

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

Full Committee
Nomination Hearing
Thursday, November 6, 2025, at 10:00 A.M.

DEMOCRATIC QUESTIONS FOR THE RECORD

Ms. Michelle Schultz

COVER PAGE

RANKING MEMBER MARIA CANTWELL (D-WA)

Surface Transportation Board (STB) Independence. During the 114th Congress, then Chairman Thune sponsored the Surface Transportation Board Reauthorization Act of 2015, which became law. Senator Thune’s bill wisely added these 13 words to the law: “The Surface Transportation Board is an independent establishment of the United States Government.”

I am concerned that the White House will seek to put its thumb on the scale of Union Pacific–Norfolk Southern merger unless we have board members who are committed to its independence from this or any President.

Question 1: YES or NO: Do you believe in the importance of bipartisanship on independent boards and commissions?

Answer: Yes, impartial decision-making is important to the STB’s work.

Question 2: YES or NO: If the President or anyone else in this Administration threatened to fire you unless you took an action you disagreed with, would you refuse?

Answer: Yes.

Question 3: YES or NO: Do you commit to make an independent determination of the merger’s impact on American farmers, workers, and families—regardless of political pressure?

Answer: Yes. I commit to reviewing the merger decision based upon the record including the filed comments of all stakeholders, the pleadings, the applicable law, and the evidence. I also commit to applying the principles set forth by the Rail Transportation Policy of the United States as enacted by Congress.

Question 4: Do you think an STB Member is required to follow the President’s direction?

Answer: As it relates to pending matters, I believe that an STB Member will review all comments filed on the docket fairly and with impartiality.

Primus Removal. In the statute that created the predecessor to the STB in 1887, Congress set the standard of “inefficiency, neglect of duty, or malfeasance in office” for removal of a board member. Congress renewed that standard in 1995 when it created the modern STB. The only explanation the White House gave for the firing of Robert Primus from the STB was that he “did not align with the President’s America First agenda.”

Question 1: You and Mr. Primus served together for over four-and-a-half years on the Board. In your personal experience, did you ever witness Mr. Primus act with, “inefficiency, neglect of duty, or malfeasance in office?”

Answer: As you are aware, Mr. Primus has filed a lawsuit against the STB. As a matter of practice, I do not comment on pending litigation.

Question 2: Do you personally think it was appropriate for the President to fire Mr. Primus?

Answer: Respectfully, again, I must defer providing an answer to this question. As you are aware, Mr. Primus has filed a lawsuit against the STB. As a matter of practice, I do not comment on pending litigation.

Bipartisanship: The STB is designed to be composed of Members from different political parties. Specifically, pursuant to Congress's statutory directive, not more than three STB Members may belong to the same political party.

Question 1: Do you believe the STB's decision-making process and credibility benefit from having Members from different political parties on the Board?

Answer: This is required by 49 U.S.C. § 1301 (b)(1).

Question 2: Do you believe it is important for the STB to have Senate-confirmed Members of the opposite political party?

Answer: The membership is set forth by 49 U.S.C. § 1301 (b)(1), and it is required by law that the composition of the Board does not include more than three members of the same political party.

Union Pacific–Norfolk Southern Merger. If approved, the Union Pacific–Norfolk Southern merger would be the largest rail merger in the U.S. history. The combined railroad would be worth over a quarter of a trillion dollars and control 40 percent of the Nation's rail traffic. In Washington State, one in every six tons of freight travels by rail.

Whether that's our wheat harvest moving to export port or consumer goods traveling to households—Washington's farmers, families, and businesses deserve reliable freight service options at reasonable rates.

Question 1: YES or NO: Do you commit to following the STB's merger rules that require you to only approve this merger if it increases competition?

Answer: I commit to applying the standard set forth in 49 U.S.C. § 11324. As you are aware, this will be a case of first impression as it relates to the application of the merger standard. I commit to applying all the requirements set forth in 49 C.F.R. § 1180.1 to the facts that are presented in the docket and to make an impartial decision that is based upon the law, the record and that is in the best interest of the national rail network.

Question 2: YES or NO: Do you commit to carefully examining the impacts to ports, farmers, small business shippers, and to worker and public safety?

Answer: I commit to carefully reviewing the record and the impacts to all stakeholders, including those you have identified. This case is the largest transaction to ever be filed with at the Board. I am aware of the significance that this decision could have on the national rail network. I feel the weight of the importance of this decision and take this responsibility very seriously.

Hatch Act Violations: The Hatch Act generally prohibits executive branch employees from engaging in political activity while on duty. Political activity includes "activity directed at the

success or failure of a political party, candidate for partisan political office, or partisan political group.”

At the hearing, you acknowledged receiving an email from STB Chair Patrick Fuchs which blamed only “Congressional Democrats” for the government shutdown.

Question 1: Do you think it is appropriate for the head of an independent agency to send an agency-wide email attempting to assign political blame to only one political party?

Answer: I am committed to complying with the Hatch Act. In assessing the appropriateness of an agency-wide email, I would ensure its legality, including through consultation with the STB’s Office of Chief Counsel and, as applicable, consideration of relevant U.S. Office of Special Counsel precedent, such as advisory opinions on communications that concern policy or legislation and reference a political party. Further, I would ensure the email’s accuracy, including the evaluation of information, reporting, or analysis from credible and non-partisan sources. Finally, I would consider the necessity or value of the email and any relevant procedures, such as whether it involves pertinent legal or policy information disseminated consistent with established protocols or circulars reflecting different agencies’ jurisdictions.

Question 2: If you were directed to send an email like this to STB staff, would you refuse?

Answer: As I have demonstrated throughout my government service, I would continue to comply with the Hatch Act. In assessing the appropriateness of any agency-wide email, I would ensure its legality and accuracy and consider its necessity or value and any relevant procedures.

Question 3: If you believed an employee of the Board violated the Hatch Act, would you report it to the U.S. Office of Special Counsel?

Answer: Yes, if I believed an employee of the Board violated the Hatch Act, I would report it to the U.S. Office of Special Counsel.

SENATOR TAMMY BALDWIN (D-WI)

1. The common carrier obligation requires the railroads provide service upon reasonable request and at reasonable rates. However, it unfortunately lacks a clear definition, which the Transportation Research Board found to be “poorly defined.” Earlier this year, I introduced the Reliable Rail Service Act with Senator Marshall to better clarify the common carrier obligation, with the strong support of a wide range of rail shippers and rail labor unions. Do you believe that additional clarification of the common carrier obligation would provide more certainty to shippers?

I believe predictable, reliable, service that meets the needs of shippers is critical to the supply chain and the nation’s economy. As you are aware, pursuant to 49 U.S.C. § 11101(a), a rail carrier shall provide transportation or service on reasonable request. I believe that upon reasonable request is a question that is determined based upon the facts

of each case. If the Reliable Rail Service Act is enacted, I would apply the requirements set forth in the Act to any cases alleging violations of the common carrier obligation.

2. One of my longstanding priorities is for the STB to review, reduce or eliminate most or all its existing commodity exemptions. Shippers of exempted commodities are currently unable to seek relief from the STB unless they receive a “revocation” of the exemption beforehand. Doing so is a costly and lengthy process, and few shippers have pursued revocations for that reason. If confirmed, will you commit to looking into this issue further?

Docket No. EP 704 (Sub-1) (Review of Commodity, Boxcar, and TOFC/COFC Exemptions) is currently a pending matter. If confirmed, I commit to looking into this issue further.

3. Do you believe the President and his Administration should be allowed to shape and influence Board actions and decisions?

I believe that all Presidents and their Administrations have at one time, or another provided comments to governmental agencies. Given the significance of the Board’s work for our nation’s supply chain and the policy preferences of other political officials, as well as the different jurisdictions and statutory and regulatory roles, I believe government officials, regardless of party, will continue weighing in as appropriate on STB matters in the future.

4. As an Independent Regulatory Agency, should the Board officially engage in partisan activities, including communications with Agency employees?

Pursuant to 49 U.S.C. § 1301(a), “(t)he Surface Transportation Board is an independent establishment of the United States Government. The STB’s statutory mission requires impartiality in our adjudicatory and regulatory functions. Our decisions are based upon evidence and the applicable law, not partisan considerations. As a general matter, the STB leadership has long complied with personnel, funding, and other administrative policies set forth across administrations of both parties – from executive orders on hiring to regulations on workforce and building management to guidance on budget formulation.

5. During the hearing, you stated that you serve at the pleasure of the President. 49 U.S.C. § 1301 (b) (3) specifies that the President must give cause when removing a Board Member.

- a. Do you agree with this part of the Agency’s statute?

As you are aware, Mr. Primus has filed a lawsuit against the STB in the U.S. District Court for the District of Columbia. Because this is the core legal question raised in the lawsuit, it would be inappropriate for me to provide a response.

- b. If a Board Member is fired without cause, does it compromise the integrity and impartiality of the Board?

Again, with all due respect to the question, it pertains to pending litigation and I must refrain from comment. What I can say is that the agency, by way of statute, is an independent agency. If confirmed, I commit to following the law and continuing to issue decisions based upon evidence and the law. I believe this approach protects the integrity of our processes and public confidence in our decisions.

- 6. If the Board and its members are required to no longer operate as an independent and impartial agency, what impact would it have on our country's freight rail network and the national supply chain?

The Surface Transportation Board is an independent agency as set forth in statute. *See* 49 U.S.C. § 1301(a). I will defer to a Court ruling on this matter, or any statutory change from Congress and I will uphold the law.

- a. Can the Board effectively function if subjected to political interference?

The Board is an independent agency. I believe it is not only appropriate, but helpful, when Members of Congress write letters to the STB raising either their concerns or the concerns of their constituents. To the extent those concerns are related to a pending matter, the letter is then filed in the public docket so that all members of the public have access. This same respect for transparency would apply to any elected officials or any stakeholders.

SENATOR LISA BLUNT ROCHESTER (D-DE)

Topic: Independence of the Surface Transportation Board (STB)

Question 1: In your [opening statement](#), from your 2018 confirmation hearing, you wrote: “it is incumbent upon the Board to approach matters brought before it by conducting a thorough analysis of the facts and adjudicating matters in an impartial manner within the bounds of its jurisdiction and the law.”

- a. *Following your first term on the Board, do you still find that to be the case? And do you believe it is still possible despite recent pressures from the President and the Trump administration?*

Answer: Yes. I still believe it is incumbent upon the Board to approach matters with impartiality, transparency and within the bounds of the law.

I have not been contacted by the President or anyone within the administration regarding any pending matter.

Question 2: The White House said they fired Member Primus because he did not support the President’s America First agenda.

- a. *Do you believe Mr. Primus’s firing was justified, and does it compromise the integrity and impartiality of the Board?*

Mr. Primus filed a lawsuit against the Surface Transportation Board in U.S. District Court for the District of Columbia. As a general practice, I do not comment on pending litigation and must refrain from comment here.

- b. *Considering this, do you feel pressure to support the President’s agenda? Should every member, including Democrats support the President’s agenda? If not, should they be removed?*

Again, the issue of removal is currently pending in litigation. I must respectfully refrain from commenting.

- c. *Given the independence of the Surface Transportation Board, do you believe the President and the Trump administration should be permitted to influence the Board’s decisions?*

I believe that the President as well as members of the Trump administration are free to provide opinions and file comments in pending matters as have members of prior Administrations. I will review all filed comments from all stakeholders, as well as the pleadings, evidence and applicable law and will issue a decision based upon the record in its entirety and on the merits.

- d. *If the Board and its members operate with only the President's agenda in mind, how will this impact our nation's freight rail network and national supply chains? Can the Board continue to function effectively?*

As indicated in my opening statement and in response to similar questions presented during the hearing, I approach every pending matter by reviewing the record – including the pleadings, the filed comments from stakeholders, the evidence, the applicable law, and the principles of the Rail Transportation Policy of the United States as enacted by Congress. After carefully weighing all the aforementioned, I strive to reach decisions that are consistent with the applicable law, and which provide the best outcome for the rail network.

Question 3: During your confirmation, you confirmed that Chairman Fuchs sent an unprecedented email to Surface Transportation Board staff blaming Democrats for the government shutdown.

- a) *How would you define the Hatch Act?*

By the plain language of the Act itself.

- b) *Is it appropriate for apolitical Surface Transportation Board staff to be subjected to partisan emails from Board leadership and does it undermine the impartiality of the Board?*

I am committed to complying with the Hatch Act. In assessing the appropriateness of an agency-wide email, I would ensure its legality, including through consultation with the STB's Office of Chief Counsel and, as applicable, consideration of relevant U.S. Office of Special Counsel precedent, such as advisory opinions on communications that concern policy or legislation and reference a political party. Further, I would ensure the email's accuracy, including the evaluation of information, reporting, or analysis from credible and non-partisan sources. Finally, I would consider the necessity or value of the email and any relevant procedures, such as whether it involves pertinent legal, or policy information disseminated consistent with established protocols or circulars reflecting different agencies' jurisdictions.

Topic: Reduced STB Staff Capacity

Question 1: In previous [testimony](#) before this committee, you stated that "The efficiency of freight and intercity passenger rail transportation is vital to the nation's mobility and economic competitiveness." Earlier this year, Chairman Fuchs reduced staffing capacity and closed the Office of Passenger Rail, an office dedicated to this very issue and Amtrak's on-time performance.

- a. *Do you agree with the Chairman's decision to close this office and how will it impact the STB's ability to improve and expand intercity passenger rail throughout the country?*

Answer:

On August 1, 2025, the STB combined its two legal offices, the Office of Proceedings (OP) and the Office of the General Counsel (OGC), into one Office of Chief Counsel. The Board combined these offices to streamline and improve drafting and review procedures, which will benefit the Board and the public. The Office of Chief Counsel also houses the Board's Chief of Passenger Rail and Investigations, who will lead the Board's cross-disciplinary passenger rail flex team. When a matter is initiated, a team will be formed to leverage expertise from across the agency and nimbly respond to the needs of the case. This team replaces the Office of Passenger Rail and ensures the Board can efficiently continue to fulfill its statutory passenger rail investigatory and adjudicatory responsibilities. To date, Chairman Fuchs has not terminated any employee under any Reduction in Force action. I support the agency's actions to combine the two legal offices and housing the Chief of Passenger Rail and Investigations within the legal office. I believe these actions will improve the Board's ability to effectively carry out its statutory responsibilities concerning passenger rail and other matters.