foreign policy judgment calls, prudence dictates a prejudice for presidential prerogative. Mr. Clinton cannot make that argument all by himself. He can and should, as George Bush did before him during the Kuwait crisis, make a strong appeal to the American people that U.S. national interests are at stake—and that he has a reasonable strategy to fulfill them.

Congress, for its part, should hold its hearings and delineate whatever conditions on deployment it believes appropriate. But while they're at it, Republicans should remember why it is they have spent the past 15 years defending presidential leadership in foreign affairs. At the end of the day, the Republican Congress should support the president on Bosnia.

Mr. SIMON. The lead editorial, Mr. President, says: ''Bosnia: Support the President.'' This is a magazine, as the Presiding Officer knows, that is primarily oriented to people of conservative view and primarily to Republicans. The final paragraph says:

Congress, for its part, should hold its hearings and delineate whatever conditions on deployment it believes appropriate. But while they're at it, Republicans should remember why it is they have spent the past 15 years defending Presidential leadership in foreign affairs. At the end of the day, the Republican Congress should support the President on Bosnia.

I was pleased last night, Mr. President, when I heard the interview on CBS, Dan Rather's interview with Senator DOLE. Senator DOLE, obviously, could benefit politically right now by denouncing President Clinton and the move that was made. Senator DOLE, to his credit, did not take that posture. It was a statesmanlike response.

I think insofar as possible—obviously, we all have to make judgments on these things, and I respect those whose judgments differ from me on this—but insofar as possible, we should have bipartisan foreign policy. That does require the President to work with Congress and, frankly, I think more than has been done up to this point by this administration.

But the lessons from Woodrow Wilson are that the executive branch has to work with Congress, but the other lesson is a lesson from right after World War II when we had a Democratic President and a Republican Congress, and President Truman, through General Marshall at the Harvard commencement, suggested the Marshall plan, which we look back upon with great pride.

After that was announced, the first Gallup Poll showed 14 percent of the American public supporting the Marshall plan, a plan that ultimately saved western Europe from communism and helped to bring about the demise of communism in Europe.

In the U.S. Senate there was a Republican Senator by the name of Arthur Vandenberg. The Presiding Officer is nodding as though he remembers that. He is too young to remember when Arthur Vandenberg was a member of this body, but I remember it well. Arthur Vandenberg did not take advantage of the situation but worked with the President for the best interests of this Nation and the best interests of the world.

I think that is what we have to do at this point, Mr. President. I hope we will. We are going to differ and differ strongly on this thing. That is the way it should be. I hope it will not be on a partisan basis.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:29 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. SNOWE).

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

INTERSTATE COMMERCE COMMISSION SUNSET ACT

Mr. PRESSLER. Madam President, I ask unanimous consent that the Senate now turn to the consideration of S. 1396, the Interstate Commerce Commission Sunset Act of 1995.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1396) to amend title 49, United States Code, to provide for the regulation of surface transportation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill. which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Interstate Commerce Commission Sunset Act of 1995''.

SEC. 2. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF SECTIONS.

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TITLE I—TERMINATION OF THE INTERSTATE COMMERCE COMMISSION AND FEDERAL MARITIME COMMISSION; REPEAL OF OBSOLETE AND UNNECESSARY PROVISIONS OF LAW

Subtitle A—Terminations

SEC. 101. AGENCY TERMINATIONS.

(a) INTERSTATE COMMERCE COMMISSION.—Upon the transfer of functions under this Act to the Intermodal Surface Transportation Board and to the Secretary of Transportation, the Interstate Commerce Commission shall terminate.

(b) FEDERAL MARITIME COMMISSION.—Effective January 1, 1997, the Federal Maritime Commission shall terminate.

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this Act takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this Act, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Transportation Board (to the extent they involve the functions transferred to the Intermodal Surface Transportation Board under this Act) or by the Secretary (to the extent they involve functions transferred to the Secretary under this Act), or by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS; APPLICATIONS.—

(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect, insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Transportation Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

(c) ACTIONS IN LAW COMMENCED BEFORE ENACTMENT.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

(e) SUBSTITUTION OF TRANSPORTATION BOARD AS PARTY.—Any suit by or against the Interstate Commerce Commission begun before enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Board (to the extent the suit involves functions transferred to the Transportation Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.

(a) FUNCTIONS.—With respect to any functions transferred by this Act and exercised after the effective date of the Interstate Commerce Commission Sunset Act of 1995, reference in any other Federal law to the Interstate Commerce Commission shall be deemed to refer to—

(1) the Intermodal Surface Transportation Board, insofar as it involves functions transferred to the Transportation Board by this Act; and

(2) the Secretary of Transportation, insofar as it involves functions transferred to the Secretary by this Act.

(b) OTHER REFERENCES.—Any other reference in any law, regulation, official publication, or other document to the Interstate Commerce Commission as an agency of the United States Government shall be treated as a reference to the Transportation Board.

SEC. 104. TRANSFER OF FUNCTIONS.

(a) TO TRANSPORTATION BOARD.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Board by this Act shall be transferred to the Transportation Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Transportation Board.

(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

SEC. 105. REFERENCES TO THE FMC IN OTHER LAWS.

Effective January 1, 1997, reference in any other Federal law to the Federal Maritime Commission shall be deemed to refer to the Transportation Board.

Subtitle B—Repeal of Obsolete, Etc., Provisions

SEC. 121. REPEAL OF PROVISIONS.

The following provisions are repealed:

(1) Section 10101 (relating to transportation policy) and the item relating thereto in the table of sections of chapter 101 are repealed.

(2) Section 10322 (relating to Commission action and appellate procedure in nonrail proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(3) Section 10326 (relating to limitations in rulemaking proceedings related to rail carriers) and the item relating thereto in the table of sections of chapter 103 are repealed.

(4) Section 10327 (relating to Commission action and appellate procedure in rail carrier proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(5) Section 10328 (relating to intervention) and the item relating thereto in the table of sections of chapter 103 are repealed.

(6) Subchapter III of chapter 103 (relating to joint boards) and the items relating thereto in the table of sections of such chapter are repealed.

(7)(A) Subchapter IV of chapter 103 (relating to Rail Services Planning Office) and the items relating thereto in the table of sections of such chapter are repealed.

(B) Section 24505(b) of title 49, United States Code, is amended to read as follows:

''(b) OFFER REQUIREMENTS.—A commuter authority making an offer under subsection (a)(2) of this section shall show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation.''.

(8) Subchapter V of chapter 103 (relating to Office of Rail Public Counsel) and the items relating thereto in the table of sections of such chapter are repealed.

(9) Section 10502 (relating to express carrier transportation) and the item relating thereto in the table of sections of chapter 105 are repealed.

(10) Section 10504 (relating to exempt rail mass transportation) and the item relating thereto in the table of sections of such chapter are repealed.

(11) Subchapter II, III, and IV of chapter 105 (relating to freight forwarder service) and the items relating thereto in the table of sections of such chapter are repealed.

(12) Section 10705a (relating to joint rate surcharges and cancellations) and the item relating thereto in the table of sections of chapter 107 are repealed.

(13) Section 10710 (relating to elimination of discrimination against recyclable materials) and the item relating thereto in the table of sections of chapter 107 are repealed.

(14) Section 10711 (relating to effect of certain sections on rail rates and practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(15) Section 10712 (relating to inflation-based rate increases) and the item relating thereto in the table of sections of chapter 107 are repealed.

(16) Subchapter II (relating to special circumstances) of chapter 107 (except for sections 10721 and 10730) and the items relating thereto in the table of sections of chapter 107 (except for the subchapter caption and the items relating to sections 10721 and 10730) are repealed.

(17) Section 10743 (relating to payment of rates) and the item relating thereto in the table of sections of chapter 107 are repealed.

(18) Section 10746 (relating to transportation of commodities manufactured or produced by a rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(19) Section 10748 (relating to transportation of livestock by rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(20) Section 10749 (relating to exchange of services and limitation on use of common carriers by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 107 are repealed.

(21) Section 10751 (relating to business entertainment expenses) and the item relating thereto in the table of sections of chapter 107 are repealed.

(22) Section 10764 (relating to arrangements between carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(23) Section 10765 (relating to water transportation under arrangements with certain other carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(24) Section 10766 (relating to freight forwarder traffic agreements) and the item relating thereto in the table of sections of chapter 107 are repealed.

(25) Section 10767 (relating to billing and collecting practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(26) Subchapter V of chapter 107 (relating to valuation of property) and the items relating thereto in the table of sections of chapter 107 are repealed.

(27)(A) Section 10908 (relating to discontinuing or changing interstate train or ferry transportation) and the item relating thereto in the table of sections of chapter 109 are repealed.

(B) Subsection (d) of section 24705 of title 49, United States Code, is repealed.

(28) Section 10909 (relating to discontinuing or changing train or ferry transportation in one State) and the item relating thereto in the table of sections of chapter 109 are repealed.

(29) Subchapter II (relating to other carriers and motor carrier brokers) of chapter 109 and the items relating thereto in the table of sections of chapter 109 are repealed.

(30) Section 11102 (relating to classification of carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(31) Section 11105 (relating to protective services) and the item relating thereto in the table of sections of chapter 111 are repealed.

(32) Section 11106 (relating to identification of motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(33) Section 11107 (relating to leased motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(34) Section 11108 (relating to water carriers subject to unreasonable discrimination in foreign transportation) and the item relating thereto in the table of sections of chapter 111 are repealed.

(35) Section 11109 (relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(36) Section 11110 (relating to household goods carrier operations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(37) Section 11111 (relating to use of citizen band radios on buses) and the item relating thereto in the table of sections of chapter 111 are repealed.

(38) Section 11126 (distribution of coal cars) and the item relating thereto in the table of sections of chapter 111 are repealed.

(39) Section 11127 (relating to service of household freight forwarders) and the item relating thereto in the table of sections of chapter 111 are repealed.

(40) Section 11142 (relating to uniform accounting system for motor carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(41) Section 11161 (relating to railroad accounting principles board) and the item relating thereto in the table of sections of chapter 111 are repealed.

(42) Section 11162 (relating to cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(43) Section 11163 (relating to implementation of cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(44) Section 11164 (relating to certification of rail carrier cost accounting systems) and the item relating thereto in the table of sections of chapter 111 are repealed.

(45) Section 11167 (relating to report) and the item relating thereto in the table of sections of chapter 111 are repealed.

(46) Section 11168 (relating to authorization of appropriations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(47) Section 11304 (relating to security interest in certain motor vehicles) and the item relating thereto in the table of sections of chapter 113 are repealed.

(48) Section 11321 (relating to limitation on ownership of certain water carriers) and the item relating thereto in the table of sections for chapter 113 are repealed.

(49) Section 11323 (relating to limitation on ownership of other carriers by household goods freight forwarders) and the item relating thereto in the table of sections for chapter 113 are repealed.

(50) Section 11345a (relating to motor carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(51) Section 11346 (relating to expedited rail carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(52) Section 11349 (relating to temporary operating approval for transactions involving motor and water carriers) and the item relating thereto in the table of sections of chapter 113 are repealed.

(53) Section 11350 (relating to responsibility of the Secretary of Transportation in certain transactions) and the item relating thereto in the table of sections of chapter 113 are repealed.

(54) Subchapter IV of chapter 113 (relating to financial structure) and the items relating thereto in the table of sections of chapter 113 are repealed.

(55) Section 11502 (relating to conferences and joint hearings with State authorities) and the item relating thereto in the table of sections of chapter 115 are repealed.

(56) Section 11503a (tax discrimination against motor carrier transportation property) and the item relating thereto in the table of sections of chapter 115 are repealed.

(57) Section 11505 (relating to State action to enjoin carriers from certain actions) and the item relating thereto in the table of sections of chapter 115 are repealed.

(58) Section 11506 (relating to registration of motor carriers by a State) and the item relating thereto in the table of sections of chapter 115 are repealed.

(59) Section 11507 (relating to prison-made property governed by State law) and the item relating thereto in the table of sections of chapter 115 are repealed.

(60) Section 11704 (relating to action by a private person to enjoin abandonment of service) and the item relating thereto in the table of sections of chapter 117 are repealed.

(61) Section 11708 (relating to private enforcement) and the item relating thereto in the table of sections of chapter 117 are repealed.

(62) Section 11709 (relating to liability for issuance of securities by certain carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(63) Section 11711 (relating to dispute settlement program for household goods carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(64) Section 11712 (relating to tariff reconciliation rules for motor common carriers of property) and the item relating thereto in the table of sections of chapter 117 are repealed.

(65) Section 11902a (relating to penalties for violations of rules relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 119 are repealed.

(66) Section 11905 (relating to transportation of passengers without charge) and the item relating thereto in the table of sections of chapter 119 are repealed.

(67) Section 11906 (relating to evasion of regulation of motor carriers and brokers) and the item relating thereto in the table of sections of chapter 119 are repealed.

(68) Section 11908 (relating to abandonment of service by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 119 are repealed.

(69) Section 11911 (relating to issuance of securities, etc.) and the item relating thereto in the table of sections of chapter 119 are repealed.

(70) Section 11913a (relating to accounting principles violations) and the item relating

thereto in the table of sections of chapter 119 are repealed.

(71) Section 11917 (relating to weight-bumping in household goods transportation) and the item relating thereto in the table of sections of chapter 119 are repealed.

SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER, UNRELATED ACTS NOT AFFECTED.

Notwithstanding any provision of this Act, an entity that is, or is treated as, an employer under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, or the Railroad Retirement Tax Act under subtitle IV of title 49, United States Code, as in effect on the day before the date of enactment of this Act, shall continue to be covered as employers under those Acts.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

Subtitle A—Organization

SEC. 201. AMENDMENT TO SUBCHAPTER I.

(a) AMENDMENT.—Subchapter I of chapter 103 is amended to read as follows:

''SUBCHAPTER I—ESTABLISHMENT

''§ 10301. Establishment of Transportation Board

''(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Intermodal Surface Transportation Board.

''(b) MEMBERSHIP.—(1) Members of the Transportation Board shall be appointed by the President, by and with the advice and consent of the Senate. The Transportation Board shall consist of 3 members until January 1, 1997, not more than 2 of whom shall be members of the same political party. Beginning on January 1, 1997, the Transportation Board shall consist of 5 members, no more than 3 of whom shall be members of the same political party.

''(2) At any given time, at least 2 members of the Transportation Board shall be individuals with professional standing and demonstrated knowledge in the fields of rail or motor transportation or transportation regulation or agriculture, and at least 1 member shall be an individual with professional or business experience in the private sector. Effective January 1, 1997, at least 2 members shall be individuals with professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation.

''(3) The term of each member of the Transportation Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year. The President may remove a member for neglect of duty or malfeasance in office.

''(4)(A) On the effective date of this section, the members of the Interstate Commerce Commission shall become members of the Transportation Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

''(B) Effective January 1, 1997, two Federal Maritime Commission commissioners shall become members of the Board to serve terms expiring December 31, 1997, and December 31, 2000. The two members shall be selected in order of the expiration date of their Commission term, beginning with the term having the latest expiration date; provided, however, that the two members added under this subsection may not be from the same political party. The longer Board term shall be filled by the member having the later Federal Maritime Commission term expiration date. Effective January 1, 1997, the rights of any Federal Maritime Commission commissioner other than those designated under this paragraph to remain in office is terminated.

''(5) No individual may serve as a member of the Transportation Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than 1 additional term.

''(6) A member of the Transportation Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(7) A vacancy in the membership of the Transportation Board does not impair the right of the remaining members to exercise all of the powers of the Transportation Board. The Transportation Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

''(c) CHAIRMAN.—(1) There shall be at the head of the Transportation Board a Chairman, who shall be designated by the President from among the members of the Transportation Board. The Transportation Board shall be administered under the supervision and direction of the Chairman. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) Subject to the general policies, decisions, findings, and determinations of the Transportation Board the Chairman shall be responsible for administering the Transportation Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Transportation Board. The Chairman shall—

''(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Transportation Board, including attorneys to provide legal aid and service to the Transportation Board and its members, and to represent the Transportation Board in any case in court;

''(B) appoint the heads of major offices with the approval of the Transportation Board;

''(C) distribute Transportation Board business among officers and employees and offices of the Transportation Board;

''(D) prepare requests for appropriations for the Transportation Board and submit those requests to the President and Congress with the prior approval of the Transportation Board; and

''(E) supervise the expenditure of funds allocated by the Transportation Board for major programs and purposes.

''§ 10302. Functions

''(a) INTERSTATE COMMERCE COMMISSION FUNCTIONS.—Except as otherwise provided in the Interstate Commerce Commission Sunset Act of 1995, or the amendments made thereby, the Transportation Board shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

''(b) FEDERAL MARITIME COMMISSION FUNCTIONS.—On January 1, 1997, the Transportation Board shall perform all functions that, on that date, were functions of the Federal Maritime Commission or were performed by any officer or employee of the Federal Maritime Commission in the capacity as such officer or employee.

''§ 10303. Administrative provisions

''(a) EXECUTIVE REORGANIZATION.—For purposes of chapter 9 of title 5, United States Code, the Transportation Board shall be deemed to be an independent regulatory agency and an establishment of the United States Government.

''(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Transportation Board shall be deemed to be an agency.

''(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Transportation Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

''(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Transportation Board may appear for, and represent the Transportation Board in, any civil action brought in connection with any function carried out by the Transportation Board pursuant to this subtitle or as otherwise authorized by law.

''(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Transportation Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

''(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Transportation Board and include a statement by the Transportation Board—

''(1) showing the amount requested by the Transportation Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

''(2) an assessment of the budgetary needs of the Transportation Board.

''(g) DIRECT TRANSMITTAL TO CONGRESS.—The Transportation Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Transportation Board with Congress, or a committee or member of Congress, about the information.

''§ 10304. Annual report

''The Transportation Board shall annually transmit to the Congress a report on its activities.''.

(b) CONFORMING AMENDMENT.—The items relating to subchapter I of chapter 103 in the table of sections of such chapter are amended to read as follows:

''SUBCHAPTER I—ESTABLISHMENT

''Sec.
''10301. Establishment of Transportation Board.
''10302. Functions.
''10303. Administrative provisions.
''10304. Annual report.''.

SEC. 202. ADMINISTRATIVE SUPPORT.

The Secretary of Transportation shall provide administrative support for the Transportation Board.

SEC. 203. REORGANIZATION.

The Chairman of the Transportation Board may allocate or reallocate any function of the Transportation Board, consistent with this title and subchapter I of chapter 103, as amended by section 201 of this title, among the members or employees of the Transportation Board, and may establish, consolidate, alter, or discontinue in the Transportation Board any organizational entities that were entities of the Interstate Commerce Commission or the Federal Maritime Commission, as the Chairman considers necessary or appropriate.

SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COMMISSION FUNCTIONS.

The Chairman of the Intermodal Surface Transportation Board and the Chairman of the Federal Maritime Commission shall meet within 90 days of enactment of this Act to develop a plan for the orderly transition of the functions of the Federal Maritime Commission to the Transportation Board, including appropriate

funding levels for the operations associated with the functions of the Federal Maritime Commission transferred to the Transportation Board, and shall submit such a plan to the Director of the Office of Management and Budget and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after the enactment of this Act.

Subtitle B—Administrative

SEC. 211. POWERS.

Section 10321 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(2) striking subsection (b) and inserting the following:

''(b) The Transportation Board may obtain from carriers providing transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of those carriers, information the Transportation Board decides is necessary to carry out this part.'';

(3) in subsection (c)(1), by striking ''Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title'' and inserting in lieu thereof ''Transportation Board'';

(4) by striking paragraph (2) of subsection (c);

(5) by redesignating paragraph (3) of subsection (c) as paragraph (2); and

(6) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Transportation Board''.

SEC. 212. COMMISSION ACTION.

(a) AMENDMENTS.—Section 10324 is amended—

*(1) in the section heading, by striking ''**Commission**'' and inserting in lieu thereof ''**Transportation Board**'';*

(2) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(3) by striking ''Commission'' each place it appears in subsection (b) and inserting in lieu thereof ''Transportation Board'';

(4) by striking subsection (c); and

(5) by adding at the end the following new subsections:

''(c) The Transportation Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

''(1) reopen a proceeding;

''(2) grant rehearing, reargument, or reconsideration of an action of the Transportation Board; or

''(3) change an action of the Transportation Board.

An interested party may petition to reopen and reconsider an action of the Transportation Board under this subsection under regulations of the Transportation Board.

''(d) Notwithstanding this subtitle, an action of the Transportation Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.''.

(b) CONFORMING AMENDMENT.—The item relating to section 10324 in the table of sections of chapter 103 is amended by striking ''Commission'' and inserting in lieu thereof ''Transportation Board''.

SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEEDINGS.

(a) AMENDMENTS.—Section 10329 is amended—

*(1) by striking ''**Commission**'' in the section heading;*

(2) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(3) striking ''(1)'' in subsection (a) and by striking paragraph (2) of subsection (a);

(4) striking ''subchapter I of'' in subsection (a);

(5) striking the second sentence in subsection (b);

(6) striking ''(1) in subsection (c) and by striking paragraphs (2) and (3);

(7) striking ''notices of the Commission shall be served as follows: (1) A'' in subsection (c) and inserting ''a'';

(8) by striking '', express, sleeping car,'' in subsection (c)(1);

(9) by striking ''Secretary of the'' in subsection (c);

(10) in subsection (d)—

(A) by striking '', express, sleeping car,''; and

(B) by striking ''who filed the tariff'';

(11) by striking subsection (e); and

(12) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Transportation Board''.

(b) CONFORMING AMENDMENT.—The item relating to section 10329 in the table of sections of chapter 103 is amended by striking ''Commission''.

SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.

Section 10330 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(2) by striking ''subchapter I of'' in the first sentence of subsection (a);

(3) by striking ''Secretary of the Commission'' in subsection (a) and inserting in lieu thereof ''Transportation Board'';

(4) by striking subsection (b); and

(5) by redesignating subsection (c) as subsection (b).

SEC. 215. STUDY ON THE AUTHORITY TO COLLECT CHARGES.

In addition to other user fees that the Transportation Board may impose, the Transportation Board shall complete, within 6 months after the date of enactment of this Act, a study on the authority necessary to assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Transportation Board in that fiscal year.

SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULEMAKING.

(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within one year after the advance notice described in subsection (a) is published, and shall issue a final rule dealing with those issues within 2 years after that date.

TITLE III—RAIL AND PIPELINE TRANSPORTATION

SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMISSION, ETC.

Subtitle IV is amended—

(1) by striking ''Interstate Commerce Commission'' each place it appears (including chapter and section headings) and inserting ''Intermodal Surface Transportation Board'';

(2) by striking ''Commission'' each place it appears in reference to the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board'';

(3) by striking ''Commissioner'' each place it appears in reference to a member of the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board member'';

(4) by striking ''Commissioners'' each place it appears in reference to members of the Interstate Commerce Commission (including chapter and section headings) and inserting ''Transportation Board members'';

(5) by striking ''this subtitle'' each place it appears and inserting ''this part'';

(6) by inserting ''PART A—RAIL AND PIPELINE CARRIERS'' after ''SUBTITLE IV—INTERSTATE COMMERCE'';

(7) by inserting before section 10101 the following:

''PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

''Chapter	*''SEC.*
''131. General provisions	*13101*
''133. Administrative provisions	*13301*
''135. Jurisdiction	*13501*
''137. Rates	*13701*
''139. Registration	*13901*
''141. Operations of carriers	*14101*
''143. Finance	*14301*
''145. Federal-State relations	*14501*
''147. Enforcement; investigations; rights; remedies	*14701*
''149. Civil and criminal penalties	*14901*

''PART A—RAIL AND PIPELINE CARRIERS''.

SEC. 302. RAIL TRANSPORTATION POLICY.

Section 10101a is amended by—

(1) striking ''and'' after the semicolon in paragraph (14);

(2) striking the period at the end of paragraph (15) and inserting a semicolon and ''and''; and

(3) adding at the end the following:

''(16) to provide expeditious remedies for traffic and facilities lacking effective transportation competition.''.

SEC. 303. DEFINITIONS.

Section 10102 is amended by—

(1) striking paragraphs (1), (2), (5), (6) (8) through (18), (19), (25), (27), and (30) through (33);

(2) redesignating the remaining paragraphs as paragraphs (1) through (11), respectively;

(3) striking paragraph (2) (as redesignated) and inserting:

''(2) 'common carrier' means a pipeline carrier and a rail carrier;'';

(4) inserting ''common carrier'' after ''railroad'' in paragraph (6) (as redesignated);

(5) striking '', fare,'' in paragraph (8) (as redesignated);

(6) striking ''of passengers or property, or both,'' in paragraph (10)(A) (as redesignated) and inserting ''of property,''; and

(7) striking ''passengers and'' in paragraph (10)(B) (as redesignated).

SEC. 304. GENERAL JURISDICTION.

Section 10501 is amended by—

(1) striking ''Subject to this chapter and other law, the'' in subsection (a), and inserting ''The'';

(2) inserting ''of property'' after ''transportation'' in subsection (a);

(3) striking ''express carrier, sleeping car carrier,'' in subsection (a)(1);

(4) striking ''passengers or'' in subsection (b)(1);

(5) striking ''subchapter'' in subsection (c) and inserting ''chapter'' and by striking ''(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)'' in subsection (c); and

(6) striking ''(b)'' after ''section 11501'' in subsection (d).

SEC. 305. RAILROAD AND WATER TRANSPORTATION CONNECTIONS AND RATES.

Section 10503 is amended by—

(1) striking ''passengers or'' each place it appears in subsection (a)(2); and

(2) striking ''passengers,'' in subsection (a)(2)(B).

SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND MOTOR CARRIER TRANSPORTATION.

Section 10505 is amended by—

(1) striking ''rail carrier and motor carrier'' from the section heading;

(2) striking subsection (a) and inserting the following:

''(a) In a matter subject to the jurisdiction of the Intermodal Surface Transportation Board under this chapter, the Transportation Board shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title in whole or in part within 180 days after the filing of an application for an exemption, when the Transportation Board finds that the application of that provision in whole or in part—

''(1) is not necessary to carry out the transportation policy of section 10101 or section 10101a of this title; and

''(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.'';

(3) striking subsection (d) and inserting the following:

''(d) The Transportation Board shall revoke an exemption in whole or in part, to the extent that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title. The Transportation Board shall conclude a proceeding under this subsection within 180 days. In acting upon a request for revocation, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other factors it deems relevant. If a request for revocation under this subsection is accompanied by a complaint seeking monetary damages for a violation of a provision of this title by a railroad, and the Transportation Board does not render a final decision on such request within 180 days after the filing of the revocation request and complaint, then any monetary damages which the Transportation Board may award at the conclusion of the proceeding shall be calculated from no later than the 181st day following the filing of the revocation request and complaint if the Transportation Board finds that such failure to render a final decision within 180 days is due in substantial part to dilatory practices of the railroad.'';

(4) striking subsection (f) and inserting the following:

''(f) The Transportation Board may exercise its authority under this section to exempt transportation that is provided by a carrier as a part of a continuous intermodal movement.''; and

(5) striking subsection (g) and inserting the following:

''(g) The Transportation Board may not exercise its authority under this section to relieve a carrier of its obligation to protect the interests of employees as required by this part.''.

SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.

Section 10701 is amended by—

(1) redesignating subsection (c) as subsection (b);

(2) striking ''subchapter I or III of chapter 105'' in subsection (b) as so redesignated and inserting ''chapter 105'';

(3) striking ''the jurisdiction of the Commission under either of those subchapters'' in subsection (b) as so redesignated and inserting ''jurisdiction either under chapter 105 of this part or under part B of this subtitle''; and

(4) striking subsections (d) through (f).

SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.

Section 10701a is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking ''lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title'' in subparagraphs (2)(A)(i) and (2)(B)(i) of subsection (b), and inserting ''percentage described in section 10707a(d)(1)''; and

(3) adding at the end of subsection (b) the following:

''(4)(A) Within 1 year after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Transportation Board shall complete the Interstate Commerce Commission non-coal rate guidelines proceeding pending on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a stand-alone cost presentation is impractical.

''(B) Within 6 months after that date of enactment, the Transportation Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and for ensuring prompt disposition of motions and interlocutory administrative appeals.

''(C) In a proceeding to challenge the reasonableness of a railroad rate, other than a proceeding arising under section 10707 of this title, the Transportation Board shall make its determination as to the reasonableness of the challenged rate—

''(i) within 6 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation, or

''(ii) within 3 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to paragraph (4)(A).''.

SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, ETC.

Section 10702 is amended by—

(1) beginning with ''service,'' in paragraph (2) of subsection (a) striking all that follows and inserting ''service.''; and

(2) striking subsections (b) and (c).

SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH THROUGH ROUTES.

Section 10703 is amended by—

(1) striking '', express, sleeping car,'' in paragraph (1) of subsection (a);

(2) striking paragraphs (3) and (4) of subsection (a); and

(3) replacing ''Commission under subchapter I, II (insofar as motor carriers of property are concerned), or III of'' in subsection (b) with ''Transportation Board under''.

SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED RATES, CLASSIFICATIONS, ETC.

Section 10704 is amended by—

(1) striking ''subchapter I of'' and ''(including a maximum or minimum rate, or both)'' in the first sentence of subsection (a)(1);

(2) striking ''subchapter'' in the first sentence of subsection (a)(2) and inserting ''chapter'';

(3) striking the third sentence of subsection (a)(2);

(4) striking paragraph (3) of subsection (a) and redesignating paragraph (4) as (3);

(5) striking ''within 180 days after the effective date of the Staggers Rail Act of 1980 and'' and ''thereafter'' in subsection (a)(3), as redesignated;

(6) striking subsections (b), (c), (d) and (e);

(7) redesignating subsection (f) as subsection (b);

(8) striking ''on its own initiative or'' in subsection (b) as redesignated; and

(9) striking the last sentence of subsection (b), as redesignated.

SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES, JOINT CLASSIFICATIONS, ETC.

Section 10705 is amended by—

(1) striking ''subchapter I, II (except a motor common carrier of property), or III of'', and ''(including maximum or minimum rates or both)'' in paragraph (1) of subsection (a);

(2) striking paragraph (3) of subsection (a);

(3) striking subsections (b) and (h) and redesignating subsections (c) through (g) as subsections (b) through (f);

(4) striking ''or (b)'' and '', water carrier, or motor common carrier of property'' in subsection (b), as redesignated;

(5) striking ''tariff'' in subsection (d), as redesignated, and inserting ''proposed rate change'';

(6) striking '', water common carrier, or motor common carrier of property'' in subsection (d), as redesignated;

(7) striking ''or (b)'' and ''on its own initiative or'' in the first sentence of subsection (e)(1) as redesignated;

(8) striking ''if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission'' in the second sentence of subsection (e)(1), as redesignated; and

(9) striking ''subsection (f)'' in subsection (f), as redesignated, and inserting ''subsection (e)''.

SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.

Section 10706 is amended by—

(1) striking subsection (a)(3)(B);

(2) redesignating paragraphs (3)(C) and (D) of subsection (a) as paragraphs (3)(B) and (C);

(3) striking ''consider'' in subsection (a)(3)(B)(ii)(II), as redesignated, and inserting ''considered'';

(4) striking ''subchapter I of'' in subsection (a)(5)(A);

(5) striking ''the effective date of the Staggers Rail Act of 1980'' in subsection (a)(5)(C), and inserting ''October 1, 1980,'';

(6) striking subsections (b), (c), and (d) and redesignating subsections (e) through (g) as subsections (b) through (d);

(7) striking the first sentence of subsection (c), as redesignated, and inserting ''The Transportation Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest.'';

(8) striking ''subsection (a), (b), or (c) of this section.'' in subsection (d), as redesignated and inserting ''subsection (a).''; and

(9) striking subsections (h) and (i).

SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL RATES, ETC.

Section 10707 is amended by—

(1) striking the first sentence of subsection (a) and inserting ''When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is proposed by a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title, the Transportation Board may begin a proceeding, on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this part.'';

(2) striking subsection (d)(3) and redesignating subsection (d)(4) as (d)(3);

(3) striking ''or section 10761'' in subsection (d)(3), as redesignated; and

(4) striking ''the Commission shall, by rule, establish standards and procedures permitting a rail carrier to '' in subsection (d)(3), as redesignated, and inserting ''a rail carrier may''.

SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.

Section 10707a is amended by—

(1) striking ''Commencing with the fourth quarter of 1980, the'' in subsection (a)(2)(B) and inserting ''The'';

(2) striking ''subchapter I of chapter 105 of this title may'' in subsection (b)(1) and inserting ''chapter 105 of this title is authorized to'';

(3) inserting a period after ''involved'' in paragraph (1) of subsection (b) and striking the remainder of the paragraph;

(4) striking ''may not'' in subsection (b)(3) and inserting ''is not authorized to'';

(5) striking ''(A)'' and ''or (B) inflation based rate increases under section 10712 of this title applicable to that rate'' in subsection (b)(3);

(6) striking subsections (c), (d) and (e), redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), and inserting after subsection (b) the following:

''(c) In determining whether a rate is reasonable, the Transportation Board shall consider, among other factors, evidence of the following:

''(1) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

''(2) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

''(3) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.''; and

(7) by striking subsection (d), as redesignated, and inserting the following:

''(d)(1) A finding by the Board that a rate increase exceeds the increase authorized under this section does not establish a presumption that (A) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

''(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title, the Transportation Board may on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

''(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the percentage described in subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Transportation Board shall set forth its reasons therefor, giving due consideration to the following factors:

''(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

''(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

''(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.''.

SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPELINE CARRIER RATES, ETC.

Section 10708 is amended by—

(1) striking subsection (a)(1) and inserting the following:

''(a)(1) The Intermodal Surface Transportation Board may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice on application of an interested party when a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is proposed by a pipeline carrier subject to the Transportation Board's jurisdiction under chapter 105 of this part.'';

(2) striking ''an express, sleeping car, or'' in the third sentence of subsection (b) and inserting ''a''; and

(3) striking subsections (d) through (g).

SEC. 317. DETERMINATION OF MARKET DOMINANCE.

Section 10709 is amended by—

(1) adding at the end of subsection (a) the following: ''In making a determination under this section, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other factors it deems relevant.''

(2) striking ''subchapter I of'' in the first sentence of subsection (b); and

(3) striking subsection (d) and inserting the following:

''(d) DETERMINATIONS OF RATE CHALLENGES.—

''(1) 180 PERCENT SAFE HARBOR.—In making a determination under this section, the Transportation Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

''(2) METHODOLOGY.—For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined by using the carrier's costs, calculated using the Uniform Railroad Costing System (or an alternative cost finding methodology adopted by the Transportation Board in lieu thereof), with use of the current cost of capital for calculating the return on investment, and indexed quarterly to account for current wage and price levels in the region in which the carrier operates.

''(3) BURDEN OF PROOF; REBUTTAL.—A rail carrier may meet its burden of proof under this subsection by so establishing its variable costs, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Transportation Board may prescribe.

''(4) NO PRESUMPTIONS CREATED.—A finding by the Transportation Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

''(A) such rail carrier has or does not have market dominance over such transportation, or

''(B) the proposed rate exceeds or does not exceed a reasonable maximum.''.

SEC. 318. CONTRACTS.

Section 10713 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) striking subsection (b)(1) and inserting the following:

''(b)(1) A summary of each contract for the transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, entered into under this section shall be filed with the Transportation Board, containing such nonconfidential information as the Transportation Board prescribes. The Transportation Board shall publish special rules for such contracts in order to assure that the essential terms of the contract are available to the general public. The parties to any such contract shall supply a copy of the full contract to the Transportation Board upon request.'';

(3) striking ''in tariff format'' in subparagraphs (A) and (C) of subsection (b)(2);

(4) striking subsection (b)(2)(D);

(5) striking ''other than a contract for the transportation of agricultural commodities (including forest products and paper),'' in subsection (d)(2)(A) and inserting ''for the transportation of agricultural commodities,'';

(6) strike ''only'' in (d)(2)(A)(i);

(7) striking ''the case of a contract for the transportation of agricultural commodities (including forest products and paper), in'' in subsection (d)(2)(B);

(8) inserting ''of agricultural commodities'' after ''filed by a shipper'' in subsection (d)(2)(B);

(9) striking the last sentence of subsection (d)(2)(B);

(10) striking ''A contract that is approved by the Commission'' in subsection (i)(1) and inserting ''In any contract entered into after the effective date of the Interstate Commerce Commission Sunset Act of 1995, if the shipper in writing expressly waives all rights and remedies under this part for the transportation covered by the contract, a contract entered into'';

(11) striking subsections (l) and (m); and

(12) striking ''(including forest products but not including wood pulp, wood chips, pulpwood or paper)'' in subsection (i)(1).

SEC. 319. GOVERNMENT TRAFFIC.

The text of section 10721 is amended to read as follows:

''A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.''.

SEC. 320. RATES AND LIABILITY BASED ON VALUE.

Section 10730 is amended by—

(1) striking subsections (a) and (b);

(2) striking ''(c)'';

(3) striking ''rail carrier'' and inserting ''carrier''; and

(4) striking ''subchapter I of''.

SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY COMMON CARRIERS.

Section 10741 is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking subsection (c) and inserting the following:

''(c) A carrier providing transportation subject to the jurisdiction of the Transportation Board under chapter 105 of this title may not subject a freight forwarder providing service subject to jurisdiction under part B of this subtitle to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.'';

(3) striking ''subchapter I of'' in subsection (e);

(4) striking subsection (f)(1) and inserting the following: ''(1) contracts under section 10713 of this title;'';

(5) striking paragraphs (2), (3), and (5) of subsection (f) and redesignating paragraph (4) as paragraph (2); and

(6) striking ''paragraphs (2), (3), and (4)'' in subsection (f) and inserting ''paragraph (2)''.

SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.

Section 10742 is amended by—

(1) striking ''subchapter I or III of'' and ''passengers and''; and

(2) striking ''either of those subchapters.'' and inserting ''Part A or B of this subtitle.''.

SEC. 323. LIABILITY FOR PAYMENT OF RATES.

Section 10744 is amended by—

(1) striking '', motor, or water common'' in the first sentence of subsection (a)(1);

(2) striking ''or express'' in the first sentence of subsection (b);

(3) striking ''subtitle'' in the first sentence of subsections (a)(1) and (b) and inserting ''part'';

(4) striking paragraph (2) of subsection (c) and renumbering paragraph (3) as paragraph (2); and

(5) striking ''or express'' in subsection (c)(2), as redesignated.

SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.

Section 10745 is amended by striking ''subchapter I of ''.

SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FURNISHED BY SHIPPER.

Section 10747 is amended by—

(1) striking the first and second sentences and inserting the following: ''A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Transportation Board may prescribe the maximum reasonable charge or allowance paid for such service or instrumentality furnished.''; and

(2) striking ''on its own initiative or'' in the last sentence.

SEC. 326. DEMURRAGE CHARGES.

Section 10750 is amended by striking ''subchapter I of ''.

SEC. 327. TRANSPORTATION PROHIBITED WITHOUT TARIFF.

Section 10761 is amended to read as follows:

''§ 10761. Transportation of agricultural products prohibited without tariff

''Except when providing transportation by contract as provided in this subtitle, a carrier providing transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide that transportation only if the rate for the transportation is contained in a tariff that is in effect under this subchapter. A carrier subject to this subsection may not charge or receive a different compensation for that transportation than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation, or another device.''.

SEC. 328. GENERAL ELIMINATION OF TARIFF FILING REQUIREMENTS.

Section 10762 is amended to read as follows:

''§ 10762. General elimination of tariff filing requirements

''(a) Except as provided in section 10713 of this title, a carrier providing transportation of agricultural products including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall publish, keep open and retain for public inspection, and immediately furnish to an entity requesting the same, tariffs containing its rates for the transportation of such commodities and its classifications, rules, and practices related to such rates. Tariffs are not required for any other commodity.

''(b)(1) Within 180 days after the enactment of the Interstate Commerce Commission Sunset Act of 1995, the Intermodal Surface Transportation Board shall prescribe the form and manner of publishing, keeping open, furnishing to the public, and retaining for public inspection tariffs under this section. The Transportation Board may prescribe specific charges to be identified in a tariff required under this section to be published, kept open, furnished to the public, or retained for public inspection, but those tariffs must identify plainly—

''(A) the places between which property will be transported;

''(B) privileges given and facilities allowed; and

''(C) any rules that change, affect, or determine any part of the published rate.

''(2) A joint tariff published by a carrier under this section shall identify the carriers that are parties to it.

''(c)(1) When a carrier proposes to change a rate for transportation subject to this section, or a classification, rule, or practice related to such rate, the carrier shall publish, transmit, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

''(2) A notice published under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 1 day after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.

''(d) The Transportation Board may reduce the notice period of subsection (c) of this section if cause exists. The Transportation Board may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

''(e) Acting in response to a complaint or on its own motion, the Transportation Board may reject a tariff published under this section if that tariff violates this section or a regulation of the Transportation Board carrying out this section.''.

SEC. 329. DESIGNATION OF CERTAIN ROUTES.

Section 10763 is amended by striking ''subchapter I of '' in subsection (a)(1).

SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION OF RAILROAD LINES.

Section 10901 is amended by—

(1) striking ''subchapter I of '' in subsection (a); and

(2) adding at the end the following new subsection:

''(f) SPECIAL RULE FOR NON-CLASS I TRANSACTIONS.—For all transactions involving Class II freight rail carriers, Class III freight rail carriers and non-carriers, that are not owned or controlled by a Class I rail carrier and that are not a commuter, switching or terminal railroad, which propose to acquire, construct, operate, or provide transportation over a railroad line pursuant to this section, the Transportation Board may, consistent with the public interest, require an arrangement for the protection of the interest of railroad employees who are adversely affected by the transaction not to exceed one year's salary per adversely affected employee and protection no less than required by sections 2 through 5 of the Worker Adjustment and Retraining Act, unless the adversely affected employees or their representatives and the parties to the transaction agree otherwise.''.

SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.

Section 10902 is amended by striking ''subchapter I of '' in the first sentence.

SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINUANCE.

Section 10903 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 333. FILING AND PROCEDURE FOR APPLICATIONS TO ABANDON OR DISCONTINUE.

Section 10904 is amended by—

(1) striking ''subchapter I of '' in subsection (a)(2);

(2) striking subsection (d)(2);

(3) striking ''(1)'' in subsection (d); and

(4) striking ''the application was approved by the Secretary of Transportation as part of a plan or proposal under section 333(a)–(d) of this title, or'' in subsection (e)(3).

SEC. 334. EXCEPTIONS.

Section 10907 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 335. RAILROAD DEVELOPMENT.

Section 10910 is amended by—

(1) striking paragraph (2) of subsection (a) and inserting the following:

''(2) 'railroad line' means any line of railroad.'';

(2) striking ''the effective date of the Staggers Rail Act of 1980'' in subsection (g)(2), and inserting ''October 1, 1980,''; and

(3) striking subsection (k) and inserting the following:

''(k) The Transportation Board shall maintain such regulations and procedures as may be necessary to carry out the provisions of this section.''.

SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND RATES.

Section 11101 is amended to read as follows:

''§ 11101. Providing transportation, service, and rates

''(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide the transportation or service on reasonable request.

''(b) Notwithstanding any other provision of this title, a rail carrier providing transportation service subject to the jurisdiction of the Transportation Board under chapter 105 of this title shall provide, on reasonable written request, common carrier rates and other common carrier service terms of the type requested for specified services between specified points. The response by a rail carrier to a request for such rates or other service terms shall be in writing, or shall be available electronically, and forwarded to the requesting person no later than 30 days after receipt of the request. A rail carrier shall not refuse to respond to a request under this subsection on grounds that the movement at issue is subject at the time a request is made to a contract entered into under section 10713 of this title.

''(c) Common carrier rates and service terms provided pursuant to subsection (b) of this section shall be subject to the provisions of this title.

''(d) A rail carrier may not increase any common carrier rates, or change any common carrier service terms, provided pursuant to subsection (b) unless at least 20 days' written or electronic notice is first provided to the person that, within the previous 12 months, made a written or electronic request for the issue rate or service. Any such increases or changes shall be subject to provisions of this subtitle.''.

SEC. 337. USE OF TERMINAL FACILITIES.

Section 11103 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 338. SWITCH CONNECTIONS AND TRACKS.

Section 11104 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 339. CRITERIA.

Section 11121 is amended by—

(1) striking ''subchapter I of '' in subsection (a)(1);

(2) striking subsection (a)(2) and inserting the following:

''(2) The Transportation Board may require a rail carrier to file its car service rules with the Transportation Board.'';

(3) striking '', 11127,'' in subsection (b); and

(4) adding at the end the following:

''(c) The Transportation Board shall consult, as it deems necessary, with the National Grain Car Council on matters within the charter of that body.''.

SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CARRIER TO SERVE PUBLIC.

Section 11124 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 341. DIRECTED RAIL TRANSPORTATION.

Section 11125 is amended by striking ''subchapter I of '' in subsection (a).

SEC. 342. WAR EMERGENCIES; EMBARGOES.

Section 11128 is amended by—

(1) striking ''sections 11123(a)(4) and 11127(a)(1)(C)'' and inserting ''section 11123(a)'' in subsection (a)(1); and

(2) striking ''subchapter I of'' in subsection (a)(2).

SEC. 343. DEFINITIONS FOR SUBCHAPTER III.

Section 11141 is amended to read as follows:

''§ 11141. Definitions

''In this subchapter—

''(1) 'carrier' and 'lessor' include a receiver or trustee of a carrier and lessor respectively.

''(2) 'lessor' means a person owning a railroad or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title.

''(3) 'association' means an organization maintained by or in the interest of a group of carriers providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board that performs a service, or engages in activities, related to transportation under this part.''.

SEC. 344. DEPRECIATION CHARGES.

Section 11143 is amended by—

(1) striking ''subchapter I or III of''; and

(2) striking ''and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter,''.

SEC. 345. RECORDS, ETC.

Section 11144 is amended by—

(1) striking '', brokers,'' in subsection (a)(1);

(2) striking ''or express'' and ''subchapter I of'' in subsection (a)(2);

(3) striking '', broker,'' in subsection (b)(1);

(4) striking ''broker,'' in subsection (b)(2)(A);

(5) striking ''or express'' in subsection (b)(2)(C);

(6) redesignating subsection (d) as subsection (c); and

(7) striking ''brokers,'' in subsection (c), as redesignated.

SEC. 346. REPORTS BY CARRIERS, LESSORS, AND ASSOCIATIONS.

Section 11145 is amended by—

(1) striking ''brokers,'' in subsection (a)(1);

(2) striking ''or express,'' in subsection (a)(2);

(3) striking ''broker,'' in the first sentence of subsection (b)(1);

(4) striking the second sentence of subsection (b)(1); and

(5) striking subsection (c).

SEC. 347. ACCOUNTING AND COST REPORTING.

Section 11166 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) striking the third sentence of subsection (a); and

(3) striking ''the cost accounting principles established by the Transportation Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission'' in subsection (b) and inserting ''the appropriate cost accounting principles''.

SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.

Section 11301(a)(1) is amended by—

(1) striking ''or sleeping car''; and

(2) striking ''subchapter I of''.

SEC. 349. EQUIPMENT TRUSTS.

Section 11303 is amended by adding at the end thereof the following:

''(c) The Transportation Board shall collect, maintain and keep open for public inspection a railway equipment register consistent with the manner and format maintained at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

''(1) is duly constituted under the laws of a country other than the United States; and

''(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

''(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.''.

SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.

Section 11322 is amended by—

(1) redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) inserting before subsection (b), as redesignated, the following:

''(a) In this section ''carrier'' means a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that chapter.'';

(3) striking ''as defined in section 11301(a)(1) of this title'' in subsection (b) as redesignated; and

(4) striking ''subsection (a)'' and inserting ''subsection (b)'' in subsection (c), as redesignated.

SEC. 351. LIMITATION ON POOLING AND DIVISION OF TRANSPORTATION OR EARNINGS.

Section 11342 is amended by—

(1) striking ''subchapter I, II, or III of'' in the first sentence of subsection (a);

(2) striking ''Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the'' in the second sentence of subsection (a) and inserting ''The''; and

(3) striking subsections (b) and (d) and redesignating subsections (c) and (e) as subsections (b) and (c), respectively.

SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11343 is amended by—

(1) inserting ''(except a pipeline carrier)'' after ''involving carriers'' in subsection (a);

(2) striking ''subchapter I (except a pipeline carrier), II, or III of'' in subsection (a);

(3) striking paragraph (1) of subsection (d) and striking ''(2)'' in paragraph (2); and

(4) striking subsection (e).

SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF APPROVAL FOR CONSOLIDATION, ETC.

Section 11344 is amended by—

(1) striking the third sentence in subsection (a);

(2) striking ''subchapter I of that chapter'' in the last sentence of subsection (a) and inserting ''chapter 105'';

(3) striking paragraph (2) of subsection (b) and striking ''(1)'' in the first paragraph of subsection (b);

(4) striking the fourth sentence of subsection (c);

(5) striking ''When a rail carrier is involved in the transaction, the'' in the last sentence of subsection (c) and inserting ''The'';

(6) striking the last two sentences of subsection (d); and

(7) striking subsection (e).

SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION, ETC.

Section 11345 is amended by—

(1) striking ''subchapter I of'' in the first sentence of subsection (a);

(2) inserting '', including comments by the Secretary of Transportation and the Attorney General,'' before ''may be filed'' in the first sentence of subsection (c)(1);

(3) striking the last two sentences of subsection (c)(1);

(4) inserting '', including comments by the Secretary of Transportation and the Attorney General,'' before ''may be filed'' in the first sentence of subsection (d)(1); and

(5) striking the last two sentences of subsection (d)(1).

SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 11347 is amended by striking ''or section 11346'' in the first sentence.

SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.

Section 11348(a) is amended by striking all after the colon and inserting ''sections 504(f) and 10764, subchapter III of chapter 111, and sections 11301, 11901(e), and 11909.''.

SEC. 357. AUTHORITY OVER INTRASTATE TRANSPORTATION.

Section 11501 is amended by—

(1) striking subsections (a), (e), (g) and (h) and redesignating subsections (b), (c), (d), and (f) as subsections (a), (b), (c) and (d), respectively;

(2) striking paragraphs (2) through (6) of subsection (a), as redesignated;

(3) striking ''(1)'' and ''subchapter I of'' in subsection (a), as redesignated;

(4) striking ''subchapter I of'' in subsection (b), as redesignated;

(5) striking ''subchapter I of'' in subsection (c)(1), as redesignated;

(6) striking ''subsection (a) of this section and'' in subsection (c)(2), as redesignated; and

(7) striking the first sentence of subsection (d), as redesignated, and inserting the following: ''The Transportation Board may take action under this section only after a full hearing.''.

SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPORTATION PROPERTY.

Section 11503 is amended by—

(1) striking ''subchapter I of'' in subsection (a)(3); and

(2) striking ''subchapter I of'' in subsection (b)(4).

SEC. 359. WITHHOLDING STATE AND LOCAL INCOME TAX BY CERTAIN CARRIERS.

Section 11504 is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking subsections (b) and (c) and redesignating subsection (d) as subsection (b); and

(3) striking '', motor, and motor private'' and ''subsection (a) or (b) of'' in subsection (b), as redesignated.

SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, INVESTIGATIONS, ETC.

Section 11701 is amended by—

(1) striking '', broker or freight forwarder'' in the second and fourth sentences of subsection (a);

(2) striking the third sentence of subsection (a);

(3) striking the first 2 sentences of subsection (b) and inserting the following: ''A person, including a governmental authority, may file with the Transportation Board a complaint about a violation of this part by a carrier providing transportation or service subject to the jurisdiction of the Transportation Board under this part. The complaint must state the facts that are the subject of the violation.''; and

(4) striking ''subchapter I of'' in the last sentence of subsection (b).

SEC. 361. ENFORCEMENT.

Section 11702 is amended by—

(1) striking ''(a)'' in subsection (a);

(2) striking paragraphs (4) through (6) of subsection (a);

(3) striking ''or 10933'' in paragraph (1);

(4) striking paragraph (2) and inserting the following:

''(2) to enforce subchapter III of chapter 113 of this title and to compel compliance with an order of the Transportation Board under that subchapter; and''

(5) striking ''subchapter I of'' in paragraph (3);

(6) striking the semicolon at the end of paragraph (3) and inserting a period; and

(7) striking subsection (b).

SEC. 362. ATTORNEY GENERAL ENFORCEMENT.

Section 11703 is amended by striking ''or permit'' wherever it appears in subsection (a).

SEC. 363. RIGHTS AND REMEDIES.

Section 11705 is amended by—

(1) striking ''or a freight forwarder'' in subsection (a);

(2) striking subsection (b)(1) and inserting the following:

''(b)(1) A carrier providing transportation or service subject to the jurisdiction of the Transportation Board under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for the transportation or service.'';

(3) striking ''subparagraph I or III of'' in subsection ((b)(2);

(4) striking subsection (b)(3);

(5) striking ''subchapter I or III of'' in the first sentence of subsection (c)(1);

(6) striking the second sentence of subsection (c)(1);

(7) striking ''subchapter I or III of'' in the second sentence of subsection (c)(2);

(8) striking ''subchapter I or III of'' in the first sentence of subsection (d)(1); and

(9) striking '', or (D) if a water carrier, in which a port of call on a route operated by that carrier is located'' and inserting ''or'' before ''(C)'' in the fourth sentence of subsection (d)(1).

SEC. 364. LIMITATION ON ACTIONS.

Section 11706 is amended by—

(1) striking subsection (a) and inserting the following:

''(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title must begin a civil action to recover charges for the transportation or service provided by the carrier within 3 years after the claim accrues.'';

(2) striking the first sentence of subsection (b) and inserting ''A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues.'';

(3) striking ''subchapter I or III of'' in the last sentence of subsection (b);

(4) striking ''(1)'' in subsection (c);

(5) striking paragraph (2) of subsection (c); and

(6) striking ''(c)(1)'' in the second sentence of subsection (d) and inserting ''(c)''.

SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

(a) Section 11707 is amended by—

(1) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(2) striking paragraph (2) of subsection (a);

(3) striking ''subchapter I, II, or IV of'' and ''and a freight forwarder'' in the first sentence of subsection (a), as amended;

(4) striking ''or freight forwarder'' in the second sentence of subsection (a), as amended;

(5) striking ''subchapter I, II, or IV'' in the second sentence of subsection (a), as amended, and inserting ''chapter 105 or subject to jurisdiction under part B of this subtitle'';

(6) striking '', except in the case of a freight forwarder,'' in the third sentence of subsection (a), as amended;

(7) striking ''diverted under a tariff filed under subchapter IV of chapter 107 of this title.'' in the third sentence of subsection (a), as amended, and inserting ''diverted.'';

(8) striking ''or freight forwarder'' in the fourth sentence of subsection (a);

(9) striking ''and freight forwarder'' in subsection (c)(1), and striking ''filed with the Commission'';

(10) striking paragraph (3) of subsection (c) and redesignating paragraph (4) as paragraph (3);

(11) striking ''or freight forwarder'' wherever it appears in subsection (e); and

(12) striking ''or freight forwarder's'' in subsection (e)(2).

(b) The index for chapter 117 is amended by striking out the item relating to section 11707 and inserting in lieu thereof the following:

''Sec. 11707. Liability of Carriers under receipts and bills of lading.''.

SEC. 366. LIABILITY WHEN PROPERTY IS DELIVERED IN VIOLATION OF ROUTING INSTRUCTIONS.

Section 11710 is amended by striking ''subchapter I of'' in subsection (a)(1).

SEC. 367. GENERAL CIVIL PENALTIES.

Section 11901 is amended by:

(1) striking ''subchapter I of'' in subsection (a) and subsection (b);

(2) striking subsection (c) and subsections (g) through (l), and redesignating subsections (d) through (f) as (c) through (e), respectively, and subsection (m) as (f);

(3) striking ''11127'' in subsection (d), as redesignated;

(4) striking ''(1)'' in subsection (d), as redesignated, and striking paragraph (2) of that subsection;

(5) striking ''subchapter I of'' each place it appears in subsection (e), as redesignated;

(6) striking ''(1)'' in subsection (f), as redesignated, and striking paragraph (2) of that subsection; and

(7) striking ''subsections (a)-(f) of'' in subsection (f), as redesignated.

SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM COMMON CARRIER.

Section 11902 is amended by striking ''contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title''.

SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLATIONS.

Section 11903 is amended by striking ''under chapter 107 of this title'' in subsection (a).

SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLATIONS.

Section 11904 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(3) redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c), respectively;

(4) striking ''(A)'' and ''(B)'' in subsection (b), as redesignated, and inserting ''(1)'' and ''(2)'', respectively;

(5) striking ''subchapter I of'' in subsections (b) and (c), as redesignated; and

(6) striking 'under chapter 107 of this title'' in subsection (b), as redesignated.

SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.

Section 11907 is amended by striking ''subchapter I of'' in subsections (a) and (b).

SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.

Section 11909 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''subchapter I of'' in subsection (a); and

(3) striking ''(a)'' in subsection (a).

SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.

Section 11910 is amended by—

(1) striking paragraphs (2) through (4) of subsection (a);

(2) striking ''(a)(1)'' in subsection (a) and inserting ''(a)'';

(3) striking ''(A)'' and ''(B)'' in subsection (a) and inserting ''(1) and ''(2)'', respectively;

(4) striking ''subchapter I of'' in subsections (a) and (d); and

(5) striking ''or broker'' in subsection (b).

SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11912 is amended by striking out ''11346,''.

SEC. 375. GENERAL CRIMINAL PENALTY.

Section 11914 is amended by—

(1) striking subsections (b) through (d);

(2) striking ''(a)'' in subsection (a);

(3) striking ''subchapter I of'' in the first sentence; and

(4) striking ''11321(a) or'' in the last sentence.

SEC. 376. FINANCIAL ASSISTANCE FOR STATE PROJECTS.

Section 22101 is amended by striking ''subchapter I of'' in the first sentence of subsection (a).

SEC. 377. STATUS OF AMTRAK AND APPLICABLE LAWS.

Section 24301 is amended by striking ''subchapter I of'' in subsections (c)(2)(B) and (d).

SEC. 378. RAIL-SHIPPER TRANSPORTATION ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Chapter 103 is amended by adding at the end thereof the following:

"SUBCHAPTER VI. RAIL—SHIPPER TRANSPORTATION ADVISORY COUNCIL

"§ 10391. Rail—Shipper Transportation Advisory Council

''(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Rail-Shipper Transportation Advisory Council (hereinafter in this section referred to as the ''Council'') to be composed of 15 members appointed by the Chairman of the Transportation Board, after recommendation from carriers and shippers, within 60 days after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995. The members of the Council shall be appointed as follows:

''(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the rail and rail shipper industry.

''(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industry, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members or by a majority vote of a quorum thereof. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

''(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

''(B) at least 4 shall be representative of small railroads (Class II or III).

''(3) The remaining 6 members of the Council shall serve in a non-voting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

''(A) 3 shall be from Class I railroads; and

''(B) 3 shall be from large shipper organizations (as determined by the Chairman).

''(4) The Secretary of Transportation and the members of the Transportation Board shall serve as ex officio members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

''(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

''(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of three years, except that of the members first appointed—

''(1) 5 members shall be appointed for terms of 1 year, and

''(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

''(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

''(d) EXPENSES.—The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman may provide reasonable and necessary travel expenses for such individual Council members from Department or Transportation Board funding sources in order to foster balanced representation on the Council. Upon request by the Council Chairman, the Secretary or Chairman may but is not required to pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this Act. However, prior to making any funding requests the Council Chairman shall undertake best efforts to fund such activities privately unless he or she reasonably feels such private funding would create irreconcilable conflicts or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any federal agency unless he or she provides written justification as to why private funding would create such conflict or appearance, or is otherwise impractical. To enable the Council to carry out its functions—

''(1) the Council Chairman may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he or she determines necessary to carry out the functions of the Council;

''(2) each Federal department or agency may, in their discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

''(3) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

''(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold such other meetings as deemed prudent by and at the call of the Council Chairman. Appropriate federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council.

''(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—The Council shall advise the Secretary, Chairman, and relevant Congressional transportation policy oversight committees with respect to rail transportation policy issues it deems significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims. To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the Grain Car Council. The Secretary and Chairman shall work in cooperation with the Council to provide research, technical and other reasonable support in developing any documents provided for hereby. The Council shall endeavor to develop within the private sector mechanisms to prevent or identify and effectively address obstacles to the most effective and efficient transportation system practicable. The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues within the Council structure in lieu of seeking regulatory or legislative relief, and propose whatever regulatory or legislative relief it deems appropriate in the event such efforts are unsuccessful. The Council shall include therein such recommendations as it deems appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it deems appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to the accuracy of information therein, Council efforts and reasonableness of Council positions and actions and any other aspects of the Council's work as they may deem appropriate. The Council may prepare other reports or develop policy statements as the Council deems appropriate. Each annual report shall cover a fiscal year and shall be submitted to the Secretary and Chairman on or before the thirty-first day of December following the close of the fiscal year. Other such reports and statements may be communicated as the Council deems appropriate.''.

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 103 is amended by adding at the end thereof the following:

''SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION ADVISORY COUNCIL

''10391. Rail and shipper advisory council.''.

TITLE IV—MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER TRANSPORTATION

Subtitle A—Addition of Part B

SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49, UNITED STATES CODE.

Subtitle IV is amended by inserting after chapter 119 the following:

''PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER 131—GENERAL PROVISIONS

"§ 13101. Transportation policy

''(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation , and—

''(1) in regulating those modes—

''(A) to recognize and preserve the inherent advantage of each mode of transportation;

''(B) to promote safe, adequate, economical, and efficient transportation;

''(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

''(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

''(E) to cooperate with each State and the officials of each State on transportation matters; and

''(F) to encourage fair wages and working conditions in the transportation industry;

''(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required; (C) meet the needs of shippers, receivers, passengers, and consumers; (D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (E) allow the most productive use of equipment and energy resources; (F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (G) provide and maintain service to small communities and small shippers and intrastate bus services; (H) provide and maintain commuter bus operations; (I) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (J) promote greater participation by minorities in the motor carrier system; and (K) promote intermodal transportation; and

''(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and (C) to ensure that Federal reform initiatives enacted by section 31138 of this title and the Bus Regulatory Reform Act of 1995 of 1982 are not nullified by State regulatory actions.

''(b) This part shall be administered and enforced to carry out the policy of this section.

"§ 13102. Definitions

''In this part—

''(1) 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

''(2) 'carrier' means a motor carrier, a water carrier, and a freight forwarder, and, for purposes of sections 13902, 13905, and 13906, the term includes foreign motor private carriers;

''(3) 'contract carriage' means—

''(A) for transportation provided before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, service provided pursuant to a permit issued under former section 10923 of this subtitle; and

''(B) for transportation provided on or after that date, service provided under an agreement entered into under section 14101(b) of this part;

''(4) 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

''(5) 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

''(A)(i) which is domiciled in a contiguous foreign country; or

''(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

''(B) in the case of a person which is not a motor carrier of property, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A));

''(6) 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

''(A)(i) which is domiciled in a contiguous foreign country; or

''(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

''(B) in the case of a person which is not a motor private carrier, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A));

''(7) 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

''(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

''(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

''(C) uses for any part of the transportation a carrier subject to jurisdiction under part A or part B of this subtitle; but the term does not include a person using transportation of an air carrier subject to part A of subtitle VII of this title;

''(8) 'highway' means a road, highway, street, and way in a State;

''(9) 'household goods' means—

''(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and similar property, whether the transportation is—

''(i) requested and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling; or

''(ii) arranged and paid for by another party;

''(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and similar property; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

''(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and similar articles; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

''(10) 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles;

''(11) 'motor carrier' means a person providing motor vehicle transportation for compensation, including foreign motor carriers;

''(12) 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

''(A) the transportation is as provided in section 13501 of this title;

''(B) the person is the owner, lessee, or bailee of the property being transported; and

''(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise;

''(13) 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service;

''(14) 'non-contiguous domestic trade' means motor-water transportation subject to jurisdiction under chapter 135 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States;

''(15) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

''(16) 'State' means a State of the United States and the District of Columbia;

''(17) 'transportation' includes—

''(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

''(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, packing, and interchange of passengers and property;

''(18) 'United States' means the States of the United States and the District of Columbia;

''(19) 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water; and

''(20) 'water carrier' means a person providing water transportation for compensation.

''§ 13103. Remedies are cumulative

''Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or at common law.

''CHAPTER 133—ADMINISTRATIVE PROVISIONS

''§ 13301. Powers

''(a) Except as otherwise specified, the Secretary of Transportation shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

''(b) The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

''(c)(1) The Secretary may subpena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpena.

''(2) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

''(d)(1) In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

''(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

''(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

''(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

''(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

''(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

''(e) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

''(f) For those provisions of this part that are specified to be carried out by the Intermodal Surface Transportation Board, the Transportation Board shall have the same powers as the Secretary has under this section.

''§ 13302. Intervention

''Under regulations of the Secretary of Transportation, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 of this title shall be given to interested persons.

''§ 13303. Service of notice in proceedings under this part

''(a) A motor carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 of this title shall designate in writing an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

''(b) A notice to a motor carrier, broker, or freight forwarder is served personally or by mail on the motor carrier, broker, or freight forwarder or on its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, broker, or freight forwarder does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

"§ 13304. Service of process in court proceedings

''(a) A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

''(b) A designation under this section may be changed at any time in the same manner as originally made.

"CHAPTER 135—JURISDICTION

''SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

"§ 13501. General jurisdiction

''The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

''(1) between a place in—

''(A) a State and a place in another State;

''(B) a State and another place in the same State through another State;

''(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

''(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

''(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

''(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

"§ 13502. Exempt transportation between Alaska and other States

''To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 of this title is provided in a foreign country—

''(1) neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

''(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§ 13503. Exempt motor vehicle transportation in terminal areas

''(a)(1) Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

''(A) is a transfer, collection, or delivery;

''(B) is provided by—

''(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

''(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

''(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

''(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 of this title when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

''(b)(1) Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

''(A) is a transfer, collection, or delivery; and

''(B) is provided by a person as an agent or under other arrangement for—

''(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

''(ii) a motor carrier subject to jurisdiction under this subchapter;

''(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

''(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

''(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§ 13504. Exempt motor carrier transportation entirely in one State

''Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

''SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"§ 13521. General jurisdiction

''The Transportation Board has jurisdiction over transportation insofar as water carriers are concerned—

''(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

''(2) by water carrier and motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

''(A) by motor carrier that is in the United States; and

''(B) by water carrier that is from a place in the United States to another place in the United States; and

''(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

''(A) when the transportation is by motor carrier, the transportation is provided in the United States;

''(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

''(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

''SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§ 13531. General jurisdiction

''(a) The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

''(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

''(2) a place in a State and another place in the same State through a place outside the State; or

''(3) a place in the United States and a place outside the United States.

''(b) Neither the Secretary nor the Transportation Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

''SUBCHAPTER IV—AUTHORITY TO EXEMPT

"§ 13541. Authority to exempt transportation or services

''(a) In any matter subject to jurisdiction under this chapter, the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title, or use this exemption authority to modify a provision of this title, when the Secretary or Transportation Board finds that the application of that provision in whole or in part—

''(1) is not necessary to carry out the transportation policy of section 13101 of this title; and

''(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.

In a proceeding that affects the transportation of household goods described in section 13102(9)(A), the Secretary or the Transportation Board shall also consider whether the exemption will be consistent with the transportation policy set forth in section 13101 of this title and will not be detrimental to the interests of individual shippers.

''(b) The Secretary or Transportation Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Transportation Board's own initiative or on application by an interested party.

''(c) The Secretary or Transportation Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

''(d) The Secretary or Transportation Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 13101 of this title.

''(e) This exemption authority may not be used to relieve a person (except a person that would have been covered by a statutory exemption under subchapter II or IV of chapter 105 of this title that was repealed by the Interstate Commerce Commission Sunset Act of 1995) from

the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; or safety fitness.

"CHAPTER 137—RATES AND THROUGH ROUTES

"§ 13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

''(a)(1) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title for transportation or service involving—

''(i) a movement of household goods described in section 13102(9)(A) of this title, or

''(ii) a joint rate for a through movement with a water carrier in non-contiguous domestic trade,

must be reasonable.

''(2) Through routes and divisions of joint rates for such transportation or service as described in paragraph (1) (i) or (ii) must be reasonable.

''(b) When the Intermodal Surface Transportation Board finds it necessary to stop or prevent a violation of subsection (a), the Transportation Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

"§ 13702. Tariff requirement for certain transportation

''(a) A carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title may provide transportation or service that is—

''(1) under a joint rate for a through movement in non-contiguous domestic trade, or

''(2) for movement of household goods described in section 13102(9)(A) of this title,

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. A rate contained in a tariff shall be stated in money of the United States. The carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

''(b)(1) A carrier providing transportation or service described in paragraph (1) of subsection (a) shall publish and file with the Intermodal Surface Transportation Board tariffs containing the rates established for such transportation or service. The Transportation Board may prescribe other information that carriers shall include in such tariffs.

''(2) Carriers that publish tariffs under this subsection shall keep them open for public inspection.

''(c) The Transportation Board shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under subsection (b). The Transportation Board may prescribe specific charges to be identified in a tariff published by a carrier, but those tariffs must identify plainly—

''(1) the carriers that are parties to it;

''(2) the places between which property will be transported;

''(3) terminal charges if a carrier providing transportation or service subject to jurisdiction under subchapter III of chapter 135 of this title;

''(4) privileges given and facilities allowed; and

''(5) any rules that change, affect, or determine any part of the published rate.

''(d) The Transportation Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Transportation Board finds that action to be consistent with the public interest. Those carriers may either—

''(1) publish new tariffs that incorporate changes, or

''(2) plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection.

''(e) The Transportation Board may reject a tariff submitted to it by a carrier under subsection (b) if that tariff violates this section or regulation of the Transportation Board carrying out this section.

''(f)(1) A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Transportation Board and by shippers, upon reasonable request, at the offices of the carrier and of each tariff publishing agent of the carrier.

''(2) A carrier that maintains a tariff and makes it available for inspection as provided in paragraph (1) may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

''(3) A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this subtitle. A carrier that does not maintain a tariff as provided in this subsection may not enforce the tariff against any individual shipper except as otherwise provided in this subtitle, and shall not transport household goods described in section 13102(9)(A).

''(4) A carrier may incorporate by reference the rates, terms, and other conditions in a tariff in agreements covering the transportation of household goods (except those household goods described in section 13102(9)(A)(i)), if the tariff is maintained as provided in this subsection and the agreement gives notice of the incorporation and of the availability of the tariff for inspection by the commercial shipper.

''(5) A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be filed with the Transportation Board.

"§ 13703. Certain collective activities; exemption from antitrust laws

''(a) AGREEMENTS.—

''(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

''(A) through routes and joint rates;

''(B) rates for the transportation of household goods described in section 13102(9)(A);

''(C) classifications;

''(D) mileage guides;

''(E) rules;

''(F) divisions;

''(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

''(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

''(2) SUBMISSION OF AGREEMENT TO TRANSPORTATION BOARD; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Transportation Board for approval and may be approved by the Transportation Board only if it finds that such agreement is in the public interest.

''(3) CONDITIONS.—The Transportation Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

''(4) INVESTIGATIONS.—The Transportation Board may suspend and investigate the reasonableness of any classification or rate adjustment of general application made pursuant to an agreement under this section.

''(5) EFFECT OF APPROVAL.—If the Transportation Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Transportation Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

''(b) RECORDS.—The Transportation Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Transportation Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

''(c) REVIEW.—The Transportation Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Transportation Board under this section—

''(1) approving an agreement,

''(2) denying, ending, or changing approval,

''(3) prescribing the conditions on which approval is granted, or

''(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

''(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Transportation Board, the agreement is unchanged, and the Transportation Board approves such renewal. The Transportation Board shall approve the renewal unless it finds that the renewal is not in the public interest.

''(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Transportation Board under this section beginning on such effective date.

''(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

''(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

''(2) OBLIGATION OF SHIPPER.—Nothing in this title, the Interstate Commerce Commission Sunset Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.

''(g) MILEAGE RATE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 of this title may enforce collection of its mileage rates or classifications unless such carrier or forwarder maintains its own independent publication of mileage or classification which can be examined by any interested person upon reasonable request or is a participant in a publication of mileages or classifications formulated under an agreement approved under this section.

''(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

"§ 13704. Household goods rates—estimates; guarantees of service

''(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish a rate for the transportation of household goods which is based on the

carrier's written, binding estimate of charges for providing such transportation.

''(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

''(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

''(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary of Transportation may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

''§ 13705. Requirements for through routes among motor carriers of passengers

''(a) A motor carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

''(b) A through route between motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 must be reasonable.

''(c) When the Intermodal Surface Transportation Board finds it necessary to enforce the requirements of this section, the Transportation Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

''§ 13706. Liability for payment of rates

''(a) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

''(1) of the agency and absence of beneficial title; and

''(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

''(b) When the consignee is liable only for rates billed at the time of delivery under subsection (a) of this section, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

''§ 13707. Billing and collecting practices

''(a) A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service. No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

''(b) The Transportation Board shall promulgate regulations that prohibit a motor carrier subject to jurisdiction under subchapter II of chapter 105 of this title from providing a reduction in a rate for the provision of transportation of property to any person other than—

''(1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract; or

''(2) an agent of the person paying for the transportation.

''§ 13708. Procedures for resolving claims involving unfiled, negotiated transportation rates

''(a) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 of this title (as in effect on the day before the effective date of this section) or subchapter I of chapter 135 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

''(1) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

''(2) with respect to the claim—

''(A) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Transportation Board or with the former Interstate Commerce Commission, as required, for the transportation service;

''(B) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

''(C) the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the former Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(D) such transportation rate was billed and collected by the carrier or freight forwarder; and

''(E) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under paragraph (1), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (2), such dispute shall be resolved by the Intermodal Surface Transportation Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 149 of this title or chapter 119 of this title, as such chapter was in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board .

''(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

''(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

''(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in subsection (a) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Transportation Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

''(g) NOTIFICATION OF ELECTION.—

''(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

''(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

''(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

''(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

''(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

''(B) March 5, 1994.

''(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

''(1) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

''(2) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

''(3) if the cargo involved in the claim is recyclable materials. In this provision, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§ 13709. Additional motor carrier undercharge provisions

''(a)(1) A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based.

''(2) In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Transportation Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

''(3) If a shipper seeks to contest the charges originally billed, the shipper may request that the Transportation Board determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

''(4) Any tariff on file with the Interstate Commerce Commission on August 26, 1994, not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of the Interstate Commerce Commission Sunset Act of 1995 not required to be filed after that date is null and void beginning on that date.

''(b) If a motor carrier (other than a motor carrier providing transportation of household goods) subject to jurisdiction under subchapter I of chapter 135 of this title had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995 was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Transportation Board shall resolve the dispute.

"§ 13710. Alternative Procedure for Resolving Undercharge Disputes

''(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation that is subject to jurisdiction of subchapter I of chapter 135 of this title or was subject to jurisdiction under subchapter II of chapter 105 of this title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between—

''(1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter, or with respect to transportation provided before the effective date of this section in accordance with chapter 107 of this title as in effect on the date the transportation service was provided by the carrier or freight forwarder applicable to such transportation service; and

''(2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) of this title or is transporting property between places described in section 13501(1) of this title for the purpose of avoiding the application of this section.

''(b) JURISDICTION OF TRANSPORTATION BOARD.—The Intermodal Surface Transportation Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Transportation Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Transportation Board shall consider—

''(1) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Transportation Board or with the Interstate Commerce Commission, as required, at the time of the movement for the transportation service;

''(2) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

''(3) whether the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

''(4) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

''(5) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

''(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Transportation Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

''(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702, and for transportation prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995, to the requirements of sections 10761(a) and 10762 of this title as in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, relating to a filed tariff rate and other general tariff requirements.

''(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13708 of this part shall not apply to such rate.

''(f) DEFINITIONS.—For purposes of this section, the term 'negotiated rate' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

"§ 13711. Government traffic

''A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§ 13712. Food and grocery transportation

''(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

''(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"§ 13901. Requirement for registration

''A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is currently registered under this chapter to provide the transportation or service.

"§ 13902. Registration of motor carriers

''(a)(1) Except as provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

''(A) this part, the applicable regulations of the Secretary and the Intermodal Surface

Transportation Board, and any safety requirements imposed by the Secretary,

''(B) the safety fitness requirements established by the Secretary under section 31144 of this title, and

''(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31128 of this title.

''(2) The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

''(3) The Secretary shall find any registrant as a motor carrier under this section to be unfit if the registrant does not meet the fitness requirements under paragraph (1) of this subsection and shall withhold registration.

''(4) The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Transportation Board, the safety requirements of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

''(b) MOTOR CARRIERS OF PASSENGERS.—

''(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENT ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

''(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

''(i) the recipient meets the requirements of subsection (a)(1); and

''(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

''(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

''(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

''(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

''(4) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Any intrastate transportation authorized under this subsection, except as provided in section 14501, shall be deemed to be transportation subject to jurisdiction under subchapter I of chapter 135 of this title until such time, not later than 30 days after the date on which a motor carrier of passengers first begins providing transportation entirely in one State pursuant to this paragraph, as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

''(5) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

''(6) REVOCATION OF AUTHORITY FOR INTRASTATE TRANSPORTATION.—Notwithstanding paragraph (3) of this subsection, intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

''(7) PREEMPTION OF STATE REGULATION.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135 of this title.

''(8) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

''(i) any State,

''(ii) any municipality or other political subdivision of a State,

''(iii) any public agency or instrumentality of one or more states and municipalities and political subdivisions of a State,

''(iv) any Indian tribe,

''(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which, before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

''(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

''(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

''(1) If the President of the United States, or his or her delegate, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation of property or passengers to, from, or within such foreign country, the President, or his or her delegate, may—

''(A) seek elimination of such practices through consultations; or

''(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

''(2) Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

''(3) The President, or his or her delegate, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President, or his or her delegate, determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

''(4) Unless and until the President or his or her delegate makes a determination under paragraphs (1) or (3) above, nothing in this subsection shall affect—

''(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the U.S.-Mexico border as defined at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995; or

''(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

''(5) Unless the President, or his or her delegate, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraphs (1) or (3) together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraphs (1)(B) or (3) and provide an opportunity for public comments.

''(6) The President may delegate any or all authority under this subsection to the Secretary of Transportation, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary of Transportation may issue regulations to enforce this subsection.

''(7) Either the Secretary of Transportation or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

''(8) This subsection shall not affect the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to fully comply with all applicable laws and regulations pertaining to fitness; safety of operations; financial responsibility; and taxes imposed by section 4481 of the Internal Revenue Code of 1994.

''§ 13903. Registration of freight forwarders

''(a) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder, if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Intermodal Surface Transportation Board.

''(b) The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has been registered to provide transportation as a carrier under this chapter.

''§ 13904. Registration of motor carrier brokers

''(a) The Secretary of Transportation shall register, subject to section 13906(b) of this title, a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135 of this title, if the Secretary finds that the person is fit, willing, and

able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

''(b)(1) The broker may provide the transportation itself only if the broker also has been registered to provide the transportation under this chapter.

''(2) This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

''(c) Regulations of the Secretary shall provide for the protection of shippers by motor vehicle, to be observed by brokers.

''(d) The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

''§ 13905. Effective periods of registration

''(a) Each registration under section 13902, 13903, or 13904 of this title is effective from the date specified by the Secretary of Transportation and remains in effect for a period of 5 years except as otherwise provided in this section or in section 13906. The Secretary may require any carrier or registrant to provide periodic updating of carrier information.

''(b) On application of the holder, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Intermodal Surface Transportation Board, or a condition of its registration.

''(c)(1) Except on application of the holder, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after the Secretary has issued an order to the holder under section 14701 of this title requiring compliance with this part, a regulation of the Secretary, or a condition of the registration of the holder, and the holder willfully does not comply with the order.

''(2) The Secretary may act under paragraph (1) of this subsection only after giving the holder of the registration at least 30 days to comply with the order.

''(d)(1) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

''(2) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier is conducting unsafe operations which are an imminent hazard to public health or property.

''(3) The Secretary may suspend the registration only after giving notice of the suspension to the holder. The suspension remains in effect until the holder complies with those applicable sections or, in the case of a suspension under paragraph (2) of this subsection, until the Secretary revokes such suspension.

''§ 13906. Security of motor carriers, brokers, and freight forwarders

''(a)(1) The Secretary of Transportation may register a motor carrier under section 13902 only if the registering carrier (including a foreign motor carrier, and a foreign motor private carrier) files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139 of this title, and the laws of the State or States in which the carrier is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the carrier continues to satisfy the security requirements of this paragraph.

''(2) A motor carrier and a foreign motor private carrier and foreign motor carrier operating in the United States (when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country) shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

''(3) The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

''(b) The Secretary may register a person as a broker under section 13904 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

''(c)(1) The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

''(2) The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

''(3) The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

''(d) The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

''(e) The Secretary shall promulgate regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation. The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

''§ 13907. Household goods agents

''(a) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to jurisdiction under subchapter I of chapter 135 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

''(b) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

''(c)(1) Whenever the Secretary of Transportation has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

''(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

''(3) If such person does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

''(4) Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

''(5) Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate

United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

''(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title by an agent or membership on the board of directors of any such motor carrier by an agent.

''§ 13908. Registration and other reforms

''(a) IN GENERAL.—Within 18 months after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary, in cooperation with the States, industry groups, and other interested parties shall conduct a study to determine whether, and to what extent, the current Department of Transportation identification number system, the single State registration system under section 14505, the registration system contained in this chapter, and the financial responsibility information system under section 13906, should be modified or replaced with a single, on-line Federal system.

''(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

''(1) Funding for State enforcement of motor carrier safety regulations.

''(2) Whether the existing single State registration system is duplicative and burdensome.

''(3) The justification and need for collecting the statutory fee for such system under section 145-5(c)(2)(B)(iv).

''(4) The public safety.

''(5) The efficient delivery of transportation services.

''(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

''(c) FEE SYSTEM.—The Secretary may consider whether to establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a).

''(d) DEADLINE.—The Secretary shall conclude the study under this section within 18 months and report to Congress on the findings, together with recommendations for any appropriate legislative changes that may be needed.

''CHAPTER 141—OPERATIONS OF CARRIERS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''§ 14101. Providing transportation and service

''(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

''(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title may enter into a contract with a shipper, other than a shipper of household goods described in section 13102(9)(A), to provide specified services under specified rates and conditions. If the shipper and carrier in writing expressly waives any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under that contract shall not be subject to those provisions of this part, and may not be subsequently challenged on the ground that it violates such provision. The parties may not waive the provisions governing registration, insurance, or safety fitness. The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

''§ 14102. Leased motor vehicles

''(a) The Secretary of Transportation may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

''(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

''(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

''(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

''(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

''(b) The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

''§ 14103. Loading and unloading motor vehicles

''(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

''(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

''§ 14104. Household goods carrier operations

''(a)(1) The Secretary of Transportation may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

''(2) Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title. In establishing performance standards under this paragraph, the Secretary shall take into account at least the following:

''(A) The level of performance that can be achieved by a well-managed motor carrier transporting household goods.

''(B) The degree of harm to individual shippers which could result from a violation of the regulation.

''(C) The need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations.

''(D) Service requirements of the carriers.

''(E) The cost of compliance in relation to the consumer benefits to be achieved from such compliance.

''(F) The need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

''(3) Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

''(b)(1) Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

''(2) Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

''(c) The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

''SUBCHAPTER II—REPORTS AND RECORDS

''§ 14121. Definitions

''In this subchapter—

''(1) 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

''(2) 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 of this title that performs a service, or engages in activities, related to transportation under this part.

''§ 14122. Records: form; inspection; preservation

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

''(b) The Secretary or Transportation Board, or an employee designated by the Secretary or Transportation Board, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

''(2) inspect and copy any record of—

''(A) a carrier, broker, or association; and

''(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Transportation Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

''(c) The Secretary or Transportation Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers.

''§ 14123. Reports by carriers, brokers, and associations

''(a) The Secretary—

''(1) shall require class I and class II motor carriers (as defined by the Secretary) to file annual reports with the Secretary, including a detailed balance sheet and income statement, information related to the ownership or lease of equipment operated by the motor carrier, and data related to the movement of traffic and safety performance, the form and substance of which shall be prescribed by the Secretary and may vary for different classes of motor carriers;

''(2) may require carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations; and

''(3) shall have the authority upon good cause shown to exempt any party from the financial reporting requirements prescribed by subsection (a)(1) or (a)(2).

''(b) Any request for exemption under paragraph (3) of subsection (a) must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available. Exemptions shall only be granted for one-year periods.''.

''(c) The Intermodal Surface Transportation Board may require carriers to file special reports containing information needed by the Transportation Board.

''CHAPTER 143—FINANCE

''§ 14301. Security interests in certain motor vehicles

''(a) In this section—

''(1) 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

''(2) 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

''(3) 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

''(4) 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

''(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

''(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

''(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

''(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

''§ 14302. Pooling and division of transportation or earnings

''(a) A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Intermodal Surface Transportation Board under this section.

''(b) The Transportation Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers, if the carriers involved assent to the pooling or division and the Transportation Board finds that a pooling or division of traffic, services, or earnings—

''(1) will be in the interest of better service to the public or of economy of operation; and

''(2) will not unreasonably restrain competition.

''(c)(1) Any motor carrier of property may apply to the Transportation Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Transportation Board not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Transportation Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Transportation Board determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable. If the Transportation Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Transportation Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Transportation Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable.

''(2) In the case of an application for Transportation Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

''(3) The Transportation Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

''(d) The Transportation Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

''(e) The Transportation Board may begin a proceeding under this section on its own initiative or on application.

''(f) A carrier may participate in an arrangement approved by or exempted by the Transportation Board under this section without the approval of any other federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

''(g) Any agreements in operation under the provisions of this title on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 that are succeeded by this section shall remain in effect until further order of the Transportation Board.

''§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

''(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 of this title may be carried out only with the approval of the Intermodal Surface Transportation Board:

''(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

''(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

''(3) Acquisition of control of a carrier by any number of carriers.

''(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

''(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

''(b) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

''(1) The effect of the proposed transaction on the adequacy of transportation to the public.

''(2) The total fixed charges that result from the proposed transaction.

''(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

''(c) Within 30 days after an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or (2) reject the application if it is incomplete.

''(d) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (c).

''(e) The Board shall conclude evidentiary proceedings by the 240th day after notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection, except that the total of all such extensions with respect to any application shall not exceed 90 days.

''(f) A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(g) This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

"CHAPTER 145—FEDERAL-STATE RELATIONS

"§ 14501. Federal authority over intrastate transportation

''(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provisions having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

''(b) FREIGHT FORWARDERS AND TRANSPORTATION BROKERS.—

''(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or transportation broker.

''(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

''(c) MOTOR CARRIERS OF PROPERTY.—

''(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4) of this title) or any motor private carrier or any transportation intermediary (as defined in sections 13102(1) and 13102(7) of this subtitle) with respect to the transportation of property.

''(2) MATTERS NOT COVERED.—Paragraph (1)—

''(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

''(B) does not apply to the transportation of household goods; and

''(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price and related conditions of for-hire motor vehicle transportation by a tow truck, if such transportation is performed—

''(i) at the request of a law enforcement agency; or

''(ii) without the prior consent or authorization of the owner or operator of the motor vehicle.

''(3) STATE STANDARD TRANSPORTATION PRACTICES.—

''(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

''(i) uniform cargo liability rules,

''(ii) uniform bills of lading or receipts for property being transported,

''(iii) uniform cargo credit rules, or

''(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

''(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary of Transportation or the Intermodal Surface Transportation Board under this part; and

''(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

''(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

''(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

"§ 14502. Tax discrimination against motor carrier transportation property

''(a) In this section—

''(1) 'assessment' means valuation for a property tax levied by a taxing district;

''(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

''(3) 'motor carrier transportation property' means property, as defined by the Secretary of Transportation, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title; and

''(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

''(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

''(1) Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

''(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

''(3) Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

''(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

''(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§ 14503. Withholding State and local income tax by certain carriers

''(a)(1) No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(2) In this subsection 'employee' has the meaning given such term in section 31132 of this title.

''(b)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in

which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

''(2) A water carrier providing transportation subject to the jurisdiction of the Secretary of Transportation under subchapter II of chapter 135 of this title shall file income tax information returns and other reports only with—

''(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

''(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

''(3) This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

''(c) A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

''§ 14504. State tax

''A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

''(1) a passenger traveling in interstate commerce by motor carrier;

''(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

''(3) the sale of passenger transportation in interstate commerce by motor carrier; or

''(4) the gross receipts derived from such transportation.

''§ 14505. Single State registration system

''(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

''(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

''(c) SINGLE STATE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

''(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

''(B) the State of registration shall fully comply with standards prescribed under this section; and

''(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

''(2) SPECIFIC REQUIREMENTS.—

''(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this part—

''(i) to file and maintain evidence of such certificate or permit;

''(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

''(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

''(iv) to file the name of a local agent for service of process.

''(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

''(i) shall require that the registration State issue a receipt, in a form, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this subsection and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

''(ii) shall require that copies of the receipt issued under clause (i) of this paragraph be kept in each of the carrier's commercial motor vehicles;

''(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

''(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this subsection that—

''(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates,

''(II) minimizes the costs of complying with the registration system, and

''(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

''(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

''(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

''(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

''CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

''§ 14701. General authority

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may begin an investigation under this part on the Secretary's or the Transportation Board's own initiative or on complaint. If the Secretary or Transportation Board, as applicable finds that a carrier or broker is violating this part, the Secretary or Transportation Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139 of this title, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Transportation Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

''(b) A person, including a governmental authority, may file with the Secretary or Transportation Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Transportation Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

''(c) A formal investigative proceeding begun by the Secretary or Transportation Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the third year after the date on which it was begun.

''§ 14702. Enforcement by the regulatory authority

''(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may bring a civil action—

''(1) to enforce section 14103 of this title; or

''(2) to enforce this part, or a regulation or order of the Secretary or Transportation Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

''(b) In a civil action under subsection (a)(2) of this section—

''(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

''(c) The Transportation Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

''§ 14703. Enforcement by the Attorney General

''The Attorney General may, and on request of either the Secretary of Transportation or Intermodal Surface Transportation Board shall, bring court proceedings (1) to enforce this part or a regulation or order of the Secretary or Transportation Board or terms of registration under this part and (2) to prosecute a person violating this part or a regulation or order of the Secretary or Transportation Board or term of registration under this part.

''§ 14704. Rights and remedies of persons injured by carriers or brokers

''(a) A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title does not obey an order of the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

''(b)(1) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under section 13702 of this title.

''(2) A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

''(c)(1) A person may file a complaint with the Transportation Board or the Secretary, as applicable, under section 14701(b) of this title or bring a civil action under subsection (b) (1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title.

''(2) When the Transportation Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Transportation Board or Secretary, as applicable, shall

order the carrier to pay the amount awarded by a specific date. The Transportation Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Transportation Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

''(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Transportation Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Transportation Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Transportation Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

''(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier or broker is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

''§ 14705. Limitation on actions by and against carriers

''(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

''(b) A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 of this title and an election to file a complaint with the Intermodal Surface Transportation Board or Secretary of Transportation, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

''(c) A person must file a complaint with the Transportation Board or Secretary, as applicable, to recover damages under section 14704(b)(2) of this title within 2 years after the claim accrues.

''(d) The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) of this section and the 2-year period under subsection (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(e) A person must begin a civil action to enforce an order of the Transportation Board or Secretary against a carrier for the payment of money within one year after the date the order required the money to be paid.

''(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for overpayment of that rate, or (3) deduction made under section 3726 of title 31, whichever is later.

''(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

''§ 14706. Liability of carriers under receipts and bills of lading

''(a)(1) A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 of this title are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

''(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

''(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

''(c)(1) A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shippper or by a mutual written agreement between the carrier and shipper.

''(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

''(d)(1) A civil action under this section may be brought against a delivering carrier (other than a rail carrier) in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

''(2)(A) A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

''(B) A civil action under this section may be brought in a United States district court or in a State court.

''(C) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

''(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

''(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

''(f) A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 of this title may petition the Transportation Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

''(g) Within one year after enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary shall deliver to the appropriate Congressional authorizing committees a report on the benefit of revising or modifying the terms or applicability of this section, together with any proposed legislation to implement the study's recommendations, if any.

''§ 14707. Private enforcement of registration requirement

''(a) If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

''(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Secretary of Transportation and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a)

of this section. The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

''(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

''§ 14708. Dispute settlement program for household goods carriers

''(a)(1) As a condition of registration under section 13902 or 13903 of this title, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title must agree to offer to shippers neutral arbitration as a means of settling disputes between such carriers and shippers of household goods concerning the transportation of household goods.

''(b)(1) The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

''(2) The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

''(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

''(4) Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary of Transportation may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

''(5) No fee for instituting an arbitration proceeding may be charged the shipper; except that, if the arbitration is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting an arbitration proceeding. In any case in which a shipper is charged a fee under this paragraph for instituting an arbitration proceeding and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

''(6) The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises.

''(7) The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

''(8) The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

''(c) Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905 of this title.

''(d) In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

''(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

''(2) the shipper prevails in such court action; and

''(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

''(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

''(e) In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

''(1) after resolution of such dispute through arbitration under this section; or

''(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered.

''(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 13102(9)(A) of this title.

''§ 14709. Tariff reconciliation rules for motor carriers of property

''Subject to review and approval by the Intermodal Surface Transportation Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 of this part or sections 10761 and 10762 of this title prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a filed tariff.

''CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

''§ 14901. General civil penalties

''(a) A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title or transportation by a foreign carrier registered under section 13902 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed, (4) does not comply with section 13901 of this title, or (5) does not comply with section 13902(c) of this title is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who does not have authority under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

''(b) A person subject to jurisdiction under subchapter I of chapter 135 of this title, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

''(c) In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

''(d) If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Transportation Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

''(e) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

''(f) A person, or an officer, employee, or agent of that person, that knowingly pays accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 13707 of this title is liable to the injured party or the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation.

''(g) Trial in a civil action under subsections (a) through (f) of this section is in the judicial district in which (1) the carrier or broker has its principal office, (2) the carrier or broker was authorized to provide transportation or service

under this part when the violation occurred, (3) the violation occurred, or (4) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"§ 14902. Civil penalty for accepting rebates from carrier

''A person—

''(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

''(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702 of this title,

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

"§ 14903. Tariff violations

''(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 of this title at less than the rate in effect under section 13702 of this title shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702 of this title, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

''(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

"§ 14904. Additional rate violations

''(a) A person, or an officer, employee, or agent of that person, that—

''(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135 of this title; or

''(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702 of this title,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

''(b)(1) A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

''(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 of this title at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

''(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(b) Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"§ 14906. Evasion of regulation of carriers and brokers

''A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"§ 14907. Record keeping and reporting violations

''A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Transportation Board, as applicable, requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Transportation Board shall be fined not more than $5,000.

"§ 14908. Unlawful disclosure of information

''(a)(1) A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

''(2) A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

''(b) This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title from giving information—

''(1) in response to legal process issued under authority of a court of the United States or a State;

''(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

''(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"§ 14909. Disobedience to subpenas

''A person not obeying a subpena or requirement of the Secretary of Transportation or the Intermodal Surface Transportation Board to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than one year, or both.

"§ 14910. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 of this title or a condition of a registration under section 13902 of this title, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

"§ 14911. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

"§ 14912. Weight-bumping in household goods transportation

''(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135 of this title.

''(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

"§ 14913. Conclusiveness of rates in certain prosecutions

''When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903 of this title. A departure, or offer to depart, from that published or filed rate is a violation of those sections.''.

Subtitle B—Motor Carrier Registration and Insurance Requirements

SEC. 451. AMENDMENT OF SECTION 31102.

Section 31102(b)(1) is amended by—

(1) striking ''and'' at the end of subparagraph (O);

(2) striking the period at the end of subparagraph (P) and inserting a semicolon and ''and''; and

(3) adding at the end thereof the following:

''(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146 of this title, or regulations issued thereunder.''

SEC. 452. AMENDMENT OF SECTION 31138.

(a) Section 31138(c) is amended by adding at the end thereof the following new paragraph:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

(b) Section 31138(e) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following:

''(4) providing mass transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; Provided That, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.''.

(c) Section 31139(e) is amended by adding at the end thereof the following:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

SEC. 453. SELF-INSURANCE RULES.

The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.

Section 31144 is amended by—

(1) striking ''In cooperation with the Interstate Commerce Commission, the'' in the first sentence of subsection (a) and inserting ''The'';

(2) by striking ''sections 10922 and 10923'' in that sentence and inserting ''section 13902'';

(3) striking ''and the Commission'' in subsection (a)(1)(C); and

(4) striking subsection (b) and inserting the following:

''(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall—

''(1) find a registrant as a motor carrier unfit if the registrant does not meet the safety fitness requirements established under subsection (a) of this section; and

''(2) withhold registration.''.

TITLE V—AMENDMENTS TO OTHER LAWS

SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by—

(1) striking ''Interstate Commerce Commission,'' and inserting ''Intermodal Surface Transportation Board,''; and

(2) striking ''promulgate, within ninety days after the date of enactment of this Act,'' and inserting ''maintain''.

SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board'' each place it appears;

(2) striking ''Commission'', wherever it appears and inserting ''Transportation Board''; and

(3) striking ''Commission's'' in subsection (b) and inserting ''Transportation Board's''.

SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.

Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking ''Interstate Commerce Commission,'' and inserting ''Intermodal Surface Transportation Board,''.

SEC. 504. ANIMAL WELFARE ACT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''.

SEC. 505. TITLE 11, UNITED STATES CODE.

(a) Section 1164 of title 11, United States Code, is amended by striking ''Commission'' and inserting ''Intermodal Surface Transportation Board''.

(b) Section 1170 of title 11, United States Code, is amended by—

(1) striking ''Commission'' the first time it appears in subsection (b) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears and inserting ''Transportation Board''.

(c) Section 1172 of title 11, United States Code, is amended by—

(1) striking ''Commission'' the first time it appears in subsection (b) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears and inserting ''Transportation Board''.

SEC. 506. CLAYTON ACT.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in the last sentence of section 7 (15 U.S.C. 18) and inserting ''Intermodal Surface Transportation Board'';

(2) inserting a comma and ''Transportation Board,'' after ''such Commission'' in the last sentence of that section;

(3) striking ''Interstate Commerce Commission'' in the first sentence of section 11(a) (15 U.S.C. 21) and inserting ''Intermodal Surface Transportation Board''; and

(4) striking ''Interstate Commerce Commission'' in section 16 (15 U.S.C. 26) and inserting ''Intermodal Surface Transportation Board''.

SEC. 507. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in section 621(b)(4) (15 U.S.C. 1681s) and inserting ''Intermodal Surface Transportation Board'';

(2) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part;'' in section 621(b)(4) (15 U.S.C. 1681s) after ''those Acts'';

(3) striking ''Interstate Commerce Commission'' in section 704(a)(4) (15 U.S.C. 1691c) and inserting ''Intermodal Surface Transportation Board'';

(4) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part'' in section 704(a)(4) (15 U.S.C. 1691c) after ''those Acts'';

(5) striking ''Interstate Commerce Commission'' in section 814(b)(4) (15 U.S.C. 1692l) and inserting ''Intermodal Surface Transportation Board''; and

(6) inserting a comma and ''and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part'' in section 814(b)(4) (15 U.S.C. 1692l) after ''those Acts''.

SEC. 508. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended by—

(1) striking ''Interstate Commerce Commission'' in the first sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting ''Intermodal Surface Transportation Board'';

(2) striking ''Commission'' in the last sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting ''Intermodal Surface Transportation Board''; and

(3) striking ''Interstate Commerce Commission'' in section 9(b) (16 U.S.C. 1248(d)) and inserting ''Intermodal Surface Transportation Board''.

SEC. 509. TITLE 18, UNITED STATES CODE.

Section 6001 of title 18, United States Code, is amended by striking ''Interstate Commerce Commission'' in subsection (1) and inserting ''Intermodal Surface Transportation Board''.

SEC. 510. INTERNAL REVENUE CODE OF 1986.

(a) Section 3231 of the Internal Revenue Code of 1986 (26 U.S.C. 3231) is amended by—

(1) striking ''Interstate Commerce Commission'' in subsection (a) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking subsection (g) and inserting the following:

''(g) CARRIER.—For purposes of this chapter, the term 'carrier' means a rail carrier providing transportation subject to chapter 105 of title 49, United States Code.''.

(b) Section 7701(a) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)) is amended by—

(1) striking ''Federal Power Commission'' in paragraph (33)(B) and inserting ''Federal Energy Regulatory Commission'';

(2) striking ''Interstate Commerce Commission'' in paragraph (33)(C)(i) and inserting ''Intermodal Surface Transportation Board'';

(3) striking ''Interstate Commerce Commission'' in paragraph (33)(C)(ii) with ''Federal Energy Regulatory Commission'';

(4) striking ''Interstate Commerce Commission under subchapter III of chapter 105'' in paragraph (33)(F) and inserting ''Secretary of Transportation under subchapter II of chapter 135'';

(5) striking ''subchapter I of'' in paragraph (33)(G); and

(6) striking ''subchapter I of'' in the first sentence of paragraph (33)(H).

SEC. 511. TITLE 28, UNITED STATES CODE.

(a) The heading of chapter 157 of part VI of title 28, United States Code, is amended by striking ''INTERSTATE COMMERCE COMMISSION'' and inserting ''INTERMODAL SURFACE TRANSPORTATION BOARD''.

(b) Section 2321 of title 28, United States Code, is amended by—

(1) striking ''Commission's'' in the section caption and inserting ''Intermodal Surface Transportation Board's''; and

(2) striking ''Interstate Commerce Commission'' in subsections (a) and (b) and inserting ''Intermodal Surface Transportation Board''.

(c) Section 2323 of title 28, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'', wherever it appears, and inserting ''Transportation Board''.

(d) Section 2341 of title 28, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'' in paragraph (3)(A);

(2) striking ''and'' in paragraph (3)(C);

(3) striking ''Act.'' in paragraph (3)(D) and inserting ''Act; and''; and

(4) inserting after paragraph (3)(D) the following:

''(E) the Transportation Board, when the order was entered by the Intermodal Surface Transportation Board.''.

(e) Section 2342 of title 28, United States Code, is amended by—

(1) inserting ''or pursuant to part B of subtitle IV of title 49, United States Code'' at the end of paragraph (3)(A); and

(2) striking paragraph (5) and inserting the following:

''(5) all rules, regulations, or final orders of the Intermodal Surface Transportation Board made reviewable by section 2321 of this title; and''.

SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of'' in paragraph (2)(C) and inserting ''part B of''; and

(2) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of'' in paragraph (3) and inserting ''part B of''.

SEC. 513. TITLE 39, UNITED STATES CODE.

(a) Section 5005 of title 39, United States Code, is amended by striking ''Interstate Commerce Commission'' in subsection (b)(3) and inserting ''Intermodal Surface Transportation Board''.

(b) Section 5203 of title 39, United States Code, is amended by—

(1) striking subsection (f) and redesignating subsection (g) as subsection (f); and

(2) striking ''Commission'' in subsection (f), as redesignated, and inserting ''Intermodal Surface Transportation Board''.

(c) Section 5207 of title 39, United States Code, is amended by—

(1) striking ''Interstate Commerce Commission'', in both the section caption and subsection (a), and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever it appears and inserting ''Transportation Board''.

(d) Section 5208 of title 39, United States Code, is amended by—

(1) striking ''Commission's'' in subsection (a) and inserting ''Transportation Board's''; and

(2) striking ''Commission'' wherever it appears and inserting ''Transportation Board''.

(e) The index for chapter 52 of title 39, United States Code, is amended by striking out the items relating to section 5207 and inserting in lieu thereof the following:

''5207. Intermodal Surface Transportation Board to fix rates.'' ...

SEC. 514. ENERGY POLICY ACT OF 1992.

Section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369) is amended by striking ''Interstate Commerce Commission'' in subsections (a) and (d) and inserting ''Intermodal Surface Transportation Board''.

SEC. 515. RAILWAY LABOR ACT.

Section 151 of the Railway Labor Act (45 U.S.C. 151) is amended by—

(1) striking ''any express company, sleeping-car company, carrier by railroad, subject to'' in the first paragraph and inserting ''any railroad subject to'';

(2) striking ''Interstate Commerce Commission'' in the first and fifth paragraphs and inserting ''Intermodal Surface Transportation Board''; and

(3) striking ''Commission'', wherever it appears in the fifth paragraph and inserting ''Intermodal Surface Transportation Board''.

SEC. 516. RAILROAD RETIREMENT ACT OF 1974.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by—

(1) striking subsection (a)(1)(i) and inserting: ''(i) any carrier by railroad subject to chapter 105 of title 49, United States Code;'';

(2) striking ''Interstate Commerce Commission'' in subsection (a)(2)(ii) and inserting ''Intermodal Surface Transportation Board'';

(3) striking ''Board,'' in subsection (a)(2)(ii) and inserting ''Railroad Retirement Board,''; and

(4) inserting ''Intermodal Surface Transportation Board,'' after Interstate Commerce Commission,'' in the first sentence of subsection (o).

SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by—

(1) striking ''Interstate Commerce Commission'' in the second sentence of paragraph (a) and inserting ''Intermodal Surface Transportation Board'';

(2) striking ''Board,'' in the second sentence of paragraph (a) and inserting ''Railroad Retirement Board,''; and

(3) striking paragraph (b) and inserting the following:

''(b) The term 'carrier' means a carrier by railroad subject to chapter 105 of title 49, United States Code.''.

(b) Section 2(h)(3) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

(1) striking ''Interstate Commerce Commission'' and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Board,'' and inserting ''Railroad Retirement Board,''.

SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.

Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by striking ''Commission'', wherever it appears in subsections (a) and (b), and inserting ''Intermodal Surface Transportation Board''.

SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.

Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by—

(1) striking ''Commission'' in subsection (d)(1)(A) and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Commission'' wherever else it appears in paragraph (1) or (3) of subsection (d), and in subsections (f) and (g), and inserting ''Transportation Board''.

SEC. 520. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.

Section 510 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 830) is amended by striking ''section 20a of the Interstate Commerce Act (49 U.S.C. 20a)'' and inserting ''section 11301 of title 49, United States Code''.

SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended by striking ''Interstate Commerce Commission'' wherever it appears in subsections (a) and (c) and inserting ''Intermodal Surface Transportation Board''.

SEC. 522. MERCHANT MARINE ACT, 1920.

(a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C. App. 867) is amended by—

(1) striking ''Interstate Commerce Commission'' in both places that it appears and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''commission'' and inserting ''board''.

(b) Section 28 of the Merchant Marine Act, 1920 (46 U.S.C. App. 884) is amended by—

(1) striking ''Interstate Commerce Commission'' where it first appears and inserting ''Intermodal Surface Transportation Board''; and

(2) striking ''Interstate Commerce Commission'' wherever else it appears and inserting ''Transportation Board''.

SEC. 523. SERVICE CONTRACT ACT OF 1965.

Section 356(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)), is amended by striking ''where published tariff rates are in effect''.

SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Pub. L. 103–305) is amended by striking all after ''subsection (c)'' and inserting ''shall not take effect as long as section 11501(g)(2) of title 49, United States Code, applies to that State.''.

TITLE VI—AUTHORIZATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated—

(1) for the closedown of the Interstate Commerce Commission and severance costs for Interstate Commerce Commission personnel, regardless of whether those severance costs are incurred by the Commission or by the Intermodal Surface Transportation Board, the balance of the $13,379,000 appropriated to the Commission for fiscal year 1996, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996;

(2) for the operations of the Intermodal Surface Transportation Board for fiscal year 1996, $8,421,000, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board; and

(3) for the operations associated with functions transferred from the Interstate Commerce Commission to the Intermodal Surface Transportation Board under this Act, $12,000,000 for each of the fiscal years 1997 and 1998, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board.

TITLE VII—EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on January 1, 1996.

PRIVILEGE OF THE FLOOR

Mr. PRESSLER. Madam President, I ask unanimous consent that Ellen D. Hanson, a detailee from the Interstate Commerce Commission to the Committee on Commerce, Science, and Transportation, be granted floor privileges during consideration of S. 1396.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, I rise to begin the full Senate's consideration of S. 1396, the Interstate Commerce Commission Sunset Act of 1995. I am very pleased to be joined in this effort by the bill's coauthor and comanager, Senator EXON. This legislation is also cosponsored by Senator BURNS, HOLLINGS, INOUYE, HUTCHINSON, and KASSEBAUM. It is a bipartisan bill and I urge my colleagues' bipartisan support in its swift passage.

LEGISLATIVE HISTORY

Introduced on November 3, 1995, this legislation is in direct response to the fiscal year 1996 budget resolution which assumes the elimination of the Interstate Commerce Commission [ICC] and the fiscal year 1996 Department of Transportation appropriations bill, H.R. 2002, which provides no funding for the ICC effective December 31, 1995—Public Law 104–50. It is the product of nearly a year's worth of bipartisan study, discussion, and work.

S. 1396 addresses what is fast approaching an emergency situation, the imminent, congressionally mandated shutdown of the ICC, in just over a month. However, it does so in a manner that embodies a reasonable oversight structure for our Nation's surface transportation industries. The bill would eliminate scores of unnecessary regulatory provisions in a balanced manner, yet preserve necessary core regulations and allow for continued protection of shippers and the consuming public.

This legislation would sunset two Federal agencies, the Interstate Commerce Commission [ICC] and the Federal Maritime Commission [FMC]. The ICC would terminate effective January 1, 1996, and the FMC would terminate 1 year later, January 1, 1997. The bill would repeal over 70 obsolete ICC regulatory functions and transfer residual functions partly to a newly established independent Intermodal Surface Transportation Board [Board] within DOT and partly to the Secretary of Transportation. When the FMC sunsets in 1997, its remaining functions would be transferred to the new Board.

S. 1396 reflects a board consensus, as demonstrated by the Commerce Committee's unanimous vote reporting it during its November 9 executive session. That consensus is likewise reflected by the overwhelming 417 to 8 vote approving a similar House bill on November 14. These votes are the expression of the underlying agreement on fundamental substance that has emerged on both sides of the Hill and both sides of the aisle during the past year.

Madam President, it is imperative that this bill be approved promptly if we are to authorize an orderly ICC sunset and identify which functions should be continued and by what agency or agencies, within the constraints of the funding approved. Once authorized, the timely shutdown of our Nation's oldest regulatory agency will be ensured. It is likewise imperative that the bill's careful consensus structure not be undone by ill-considered amendments.

BACKGROUND

I do want to briefly explain some of the underlying philosophy that went into the drafting of S. 1396.

Throughout the process, Senator EXON and I have worked together very closely. In fact, much of this legislation initially was written by my good friend. Over the months, much compromise and cooperation have produced what I feel is a balanced bill, addressing the immediate and compelling needs driving this legislation.

Our staff members and those of other committee members have collaborated throughout the process. Many long hours have been spent in joint meetings with various interest groups and constituents who have raised concerns or urged revisions to the bill. We have worked very hard to address legitimate concerns, and have made numerous changes and revisions throughout the process in an effort to address those concerns. However, as hard as we have worked to please all parties, our policy decisions ultimately were driven by the need to produce a bill which could be passed and signed into law as soon as possible.

Madam President, this is historic legislation. The ICC is our oldest independent regulatory agency. Established in 1887—108 years ago—it was originally created to protect shippers from the monopoly power of the railroad industry. Throughout subsequent years, the ICC's regulatory responsibilities were broadened and strengthened, and expanded to other modes. However, in more recent years, particularly in the 1980's, a series of regulatory reform bills significantly deregulated the surface transportation industries, reducing the ICC's authority.

Even with the considerable deregulation of the surface transportation industries, the ICC continues to maintain a formidable regulatory presence. The ICC determines policy through its rulemaking and adjudicative proceedings to ensure the effective administration of the Interstate Commerce Act [ICA], related statutes, and regulations. The ICC maintains jurisdiction over the rail industry, certain pipelines, barge operators, bus lines, freight forwarders, household goods movers, and approximately 60,000 for-hire motor carriers. Yet its remaining functions can and should continue to be reduced. The same could be said about every Government agency. Less Government regulation would be better. S. 1396 moves us significantly in that direction.

In my view, the positive and necessary adjudicatory role of the ICC should not simply cease to exist at the end of this year. Indeed, the ICC has performed and continues to perform important functions. For example, my home State of South Dakota would today have hundreds of miles less rail service than we presently enjoy if it were not for the abandonment public interest review authority of the ICC. Indeed, rail service to many smaller communities throughout the country might not exist without the work of the ICC.

As I stated when I introduced this bill, budget constraints and appropriations legislation which terminate the agency's functions at the end of this year render moot any debate over whether or not we should keep the ICC. Given the realities of the budget situation, the issue is not whether the ICC should be terminated, but how it will be dismantled.

Therefore, we are tasked with determining what ICC functions can continue to be effectively performed by a successor with a very limited budget. S. 1396 provides a reasoned approach designed to ensure continued protections against industry abuse while at the same time assure the economic efficiencies of our Nation's surface transportation system can continue.

Specifically, this legislation would sunset the ICC and transfer its necessary residual functions to an independent Board within the DOT. The Board would administer the residual regulations over rail carriers and pipelines and provide limited adjudicatory oversight over the motor carrier industry. The Secretary of Transportation would inherit the residual nonadjudicatory functions governing the motor carrier industry.

The overall approach taken in this legislation was to limit its scope to the most efficient and simplest sunset and transfer bill, as opposed to a wholesale rewrite of transportation policy. Numerous unnecessary functions were eliminated. In transferring the essential functions that remain, some changes to these functions also had to be made due to the budget constraints which will confront the successor agency. While some also advocated a number of changes I considered to be far more regulatory in nature than I could support, I also recognize those concerns remain.

For example, I am particularly concerned about the concerns of small rail shippers and operators in light of continuing industry trends toward overwhelming industry concentration. Some have urged us to reregulate the rail industry to remedy these concerns. They argue that since the Staggers Act greatly deregulated the rail industry, shippers have been faced with difficult if not impossible relief mechanisms. They point out that the potential for shipper abuse increases with industry concentration. Their argument merit our consideration. However, I am not convinced a return to a pre-Staggers approach is the answer.

Even though I voted against the Staggers Act 15 years ago, I must say it has proved to be extraordinarily successful in reviving a failing rail industry. It generally has had a positive impact on shippers and industry alike. Therefore, at this point, it would be unsound policy to attempt to reregulate, without a clearer identification of the problems and reasonable belief the proposed regulations would remedy those problems.

At the same time, we have attempted to address a few very critical shipper concerns in those areas in which the ICC's current administrative procedures do not enable a shipper to even bring a legitimate grievance and receive an effective remedy. For example, S. 1396 would instruct the new Board to complete the ICC's pending noncoal rate guidelines proceeding so that smaller shippers have a practical procedure available in which to bring a rate case.

Some in the rail industry say this is reregulatory. I strongly disagree. If the mechanisms available under the Interstate Commerce Act are so cumbersome and cost prohibitive that a shipper cannot afford to seek a remedy—and in fact, the ICC has recognized this for the 10 years in which it has attempted to provide an alternative procedure—isn't it our duty to direct the new Board to ensure the ICA is administered effectively? Yes, it is.

SUMMARY OF LEGISLATION

Let me now turn to an overview of the bill's main provisions:

As a general principle, S. 1396 continues the deregulation theme of the past 15 years by providing further regulatory reductions in the surface transportation industries. Overall, the bill is

designed to repeal unnecessary regulations and authorize the transfer of residual functions to DOT. As I previously mentioned, many broader transportation policy proposals viewed by the committee to be reregulatory were not included in this bill. The committee intentionally limited the bill to matters related to sunsetting the ICC and FMC and transferring essential functions to a successor.

1. GOVERNMENTAL EFFICIENCY AND SAVINGS

In response to the increasing emphasis on intermodalism and providing seamless transportation via rail, motor, and water modes in the transportation industry, the bill proposes to house the remaining Federal Government oversight of these transportation modes within a single agency with the expertise and perspective to view the transportation industry as increasingly intermodal. Consolidating remaining ICC and FMC functions within the Board accomplishes this goal. Further, by placing the Board within DOT, the Board would be relieved of separate administrative costs currently borne by both the ICC and the FMC.

2. RAIL TRANSPORTATION

Beyond weeding out outdated and unnecessary provisions, the bill generally does not attempt to substantively redesign rail regulation. Rather, it would preserve the careful balance put in place by the Railroad Revitalization and Regulatory Reform Act of 1976 and the Staggers Act of 1980 that have led to a dramatic revitalization of the rail industry while protecting significant shipper and national interests.

The bill would eliminate many outdated, unnecessary, and burdensome regulatory requirements and restrictions on the rail industry. These include, for example, the elimination of all regulation of rail passenger transportation, all tariff filings, tariffs for nonagricultural commodities, special provisions favoring recyclable commodities, and restrictions against carriers transporting their own commodities.

S. 1396 would retain those provisions needed to preserve an efficient national rail network comprised of numerous individual carriers. These include Federal regulatory oversight of line constructions, line abandonments, line sales, leases, and trackage rights, mergers and other consolidations—under a broad public interest standard and with ongoing regulatory oversight—car supply and interchange, antitrust immunity for certain collective activities—including pooling of equipment and services—competitive access, financial assistance, feeder line development, emergency service orders, and recordation of equipment liens.

The bill would also retain provisions that are necessary to protect rail shippers. These include the common carrier obligation, regulatory oversight of the reasonableness of rail practices, maximum rate regulation for captive traffic, advance notice of rate increases, and rate tariffs for agricultural commodities and fertilizer.

3. MOTOR CARRIER TRANSPORTATION

With regard to motor carrier transportation, S. 1396 would eliminate all vestiges of restrictive entry barriers, based either on a gauging of public demand or need for the service or on protecting existing carriers in a market. However, the bill would retain needed safety oversight and insurance requirements, by converting the existing ICC licensing program into a DOT-administered registration program based solely on a carrier's fitness to operate.

The bill would eliminate the regulatorily created distinction between common and contract motor carriers. Such categorizations have lost their meaning, because most carriers now operate in a dual capacity. Under the bill, all motor carriers would have a common carrier obligation, but would be free to contract for individual shipments.

The bill would eliminate tariffs and rate regulation for general trucking. Such regulation, introduced in the 1930's when trucking was a new and struggling industry, has outlived all usefulness. The trucking industry today is a mature, highly competitive industry in which competition disciplines rates far better than tariff filing and regulatory intervention. Only two specialized categories of trucking operations would still require tariffs and be subject to potential rate regulation. These are residential household goods movements and certain joint motor-water shipments involving Alaska, Hawaii, or U.S. territories—where the water portion of the movement is generally not as competitive and where advance notice and certainty of rates is particularly needed.

S. 1396 would retain the collective activity provisions that allow trucking companies to pool and coordinate their services. It would also retain the existing useful background commercial rules for the trucking industry, involving such matters as owner-operator leasing, lumping, and cargo liability.

While the Federal Government would establish the background rules applicable to trucking operations, the ICC's traditional function of informally resolving disputes in these areas would not be continued. The bill enables aggrieved parties to take such disputes directly to the courts.

4. HOUSEHOLD GOODS TRANSPORTATION

The bill would retain special regulatory provisions for residential household goods movements in view of the special consumer impacts associated with them. Because the individual householder moves infrequently, usually has little market information about such moves, and generally lacks bargaining power, the householder has little self-help ability in a transaction with a large personal impact. To prevent unfair rate advantages and abuses against this least-sophisticated class of shippers, the bill would retain tariff and rate reasonableness requirements for residential household goods moves. It would prohibit carriers from circumventing fair and uniform rates for residential moves by offering contract rates when dealing directly with the householder. The bill would retain the highly successful binding-estimate provisions applicable to household goods moves.

Because the ICC's informal dispute resolution services would no longer be available, the bill would require household goods carriers to offer impartial arbitration of disputes arising out of individual residential moves. This would provide an inexpensive and effective means of dealing with the typical household goods loss or damage claim, which is often so small that any litigation requirement becomes unduly expensive and burdensome.

5. INTERCITY BUS TRANSPORTATION

The bill would remove most remaining regulatory requirements and restrictions from the intercity bus industry. The safety-oriented carrier registration and insurance requirements would be applied to the bus industry, and certain limited restrictions against subsidized carriers competing with unsubsidized carriers would be retained. Also, the bill would retain the special public-interest merger standards and advance approval procedures for the intercity bus industry.

6. TRANSPORTATION INTERMEDIARIES

S. 1396 would continue the licensing and bond requirements for transportation brokers, which are needed to protect the public from unscrupulous brokers. The bill would also apply the same requirements to all freight forwarders. Currently freight forwarders of shipments other than household goods are not required to obtain a license from the ICC, but they are required to maintain a minimum level of cargo liability insurance. The insurance requirement has been difficult to monitor and enforce without a Federal licensing requirement. By extending the registration requirement to all freight forwarders, the bill would fill an inappropriate regulatory gap.

7. PIPELINE TRANSPORTATION

The bill would retain regulation of pipeline transportation insofar as it involves commodities other than oil and gas—which are regulated by the Federal Energy Regulatory Commission—or water—which is not now regulated. Because the pipeline industry has the same monopolistic characteristics as the rail industry, such regulatory oversight must be retained to protect against abuses.

8. DOMESTIC WATER CARRIAGE

The bill would effectively deregulate domestic water carriage in the contiguous-States markets, where there is ample competition to render such regulation unnecessary. However, the bill would retain residual authority over such water carriage for preemptive purposes, to prevent this transportation from being subjected to regulation under other laws.

The extent of maritime regulation that would be transferred to the Board is as yet undetermined. We plan to produce intervening legislation within the next year paring back the FMC's functions before they are transferred to the Board. In fact, the bill requires the Chairman of the new Board to meet with the Chairman of the FMC to develop a plan for the orderly transition of FMC functions to the Board. The Chairman of the Board would then submit the pan to the Director of the Office of Management and Budget, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after enactment of this bill. We expect this plan would address any changes in FMC functions that may be legislated after enactment of this bill, the effect of this transfer on Board funding requirements, personnel matters, and other matters relevant to the transfer of remaining FMC functions on January 1, 1997.

9. TOW TRUCK OPERATIONS

This bill also would correct a serious problem that has been an unintended consequence of legislation last year preempting State and local motor carrier regulation. Specifically, the bill would enable State and local governments to regulate the price and related conditions of nonconsensual tows by tow truck operators, so as to preclude exorbitant prices and unreasonable conditions from being imposed on unwilling parties.

10. INTERMODAL TRANSPORTATION

This bill would remove all existing restrictions that specifically limit or preclude intermodal ownership and intermodal operations. Moreover, by combining the remaining functions of the existing transportation regulatory bodies, the bill should further foster intermodalism.

11. TRANSPORTATION OF FOREIGN CARRIERS UNDER NAFTA

The bill would retain the registration and insurance requirements for foreign motor carriers operating in the United States pursuant to the North American Free-Trade Agreement. The bill would transfer the ICC's existing oversight and enforcement responsibilities in this area to DOT.

Madam President, I have just given a rather lengthy overview of this very detailed legislation. Obviously, the very nature of this bill—sunsetting an agency—requires study and review of the entire Interstate Commerce Act. We have done just that over the past year. We have worked to craft a sound legislative proposal. It may not be a perfect bill. Not all parties support every single provision. However, Senator EXON and I and others have worked and compromised to address concerns throughout this entire process. The time has come to move forward. The clock is running.

This authorization legislation must be enacted if we are to ensure an orderly sunset of the ICC. I urge my colleagues to support the bill.

Madam President, I will yield to the distinguished Senator from Nebraska, who introduced the original legislation and has worked as part of a team in getting this worked out. I thank him very much.

I will say this to the Members of the Senate who have amendments or speeches on this bill. This is a piece of legislation we must pass. We are participating in the closing of a governmental agency, the ICC, and we hear all about closing agencies, and so forth. This is actually happening. We are eliminating many of its duties and putting other functions into the Department of Transportation. Some say, well, you are just taking the functions from one place and putting them into another. But they have been streamlined, and they will have the efficiencies of scale, being in the Department of Transportation. And we have worked this out in response to the budget and appropriations legislation that has been passed zeroing out the ICC. So we must act on this piece of legislation.

I should like to yield to the distinguished Senator from Nebraska for his remarks. And let me commend him for his outstanding leadership on this bill.

Mr. EXON. Madam President, I thank my friend and colleague from South Dakota, the chairman of the Commerce Committee, for his kind remarks. He has outlined very adequately and completely the bill before us that we have worked very, very hard on in the Commerce Committee.

I have long been associated with the Commerce Committee, especially surface transportation, all during my years of service in the U.S. Senate. Certainly with the end of the Interstate Commerce Commission, it is very important that we transfer the duties that have been performed by that agency to a division of Government that can accurately carry them out without the expense that we had with the Interstate Commerce Commission during their days of reining over a whole series of very complicated issues, which I think they accomplished very accurately, very intelligently, and made the right decision for the public at large.

But, Madam President, I rise to support the landmark legislation to eliminate the Interstate Commerce Commission, ICC, and the Federal Maritime Commission, the FMC, and to transfer their responsibilities to a new independent Intermodal Surface Transportation Board, which we call ISTB for short. This will be recognized under and reorganized under the Department of Transportation under this act.

Madam President, this legislation builds upon legislation that I introduced earlier this year known as the Transportation Streamlining Act. Following the introduction of the act, Senator PRESSLER, the chairman of the committee, and I worked with our staffs long and hard to find broad areas of agreement and compromise.

The work product of that negotiation is S. 1396, which is before us, which the chairman of the committee explained very adequately. This legislation represents the latest chapter in a thoughtful and deliberate effort to reform and deregulate America's great transportation sector. The more we can deregulate it, the better it will be and the more service it will provide.

In recent years, the Congress has worked very hard to bring fairness, efficiency, and productivity to all modes of transportation, many of them cited by Chairman PRESSLER. The Negotiated Rates Act approved in 1993 has already saved American businesses billions of dollars in so-called undercharge claims and litigation, ending the undercharge crisis and providing for a fair and expeditious settlement of all undercharge claims.

The Trucking Regulatory Reform Act of 1994, which Chairman PRESSLER alluded to, enacted dramatic and revolutionary Federal regulatory reform in truck and bus transportation. These measures, combined with the intrastate truck rate and route deregulation provision contained in the 1994 airport improvement program reauthorization bill, represent a body of law which compromises one of the most important, dramatic, productive and meaningful regulatory reform in modern times. S. 1396, now before us, known as the Pressler-Exon bill, continues that tradition.

Some areas of compromise were difficult to come by. On labor issues, I believe we have found a fair middle ground. A fair middle ground is the best we could do in this area, but it does protect the public interest in continued rail service while recognizing the sacrifices and the hardships of those hard-working men and women in the rail industry. The House of Representatives took a similar approach, and in conference we will need to carefully reconcile the two bills. As a longtime defender and supporter of an independent Interstate Commerce Commission, I support this legislation with enthusiasm, although I see the end of the Interstate Commerce Commission with some sadness.

As one of the few Members of Congress with regular contact with America's oldest independent regulatory agency, I know well the dedication, the commitment, the hard work of the Commission and all of its employees. A grateful Nation should thank those dedicated public servants for over a century of hard work. In a different time, with different fiscal realities, it might have been possible to maintain a strong independent regulatory agency, but that decision has now been made, and we must move on.

That being said, I support S. 1396 with a great deal of pride and enthusiasm. This legislation opens a new chapter in Federal transportation policy. This legislative effort can also

serve as a model for other agencies to achieve the efficiencies that people demand, but also do the work that the people expect.

One might ask why there is a need for a successor to the Interstate Commerce Commission and the FMC. Simply put, if there were no forum to resolve disputes, oversee standard contract terms, establish national standards and assure fair treatment for shippers and communities, the great, efficient and productive transportation sector would simply spin into chaos, and all members of that transportation system of the United States understand that.

Each State would develop its own rules, and transportation companies would become entangled in needless complicated litigation. The Intermodal Surface Transportation Board, ISTB, will assure that there is continuity and efficiency in transportation policy.

The new ISTB within the Department of Transportation will continue to be the fair referee among shippers, carriers and communities. It will provide interested parties with one-stop shopping and administer a significantly streamlined body of law which assures that the public interest is protected in transportation policy.

This transfer of responsibility and streamlining of authority will reduce costs both to taxpayers and the private sector and, at the same time, assure the key transportation safety responsibilities do not fall between the cracks.

This legislation represents only a first step to even greater consolidation and efficiency of transportation regulation and dispute resolution. I am delighted that the Senate Commerce Committee adopted an amendment which Senators LOTT, BREAUX, PRESSLER, and I offered to sunset the Federal Maritime Commission and transfer their responsibilities to the new board next year. If enacted, this legislation will bring to reality my vision that the new ISTB become a true one-stop shop for all modes of transportation. That is efficiency. By having a staggered sunset of the ICC and the FMC, the Congress has time to thoughtfully review the Nation's maritime laws and to consider reforms in this body of law before the final transfer of responsibility to the ISTB.

Madam President, our Nation takes for granted the blessings of America's great transportation system. Every part of the Nation has accessible transportation service. As Congress continues its efforts to keep regulation to the minimum necessary to protect the public interest, let us not forget what a valuable asset we have and how critically important it is that Congress carefully choose the correct course. We have done that in this instance.

I urge my colleagues to vote today to modernize America's transportation policy and pass S. 1396 as it was reported out of the Commerce Committee under the dedicated leadership of the chairman, Senator PRESSLER from South Dakota.

Madam President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3063

(Purpose: To make minor and technical changes in the bill as reported)

Mr. PRESSLER. Madam President, I have a unanimous-consent request that has been cleared on both sides. It regards the committee amendments to be considered and agreed to en bloc.

I send these committee amendments, which are sponsored by myself and Senator EXON, to the desk to make minor and technical changes in the bill as reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself and Mr. EXON, proposes an amendment numbered 3063.

Mr. PRESSLER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 256, between lines 4 and 5, insert the following:

(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

On page 281, between lines 18 and 19, insert the following:

SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.

Section 31111(b)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and ''or''; and

(3) by adding at the end thereof the following:

''(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.''.

On page 283, strike lines 9 through 11 and insert the following:

''(16) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle.''.

On page 284, between lines 18 and 19, insert the following:

(5) by striking ''or'' at the end of subsection (b)(1);

(6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and ''or'';

(7) by adding at the end of subsection (b) the following:

''(3) transportation by a commuter authority, as defined in section 24102 of this title, except for sections 11103, 11104, and 11503.'';

On page 284, line 19, strike ''(5)'' and insert ''(8)''.

On page 284, line 24, strike ''(6)'' and insert ''(9)''.

On page 286, line 16, insert ''competitive'' after ''other''.

On page 288, line 22, insert ''full'' after ''a''.

On page 288, line 23, strike ''impractical.'' and insert ''too costly given the value of the case.''.

On page 298, line 14, insert ''competitive'' after ''other''.

On page 319, between lines 2 and 3, insert the following:

(4) striking ''transaction.'' at the end of the second sentence of subsection (c) and inserting ''transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated.'';

On page 319, line 3, strike ''(4)'' and insert ''(5)''.

On page 319, line 4, strike ''(5)'' and insert ''(6)''.

On page 319, line 7, strike ''(6)'' and insert ''(7)''.

On page 319, line 9, strike ''(7)'' and insert ''(8)''.

On page 339, line 20, strike ''and''.

On page 340, line 6, strike ''actions.'' and insert ''actions; and''.

On page 340, between lines 6 and 7, insert the following:

''(4) in regulating transportation by water carrier, to encourage and promote service and price competition in the non-contiguous domestic trade.

On page 346, line 21, insert ''arranging for,'' after ''including''.

On page 346, line 23, insert ''unpacking,'' after ''packing,''.

On page 356, line 10, before ''The'' insert ''(a) GENERAL RULES.—''.

On page 357, between lines 21 and 22, insert the following:

''(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories, commonwealths, and possessions of the United States.

On page 360, between lines 10 and 11, insert the following:

''(f) The Secretary or Transportation Board, as applicable, is prohibited from regulating or exercising jurisdiction over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under federal law in effect on November 1, 1995.

''(g) The Secretary or Transportation Board, as applicable, may not exempt a water carrier from the application of, or compliance with, sections 13801 and 13702 for transportation in the non-contiguous domestic trade.

On page 361, between lines 9 and 10, insert the following:

''(c) A complaint that a rate, classification, rule or practice in the non-contiguous domestic trade violates subsection (a) of this section may be filed with the Transportation Board.

''(d)(1) For purposes of this section, a rate or division of a carrier for service in non-contiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

''(2) The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the

date the rate or division in question first took effect.

''(3) The Transportation Board shall determine whether any rate or division of a carrier or service in the non-contiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) of this section or section 13702(f)(5).

''(4) The Transportation Board, upon a finding of violation of subsection (a) or this section, shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure or tariff. The Transportation Board, upon complaint from any governmental agency or authority, shall, upon a finding or violation of subsection (a) of this section, make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all sums, plus interest, which the Board finds to have been assessed and collected in violation of such subsections.

''(e) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation or service that was pending before the Federal Maritime Commission shall continue to be heard until completion of issuance of a final order thereon under all applicable laws in effect as of that date.

On page 360, line 22, insert '', or a rate for a movement by a water carrier,'' after ''carrier''.

On page 408, line 7, strike ''13102(9)(A),'' and insert ''13102(9)(A)(i),''.

On page 485, between lines 7 and 8, insert the following:

SEC. 525. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as such Act was in effect before October 1, 1991;

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation; and

(3) the packaging will not be used in the transportation of hazardous materials from a point in the United States to a point outside the United States, or from a point outside the United States to a point inside the United States.

(b) HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994.—Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. 5101 note) is repealed.

SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 U.S.C. App. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or removal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED PROJECTS AND ACTIVITIES.

Notwithstanding any other provision of law, the State of Vermont may use any unobligated funds apportioned to the State under section 104 of title 23, United States Code, to fund projects and activities related to the provision of rail passenger service on Amtrak within that State.

SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 is amended by adding at the end thereof the following:

''(h) GRADE-CROSSING VIOLATIONS.—

''(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

''(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

''(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

''(B) any employer that knowingly allows, permits, authorized, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.''.

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) is amended by adding at the end thereof the following:

''(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.''.

Amend the table of sections by inserting the following after the item relating to section 216 of the bill:

Sec. 217. Transport vehicles for off-road, competition vehicles .....

Amend the table of sections by inserting the following after the item relating to section 524 of the bill:

Sec. 525. Fiber drum packaging .....
Sec. 526. Termination of certain maritime authority .....
Sec. 527. Certain commercial space launch activities .....
Sec. 528. Use of highway funds for Amtrak-related projects and activities .....
Sec. 529. Violation of grade-crossing laws and regulations. .....

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

So the amendment (No. 3063) was agreed to.

Mr. PRESSLER. And considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, it is my strongest desire or request, if Senators have amendments, that they bring them to the floor or give us notification. I would like to make a motion, if the Senator from Nebraska agrees, that this bill pass. As far as I know, on this side of the aisle, I do not believe we have been notified of any amendments, but I am ready to go. Of course, I want to preserve the rights of all Senators.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I thank the chairman of the committee. I will simply say to him that I believe this bill can be moved rather promptly. If there are any Senators wishing to offer amendments, I suggest this be the final notice to them to appear now or forever hold your peace, and by that, I mean I will certainly suggest the absence of a quorum in just a moment and then possibly the chairman and myself could confer. If we have no appearance of anyone or advised by anyone wishing to offer an amendment, we might check with the majority leader and minority leader and consider going to third reading.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Madam President, I understand the Senator from Washington wishes to ask unanimous consent to go into morning business for a short period of time. Neither the manager nor myself have any objections to that.

I will say that this is the last appeal that this Senator is going to make for anyone that has an amendment on this bill, please come to the Senate now, or I suggest the Senate may set a model for doing things in the future. If we would go quickly, maybe after the remarks by the Senator from Washington, to final reading, if no one is here to offer an amendment.

Mr. PRESSLER. Madam President, I do not want to hold anyone up, but I join my friend in that effort. I know at my party caucus today—if I may admit that we have caucuses—I did announce we were starting this bill at 2:15 and asked anyone who had amendments to please be here.

We do not know of any amendments. We are ready to pass this bill. If any Senator or anybody listening within

the reach of my voice knows of any amendment, please call the hotline now or we will pass this bill in a few minutes.

Mr. EXON. May I add, Madam President, please come forward now or forever hold your peace. Thank you.

Mr. GORTON. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

BOSNIA

Mr. GORTON. Mr. President, last night the President of the United States spoke to the people of the United States in justification of his dispatch of some 20,000 American troops to Bosnia to enforce the agreement entered into last week in Dayton, OH, ending for the time being, at least, the war in Bosnia.

President Clinton, I believe, made the best possible case for keeping a commitment which he made some months ago. I believe that commitment was both unwise and improvident. Nonetheless, it was made by the President.

For me, and I think for most other Members of Congress, the American national security interest in Bosnia is difficult to discern. We will be there in the hopes that we can settle a civil war which has gone on in its present form for some 4 years, but in a more profound fashion for at least 600 years.

The temporary peace which we will be in Bosnia to enforce is not a just peace. In fact, it ratifies almost all of the gains made as a result of the aggression of the Bosnian Serbs, leaves essentially unchallenged the ethnic cleansing, the displacement of people, and the killing of tens of thousands of innocent civilians.

We will be in Bosnia to support a peace of exhaustion, not a peace of justice.

Having said all that, Mr. President, and having spoken on this floor on numerous occasions in favor of an American policy that would have repudiated the arms embargo and allowed the citizens of Bosnia the effective means to fight for their own freedom and independence, we as Americans, we as United States Senators, are now faced with a fait accompli.

The President of the United States has the constitutional authority, in my view, to send troops to Bosnia and has announced that he is going to do so. As a consequence, however unwise we may consider that decision to have been, we are essentially faced with the proposition that to oppose it, to try to put roadblocks in its path, is likely to increase the already considerable danger in which our troops will find themselves on the front lines in Bosnia.

This reaction is one that I think is fairly common among Members of this body. It was expressed by three former National Security Advisers and Secretaries of Defense before the Armed Services Committee this morning, and by many outside commentators who have felt this administration's position with respect to Bosnia has been wrongheaded almost from the start.

So, sometime in the next week or 2 weeks, we will be presented here on the floor with some sort of resolution with respect to Bosnia. I do not believe any Member, at this point, can say that he or she will vote in favor of it sight unseen or, for that matter, will vote against it sight unseen. I hope we will be able to come up with a resolution which will have at least a wide degree of support here in this body, a broader and less partisan degree of support than was the case a few years ago with respect to the war in the gulf. Such a resolution, I believe, will concentrate on the situation as it exists on the ground today, given the President's decision, rather than with the process that led the President to this decision, one which gives unequivocal support to our troops, to the men and women whose lives will be at risk, to the maximum possible extent without saying we necessarily agree with the policy that brought them there in the first place.

We can all hope that in a period of 1 year the civil passions which have been so brutally expressed during the last 4 years will be extinguished. We can be pardoned for believing that is a very considerable long shot and that our troops, a year from now, are likely to come home leaving behind them exactly the situation they found when they arrived.

Nevertheless, this is the point we have reached. The President has done his best to explain it to the people of the United States, and I am certain that most of them, while they may not like the decision, will certainly provide support for those troops themselves.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE COMMERCE COMMISSION SUNSET ACT

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, the Senator from North Dakota is about to offer an amendment, as I understand it, that he has shown me, and I am opposed to it. But, to accommodate this Senator and the time constraints that I have this afternoon, I wish to make a few appropriate remarks about why, in my opinion, we should not adopt the amendment that is going to be offered by the Senator from North Dakota.

Mr. President, this amendment seeks to change the way mergers are handled by curtailing the current ICC rail merger review process.

Under the current process, and the process in the bill before us—the bill by the chairman of the committee and this Senator from Nebraska—the so-called Intermodal Surface Transportation Board will approve, disapprove, or condition rail mergers based on the public interest standard currently used by the ICC, not a narrow, Department of Justice-type of antitrust analysis. The public interest standard—which is part of the bill offered by the chairman of the committee and myself—allows the board to weigh the public benefits of a merger against its competitive harms. This standard allows the board to condition and approve mergers that are in the public interest even though they might violate some of the existing antitrust laws. This review has served my farmers, the farmers of South Dakota, and other farmers as well. This concept must be kept as part of our overall transportation network if we want it to run efficiently, especially with regard to rural areas.

The current process provides for the input of the Department of Justice. Let me repeat that. The bill before us, the Pressler-Exon bill, provides for the input of the Department of Justice. This amendment goes beyond that and gives the Department of Justice the final say—or the veto, if you will—on rail mergers.

Even though a merger might be approved by the Board because it is in the public interest, is protection of captive shippers, and is in the best interest of the transportation system, the Department of Justice with all of the lawyers, or some other third party, could still bring suit and force divestiture based on antitrust laws under the Dorgan amendment that is going to be proposed.

Mr. President, this amendment erodes the jurisdiction of the Commerce Committee, and the new ISTB board because it invests too much authority in the Department of Justice.

Lawyers are a very important part of our society, depending on your point of view. It seems to me, Mr. President, that, if we are going to turn the Department of Justice into a veto authority which they did not have under the Interstate Commerce Commission and take away the independent functioning of the board that we are setting up with the Pressler-Exon measure in the Department of Transportation, we are taking a significant step backward. I see nothing whatsoever wrong with the Department of Justice being the lawyer-adviser to the new board that is created. They should be consulted as to whether or not there is a serious violation of antitrust laws. But customarily in business, in my experience in business, and my experience as an individual, I have never let my lawyer make decisions for me. I consult with my lawyer, if I need one. I listen to his counsel and advice as to what is right