

114TH CONGRESS
1ST SESSION

S. 808

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 (1) by moving chapter 7 after chapter 11 in
2 subtitle II;

3 (2) by redesignating chapter 7 as chapter 13;

4 (3) by redesignating sections 701 through 706
5 as sections 1301 through 1306, respectively;

6 (4) by striking sections 725 and 727;

7 (5) by redesignating sections 721 through 724
8 as sections 1321 through 1324, respectively; and

9 (6) by redesignating section 726 as section
10 1325.

11 (b) INDEPENDENT ESTABLISHMENT.—Section 1301,
12 as redesignated by subsection (a)(3), is amended by strik-
13 ing subsection (a) and inserting the following:

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

17 (c) CONFORMING AMENDMENTS.—

18 (1) ADMINISTRATIVE PROVISIONS.—Section
19 1303, as redesignated by subsection (a)(3), is
20 amended—

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

23 (B) by redesignating subsections (b), (d),
24 and (e) as subsections (a), (b), and (c), respec-
25 tively; and

1 (C) by adding at the end the following:

2 “(d) SUBMISSION OF CERTAIN DOCUMENTS TO CON-
3 GRESS.—

4 “(1) IN GENERAL.—If the Board submits any
5 budget estimate, budget request, supplemental budg-
6 et estimate, or other budget information, legislative
7 recommendation, prepared testimony for a congres-
8 sional hearing, or comment on legislation to the
9 President or to the Office of Management and
10 Budget, the Board shall concurrently submit a copy
11 of such document to—

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

14 “(B) the Committee on Transportation
15 and Infrastructure of the House of Representa-
16 tives.

17 “(2) NO APPROVAL REQUIRED.—No officer or
18 agency of the United States has any authority to re-
19 quire the Board to submit budget estimates or re-
20 quests, legislative recommendations, prepared testi-
21 mony for congressional hearings, or comments on
22 legislation to any officer or agency of the United
23 States for approval, comments, or review before sub-
24 mitting such recommendations, testimony, or com-
25 ments to Congress.”.

1 **SEC. 4. SURFACE TRANSPORTATION BOARD MEMBERSHIP.**

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

4 (1) in paragraph (1)—

5 (A) by striking “3 members” and inserting
6 “5 members”; and

7 (B) by striking “2 members” and inserting
8 “3 members”; and

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

11 “(2) At all times—

12 “(A) at least 3 members of the Board shall be
13 individuals with professional standing and dem-
14 onstrated knowledge in the fields of transportation,
15 transportation regulation, or economic regulation;
16 and

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

20 (b) REPEAL OF OBSOLETE PROVISION.—Section
21 1301(b), as amended by this section, is further amended—

22 (1) by striking paragraph (4);

23 (2) by redesignating paragraphs (5), (6), and

24 (7) as paragraphs (4), (5), and (6), respectively; and

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

4 **SEC. 5. NONPUBLIC COLLABORATIVE DISCUSSIONS.**

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

7 “(a) OPEN MEETINGS.—

8 “(1) IN GENERAL.—The Board shall be deemed
9 to be an agency for purposes of section 552b of title
10 5.

11 “(2) NONPUBLIC COLLABORATIVE DISCUS-
12 SIONS.—

13 “(A) IN GENERAL.—Notwithstanding sec-
14 tion 552b of title 5, a majority of the members
15 may hold a meeting that is not open to public
16 observation to discuss official agency business
17 if—

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

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

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

1 “(B) DISCLOSURE OF NONPUBLIC COL-
2 LABORATIVE DISCUSSIONS.—Except as provided
3 under subparagraph (C), not later than 2 busi-
4 ness days after the conclusion of a meeting
5 under subparagraph (A), the Board shall make
6 available to the public, in a place easily acces-
7 sible to the public—

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

10 “(ii) a summary of the matters dis-
11 cussed at the meeting, except for any mat-
12 ters the Board properly determines may be
13 withheld from the public under section
14 552b(c) of title 5.

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

21 “(D) ONGOING PROCEEDINGS.—If a dis-
22 cussion under subparagraph (A) directly relates
23 to an ongoing proceeding before the Board, the
24 Board shall make the disclosure under subpara-

1 graph (B) on the date of the final Board deci-
2 sion.

3 “(E) PRESERVATION OF OPEN MEETINGS
4 REQUIREMENTS FOR AGENCY ACTION.—Noth-
5 ing in this paragraph may be construed to limit
6 the applicability of section 552b of title 5 with
7 respect to a meeting of the members other than
8 that described in this paragraph.

9 “(F) STATUTORY CONSTRUCTION.—Noth-
10 ing in this paragraph may be construed—

11 “(i) to limit the applicability of sec-
12 tion 552b of title 5 with respect to any in-
13 formation which is proposed to be withheld
14 from the public under subparagraph
15 (B)(ii); or

16 “(ii) to authorize the Board to with-
17 hold from any individual any record that is
18 accessible to that individual under section
19 552a of title 5, United States Code.”.

20 **SEC. 6. REPORTS.**

21 (a) REPORTS.—Section 1304, as amended by section
22 3, is further amended—

23 (1) by striking the section heading and insert-
24 ing the following:

1 **“§ 1304. Reports”;**

2 (2) by inserting “(a) ANNUAL REPORT.—” be-
3 fore “The Board”;

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

8 (4) by adding at the end the following:

9 “(b) RATE CASE REVIEW METRICS.—

10 “(1) QUARTERLY REPORTS.—The Board shall
11 post a quarterly report of rail rate review cases
12 pending or completed by the Board during the pre-
13 vious quarter that includes—

14 “(A) summary information of the case, in-
15 cluding the docket number, case name, com-
16 modity or commodities involved, and rate review
17 guideline or guidelines used;

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

20 “(C) the date for the completion of dis-
21 covery;

22 “(D) the date for the completion of the evi-
23 dentiary record;

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

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

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

4 “(2) WEBSITE POSTING.—Each quarterly re-
5 port shall be posted on the Board’s public website.”.

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

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

11 “(c) COMPLAINTS.—

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

15 “(2) QUARTERLY REPORTS.—The Board shall
16 post a quarterly report of formal and informal serv-
17 ice complaints received by the Board during the pre-
18 vious quarter that includes—

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

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

22 “(C) the geographic region of each com-
23 plaint; and

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

1 “(3) WRITTEN CONSENT.—The quarterly report
2 may identify a complainant that submitted an infor-
3 mal complaint only upon the written consent of the
4 complainant.

5 “(4) WEBSITE POSTING.—Each quarterly re-
6 port shall be posted on the Board’s public website.”.

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 1305, as redesignated by section 3, is amend-
9 ed by striking paragraphs (1) through (3) and inserting
10 the following:

11 “(1) \$33,000,000 for fiscal year 2016;

12 “(2) \$35,000,000 for fiscal year 2017;

13 “(3) \$35,500,000 for fiscal year 2018;

14 “(4) \$35,500,000 for fiscal year 2019; and

15 “(5) \$36,000,000 for fiscal year 2020.”.

16 **SEC. 8. AGENT IN THE DISTRICT OF COLUMBIA.**

17 (a) DESIGNATION OF AGENT AND SERVICE OF NO-
18 TICE.—Section 1323, as redesignated by section 3(a), is
19 amended—

20 (1) in subsection (a), by striking “in the Dis-
21 trict of Columbia,”; and

22 (2) in subsection (c), by striking “in the Dis-
23 trict of Columbia”.

24 (b) SERVICE OF PROCESS IN COURT PRO-
25 CEEDINGS.—Section 1324(a), as redesignated by section

1 3(a), is amended by striking “in the District of Columbia”
2 each place such phrase appears.

3 **SEC. 9. DEPARTMENT OF TRANSPORTATION INSPECTOR**

4 **GENERAL AUTHORITY.**

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

8 **“§ 1326. Authority of the Inspector General**

9 “(a) IN GENERAL.—The Inspector General of the
10 Department of Transportation, in accordance with the
11 mission of the Inspector General to prevent and detect
12 fraud and abuse, shall have authority to review only the
13 financial management, property management, and busi-
14 ness operations of the Surface Transportation Board, in-
15 cluding internal accounting and administrative control
16 systems, to determine the Board’s compliance with appli-
17 cable Federal laws, rules, and regulations.

18 “(b) DUTIES.—In carrying out this section, the In-
19 spector General shall—

20 “(1) keep the Chairman of the Board, the Com-
21 mittee on Commerce, Science, and Transportation of
22 the Senate, and the Committee on Transportation
23 and Infrastructure of the House of Representatives
24 fully and currently informed about problems relating

1 to administration of the internal accounting and ad-
2 ministrative control systems of the Board;

3 “(2) issue findings and recommendations for
4 actions to address the problems referred to in para-
5 graph (1); and

6 “(3) submit periodic reports to the Committee
7 on Commerce, Science, and Transportation of the
8 Senate, and the Committee on Transportation and
9 Infrastructure of the House of Representatives that
10 describe any progress made in implementing actions
11 to address the problems referred to in paragraph
12 (1).

13 “(c) ACCESS TO INFORMATION.—In carrying out this
14 section, the Inspector General may exercise authorities
15 granted to the Inspector General under subsections (a)
16 and (b) of section 6 of the Inspector General Act of 1978
17 (5 U.S.C. App.).

18 “(d) AUTHORIZATION OF APPROPRIATIONS.—

19 “(1) FUNDING.—There are authorized to be ap-
20 propriated to the Secretary of Transportation for
21 use by the Inspector General of the Department of
22 Transportation such sums as may be necessary to
23 cover expenses associated with activities pursuant to
24 the authority exercised under this section.

1 “(2) REIMBURSABLE AGREEMENT.—In the ab-
 2 sence of an appropriation under this subsection for
 3 an expense referred to in paragraph (1), the Inspec-
 4 tor General and the Board shall have a reimburse-
 5 ment agreement to cover such expense.”.

6 **SEC. 10. AMENDMENT TO TABLE OF SECTIONS.**

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

9 **“CHAPTER 13—SURFACE**
 10 **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.”.

11 **SEC. 11. PROCEDURES FOR RATE CASES.**

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

14 “(3) The Board shall maintain 1 or more simplified
 15 and expedited methods for determining the reasonableness
 16 of challenged rates in those cases in which a full stand-

1 alone cost presentation is too costly, given the value of
2 the case.”.

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

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

8 “(d)(1) The Board shall maintain procedures to en-
9 sure the expeditious handling of challenges to the reason-
10 ableness of railroad rates.”; and

11 (2) by adding at the end the following:

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

15 “(i) Discovery shall be completed not later than
16 150 days after the date on which the challenge is
17 initiated.

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

22 “(iii) The closing brief shall be submitted not
23 later than 60 days after the date on which the devel-
24 opment of the evidentiary record is completed under
25 clause (ii).

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

4 “(B) The Board may extend a timeline under sub-
5 paragraph (A) after a request from any party or in the
6 interest of due process.”.

7 (c) PROCEDURES.—Not later than 180 days after the
8 date of the enactment of this Act, the Surface Transpor-
9 tation Board shall initiate a proceeding to assess proce-
10 dures that are available to parties in litigation before
11 courts to expedite such litigation and the potential applica-
12 tion of any such procedures to rate cases.

13 (d) EXPIRED RAIL SERVICE CONTRACT LIMITA-
14 TION.—Section 10709 is amended by striking subsection
15 (h).

16 **SEC. 12. INVESTIGATIVE AUTHORITY.**

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

19 (1) by striking “only on complaint” and insert-
20 ing “on the Board’s own initiative or upon receiving
21 a complaint pursuant to subsection (b)”;

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

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

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

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

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

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

17 “(4) make available to the parties under inves-
18 tigation and Board members—

19 “(A) any recommendations made as a re-
20 sult of the investigation; and

21 “(B) a summary of the findings that sup-
22 port such recommendations;

23 “(5) to the extent practicable, separate the in-
24 vestigative and decisionmaking functions of staff;

1 “(6) dismiss any investigation that is not con-
2 cluded by the Board with administrative finality
3 within 1 year after the date on which it was com-
4 menced; and

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

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

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

12 “(e)(1) Any parties to an investigation against whom
13 a violation is found as a result of an investigation begun
14 on the Board’s own initiative may, not later than 60 days
15 after the date of the order of the Board finding such a
16 violation, institute an action in the United States court
17 of appeals for the appropriate judicial circuit for de novo
18 review of such order in accordance with chapter 7 of title
19 5.

20 “(2) The court—

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

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

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

6 (1) comply with the requirements of section
 7 11701(d) of title 49, United States Code, as added
 8 by subsection (b);

9 (2) satisfy due process requirements; and

10 (3) take into account ex parte constraints.

11 **SEC. 13. ARBITRATION OF CERTAIN RAIL RATES AND PRAC-**
 12 **TICES DISPUTES.**

13 (a) IN GENERAL.—Chapter 117 is amended by add-
 14 ing at the end the following:

15 **“§ 11708. Voluntary arbitration of certain rail rates**
 16 **and practices disputes**

17 “(a) IN GENERAL.—Not later than 1 year after the
 18 date of the enactment of the Surface Transportation
 19 Board Reauthorization Act of 2015, the Board shall pro-
 20 mulgate regulations to establish a voluntary and binding
 21 arbitration process to resolve rail rate and practice com-
 22 plaints subject to the jurisdiction of the Board.

23 “(b) COVERED DISPUTES.—The voluntary and bind-
 24 ing arbitration process established pursuant to subsection

25 (a)—

1 “(1) shall apply to disputes involving—

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

4 “(B) a carrier’s published rules and prac-
5 tices as applied to particular rail transpor-
6 tation;

7 “(2) shall not apply to disputes—

8 “(A) to obtain the grant, denial, stay, or
9 revocation of any license, authorization, or ex-
10 emption;

11 “(B) to prescribe for the future any con-
12 duct, rules, or results of general, industry-wide
13 applicability;

14 “(C) to enforce a labor protective condi-
15 tion; or

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

18 “(3) shall not prevent parties from independ-
19 ently seeking or utilizing private arbitration services
20 to resolve any disputes the parties may have.

21 “(c) ARBITRATION PROCEDURES.—

22 “(1) IN GENERAL.—The Board—

23 “(A) may make the voluntary and binding
24 arbitration process established pursuant to sub-
25 section (a) available only to the relevant parties;

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

3 “(i) after receiving the written con-
4 sent to arbitrate from all relevant parties;
5 and

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

8 “(II) through other procedures adopt-
9 ed by the Board in a rulemaking pro-
10 ceeding;

11 “(C) with respect to rate disputes, may
12 make the voluntary and binding arbitration
13 process available only to the relevant parties if
14 the rail carrier has market dominance (as de-
15 termined under section 10707); and

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

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

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

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

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

13 “(2) shall be in writing;

14 “(3) shall contain findings of fact and conclu-
15 sions;

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

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

19 “(e) TIMELINES.—

20 “(1) SELECTION.—An arbitrator or panel of ar-
21 bitrators shall be selected not later than 14 days
22 after the date of the Board’s decision to initiate ar-
23 bitration.

24 “(2) EVIDENTIARY PROCESS.—The evidentiary
25 process of the voluntary and binding arbitration

1 process shall be completed not later than 90 days
2 after the date on which the arbitration process is ini-
3 tiated unless—

4 “(A) a party requests an extension; and

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

7 “(3) DECISION.—The arbitrator or panel of ar-
8 bitrators, as applicable, shall issue a decision not
9 later than 30 days after the date on which the evi-
10 dentiary record is closed.

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

14 “(f) ARBITRATORS.—

15 “(1) IN GENERAL.—Unless otherwise agreed by
16 all of the parties, an arbitration under this section
17 shall be conducted by an arbitrator or panel of arbi-
18 trators, which shall be selected from a roster, main-
19 tained by the Board, of persons with rail transpor-
20 tation, economic regulation, professional or business
21 experience, including agriculture, in the private sec-
22 tor.

23 “(2) INDEPENDENCE.—In an arbitration under
24 this section, the arbitrators shall perform their du-
25 ties with diligence, good faith, and in a manner con-

1 sistent with the requirements of impartiality and
2 independence.

3 “(3) SELECTION.—

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

11 “(B) PANEL OF ARBITRATORS.—If the
12 parties agree to select a panel of arbitrators, in-
13 stead of a single arbitrator, the panel shall be
14 selected under this subsection as follows:

15 “(i) The parties to a dispute may mu-
16 tually select 1 arbitrator from the roster to
17 serve as the lead arbitrator of the panel of
18 arbitrators.

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

23 “(iii) In addition to the lead arbi-
24 trator selected under this subparagraph,
25 each party to a dispute shall select 1 addi-

1 tional arbitrator from the roster, regard-
2 less of whether the other party struck out
3 the arbitrator's name under subparagraph
4 (A).

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

9 “(g) RELIEF.—

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

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

16 “(3) RATE DISPUTES.—

17 “(A) MONETARY LIMIT.—The damage
18 award for rate disputes, including any rate pre-
19 scription, may not exceed \$25,000,000.

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

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

1 “(1) the decision is consistent with sound prin-
2 ciples of rail regulation economics;

3 “(2) a clear abuse of arbitral authority or dis-
4 cretion occurred;

5 “(3) the decision directly contravenes statutory
6 authority; or

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

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents for chapter 117 is amended by adding at the end
11 the following:

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

12 **SEC. 14. EFFECT OF PROPOSALS FOR RATES FROM MUL-**
13 **TIPLE ORIGINS AND DESTINATIONS.**

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

19 (b) REPORT.—Not later than 1 year after com-
20 mencing the study required under subsection (a), the
21 Comptroller General shall submit a report containing the
22 results of the study to—

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

1 (2) the Committee on Transportation and In-
2 frastructure of the House of Representatives.

3 **SEC. 15. REPORTS.**

4 (a) REPORT ON RATE CASE METHODOLOGY.—Not
5 later than 1 year after the date of the enactment of this
6 Act, the Surface Transportation Board shall submit a re-
7 port to the congressional committees referred to in section
8 14(b) that—

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

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

15 (3) only includes alternative methodologies,
16 which exist or could be developed, that are con-
17 sistent with sound economic principles.

18 (b) QUARTERLY REPORTS.—Beginning not later
19 than 60 days after the date of the enactment of this Act,
20 the Surface Transportation Board shall submit quarterly
21 reports to the congressional committees referred to in sec-
22 tion 14(b) that describes the Surface Transportation
23 Board’s progress toward addressing the issues raised in
24 each unfinished regulatory proceeding, regardless of

1 whether the proceeding is subject to a statutory or regu-
2 latory deadline.

3 **SEC. 16. CRITERIA.**

4 Section 10704(a)(2) is amended by inserting “for the
5 infrastructure and investment needed to meet the present
6 and future demand for rail services and” after “manage-
7 ment,”.

8 **SEC. 17. CONSTRUCTION.**

9 Nothing in this Act may be construed to affect any
10 suit commenced by or against the Surface Transportation
11 Board, or any proceeding or challenge pending before the
12 Surface Transportation Board, before the date of the en-
13 actment of this Act.

Passed the Senate June 18, 2015.

Attest:

Secretary.

114TH CONGRESS
1ST SESSION

S. 808

AN ACT

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