

Calendar No. 253

108TH CONGRESS
1ST SESSION**S. 1389****[Report No. 108–129]**

To authorize appropriations for the Surface Transportation Board for fiscal years 2004 through 2008, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 10, 2003

Mr. MCCAIN (for himself and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 26, 2003

Reported under authority of the order of the Senate of July 29 (legislative day, July 21), 2003, by Mr. MCCAIN, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To authorize appropriations for the Surface Transportation Board for fiscal years 2004 through 2008, 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 **SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Surface Transportation Board Reauthorization Act of
4 2003”.

5 (b) AMENDMENT OF TITLE 49.—Except as otherwise
6 expressly provided, whenever in this Act an amendment
7 or repeal is expressed in terms of an amendment to, or
8 a repeal of, a section or other provision, the reference shall
9 be considered to be made to a section or other provision
10 of title 49, United States Code.

11 **SEC. 2. AUTHORIZATION LEVELS.**

12 There are authorized to be appropriated to the Sur-
13 face Transportation Board \$20,516,000 for fiscal year
14 2004, \$21,215,000 for fiscal year 2005, \$23,770,000 for
15 fiscal year 2006, \$22,564,000 for fiscal year 2007, and
16 \$23,488,000 for fiscal year 2008.

17 **SEC. 3. CHAIRMAN DESIGNATED WITH SENATE CONFIRMA-**
18 **TION.**

19 Section 701(c)(1) is amended by striking “President”
20 and inserting “President, by and with the advice and con-
21 sent of the Senate,”.

22 **SEC. 4. EXPEDITED PROCEDURE FOR SMALL RATE CHAL-**
23 **LENGES.**

24 (a) *IN GENERAL.*—*Within 180 days after the date of*
25 *enactment of this Act, the Surface Transportation Board*

1 *shall promulgate supplemental regulations under section*
 2 *10701(d)(3) of title 49, United States Code.*

3 (b) *REQUIREMENTS.—The supplemental regulations*
 4 *shall establish—*

5 (1) *clear standards for determining which small*
 6 *rate challenges are eligible to use an expedited proce-*
 7 *dure, taking into account the size of the shipper, the*
 8 *value of the case, and other relevant factors;*

9 (2) *clear tests for determining the reasonableness*
 10 *of such challenged rates;*

11 (3) *streamlined evidentiary requirements; and*

12 (4) *costs that do not exceed the cost of bringing*
 13 *a civil action in a district court of the United States.*

14 (c) *EXPEDITED PROCESS.—The revised regulations*
 15 *shall also provide a procedure that—*

16 (1) *will permit rate challenges under the regula-*
 17 *tions to be completed within the time frame estab-*
 18 *lished by section 10704(c)(2) of title 49, United States*
 19 *Code; and*

20 (2) *may provide for an initial determination of*
 21 *such rate challenges by an administrative law judge,*
 22 *with an opportunity for appeal of such determination*
 23 *to the full Board; and*

24 (3) *will provide for full Board review.*

1 (d) *LEGISLATIVE RELIEF.*—*The Board shall notify the*
 2 *Senate Committee on Commerce, Science, and Transpor-*
 3 *tation and the House of Representatives Committee on*
 4 *Transportation and Infrastructure if the Board determines*
 5 *that additional changes in the regulations are appropriate*
 6 *and require commensurate changes in statutory law. In*
 7 *making that notification, the Board shall make rec-*
 8 *ommendations concerning those changes.*

9 **SEC. 5. APPLICATION OF CERTAIN AGREEMENTS.**

10 *Section 11326 is amended by adding at the end the*
 11 *following:*

12 “(d) *CERTAIN AGREEMENTS.*—*The terms of the agree-*
 13 *ment entitled ‘Revised Standards for Preemption of Collec-*
 14 *tive Bargaining Agreements for Transactions Initiated*
 15 *Pursuant to Section 11323 of the Interstate Commerce Act’*
 16 *dated March 21, 2001, by and between 6 Class I railroads*
 17 *and 11 labor organizations, and the terms of the agreement*
 18 *entitled ‘Revised Standards for Preemption of Collective*
 19 *Bargaining Agreements for Transactions Initiated Pursu-*
 20 *ant to Section 11323 of the Interstate Commerce Act’ dated*
 21 *February 11, 2000, by and between 5 Class I railroads, the*
 22 *National Carriers’ Conference Committee, and the United*
 23 *Transportation Union (except for the provisions in both*
 24 *agreements stating ‘The terms of this agreement will become*
 25 *null and void when enacted into law’), shall apply to the*

1 *signatories to such agreements in connection with trans-*
2 *actions that are approved under sections 11324 and 11325*
3 *and that are covered by such agreements, unless the affected*
4 *rail carriers and the applicable labor organization or orga-*
5 *nizations agree on alternative terms. The terms of such*
6 *agreements shall not be subject to the exemption provisions*
7 *of section 11321(a) or any future exemption provisions.”.*

Calendar No. 253

108TH CONGRESS
1ST SESSION

S. 1389

[Report No. 108-129]

A BILL

To authorize appropriations for the Surface Transportation Board for fiscal years 2004 through 2008, and for other purposes.

AUGUST 26, 2003

Reported with an amendment