

One Hundred Fourteenth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the sixth day of January, two thousand and fifteen*

An Act

To establish the Surface Transportation Board as an independent establishment,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Surface Transportation Board Reauthorization Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References to title 49, United States Code.
- Sec. 3. Establishment of Surface Transportation Board as an independent establishment.
- Sec. 4. Surface Transportation Board membership.
- Sec. 5. Nonpublic collaborative discussions.
- Sec. 6. Reports.
- Sec. 7. Authorization of appropriations.
- Sec. 8. Agent in the District of Columbia.
- Sec. 9. Department of Transportation Inspector General authority.
- Sec. 10. Amendment to table of sections.
- Sec. 11. Procedures for rate cases.
- Sec. 12. Investigative authority.
- Sec. 13. Arbitration of certain rail rates and practices disputes.
- Sec. 14. Effect of proposals for rates from multiple origins and destinations.
- Sec. 15. Reports.
- Sec. 16. Criteria.
- Sec. 17. Construction.

SEC. 2. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. ESTABLISHMENT OF SURFACE TRANSPORTATION BOARD AS AN INDEPENDENT ESTABLISHMENT.

(a) REDESIGNATION OF CHAPTER 7 OF TITLE 49, UNITED STATES CODE.—Title 49 is amended—

- (1) by moving chapter 7 after chapter 11 in subtitle II;
- (2) by redesignating chapter 7 as chapter 13;
- (3) by redesignating sections 701 through 706 as sections 1301 through 1306, respectively;
- (4) by striking sections 725 and 727;
- (5) by redesignating sections 721 through 724 as sections 1321 through 1324, respectively; and

(6) by redesignating section 726 as section 1325.

(b) INDEPENDENT ESTABLISHMENT.—Section 1301, as redesignated by subsection (a)(3), is amended by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT.—The Surface Transportation Board is an independent establishment of the United States Government.”.

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—Section 1303, as redesignated by subsection (a)(3), is amended—

(A) by striking subsections (a), (c), (f), and (g);

(B) by redesignating subsections (b), (d), and (e) as subsections (a), (b), and (c), respectively; and

(C) by adding at the end the following:

“(d) SUBMISSION OF CERTAIN DOCUMENTS TO CONGRESS.—

“(1) IN GENERAL.—If the Board submits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for a congressional hearing, or comment on legislation to the President or to the Office of Management and Budget, the Board shall concurrently submit a copy of such document to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate; and

“(B) the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) NO APPROVAL REQUIRED.—No officer or agency of the United States has any authority to require the Board to submit budget estimates or requests, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review before submitting such recommendations, testimony, or comments to Congress.”.

SEC. 4. SURFACE TRANSPORTATION BOARD MEMBERSHIP.

(a) IN GENERAL.—Section 1301(b), as redesignated by subsection 3(a), is amended—

(1) in paragraph (1)—

(A) by striking “3 members” and inserting “5 members”;

and

(B) by striking “2 members” and inserting “3 members”;

and

(2) by striking paragraph (2) and inserting the following:

“(2) At all times—

“(A) at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation, transportation regulation, or economic regulation; and

“(B) at least 2 members shall be individuals with professional or business experience (including agriculture) in the private sector.”.

(b) REPEAL OF OBSOLETE PROVISION.—Section 1301(b), as amended by this section, is further amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and

(3) in paragraph (4), as redesignated, by striking “who becomes a member of the Board pursuant to paragraph (4), or an individual”.

SEC. 5. NONPUBLIC COLLABORATIVE DISCUSSIONS.

Section 1303(a), as redesignated by subsections (a) and (c) of section 3, is amended to read as follows:

“(a) OPEN MEETINGS.—

“(1) IN GENERAL.—The Board shall be deemed to be an agency for purposes of section 552b of title 5.

“(2) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

“(A) IN GENERAL.—Notwithstanding section 552b of title 5, a majority of the members may hold a meeting that is not open to public observation to discuss official agency business if—

“(i) no formal or informal vote or other official agency action is taken at the meeting;

“(ii) each individual present at the meeting is a member or an employee of the Board; and

“(iii) the General Counsel of the Board is present at the meeting.

“(B) DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.—Except as provided under subparagraph (C), not later than 2 business days after the conclusion of a meeting under subparagraph (A), the Board shall make available to the public, in a place easily accessible to the public—

“(i) a list of the individuals present at the meeting; and

“(ii) a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under section 552b(c) of title 5.

“(C) SUMMARY.—If the Board properly determines matters may be withheld from the public under section 555b(c) of title 5, the Board shall provide a summary with as much general information as possible on those matters withheld from the public.

“(D) ONGOING PROCEEDINGS.—If a discussion under subparagraph (A) directly relates to an ongoing proceeding before the Board, the Board shall make the disclosure under subparagraph (B) on the date of the final Board decision.

“(E) PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.—Nothing in this paragraph may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the members other than that described in this paragraph.

“(F) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed—

“(i) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under subparagraph (B)(i); or

“(ii) to authorize the Board to withhold from any individual any record that is accessible to that individual under section 552a of title 5, United States Code.”.

SEC. 6. REPORTS.

(a) **REPORTS.**—Section 1304, as amended by section 3, is further amended—

(1) by striking the section heading and inserting the following:

“§ 1304. Reports”;

(2) by inserting “(a) **ANNUAL REPORT.**—” before “The Board”;

(3) by striking “on its activities.” and inserting “on its activities, including each instance in which the Board has initiated an investigation on its own initiative under this chapter or subtitle IV.”; and

(4) by adding at the end the following:

“(b) **RATE CASE REVIEW METRICS.**—

“(1) **QUARTERLY REPORTS.**—The Board shall post a quarterly report of rail rate review cases pending or completed by the Board during the previous quarter that includes—

“(A) summary information of the case, including the docket number, case name, commodity or commodities involved, and rate review guideline or guidelines used;

“(B) the date on which the rate review proceeding began;

“(C) the date for the completion of discovery;

“(D) the date for the completion of the evidentiary record;

“(E) the date for the submission of closing briefs;

“(F) the date on which the Board issued the final decision; and

“(G) a brief summary of the final decision;

“(2) **WEBSITE POSTING.**—Each quarterly report shall be posted on the Board’s public website.”.

(b) **COMPILATION OF COMPLAINTS AT SURFACE TRANSPORTATION BOARD.**—

(1) **IN GENERAL.**—Section 1304, as amended by subsection (a), is further amended by adding at the end the following:

“(c) **COMPLAINTS.**—

“(1) **IN GENERAL.**—The Board shall establish and maintain a database of complaints received by the Board.

“(2) **QUARTERLY REPORTS.**—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

“(A) the date on which the complaint was received by the Board;

“(B) a list of the type of each complaint;

“(C) the geographic region of each complaint; and

“(D) the resolution of each complaint, if appropriate.

“(3) **WRITTEN CONSENT.**—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

“(4) **WEBSITE POSTING.**—Each quarterly report shall be posted on the Board’s public website.”.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 1305, as redesignated by section 3, is amended by striking paragraphs (1) through (3) and inserting the following:

- “(1) \$33,000,000 for fiscal year 2016;
- “(2) \$35,000,000 for fiscal year 2017;
- “(3) \$35,500,000 for fiscal year 2018;
- “(4) \$35,500,000 for fiscal year 2019; and
- “(5) \$36,000,000 for fiscal year 2020.”.

SEC. 8. AGENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF AGENT AND SERVICE OF NOTICE.—Section 1323, as redesignated by section 3(a), is amended—

(1) in subsection (a), by striking “in the District of Columbia,”; and

(2) in subsection (c), by striking “in the District of Columbia”.

(b) SERVICE OF PROCESS IN COURT PROCEEDINGS.—Section 1324(a), as redesignated by section 3(a), is amended by striking “in the District of Columbia” each place such phrase appears.

SEC. 9. DEPARTMENT OF TRANSPORTATION INSPECTOR GENERAL AUTHORITY.

Subchapter II of chapter 13, as redesignated by section 3(a)(2), is amended by inserting after section 1325, as redesignated by section 3(a)(6), the following:

“§ 1326. Authority of the Inspector General

“(a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, shall have authority to review only the financial management, property management, and business operations of the Surface Transportation Board, including internal accounting and administrative control systems, to determine the Board’s compliance with applicable Federal laws, rules, and regulations.

“(b) DUTIES.—In carrying out this section, the Inspector General shall—

“(1) keep the Chairman of the Board, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Board;

“(2) issue findings and recommendations for actions to address the problems referred to in paragraph (1); and

“(3) submit periodic reports to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that describe any progress made in implementing actions to address the problems referred to in paragraph (1).

“(c) ACCESS TO INFORMATION.—In carrying out this section, the Inspector General may exercise authorities granted to the Inspector General under subsections (a) and (b) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) FUNDING.—There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector

General of the Department of Transportation such sums as may be necessary to cover expenses associated with activities pursuant to the authority exercised under this section.

“(2) REIMBURSABLE AGREEMENT.—In the absence of an appropriation under this subsection for an expense referred to in paragraph (1), the Inspector General and the Board shall have a reimbursement agreement to cover such expense.”.

SEC. 10. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 13, as redesignated by section 3(a), is amended to read as follows:

“CHAPTER 13—SURFACE TRANSPORTATION BOARD

“I—ESTABLISHMENT

“Sec.
“1301. Establishment of Board
“1302. Functions.
“1303. Administrative provisions.
“1304. Reports.
“1305. Authorization of appropriations.
“1306. Reporting official action.

“II—ADMINISTRATIVE

“1321. Powers.
“1322. Board action.
“1323. Service of notice in Board proceedings.
“1324. Service of process in court proceedings.
“1325. Railroad-Shipper Transportation Advisory Council.
“1326. Authority of the Inspector General.”.

SEC. 11. PROCEDURES FOR RATE CASES.

(a) SIMPLIFIED PROCEDURE.—Section 10701(d)(3) is amended to read as follows:

“(3) The Board shall maintain 1 or more simplified and expedited methods for determining the reasonableness of challenged rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case.”.

(b) EXPEDITED HANDLING; RATE REVIEW TIMELINES.—Section 10704(d) is amended—

(1) by striking “(d) Within 9 months” and all that follows through “railroad rates.” and inserting the following:

“(d)(1) The Board shall maintain procedures to ensure the expeditious handling of challenges to the reasonableness of railroad rates.”; and

(2) by adding at the end the following:

“(2)(A) Except as provided under subparagraph (B), in a stand-alone cost rate challenge, the Board shall comply with the following timeline:

“(i) Discovery shall be completed not later than 150 days after the date on which the challenge is initiated.

“(ii) The development of the evidentiary record shall be completed not later than 155 days after the date on which discovery is completed under clause (i).

“(iii) The closing brief shall be submitted not later than 60 days after the date on which the development of the evidentiary record is completed under clause (ii).

“(iv) A final Board decision shall be issued not later than 180 days after the date on which the evidentiary record is completed under clause (ii).

“(B) The Board may extend a timeline under subparagraph (A) after a request from any party or in the interest of due process.”.

(c) PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Surface Transportation Board shall initiate a proceeding to assess procedures that are available to parties in litigation before courts to expedite such litigation and the potential application of any such procedures to rate cases.

(d) EXPIRED RAIL SERVICE CONTRACT LIMITATION.—Section 10709 is amended by striking subsection (h).

SEC. 12. INVESTIGATIVE AUTHORITY.

(a) AUTHORITY TO INITIATE INVESTIGATIONS.—Section 11701(a) is amended—

(1) by striking “only on complaint” and inserting “on the Board’s own initiative or upon receiving a complaint pursuant to subsection (b)”;

(2) by adding at the end the following: “If the Board finds a violation of this part in a proceeding brought on its own initiative, any remedy from such proceeding may only be applied prospectively.”.

(b) LIMITATIONS ON INVESTIGATIONS OF THE BOARD’S INITIATIVE.—Section 11701, as amended by subsection (a), is further amended by adding at the end the following:

“(d) In any investigation commenced on the Board’s own initiative, the Board shall—

“(1) not later than 30 days after initiating the investigation, provide written notice to the parties under investigation, which shall state the basis for such investigation;

“(2) only investigate issues that are of national or regional significance;

“(3) permit the parties under investigation to file a written statement describing any or all facts and circumstances concerning a matter which may be the subject of such investigation;

“(4) make available to the parties under investigation and Board members—

“(A) any recommendations made as a result of the investigation; and

“(B) a summary of the findings that support such recommendations;

“(5) to the extent practicable, separate the investigative and decisionmaking functions of staff;

“(6) dismiss any investigation that is not concluded by the Board with administrative finality within 1 year after the date on which it was commenced; and

“(7) not later than 90 days after receiving the recommendations and summary of findings under paragraph (4)—

“(A) dismiss the investigation if no further action is warranted; or

“(B) initiate a proceeding to determine if a provision under this part has been violated.

“(e)(1) Any parties to an investigation against whom a violation is found as a result of an investigation begun on the Board’s own initiative may, not later than 60 days after the date of the order of the Board finding such a violation, institute an action in the United States court of appeals for the appropriate judicial circuit for de novo review of such order in accordance with chapter 7 of title 5.

“(2) The court—

“(A) shall have jurisdiction to enter a judgment affirming, modifying, or setting aside, in whole or in part, the order of the Board; and

“(B) may remand the proceeding to the Board for such further action as the court may direct.”.

(c) RULEMAKINGS FOR INVESTIGATIONS OF THE BOARD’S INITIATIVE.—Not later than 1 year after the date of the enactment of this Act, the Board shall issue rules, after notice and comment rulemaking, for investigations commenced on its own initiative that—

(1) comply with the requirements of section 11701(d) of title 49, United States Code, as added by subsection (b);

(2) satisfy due process requirements; and

(3) take into account ex parte constraints.

SEC. 13. ARBITRATION OF CERTAIN RAIL RATES AND PRACTICES DISPUTES.

(a) IN GENERAL.—Chapter 117 is amended by adding at the end the following:

“§ 11708. Voluntary arbitration of certain rail rates and practices disputes

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Surface Transportation Board Reauthorization Act of 2015, the Board shall promulgate regulations to establish a voluntary and binding arbitration process to resolve rail rate and practice complaints subject to the jurisdiction of the Board.

“(b) COVERED DISPUTES.—The voluntary and binding arbitration process established pursuant to subsection (a)—

“(1) shall apply to disputes involving—

“(A) rates, demurrage, accessorial charges, misrouting, or mishandling of rail cars; or

“(B) a carrier’s published rules and practices as applied to particular rail transportation;

“(2) shall not apply to disputes—

“(A) to obtain the grant, denial, stay, or revocation of any license, authorization, or exemption;

“(B) to prescribe for the future any conduct, rules, or results of general, industry-wide applicability;

“(C) to enforce a labor protective condition; or

“(D) that are solely between 2 or more rail carriers;

and

“(3) shall not prevent parties from independently seeking or utilizing private arbitration services to resolve any disputes the parties may have.

“(c) ARBITRATION PROCEDURES.—

“(1) IN GENERAL.—The Board—

“(A) may make the voluntary and binding arbitration process established pursuant to subsection (a) available only to the relevant parties;

“(B) may make the voluntary and binding arbitration process available only—

“(i) after receiving the written consent to arbitrate from all relevant parties; and

“(ii) after the filing of a written complaint; or

“(II) through other procedures adopted by the Board in a rulemaking proceeding;

“(C) with respect to rate disputes, may make the voluntary and binding arbitration process available only to the relevant parties if the rail carrier has market dominance (as determined under section 10707); and

“(D) may initiate the voluntary and binding arbitration process not later than 40 days after the date on which a written complaint is filed or through other procedures adopted by the Board in a rulemaking proceeding.

“(2) LIMITATION.—Initiation of the voluntary and binding arbitration process shall preclude the Board from separately reviewing a complaint or dispute related to the same rail rate or practice in a covered dispute involving the same parties.

“(3) RATES.—In resolving a covered dispute involving the reasonableness of a rail carrier’s rates, the arbitrator or panel of arbitrators, as applicable, shall consider the Board’s methodologies for setting maximum lawful rates, giving due consideration to the need for differential pricing to permit a rail carrier to collect adequate revenues (as determined under section 10704(a)(2)).

“(d) ARBITRATION DECISIONS.—Any decision reached in an arbitration process under this section—

“(1) shall be consistent with sound principles of rail regulation economics;

“(2) shall be in writing;

“(3) shall contain findings of fact and conclusions;

“(4) shall be binding upon the parties; and

“(5) shall not have any precedential effect in any other or subsequent arbitration dispute.

“(e) TIMELINES.—

“(1) SELECTION.—An arbitrator or panel of arbitrators shall be selected not later than 14 days after the date of the Board’s decision to initiate arbitration.

“(2) EVIDENTIARY PROCESS.—The evidentiary process of the voluntary and binding arbitration process shall be completed not later than 90 days after the date on which the arbitration process is initiated unless—

“(A) a party requests an extension; and

“(B) the arbitrator or panel of arbitrators, as applicable, grants such extension request.

“(3) DECISION.—The arbitrator or panel of arbitrators, as applicable, shall issue a decision not later than 30 days after the date on which the evidentiary record is closed.

“(4) EXTENSIONS.—The Board may extend any of the timelines under this subsection upon the agreement of all parties in the dispute.

“(f) ARBITRATORS.—

“(1) IN GENERAL.—Unless otherwise agreed by all of the parties, an arbitration under this section shall be conducted by an arbitrator or panel of arbitrators, which shall be selected from a roster, maintained by the Board, of persons with rail transportation, economic regulation, professional or business experience, including agriculture, in the private sector.

“(2) INDEPENDENCE.—In an arbitration under this section, the arbitrators shall perform their duties with diligence, good

faith, and in a manner consistent with the requirements of impartiality and independence.

“(3) SELECTION.—

“(A) IN GENERAL.—If the parties cannot mutually agree on an arbitrator, or the lead arbitrator of a panel of arbitrators, the parties shall select the arbitrator or lead arbitrator from the roster by alternately striking names from the roster until only 1 name remains meeting the criteria set forth in paragraph (1).

“(B) PANEL OF ARBITRATORS.—If the parties agree to select a panel of arbitrators, instead of a single arbitrator, the panel shall be selected under this subsection as follows:

“(i) The parties to a dispute may mutually select 1 arbitrator from the roster to serve as the lead arbitrator of the panel of arbitrators.

“(ii) If the parties cannot mutually agree on a lead arbitrator, the parties shall select a lead arbitrator using the process described in subparagraph (A).

“(iii) In addition to the lead arbitrator selected under this subparagraph, each party to a dispute shall select 1 additional arbitrator from the roster, regardless of whether the other party struck out the arbitrator’s name under subparagraph (A).

“(4) COST.—The parties shall share the costs incurred by the Board and arbitrators equally, with each party responsible for paying its own legal and other associated arbitration costs.

“(g) RELIEF.—

“(1) IN GENERAL.—Subject to the limitations set forth in paragraphs (2) and (3), an arbitral decision under this section may award the payment of damages or rate prescriptive relief.

“(2) PRACTICE DISPUTES.—The damage award for practice disputes may not exceed \$2,000,000.

“(3) RATE DISPUTES.—

“(A) MONETARY LIMIT.—The damage award for rate disputes, including any rate prescription, may not exceed \$25,000,000.

“(B) TIME LIMIT.—Any rate prescription shall be limited to not longer than 5 years from the date of the arbitral decision.

“(h) BOARD REVIEW.—If a party appeals a decision under this section to the Board, the Board may review the decision under this section to determine if—

“(1) the decision is consistent with sound principles of rail regulation economics;

“(2) a clear abuse of arbitral authority or discretion occurred;

“(3) the decision directly contravenes statutory authority;

or

“(4) the award limitation under subsection (g) was violated.”.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 117 is amended by adding at the end the following:

“11708. Voluntary arbitration of certain rail rates and practice disputes.”.

SEC. 14. EFFECT OF PROPOSALS FOR RATES FROM MULTIPLE ORIGINS AND DESTINATIONS.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall commence a study of rail transportation contract proposals containing multiple origin-to-destination movements.

(b) **REPORT.**—Not later than 1 year after commencing the study required under subsection (a), the Comptroller General shall submit a report containing the results of the study to—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 15. REPORTS.

(a) **REPORT ON RATE CASE METHODOLOGY.**—Not later than 1 year after the date of the enactment of this Act, the Surface Transportation Board shall submit a report to the congressional committees referred to in section 14(b) that—

(1) indicates whether current large rate case methodologies are sufficient, not unduly complex, and cost effective;

(2) indicates whether alternative methodologies exist, or could be developed, to streamline, expedite, and address the complexity of large rate cases; and

(3) only includes alternative methodologies, which exist or could be developed, that are consistent with sound economic principles.

(b) **QUARTERLY REPORTS.**—Beginning not later than 60 days after the date of the enactment of this Act, the Surface Transportation Board shall submit quarterly reports to the congressional committees referred to in section 14(b) that describes the Surface Transportation Board's progress toward addressing the issues raised in each unfinished regulatory proceeding, regardless of whether the proceeding is subject to a statutory or regulatory deadline.

SEC. 16. CRITERIA.

Section 10704(a)(2) is amended by inserting “for the infrastructure and investment needed to meet the present and future demand for rail services and” after “management,”.

SEC. 17. CONSTRUCTION.

Nothing in this Act may be construed to affect any suit commenced by or against the Surface Transportation Board, or any

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proceeding or challenge pending before the Surface Transportation Board, before the date of the enactment of this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*