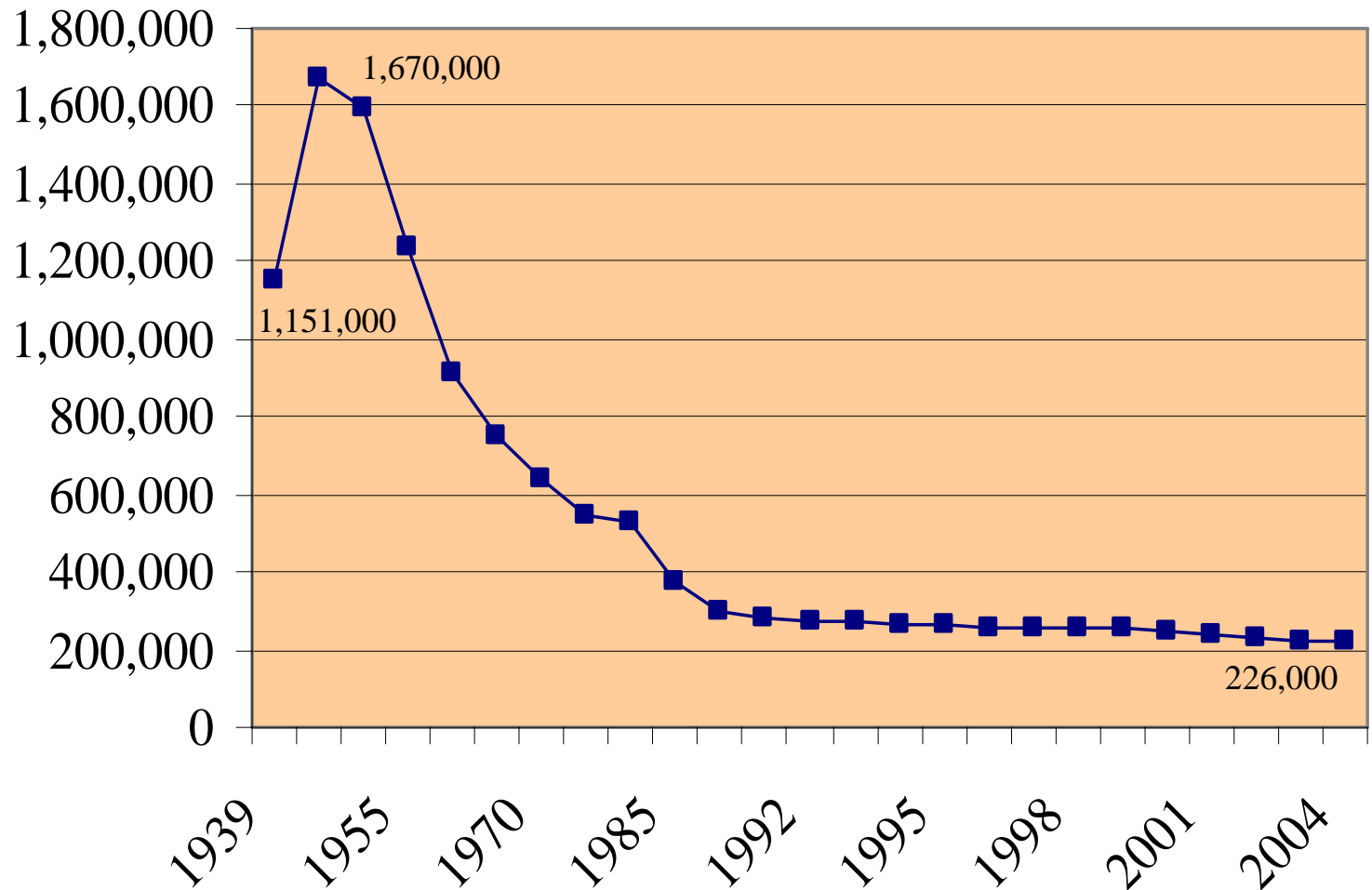


Growth & Decline of Class I Railroad Mileage





Railroad Employment 1939-2004





Insufficient Railroad Capacity

- Current and future service issues often demand and capacity driven
- Agency's role – not clearly defined
- Most commodities are deregulated and/or modally competitive
- Interstate Commerce Act laws and doctrine look at reasonableness
- Customers want fairness
- Responsibility is to system as a whole

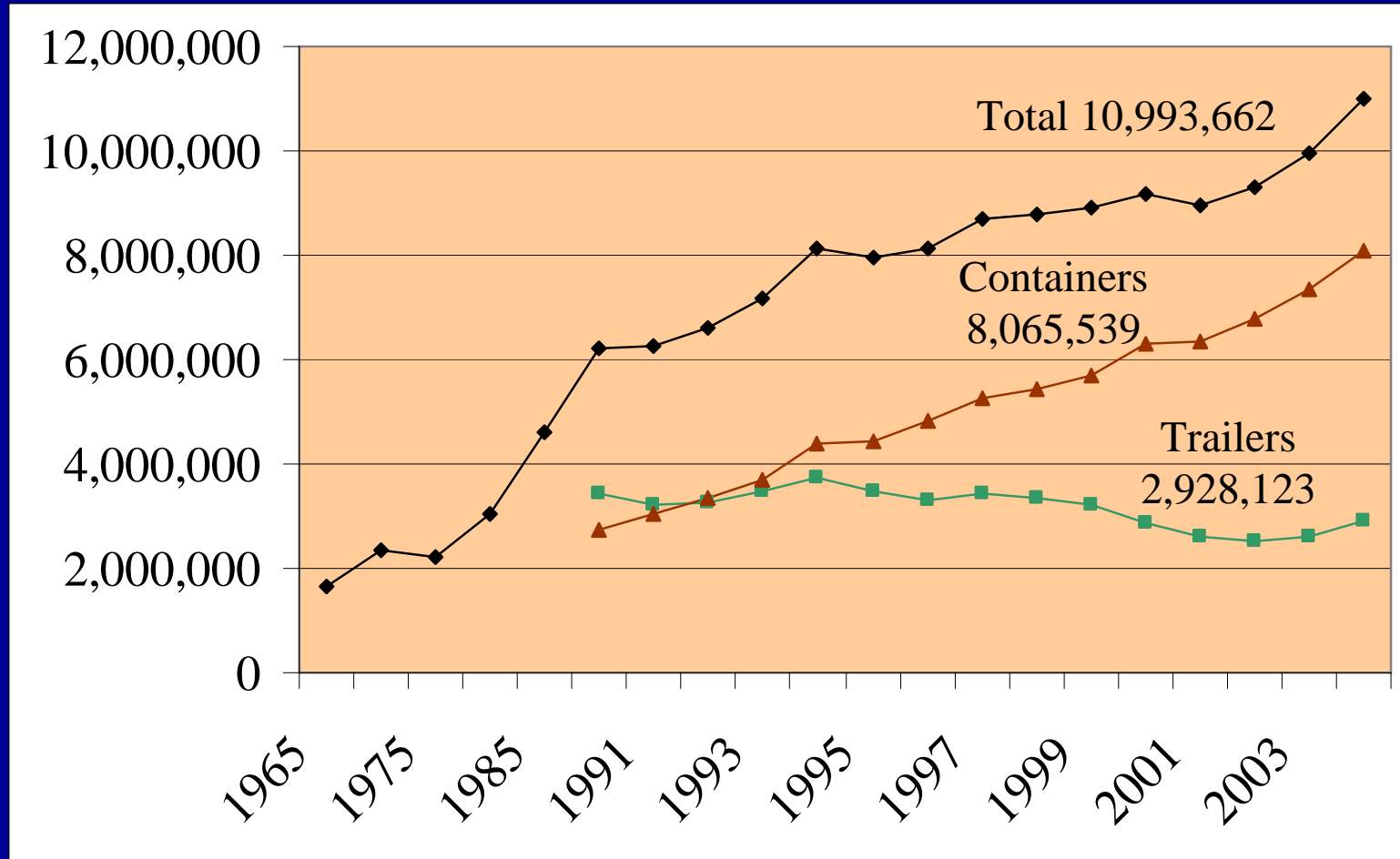


Capacity Constraints Short-term Causes

- Increased rail demand and tightness in rail capacity
 - Expanding economy increased imports
 - Large grain harvests
 - Shortages of crew and equipment
 - Insufficient capital expenditures
- Trucking capacity is also tight
 - Increased fuel prices
 - Driver Shortages
 - High insurance costs
 - Uncertain hours of service rules

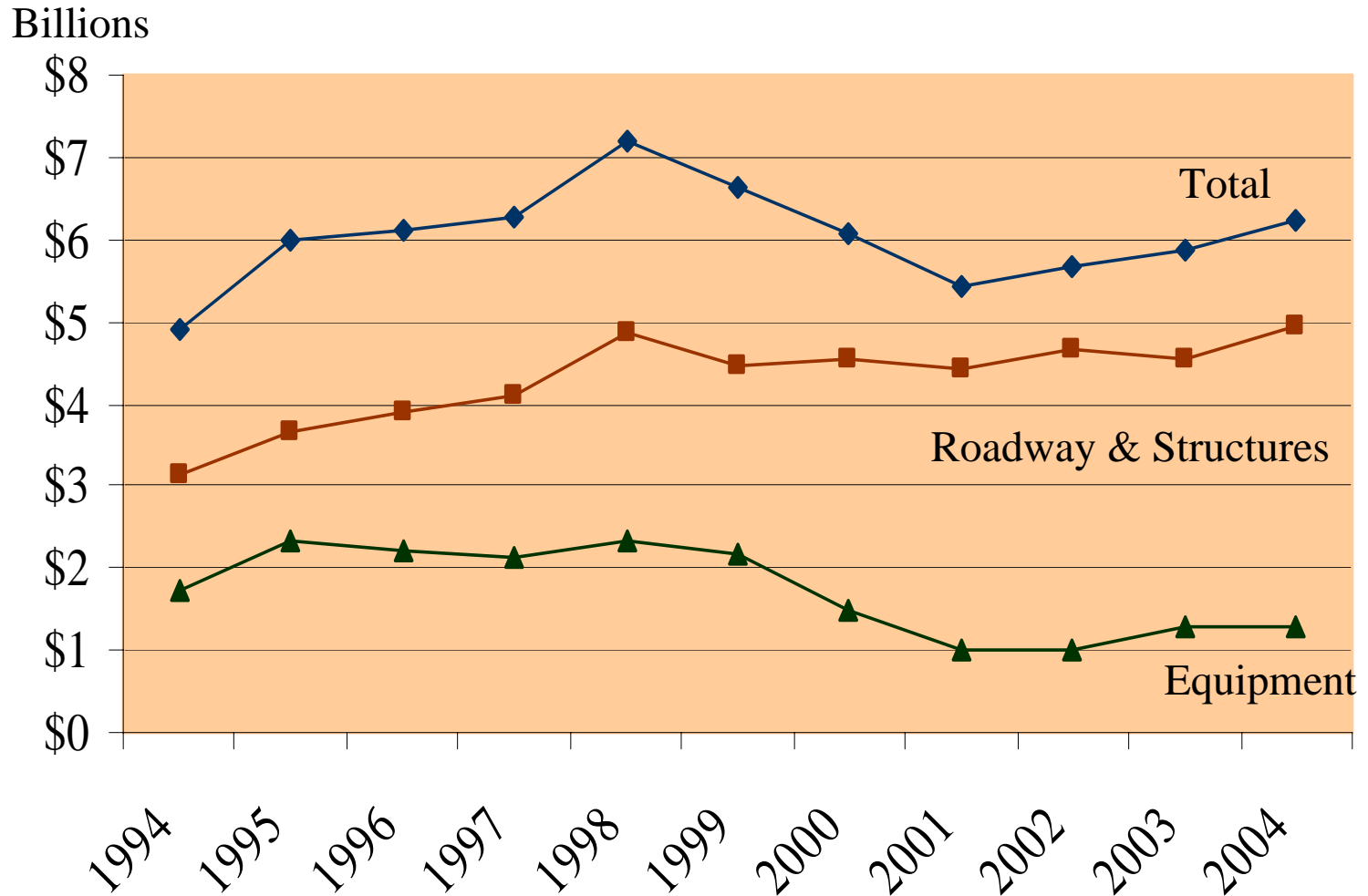


Intermodal Shipments Beginning 1965





Class I Capital Expenditures 1994 - 2004





Capacity Constraints Long-term Causes

- Future demand for freight movement predicted to increase
- Challenge for private companies to meet that demand
- Constraints on capital investment
 - RRs inability to achieve revenue adequacy
 - Demands of investors
 - Undercapacity and overcapacity at the same time
- Demands of changing freight flows



RR's response to Capacity Constraints

- Increase in locomotive purchases and leases
- Accelerated crew hiring and training
- Some infrastructure expansion efforts
- Price rationing of available capacity
- RR's choosing who to serve vs. common carrier obligation





Easing Congestion

- Increase physical infrastructure
- Adopt technological innovations
- Improve efficiency of existing facilities
- Promote Shipper/traveler behavioral changes

All have potential but all have limits



Infrastructure Capacity

- SAFETEA-LU – 2 years late \$90 Billion short
- \$286.5 Billion over 6 years
 - 38% more than TEA-21 in 1998
 - Far short of \$375 Billion estimated need
- Contains rail title but far from intermodal legislation
- Expands the RIFF program to \$35 Billion, makes shippers eligible



Public Investment in Rail Infrastructure?

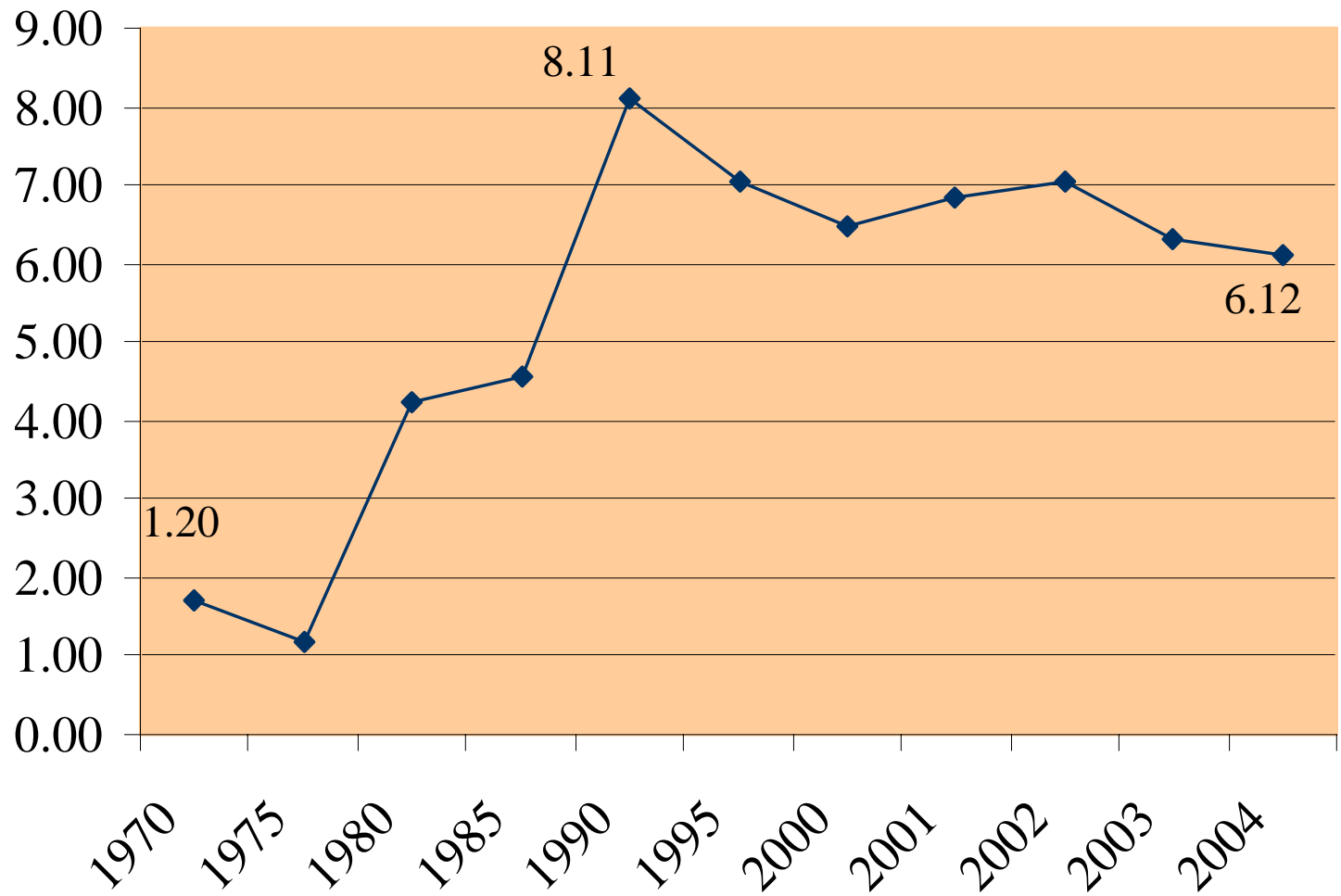
- Railroad ROI's inadequate – not earning cost of capital
 - Extraordinary costs
 - Revenue constraints
- Railroad Trust Fund concept – Class I opposition
- Public Private Partnerships (PPPs) –
 - Create
 - Alameda Corridor
- Short Lines and 286K ton car problem
- Investment tax credits



Railroad Revenue Adequacy



Railroad ROI 1970 - 2004





Railroad Cost of Capital

Sources: Annual R-1 Reports and AAR

	Cost of Capital	BNSF	CSXT	NS	UP	KCS	SOO	GT	IC
1996	11.9%	8.6%	8.9%	13.0%	9.3%	7.2%	23.5%	0.0%	15.2%
1997	11.8%	8.4%	9.8%	13.1%	5.2%	3.6%	12.3%	5.2%	15.8%
1998	10.7%	9.7%	8.1%	10.5%	2.9%	9.1%	4.9%	3.0%	13.6%
1999	10.8%	9.5%	3.8%	5.2%	6.8%	6.4%	2.5%	25.4%	10.0%
2000	11.0%	8.8%	3.6%	5.5%	6.9%	6.3%	5.6%	5.9%	5.9%
2001	10.2%	7.1%	4.6%	8.3%	7.6%	7.0%	5.9%	4.9%	4.9%
2002	9.8%	6.4%	5.2%	9.1%	8.6%	6.5%	5.7%	3.1%	3.1%
2003	9.4%	6.2%	4.0%	9.1%	7.3%	3.7%	0.0%	4.5%	4.5%
2004	10.2%	5.8%	4.4%	11.6%	4.5%	8.3%	3.3%	6.0%	6.0%



Other Rail/Shippers Issues



Railroad/Shipper Ongoing Concerns

- Fuel Surcharges
- Equipment supply
 - Return on assets
 - Balance meeting shipper needs with appropriate utilization of equipment
- One man crews
- Specific line segment utilization



What can shippers do to improve service?

- Support infrastructure investment spending
- Work with carriers to alleviate bottlenecks and chokepoints
- Work with the STB's Office of Compliance and Enforcement when problems arise
- Continue dialog with other shippers & shipper groups, e.g. RSTAC
- Communicate traffic demand forecast to carriers



STB Rail Consumer Assistance Program

- Facilitates informal resolution of disputes with RR's
- Brings issues to RR's attention rapidly
- Solves problems without litigation
- Promotes rail service improvements
- 122 complaints handled in 2005, over 590 handled since program began in 2000



Rail Consumer Assistance Program Contact Information

- Toll-free telephone 866-254-1792
- Written statement of the problem
 - Email: railconsumer@stb.dot.gov
 - FAX: 202-565-9011
- Web form at
[http://www.stb.dot.gov/railconsumer.nsf/
feedback?OpenForm](http://www.stb.dot.gov/railconsumer.nsf/feedback?OpenForm)