

## S 2889

### Surface Transportation Board Reauthorization Act of 2009

**Congress:** 111 (2009–2011, Ended)

**Chamber:** Senate

**Policy Area:** Transportation and Public Works

**Introduced:** Dec 16, 2009

**Current Status:** By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report.

**Latest Action:** By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report.

Report No. 111-380. (Dec 21, 2010)

**Official Text:** <https://www.congress.gov/bill/111th-congress/senate-bill/2889>

### Sponsor

**Name:** Sen. Rockefeller, John D., IV [D-WV]

**Party:** Democratic • **State:** WV • **Chamber:** Senate

### Cosponsors (4 total)

| Cosponsor                         | Party / State | Role | Date Joined  |
|-----------------------------------|---------------|------|--------------|
| Sen. Dorgan, Byron L. [D-ND]      | D · ND        |      | Dec 16, 2009 |
| Sen. Hutchison, Kay Bailey [R-TX] | R · TX        |      | Dec 16, 2009 |
| Sen. Lautenberg, Frank R. [D-NJ]  | D · NJ        |      | Dec 16, 2009 |
| Sen. Thune, John [R-SD]           | R · SD        |      | Dec 16, 2009 |

### Committee Activity

| Committee                                       | Chamber | Activity    | Date         |
|---|---------|-------------|--------------|
| Commerce, Science, and Transportation Committee | Senate  | Reported By | Dec 17, 2010 |

### Subjects & Policy Tags

#### Policy Area:

Transportation and Public Works

### Related Bills

No related bills are listed.

Surface Transportation Board Reauthorization Act of 2009 - **Title I: Administrative Provisions** - (Sec. 101) Authorizes appropriations for FY2010-FY2014 for the Surface Transportation Board.

(Sec. 102) Increases Board membership from three to five members. Repeals the one-year-only holdover limitation to a Board member's continued service after the member's term expires.

(Sec. 103) Removes the Board from the Department of Transportation (DOT) to establish it as an independent U.S. agency.

(Sec. 104) Prohibits the Board from requiring a party that brings a complaint before the Board to pay a filing fee greater than the \$350 fee charged to bring a civil action in a U.S. district court.

(Sec. 106) Grants the DOT Inspector General authority to review only Board financial management, property management, and business operations to determine compliance with applicable federal laws and detect fraud and abuse.

Authorizes appropriations.

(Sec. 107) Revises member composition of the Railroad-Shipper Transportation Advisory Council.

**Title II: Authority Improvements** - (Sec. 201) Revises the objectives of U.S. rail transportation policy, adding protection of rail shippers.

(Sec. 202) Requires the Board to: (1) maintain an Office of Public Assistance, Governmental Affairs, and Compliance; and (2) appoint a rail customer advocate to resolve rail customer complaints.

Authorizes the Board to designate a Board employee to serve as an ombudsman in regional or local matters, including railroad service, mergers and acquisitions, or other matters.

(Sec. 203) Authorizes the Board to investigate rail carrier violations on its own initiative as well as on complaint (as under existing law). Requires that proceedings to determine the reasonableness of a rate charged by a carrier be initiated only upon complaint.

(Sec. 204) Requires the Board to: (1) establish a database of rail service complaints it has received; and (2) post a quarterly report of such complaints on its website.

(Sec. 205) Authorizes the Board to revoke class exemptions to rail carrier requirements to protect rail shippers from the abuse of market power.

Requires the Board to conclude a study of class exemptions to determine whether any of them should be revoked.

(Sec. 206) Directs the Board to require Class I railroad carriers and other railroad carriers to report regularly on railroad service metrics and other performance data as prescribed by the Board.

(Sec. 207) Requires Board studies on: (1) the Uniform Railroad Costing System; (2) use of a replacement cost approach to value rail facility assets; (3) rail practices, including switching, surcharges, penalties, demurrage, and accessorial charges; and (4) rail car interchange rules.

(Sec. 211) Adds a new requirement to the exception to the Board's authority to abandon or discontinue a rail line. Allows the Board to authorize the abandonment or discontinuance of a rail line unless a financially responsible person: (1) offers financial assistance (as under existing law); and (2) establishes a reasonable likelihood of freight rail service, public transportation, or intercity rail passenger transportation over that part of the railroad line to be abandoned. Raises from 30 days to 60 days the deadline for the Board to render a decision in response to requests to establish the conditions and compensation for the subsidy or purchase of an abandoned or discontinued line.

(Sec. 212) Authorizes the filing of an application with the Board by a rail carrier or a non-rail carrier relating to abandonment or discontinuance of all rail transportation service over any part of a railroad line.

(Sec. 213) Authorizes the Board to extend emergency service orders in 90-day increments beyond the initial 30 days until there is a finding that the emergency has ended.

(Sec. 214) Delineates requirements regarding proof and admissibility of evidence of rail carrier interline rate agreements.

**Title III: Regulatory Reform** - (Sec. 301) Prohibits the Board from issuing a person (other than a rail carrier) a certificate to acquire a railroad line or extended or additional railroad line that includes interchange commitments or other mechanisms restricting the ability of the purchaser or tenant to interchange traffic with another carrier unless they are reasonable and in the public interest. Delineates a process for persons to challenge existing interchange commitments as well as certain rights and remedies with respect to them.

Authorizes the Secretary to reduce the interest rates on direct loans provided to Class II or Class III rail carriers to purchase or lease a rail line. Authorizes FY2010-FY2014 appropriations to carry out such rate reductions.

Directs the Secretary to make grants available to assist any Class III rail carrier under Board jurisdiction with the credit risk premium of a direct loan or loan guarantee made to purchase or lease a rail line. Authorizes FY2010-FY2014 appropriations to the Secretary for such grants.

(Sec. 302) Requires a Class I rail carrier to establish, upon rail customer request, reasonable bottleneck and terminal switching rates for single line movement or interline movement rail transportation over a bottleneck rail segment in which the carrier has market dominance.

(Sec. 303) Revises criteria authorizing the Board to require a rail carrier to make its terminal available to another rail carrier. Authorizes the Board to require a Class I rail carrier (including any other rail carrier deemed appropriate) to make its terminal facilities available for use by another carrier in cases where it has market dominance in a terminal area.

(Sec. 304) Changes from discretionary to mandatory the authority of the Board to establish reasonable rail rate standards for terminal use.

(Sec. 305) Requires the Board to establish a binding arbitration process to resolve rail rate, practice, and common carrier service disputes.

(Sec. 306) Revises maximum rates of relief that the Board may provide to railroad shippers in certain rail rate reasonableness cases. Sets forth time limits for Board review of such cases.

(Sec. 307) Authorizes the Board to consider the reasonableness of a rate quoted by a rail carrier up to one year before the date the rate is to take effect.

(Sec. 308) Prescribes timelines for the Board to follow in stand-alone cost rate challenges, unless it extends them, after a request from any party or in the interest of due process.

(Sec. 309) Directs the Board to initiate a study to provide further guidance on how it will apply its revenue adequacy constraint.

(Sec. 310) Revises Board authority to impose conditions on the sale or lease of abandoned or discontinued rail properties for public use. Requires the Board to prohibit any disposal of such properties for a certain period unless they have first been offered, on reasonable terms, for sale for public purposes.

(Sec. 312) Revises requirements with respect to the approval or denial of the consolidation, merger, or acquisition of control of rail carriers to authorize the Board to take into consideration significant effects of the transaction on public health, safety, and the environment as well as intercity rail passenger transportation and commuter rail passenger transportation.

(Sec. 313) Limits to five years after the date of sale the requirement that a purchasing carrier proposing to sell or abandon all or part of a purchased railroad line offer the right of first refusal to the carrier which sold the line to the purchasing carrier in the first place.

(Sec. 314) Directs the Comptroller General to review the regulatory changes made by this Act.

**Title IV: Technical Corrections** - (Sec. 401) Makes certain technical corrections to the Rail Safety Improvement Act of 2008 and the Passenger Rail Investment and Improvement Act of 2008.

Allocates funds for FY2009 for establishment of the task force to develop a model plan for how passenger rail carriers can provide assistance and notification to families of passengers involved in rail accidents.

**Title V: Miscellaneous** - (Sec. 501) Authorizes the Board to investigate pipeline carrier violations on its own initiative as well as on complaint (as under existing law).

(Sec. 502) Exempts from Board authority pipeline transportation of natural or artificial gases used primarily as fuel or other energy purposes.

Requires the Comptroller General to study the federal and state regulatory framework to support the development of carbon dioxide pipelines.

## **Actions Timeline**

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- **Dec 21, 2010:** By Senator Rockefeller from Committee on Commerce, Science, and Transportation filed written report. Report No. 111-380.
- **Dec 17, 2010:** Committee on Commerce, Science, and Transportation. Reported with an amendment in the nature of a substitute. Without written report.
- **Dec 17, 2010:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 711.
- **Sep 15, 2010:** Committee on Commerce, Science, and Transportation. Hearings held. Hearings printed: S.Hrg. 111-1063.
- **Dec 17, 2009:** Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Dec 16, 2009:** Introduced in Senate
- **Dec 16, 2009:** Read twice and referred to the Committee on Commerce, Science, and Transportation.