

110TH CONGRESS  
1ST SESSION

# H. R. 2125

To amend title 49, United States Code, to ensure competition in the rail industry, enable rail customers to obtain reliable rail service, and provide those customers with a reasonable process for challenging rate and service disputes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2007

Mr. OBERSTAR (for himself, Mr. BAKER, Mr. BERRY, Mr. WALZ of Minnesota, Mr. FRANKS of Arizona, Mr. KIND, Mr. ALEXANDER, Mr. BOUSTANY, Ms. HIRONO, Mr. SIMPSON, Ms. HERSETH SANDLIN, and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to ensure competition in the rail industry, enable rail customers to obtain reliable rail service, and provide those customers with a reasonable process for challenging rate and service disputes.

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; TABLE OF CONTENTS; AMEND-**  
 2 **MENT OF TITLE 49, UNITED STATES CODE.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
 4 “Railroad Competition and Service Improvement Act of  
 5 2007”.

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

Sec. 1. Short title; table of contents; amendment of title 49, United States Code.

**TITLE I—ENSURING COMPETITION IN THE RAIL INDUSTRY**

Sec. 101. Clarification of rail transportation policy and directives for implementation.

Sec. 102. Requirement for Railroads to Provide Rates for Transportation.

Sec. 103. Elimination of barriers to competition between Class I, Class II, and Class III rail carriers.

Sec. 104. Reciprocal switching.

Sec. 105. Areas of inadequate rail competition.

**TITLE II—IMPROVING SERVICE TO RAIL CUSTOMERS**

Sec. 201. Rail service.

Sec. 202. Railroad obligation to serve.

Sec. 203. Rail customer advocate.

**TITLE III—PROVIDING ACCESS TO A REASONABLE RATE PROCESS**

Sec. 301. Rights of rail customers.

Sec. 302. Improvement of rate reasonableness standard.

Sec. 303. Filing fees on petitions for captive rate relief.

Sec. 304. Arbitration of rail disputes.

**TITLE IV—AUTHORITY TO INVESTIGATE**

Sec. 401. Authority of Board to investigate and suspend certain railroad actions.

8 (c) **AMENDMENT OF TITLE 49, UNITED STATES**  
 9 **CODE.**—Except as otherwise expressly provided, whenever  
 10 in this Act an amendment or repeal is expressed in terms  
 11 of an amendment to, or a repeal of, a section or other  
 12 provision, the reference shall be considered to be made to

1 a section or other provision of title 49, United States  
2 Code.

3 **TITLE I—ENSURING COMPETI-**  
4 **TION IN THE RAIL INDUSTRY**

5 **SEC. 101. CLARIFICATION OF RAIL TRANSPORTATION POL-**  
6 **ICY AND DIRECTIVES FOR IMPLEMENTATION.**

7 Section 10101 is amended—

8 (1) by inserting “(a) IN GENERAL.—” before  
9 “In regulating”; and

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

11 “(b) IMPLEMENTATION DIRECTIVES.—In imple-  
12 menting subtitle IV, the Board shall—

13 “(1) ensure, to the maximum extent possible,  
14 effective competition among rail carriers at origins  
15 and destinations;

16 “(2) ensure reasonable rates for rail customers  
17 in the absence of competition; and

18 “(3) ensure consistent, efficient, and reliable  
19 rail transportation service for rail customers, includ-  
20 ing the timely provision of rail cars requested by rail  
21 customers.”.

22 **SEC. 102. REQUIREMENT FOR RAILROADS TO PROVIDE**  
23 **RATES FOR TRANSPORTATION.**

24 Section 11101(a) is amended—

25 (1) by inserting “(1)” after “(a)”;

1           (2) by redesignating the second and third sen-  
2           tences as paragraph (3) and indenting accordingly;  
3           and

4           (3) by inserting a new paragraph (2) as follows:

5           “(2) Upon the request of a shipper, a rail carrier  
6           shall establish a rate for transportation and provide serv-  
7           ice requested by the shipper between any two points on  
8           the system of that carrier where traffic originates, termi-  
9           nates, or may reasonably be interchanged. A carrier shall  
10          establish a rate and provide service upon such request  
11          without regard to—

12           “(A) the location of the movement on the rail  
13          system, including terminal areas;

14           “(B) whether the rate established is for part of  
15          a movement between a point of origin and a destina-  
16          tion;

17           “(C) whether the shipper has made arrange-  
18          ments for transportation for any other part of that  
19          movement; or

20           “(D) whether the shipper has a contract with  
21          any rail carrier for part or all of its transportation  
22          needs over the route of movement.”.

1 **SEC. 103. ELIMINATION OF BARRIERS TO COMPETITION BE-**  
2 **TWEEN CLASS I, CLASS II, AND CLASS III RAIL**  
3 **CARRIERS.**

4 (a) IN GENERAL.—Section 10901 is amended by  
5 adding at the end the following new subsection:

6 “(e)(1) The Board may not issue a certificate author-  
7 izing an activity described in subsection (a), section  
8 10902, or section 11323, or exempt a person, class of per-  
9 sons, or a transaction or service from the applicability of  
10 this section with respect to such an activity under section  
11 10502, if the activity involves a transfer of interest in a  
12 line of railroad, from a Class I rail carrier to a Class II  
13 rail carrier or Class III rail carrier and the activity directly  
14 or indirectly would—

15 “(A) restrict or limit the ability of the Class II  
16 or Class III rail carrier to interchange traffic with  
17 other rail carriers;

18 “(B) restrict or limit competition of rail car-  
19 riers in the region affected by the activity in a man-  
20 ner that would violate antitrust laws of the United  
21 States (notwithstanding any exemption from the ap-  
22 plicability of antitrust laws that is provided under  
23 section 10706 or any other provision of law); or

24 “(C) require higher per car interchange rates  
25 for Class II or Class III rail carriers to interchange  
26 traffic with other rail carriers.

1       “(2) Any party to an activity described in paragraph  
2 (1) that has been carried out, or any rail shipper affected  
3 by such an activity, may request that the Board review  
4 the activity to determine whether the activity has resulted  
5 in a restriction described in that paragraph. If, upon re-  
6 view of the activity, the Board determines that the activity  
7 resulted in such a restriction, the Board shall declare the  
8 restriction to be unlawful and terminate the restriction un-  
9 less the Board determines that the termination of the re-  
10 striction would materially impair the ability of an affected  
11 rail carrier to provide service to the public or would other-  
12 wise be inconsistent with the public interest.

13       “(3) In this subsection, the term ‘antitrust laws’ has  
14 the meaning given that term in subsection (a) of the first  
15 section of the Clayton Act (15 U.S.C. 12(a)), except that  
16 such term also means section 5 of the Federal Trade Com-  
17 mission Act (15 U.S.C. 45) to the extent that section 5  
18 applies to unfair methods of competition.”.

19       (b) APPLICABILITY.—Paragraph (2) of section  
20 10901(e) (as added by subsection (a) of this section) shall  
21 apply with respect to any activity referred to in that para-  
22 graph for which the Surface Transportation Board issued  
23 a certificate authorizing the activity under section 10502  
24 before, on, or after the date of enactment of this Act.

1 **SEC. 104. RECIPROCAL SWITCHING.**

2 Section 11102(c) is amended—

3 (1) in paragraph (1)—

4 (A) by striking “may require” in the first  
5 sentence and inserting “shall require”; and

6 (B) by striking “may establish” in the sec-  
7 ond sentence and inserting “shall establish”;  
8 and

9 (2) by adding at the end the following new  
10 paragraph:

11 “(3) In making any finding under paragraph (1), the  
12 Board shall not require that there be evidence of anti-  
13 competitive conduct by a rail carrier from which access  
14 is sought.”.

15 **SEC. 105. AREAS OF INADEQUATE RAIL COMPETITION.**

16 (a) DESIGNATION AND REMEDIES.—

17 (1) IN GENERAL.—Chapter 105 is amended by  
18 adding at the end the following new section:

19 **“§ 10503. Areas of inadequate rail competition**

20 “(a) IN GENERAL.—The Board shall designate any  
21 State or substantial part of a State as an area of inad-  
22 equate rail competition after finding that—

23 “(1) the State or substantial part of the State  
24 encompasses rail shipping origins and destinations  
25 that are served exclusively by one Class I railroad;  
26 and

1           “(2) persons that ship by rail or receive rail  
2 shipments in the State or substantial part of the  
3 State—

4           “(A) pay rates for the rail shipments that  
5 exceed the rates necessary to yield recovery by  
6 the rail carrier of 180 percent of revenue-vari-  
7 able costs, as determined under standards ap-  
8 plied in the administration of section 10707(d);  
9 or

10           “(B) have experienced competitive dis-  
11 advantage in the marketplace or other economic  
12 adversity because of high cost or poor quality of  
13 rail service in the State or substantial part of  
14 the State.

15           “(b) SPECIFIC COMMODITIES.—An area of inad-  
16 equate rail competition may be composed of the facilities  
17 of a group of shippers or receivers of one or more specific  
18 commodities within a geographic area.

19           “(c) AUTHORIZED PETITIONERS.—A Governor of a  
20 State is authorized to petition the Board for a designation  
21 of a State or substantial part of a State as an area of  
22 inadequate rail competition.

23           “(d) ACTIONS.—Upon designating a State or sub-  
24 stantial part of a State as an area of inadequate rail com-  
25 petition, the Board shall resolve, not later than 60 days

1 after the date of the designation, the conditions described  
2 in subsection (a) that justify the designation. In taking  
3 such action, the Board shall not require rates lower than  
4 those necessary to yield recovery of 180 percent of rev-  
5 enue-variable costs. In addition to providing other rem-  
6 edies authorized by law, the Board may order any of the  
7 following actions:

8           “(1) Provision of reciprocal switching as pro-  
9           vided for in section 11102(c) and terminal trackage  
10          rights beyond the limits specified in section  
11          11102(a).

12          “(2) Haulage transportation of railroad cars by  
13          a rail carrier to or from facilities that such carrier  
14          physically serves on behalf of another rail carrier,  
15          for a fee prescribed by the Board.

16          “(3) Regarding rates on any rail segments  
17          within or connected to the area of inadequate rail  
18          competition on which rail service is susceptible to  
19          delay or interruption due to traffic congestion, expe-  
20          dited final offer arbitration under section 11708(e).

21          “(4) Expedited review of whether a rate violates  
22          the prohibition against discriminatory rates con-  
23          tained in section 10741, without regard to sub-  
24          section (b)(2) of such section.

1       “(e) PROCEDURES.—In the case of a petition for an  
2 order for reciprocal switching or terminal trackage rights  
3 under subsection (d)(1), the Board may not require that  
4 there be evidence of anticompetitive conduct by a rail car-  
5 rier as a prerequisite for ordering such action.”.

6           (2) CLERICAL AMENDMENT.—The table of sec-  
7 tions at the beginning of chapter 105 is amended by  
8 adding at the end the following new item:

“10503. Areas of inadequate rail competition.”.

9       (b) STUDY ON AREAS OF INADEQUATE RAIL COM-  
10 PETITION.—Not later than 1 year after the date of enact-  
11 ment of this Act, the Rail Customer Advocate of the De-  
12 partment of Transportation shall—

13           (1) review the effectiveness of the procedures  
14 under section 10503 for challenging and remedying  
15 conditions adversely affecting rail shippers of agri-  
16 cultural and forestry commodities and products, in-  
17 cluding commodities and products shipped by rail in  
18 annual volumes of 1500 rail cars or less, and the ap-  
19 plicability of such procedures for ameliorating rail  
20 rate and service problems, in areas of inadequate  
21 rail competition; and

22           (2) report the results of the study, together  
23 with any recommendations that the Rail Customer  
24 Advocate may have for improving the procedures, to  
25 Congress.

1    **TITLE II—IMPROVING SERVICE**  
2                   **TO RAIL CUSTOMERS**

3    **SEC. 201. RAIL SERVICE.**

4           (a) PUBLIC NOTICE.—The Surface Transportation  
5 Board shall, within 7 days after receipt by the Board or  
6 any Member or staff of the Board of a complaint from  
7 a customer about rail service, post on the Board’s Internet  
8 Web site a description of the complaint, including informa-  
9 tion identifying the railroad or railroads providing the  
10 service that is the subject of the complaint, the general  
11 geographic area of the customer’s movement, the date  
12 upon which the service problem occurred and the date no-  
13 tice of the complaint was made to the Board or any Mem-  
14 ber or staff of the Board. The Internet posting shall iden-  
15 tify the rail customer only upon the written consent of the  
16 rail customer. Not later than 5 days after the date the  
17 complaint is resolved, the Board shall update the informa-  
18 tion posted on the Board’s Internet Web site to indicate  
19 that the complaint has been resolved, the means of its res-  
20 olution, and the date of its resolution.

21           (b) ANNUAL REPORT TO CONGRESS.—Not later than  
22 March 15, 2008, and annually thereafter, the Surface  
23 Transportation Board shall transmit to Congress a report  
24 regarding the service complaints received by the Board,  
25 or any Member or staff of the Board, in the previous cal-

1 endar year for each Class I railroad. The report shall in-  
2 clude a description of each service complaint, including in-  
3 formation identifying the railroad in question, the geo-  
4 graphic area of the customer’s movements, the date upon  
5 which the service problem occurred, the date notice of the  
6 service complaint was made to the Board or any Member  
7 or staff of the Board, and the date of, and a detailed de-  
8 scription of, the resolution of the complaint. The report  
9 shall be posted on the Board’s Internet Web site.

10 (c) TIME LIMITS ON PETITIONS FOR INJUNCTIVE  
11 RELIEF.—Section 721(b)(4) is amended by adding at the  
12 end the following: “Where a complaint is filed and injunc-  
13 tive or similar relief is sought within 20 days after the  
14 publication of a new or revised rail rate, rule, or practice,  
15 based on an allegation of unlawfulness other than an alle-  
16 gation that a rate level is not reasonable within the mean-  
17 ing of section 10701(d), the Board shall determine, based  
18 on applicable law, not later than 90 days after receiving  
19 the request for injunctive or similar relief, whether or not  
20 to grant such relief. If the moving party establishes that  
21 the rule or practice involved in the complaint is unlawful  
22 per se, there shall be a strong presumption of irreparable  
23 harm regardless of the availability of monetary relief. The  
24 Board shall not deny injunctive or similar relief based in  
25 whole or in part on the absence of irreparable harm due

1 to the availability of adequate monetary relief unless mon-  
 2 etary damages have been awarded to the complaining  
 3 party.”.

4 **SEC. 202. RAILROAD OBLIGATION TO SERVE.**

5 Section 11101(a) is amended by inserting “The  
 6 transportation provided shall be reliable and efficient.”  
 7 after “on reasonable request.”.

8 **SEC. 203. RAIL CUSTOMER ADVOCATE.**

9 (a) AMENDMENT.—Subchapter II of chapter 7 is  
 10 amended by adding at the end the following new section:

11 **“§ 728. Office of Rail Customer Advocacy**

12 “(a) IN GENERAL.—The Office of Rail Customer Ad-  
 13 vocacy shall be an office in the Department of Transpor-  
 14 tation.

15 “(b) RAIL CUSTOMER ADVOCATE.—The head of the  
 16 Office of Rail Customer Advocacy shall be the Rail Cus-  
 17 tomer Advocate, who shall be appointed in the competitive  
 18 service by the Secretary of Transportation, in consultation  
 19 with the Secretary of Agriculture.

20 “(c) DUTIES AND POWERS OF RAIL CUSTOMER AD-  
 21 VOCATE.—The Rail Customer Advocate shall—

22 “(1) accept rail customer complaints;

23 “(2) participate as a party in proceedings of the  
 24 Board on petitions for action by the Board regard-

1 ing the regulation of rail transportation, and may  
2 initiate such an action;

3 “(3) collect, compile, and maintain information  
4 regarding the cost and efficiency of rail transpor-  
5 tation; and

6 “(4) carry out other duties and powers pre-  
7 scribed by the Board.

8 “(d) ACCESS TO INFORMATION.—To carry out the  
9 duties and powers under subsection (c), the Rail Customer  
10 Advocate shall have access to information, including data-  
11 bases, of the Board.”.

12 (b) CONFORMING AMENDMENT.—The table of sec-  
13 tions for chapter 7 is amended by inserting after the item  
14 relating to section 727 the following:

“728. Office of Rail Customer Advocacy.”.

15 **TITLE III—PROVIDING ACCESS**  
16 **TO A REASONABLE RATE**  
17 **PROCESS**

18 **SEC. 301. RIGHTS OF RAIL CUSTOMERS.**

19 (a) AMENDMENT.—Chapter 107 of title 49, United  
20 States Code, is amended by inserting before section 10701  
21 the following new section:

22 **“§ 10700. Rights of rail customers**

23 “Rail customers that are subject to railroad market  
24 dominance shall have a right of access to a process main-  
25 tained by the Board for determining if the rate in question

1 is reasonable. The Board shall ensure that the process is  
2 accessible by all affected rail customers and is cost effec-  
3 tive.”.

4 (b) TABLE OF SECTION AMENDMENT.—The table of  
5 section for chapter 107 of title 49, United States Code,  
6 is amended by inserting before the item relating to section  
7 10701 the following new item:

“10700. Rights of rail customers.”.

8 **SEC. 302. IMPROVEMENT OF RATE REASONABLENESS**  
9 **STANDARD.**

10 Section 10701(d) is amended by adding the following  
11 new paragraphs:

12 “(4)(A) Not later than one year after the date of en-  
13 actment of this paragraph, the Board shall adopt a meth-  
14 od for determining the reasonableness of rail rates based  
15 on the railroad’s actual costs, including a portion of fixed  
16 costs and an adequate return on debt and equity. The  
17 method adopted shall permit a final determination within  
18 9 months after filing a complaint, shall ensure that nec-  
19 essary cost and operational information is available to the  
20 complainant, and shall not require excessive litigation  
21 costs.

22 “(B) The Board shall not use any method for deter-  
23 mining the reasonableness of rail rates based on the costs  
24 of a hypothetical competitor, except that, in any rate rea-  
25 sonableness proceeding filed before the method required

1 under subparagraph (A) is adopted, the complaint, upon  
2 the election of the complainant, shall be decided based on  
3 applicable rate standards in effect on the date of the filing,  
4 including small rate guidelines.

5 “(C) The Board shall adopt a method under this  
6 paragraph that applies the ‘phasing constraint’ in its ex-  
7 isting rail rate method so that it can be practically admin-  
8 istered without substantial litigation-related costs in any  
9 proceeding involving a challenge to a rail rate in which  
10 the Board determines that the phasing constraint applies.

11 “(5) Upon receiving notification of a challenge made  
12 by a shipper to the reasonableness of any rate established  
13 by a rail carrier, the Board shall determine the reasonable-  
14 ness of the rate without regard to—

15 “(A) whether the rate is for part of a movement  
16 between a point of origin and a destination;

17 “(B) whether the shipper has made arrange-  
18 ments for transportation for any other part of that  
19 movement; or

20 “(C) any other contract the shipper has with a  
21 rail carrier for any part of the rail traffic involved.”.

22 **SEC. 303. FILING FEES ON PETITIONS FOR CAPTIVE RATE**  
23 **RELIEF.**

24 Section 721 is amended by adding at the end the fol-  
25 lowing new subsection:

1 “(f) LIMITATION ON FEES.—The Board may not  
2 charge a fee for the filing of a complaint, protest, or other  
3 request for relief in an amount greater than fees charged  
4 by district courts of the United States for a comparable  
5 filing.”.

6 **SEC. 304. ARBITRATION OF RAIL DISPUTES.**

7 (a) AMENDMENT.—Chapter 117 is amended by add-  
8 ing the following section after section 11707:

9 **“§ 11708. Arbitration of rail disputes**

10 “(a) IN GENERAL.—Whenever a dispute described in  
11 subsection (b) arises between a rail shipper and a rail car-  
12 rier under this part, the Board shall, upon written request  
13 of any party to the dispute, submit the dispute to final  
14 offer arbitration.

15 “(b) COVERED DISPUTES.—(1) Except as provided  
16 in paragraph (2), subsection (a) shall apply to any dispute  
17 between a party and a rail carrier that—

18 “(A) arises under section 10701(c), 10701(d),  
19 10702, 10704(a)(1), 10707, 10741, 10745, 10746,  
20 11101(a), 11102, 11121, 11122, or 11706;

21 “(B) involves the transportation of any agricul-  
22 tural product, including timber, paper, and fertilizer;  
23 and

24 “(C) involves—

25 “(i) the payment of money;

1                   “(ii) a rate or charge imposed by the rail  
2                   carrier; or

3                   “(iii) transportation or other service by the  
4                   rail carrier.

5           “(2) Subsection (a) shall not apply to a dispute if  
6 the resolution of the dispute would necessarily involve the  
7 promulgation of regulations generally applicable to all rail  
8 carriers.

9           “(c) SELECTION OF ARBITRATORS.—The rail carrier  
10 or carriers that are parties to arbitration under this sec-  
11 tion shall collectively name one arbitrator, and the rail  
12 shipper or shippers that are parties to the arbitration shall  
13 collectively name one arbitrator. The two arbitrators thus  
14 chosen shall select a third arbitrator from the roster of  
15 arbitrators established under subsection (d). If the arbi-  
16 trators chosen by the parties fail to name the third arbi-  
17 trator within 5 days after their first meeting, such third  
18 arbitrator shall be named by the Secretary of Transpor-  
19 tation from the roster of arbitrators established under  
20 subsection (d).

21           “(d) ROSTER OF ARBITRATORS.—The Secretary of  
22 Transportation shall establish, maintain, and revise as  
23 necessary a roster of arbitrators who—

24                   “(1) are experienced in transportation or eco-  
25                   nomic issues;

1           “(2) satisfy requirements for neutrality and  
2           other qualification requirements prescribed by the  
3           Secretary;

4           “(3) consent to serve as arbitrators under this  
5           section; and

6           “(4) are not officers or employees of the United  
7           States.

8           “(e) RULES FOR ARBITRATION.—The arbitrators  
9           shall organize and select and make all necessary rules for  
10           conducting hearings. The arbitrators shall give the parties  
11           to the dispute a full and fair hearing, which shall include  
12           an opportunity to present evidence in support of their  
13           claims, and an opportunity to present their case in person,  
14           by counsel, or by other representative as they may elect.

15           “(f) PROHIBITED METHODS OF DECISION.—Dis-  
16           putes concerning rates and charges shall not be considered  
17           or decided under this section using any method based on  
18           stand-alone cost or the costs of a hypothetical competitor,  
19           or in reliance on precedent adopting or applying such  
20           methods.

21           “(g) DECISION.—The decision of the arbitrators shall  
22           be the final offer of one of the parties to the dispute.

23           “(h) REVENUE-VARIABLE COST PERCENTAGE.—The  
24           decision may not provide for a rate for transportation by  
25           a rail carrier that would result in a revenue-variable cost

1 percentage of such transportation that is less than 180  
2 percent, as determined under standards applied in the ad-  
3 ministration of section 10707(d).

4 “(i) CONSIDERATION OF OTHER RATES OR  
5 CHARGES.—The arbitrators, in making an award on the  
6 dispute, shall consider the rates or charges that are im-  
7 posed by rail carriers for the transportation of similar  
8 goods under similar circumstances in rail transportation  
9 markets where there is effective competition, as deter-  
10 mined under standards applied by the Board in the admin-  
11 istration of section 10707(a).

12 “(j) DURATION OF RATES PRESCRIBED.—A rate pre-  
13 scribed under this section may not remain in effect for  
14 longer than 5 years after the date on which the arbitra-  
15 tors’ decision becomes final.

16 “(k) COPIES OF AWARD.—The arbitrators shall fur-  
17 nish a certified copy of its award to the parties to the  
18 dispute, and shall transmit the original, together with the  
19 paper and proceedings and a transcript of the evidence  
20 taken at the hearings, certified under the hands of at least  
21 a majority of the arbitrators, to the Board, to be filed in  
22 its office. Not later than 7 days after receiving an award  
23 under this subsection, the Board shall make the award  
24 and all supporting documents available to the public.

1           “(l) OATHS; SUBPOENAS.—All testimony before arbi-  
2 trators under this section shall be given under oath or af-  
3 firmation, and any arbitrator shall have the power to ad-  
4 minister oaths or affirmations. The arbitrators shall have  
5 the power to require the attendance of witnesses and the  
6 production of such books, papers, contracts, agreements,  
7 and documents as may be necessary to a just determina-  
8 tion of the matters submitted to arbitration, and may re-  
9 quest the district court of the United States for the dis-  
10 trict where the arbitration is being conducted to issue the  
11 necessary subpoenas. Any witness appearing before arbi-  
12 trators under this section shall receive the same fees and  
13 mileage reimbursement as witnesses in courts of the  
14 United States, to be paid by the party securing the sub-  
15 poena, or in the case of a subpoena secured by the arbitra-  
16 tors, to be paid by the Board.

17           “(m) TIME FOR ISSUANCE OF ARBITRATION DECI-  
18 SION.—The arbitration panel shall issue a final decision  
19 on a dispute under this section not later than 180 days  
20 after the date on which the panel of arbitrators is com-  
21 pleted to resolve the dispute.

22           “(n) REGULATIONS.—Not later than 90 days after  
23 the date of enactment of this section, the Secretary of  
24 Transportation shall issue final regulations establishing  
25 procedures for the resolution of disputes submitted for ar-

1 bitration, in accordance with the requirements of this sec-  
2 tion.

3 “(o) APPLICABILITY OF TITLE 9.—The following  
4 provisions of title 9, United States Code, shall apply to  
5 an arbitration decision issued in a dispute under this sec-  
6 tion:

7 “(1) Section 9 (relating to confirmation of an  
8 award in an arbitration decision), which shall be ap-  
9 plied as if the parties had entered into an agreement  
10 under title 9 to submit the dispute to the arbitration  
11 and had provided in that agreement for a judgement  
12 of an unspecified court to be entered on the award  
13 made pursuant to the arbitration.

14 “(2) Sections 10 and 11 (relating to judicial va-  
15 cation, modification, or correction of an award in an  
16 arbitration decision).”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
18 at the beginning of such chapter is amended by inserting  
19 after the item relating to section 11707 the following:

“11708. Arbitration of rail disputes.”.

20 **TITLE IV—AUTHORITY TO**  
21 **INVESTIGATE**

22 **SEC. 401. AUTHORITY OF BOARD TO INVESTIGATE AND SUS-**  
23 **PEND CERTAIN RAILROAD ACTIONS.**

24 Section 11701(a) is amended to read as follows:

1           “(a)(1) The Board may begin an investigation under  
2 this part on its own initiative. If the Board finds that a  
3 rail carrier is violating this part, the Board shall take ap-  
4 propriate action to compel compliance with this part.

5           “(2) When the Board receives a complaint alleging  
6 that a rail carrier may be violating this part, the Board  
7 shall initiate an investigation. When the alleged violation  
8 applies to more than one person and the Board has sub-  
9 stantial reason to believe that the allegations in the com-  
10 plaint are likely to have merit and, if the allegations prove  
11 to have merit, it will be difficult to make complete restitu-  
12 tion for the damage, the Board shall suspend the rail car-  
13 rier activity in question, and shall not revoke that suspen-  
14 sion unless the rail carrier justifies the practice to the sat-  
15 isfaction of the Board.”.

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