

104TH CONGRESS
1ST SESSION

S. 1396

To amend title 49, United States Code, to provide for the regulation of surface transportation.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1995

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

A BILL

To amend title 49, United States Code, to provide for the regulation of surface transportation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interstate Commerce
5 Commission Sunset Act of 1995”.

6 **SEC. 2. AMENDMENT OF TITLE 49.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
 2 section or other provision of title 49, United States Code.

3 SEC. 3. TABLE OF SECTIONS.

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1 **TITLE I—TERMINATION OF THE**
2 **INTERSTATE COMMERCE**
3 **COMMISSION; REPEAL OF OB-**
4 **SOLETE AND UNNECESSARY**
5 **PROVISIONS OF LAW**

6 **Subtitle A—Termination of ICC**

7 **SEC. 101. AGENCY TERMINATION.**

8 When functions transferred under this Act have been
9 transferred to the Intermodal Surface Transportation
10 Board and to the Secretary of Transportation, the Inter-
11 state Commerce Commission shall terminate.

12 **SEC. 102. SAVINGS PROVISIONS.**

13 (a) **IN GENERAL.**—All orders, determinations, rules,
14 regulations, licenses, and privileges which are in effect at
15 the time this Act takes effect, shall continue in effect ac-
16 cording to their terms, insofar as they involve regulatory
17 functions to be retained by this Act, until modified, termi-
18 nated, superseded, set aside, or revoked in accordance with
19 law by the Transportation Board (to the extent they in-
20 volve the functions transferred to the Intermodal Surface
21 Transportation Board under this Act) or by the Secretary
22 (to the extent they involve functions transferred to the
23 Secretary under this Act), or by a court of competent ju-
24 risdiction, or by operation of law.

25 (b) **PROCEEDINGS; APPLICATIONS.**—

1 (1) The provisions of this Act shall not affect
2 any proceedings or any application for any license
3 pending before the Interstate Commerce Commission
4 at the time this Act takes effect, insofar as those
5 functions are retained and transferred by this Act;
6 but such proceedings and applications, to the extent
7 that they relate to functions so transferred, shall be
8 continued. Orders shall be issued in such proceed-
9 ings, appeals shall be taken therefrom, and pay-
10 ments shall be made pursuant to such orders, as if
11 this Act had not been enacted; and orders issued in
12 any such proceedings shall continue in effect until
13 modified, terminated, superseded, or revoked by a
14 duly authorized official, by a court of competent ju-
15 risdiction, or by operation of law. Nothing in this
16 subsection shall be deemed to prohibit the dis-
17 continuance or modification of any such proceeding
18 under the same terms and conditions and to the
19 same extent that such proceeding could have been
20 discontinued or modified if this Act had not been en-
21 acted.

22 (2) The Transportation Board and the Sec-
23 retary are authorized to provide for the orderly
24 transfer of pending proceedings from the Interstate
25 Commerce Commission.

1 (c) ACTIONS IN LAW COMMENCED BEFORE ENACT-
2 MENT.—Except as provided in subsection (e)—

3 (1) the provisions of this Act shall not affect
4 suits commenced prior to the date this Act takes ef-
5 fect, and,

6 (2) in all such suits, proceedings shall be had,
7 appeals taken, and judgments rendered in the same
8 manner and effect as if this Act had not been en-
9 acted.

10 (d) CONTINUANCE OF ACTIONS AGAINST OFFI-
11 CERS.—No suit, action, or other proceeding commenced
12 by or against any officer in his official capacity as an offi-
13 cer of the Interstate Commerce Commission shall abate
14 by reason of the enactment of this Act. No cause of action
15 by or against the Interstate Commerce Commission, or by
16 or against any officer thereof in his official capacity, shall
17 abate by reason of enactment of this Act.

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

1 the Secretary under this Act) substituted for the Commis-
 2 sion.

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

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

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

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

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

20 **Subtitle B—Repeal of Obsolete,**
 21 **Etc., Provisions**

22 **SEC. 121. REPEAL OF PROVISIONS.**

23 The following provisions are repealed:

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

4 (2) Section 10322 (relating to Commission ac-
5 tion and appellate procedure in nonrail proceedings)
6 and the item relating thereto in the table of sections
7 of chapter 103 are repealed.

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

12 (4) Section 10327 (relating to Commission ac-
13 tion and appellate procedure in rail carrier proceed-
14 ings) and the item relating thereto in the table of
15 sections of chapter 103 are repealed.

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

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

22 (7)(A) Subchapter IV of chapter 103 (relating
23 to Rail Services Planning Office) and the items re-
24 lating thereto in the table of sections of such chapter
25 are repealed.

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

3 “(b) OFFER REQUIREMENTS.—A commuter author-
4 ity making an offer under subsection (a)(2) of this section
5 shall show that it has obtained access to all rail property
6 necessary to provide the additional commuter rail pas-
7 senger transportation.”.

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

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

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

18 (11) Subchapter II, III, and IV of chapter 105
19 (relating to freight forwarder service) and the items
20 relating thereto in the table of sections of such chap-
21 ter are repealed.

22 (12) Section 10705a (relating to joint rate sur-
23 charges and cancellations) and the item relating
24 thereto in the table of sections of chapter 107 are
25 repealed.

1 (13) Section 10710 (relating to elimination of
2 discrimination against recyclable materials) and the
3 item relating thereto in the table of sections of chap-
4 ter 107 are repealed.

5 (14) Section 10711 (relating to effect of certain
6 sections on rail rates and practices) and the item re-
7 lating thereto in the table of sections of chapter 107
8 are repealed.

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

12 (16) Subchapter II (relating to special cir-
13 cumstances) of chapter 107 (except for sections
14 10721 and 10730) and the items relating thereto in
15 the table of sections of chapter 107 (except for the
16 subchapter caption and the items relating to sections
17 10721 and 10730) are repealed.

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

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

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

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

10 (21) Section 10751 (relating to business enter-
11 tainment expenses) and the item relating thereto in
12 the table of sections of chapter 107 are repealed.

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

16 (23) Section 10765 (relating to water transpor-
17 tation under arrangements with certain other car-
18 riers) and the item relating thereto in the table of
19 sections of chapter 107 are repealed.

20 (24) Section 10766 (relating to freight for-
21 warder traffic agreements) and the item relating
22 thereto in the table of sections of chapter 107 are
23 repealed.

1 (25) Section 10767 (relating to billing and col-
2 lecting practices) and the item relating thereto in
3 the table of sections of chapter 107 are repealed.

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

7 (27)(A) Section 10908 (relating to discontinu-
8 ing or changing interstate train or ferry transpor-
9 tation) and the item relating thereto in the table of
10 sections of chapter 109 are repealed.

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

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

17 (29) Subchapter II (relating to other carriers
18 and motor carrier brokers) of chapter 109 and the
19 items relating thereto in the table of sections of
20 chapter 109.

21 (30) Section 11105 (relating to protective serv-
22 ices) and the item relating thereto in the table of
23 sections of chapter 111 are repealed.

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

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

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

11 (34) Section 11109 (relating to loading and un-
12 loading motor vehicles) and the item relating thereto
13 in the table of sections of chapter 111 are repealed.

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

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

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

23 (38) Section 11127 (relating to service of
24 household freight forwarders) and the item relating

1 thereto in the table of sections of chapter 111 are
2 repealed.

3 (39) Section 11142 (relating to uniform ac-
4 counting system for motor carriers) and the item re-
5 lating thereto in the table of sections of chapter 111
6 are repealed.

7 (40) Section 11161 (relating to railroad ac-
8 counting principles board) and the item relating
9 thereto in the table of sections of chapter 111 are
10 repealed.

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

14 (42) Section 11163 (relating to implementation
15 of cost accounting principles) and the item relating
16 thereto in the table of sections of chapter 111 are
17 repealed.

18 (43) Section 11164 (relating to certification of
19 rail carrier cost accounting systems) and the item
20 relating thereto in the table of sections of chapter
21 111 are repealed.

22 (44) Section 11167 (relating to report) and the
23 item relating thereto in the table of sections of chap-
24 ter 111 are repealed.

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

4 (46) Section 510 of the Railroad Revitalization
5 and Regulatory Reform Act of 1976 (45 U.S.C.
6 830) is amended by striking “the provisions of sec-
7 tion 20a of the Interstate Commerce Act (49 U.S.C.
8 20a), nor”.

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

13 (48) Section 11321 (relating to limitation on
14 ownership of certain water carriers) and the item re-
15 lating thereto in the table of sections for chapter
16 113 are repealed.

17 (49) Section 11322 (relating to restrictions on
18 officers and directors) and the item relating thereto
19 in the table of sections for chapter 113 are repealed.

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

24 (51) Section 11346 (relating to expedited rail
25 carrier procedures for consolidation, merger, and ac-

1 quisition of control) and the item relating thereto in
2 the table of sections of chapter 113 are repealed.

3 (52) Section 11349 (relating to temporary oper-
4 ating approval for transactions involving motor and
5 water carriers) and the item relating thereto in the
6 table of sections of chapter 113 are repealed.

7 (53) Section 11350 (relating to responsibility of
8 the Secretary of Transportation in certain trans-
9 actions) and the item relating thereto in the table of
10 sections of chapter 113 are repealed.

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

14 (55) Section 11502 (relating to conferences and
15 joint hearings with State authorities) and the item
16 relating thereto in the table of sections of chapter
17 115 are repealed.

18 (56) Section 11503a (tax discrimination against
19 motor carrier transportation property) and the item
20 relating thereto in the table of sections of chapter
21 115 are repealed.

22 (57) Section 11505 (relating to State action to
23 enjoin rail carriers from certain actions) and the
24 item relating thereto in the table of sections of chap-
25 ter 115 are repealed.

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

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

9 (60) Section 11704 (relating to action by a pri-
10 vate person to enjoin abandonment of service) and
11 the item relating thereto in the table of sections of
12 chapter 117 are repealed.

13 (61) Section 11708 (relating to private enforce-
14 ment) and the item relating thereto in the table of
15 sections of chapter 117 are repealed.

16 (62) Section 11709 (relating to liability for is-
17 suanance of securities by certain carriers) and the item
18 relating thereto in the table of sections of chapter
19 117 are repealed.

20 (63) Section 11711 (relating to dispute settle-
21 ment program for household goods carriers) and the
22 item relating thereto in the table of sections of chap-
23 ter 117 are repealed.

24 (64) Section 11712 (relating to tariff reconcili-
25 ation rules for motor common carriers of property)

1 and the item relating thereto in the table of sections
2 of chapter 117 are repealed.

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

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

11 (67) Section 11906 (relating to evasion of regu-
12 lation of motor carriers and brokers) and the item
13 relating thereto in the table of sections of chapter
14 119 are repealed.

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

19 (69) Section 11911 (relating to issuance of se-
20 curities, etc.) and the item relating thereto in the
21 table of sections of chapter 119 are repealed.

22 (70) Section 11913a (relating to accounting
23 principles violations) and the item relating thereto in
24 the table of sections of chapter 119 are repealed.

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

5 **SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER,**
 6 **UNRELATED ACT NOT AFFECTED.**

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

14 **TITLE II—INTERMODAL SUR-**
 15 **FACE TRANSPORTATION**
 16 **BOARD**

17 **Subtitle A—Organization**

18 **SEC. 201. AMENDMENT TO SUBCHAPTER I.**

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

21 “SUBCHAPTER I—ESTABLISHMENT

22 “§ 10301. Establishment of Transportation Board

23 “(a) ESTABLISHMENT.—There is hereby established
 24 within the Department of Transportation the Intermodal
 25 Surface Transportation Board.

1 “(b) MEMBERSHIP.—(1) The Transportation Board
2 shall consist of 3 members, to be appointed by the Presi-
3 dent, by and with the advice and consent of the Senate.
4 Not more than 2 members may be appointed from the
5 same political party.

6 “(2) At any given time, at least 2 members of the
7 Transportation Board shall be individuals with profes-
8 sional standing and demonstrated knowledge in the fields
9 of rail or motor transportation or transportation regula-
10 tion, and at least 1 member shall be an individual with
11 professional or business experience in the private sector.

12 “(3) The term of each member of the Transportation
13 Board shall be 5 years and shall begin when the term of
14 the predecessor of that member ends. An individual ap-
15 pointed to fill a vacancy occurring before the expiration
16 of the term for which the predecessor of that individual
17 was appointed, shall be appointed for the remainder of
18 that term. When the term of office of a member ends, the
19 member may continue to serve until a successor is ap-
20 pointed and qualified, but for a period not to exceed 1
21 year. The President may remove a member for neglect of
22 duty or malfeasance in office.

23 “(4) On the effective date of this section, the mem-
24 bers of the Interstate Commerce Commission then serving
25 terms shall become members of the Transportation Board,

1 to serve for a period of time equal to the remainder of
2 the term for which they were originally appointed to the
3 Interstate Commerce Commission.

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

10 “(6) A member of the Transportation Board may not
11 have a pecuniary interest in, hold an official relation to,
12 or own stock in or bonds of, a carrier providing transpor-
13 tation by any mode and may not engage in another busi-
14 ness, vocation, or employment.

15 “(7) A vacancy in the membership of the Transpor-
16 tation Board does not impair the right of the remaining
17 members to exercise all of the powers of the Transpor-
18 tation Board. The Transportation Board may designate
19 a member to act as Chairman during any period in which
20 there is no Chairman designated by the President.

21 “(c) CHAIRMAN.—(1) There shall be at the head of
22 the Transportation Board a Chairman, who shall be des-
23 ignated by the President from among the members of the
24 Transportation Board. The Transportation Board shall be
25 administered under the supervision and direction of the

1 Chairman. The Chairman shall receive compensation at
2 the rate prescribed for level III of the Executive Schedule
3 under section 5314 of title 5.

4 “(2) Subject to the general policies, decisions, find-
5 ings, and determinations of the Transportation Board the
6 Chairman shall be responsible for administering the
7 Transportation Board. The Chairman may delegate the
8 powers granted under this paragraph to an officer, em-
9 ployee, or office of the Transportation Board. The Chair-
10 man shall—

11 “(A) appoint and supervise, other than regular
12 and full time employees in the immediate offices of
13 another member, the officers and employees of the
14 Transportation Board, including attorneys to pro-
15 vide legal aid and service to the Transportation
16 Board and its members, and to represent the Trans-
17 portation Board in any case in court;

18 “(B) appoint the heads of major office with the
19 approval of the Transportation Board;

20 “(C) distribute Transportation Board business
21 among officers and employees and offices of the
22 Transportation Board;

23 “(D) prepare requests for appropriations for
24 the Transportation Board and submit those requests

1 to the President and Congress with the prior ap-
2 proval of the Transportation Board; and

3 “(E) supervise the expenditure of funds allo-
4 cated by the Transportation Board for major pro-
5 grams and purposes.

6 **“§ 10302. Functions**

7 “Except as otherwise provided in the Interstate Com-
8 merce Commission Sunset Act of 1995, or the amend-
9 ments made thereby, the Transportation Board shall per-
10 form all functions that, immediately before the effective
11 date of such Act, were functions of the Interstate Com-
12 merce Commission or were performed by any officer or
13 employee of the Interstate Commerce Commission in the
14 capacity as such officer or employee.

15 **“§ 10303. Administrative provisions**

16 “(a) EXECUTIVE REORGANIZATION.—For purposes
17 of chapter 9 of title 5, United States Code, the Transpor-
18 tation Board shall be deemed to be an independent regu-
19 latory agency and an establishment of the United States
20 Government.

21 “(b) OPEN MEETINGS.—For purposes of section
22 552b of title 5, United States Code, the Transportation
23 Board shall be deemed to be an agency.

24 “(c) INDEPENDENCE.—In the performance of their
25 functions, the members, employees, and other personnel

1 of the Transportation Board shall not be responsible to
2 or subject to the supervision or direction of any officer,
3 employee, or agent of any other part of the Department
4 of Transportation.

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

11 “(e) ADMISSION TO PRACTICE.—Subject to section
12 500 of title 5, the Transportation Board may regulate the
13 admission of individuals to practice before it and may im-
14 pose a reasonable admission fee.

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

20 “(1) showing the amount requested by the
21 Transportation Board in its budgetary presentation
22 to the Secretary and the Office of Management and
23 Budget; and

24 “(2) an assessment of the budgetary needs of
25 the Transportation Board.

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

11 **“§ 10304. Annual report**

12 “The Transportation Board shall annually transmit
 13 to the Congress a report on its activities.”.

14 (b) CONFORMING AMENDMENT.—The items relating
 15 to subchapter I of chapter 103 in the table of sections
 16 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.”.

17 **SEC. 202. ADMINISTRATIVE SUPPORT.**

18 The Secretary of Transportation shall provide admin-
 19 istrative support for the Transportation Board.

20 **SEC. 203. REORGANIZATION.**

21 The Chairman of the Transportation Board may allo-
 22 cate or reallocate any function of the Transportation

1 Board, consistent with this title and subchapter I of chap-
 2 ter 103, as amended by section 201 of this title, among
 3 the members or employees of the Transportation Board,
 4 and may establish, consolidate, alter, or discontinue in the
 5 Transportation Board any organizational entities that
 6 were entities of the Interstate Commerce Commission, as
 7 the Chairman considers necessary or appropriate.

8 **SEC. 204. TRANSFER OF ASSETS.**

9 Except as otherwise provided in this Act and the
 10 amendments made by this Act, so much of the personnel,
 11 property, records, and unexpended balances of appropria-
 12 tions, allocations, and other funds employed, used, held,
 13 available, or to be made available in connection with a
 14 function transferred to the Transportation Board by this
 15 Act shall be available to the Transportation Board for use
 16 in connection with the functions transferred.

17 **Subtitle B—Administrative**

18 **SEC. 211. POWERS.**

19 Section 10321 is amended—

20 (1) by striking “Interstate Commerce Commis-
 21 sion” in subsection (a) and inserting in lieu thereof
 22 “Transportation Board”;

23 (2) striking subsection (b) and inserting the fol-
 24 lowing:

1 “(b) The Transportation Board may obtain from car-
 2 riers providing transportation and service subject to this
 3 part, and from persons controlling, controlled by, or under
 4 common control with those carriers to the extent that the
 5 business of that person is related to the management of
 6 the business of those carriers, information the Transpor-
 7 tation Board decides is necessary to carry out this part.”;

8 (3) in subsection (c)(1), by striking “Commis-
 9 sion, an individual Commissioner, an employee
 10 board, and an employee delegated to act under sec-
 11 tion 10305 of this title” and inserting in lieu thereof
 12 “Transportation Board”;

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

14 (5) by redesignating paragraph (3) of sub-
 15 section (c) as paragraph (2); and

16 (6) by striking “Commission” each place it ap-
 17 pears and inserting in lieu thereof “Transportation
 18 Board”.

19 **SEC. 212. COMMISSION ACTION.**

20 (a) **AMENDMENTS.**—Section 10324 is amended—

21 (1) in the section heading, by striking “**Com-**
 22 **mission**” and inserting in lieu thereof “**Trans-**
 23 **portation Board**”;

1 (2) by striking “Interstate Commerce Commis-
2 sion” in subsection (a) and inserting in lieu thereof
3 “Transportation Board”;

4 (3) by striking “Commission” each place it ap-
5 pears in subsection (b) and inserting in lieu thereof
6 “Transportation Board”;

7 (4) by striking subsection (c); and

8 (5) by adding at the end the following new sub-
9 sections:

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

13 “(1) reopen a proceeding;

14 “(2) grant rehearing, reargument, or reconsid-
15 eration of an action of the Transportation Board; or

16 “(3) change an action of the Transportation
17 Board.

18 An interested party may petition to reopen and reconsider
19 an action of the Transportation Board under this sub-
20 section under regulations of the Transportation Board.

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

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

5 **SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEED-**
 6 **INGS.**

7 (a) AMENDMENTS.—Section 10329 is amended—

8 (1) by striking “**Commission**” in the section
 9 heading;

10 (2) by striking “Interstate Commerce Commis-
 11 sion” in subsection (a) and inserting in lieu thereof
 12 “Transportation Board”;

13 (3) striking “(1)” in subsection (a) and by
 14 striking paragraph (2) of subsection (a);

15 (4) striking “subchapter I of” in subsection (a);

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

18 (6) striking “(1) in subsection (c) and by strik-
 19 ing paragraphs (2) and (3);

20 (7) striking “notices of the Commission shall be
 21 served as follows: (1) A” in subsection (c) and in-
 22 serting “a”;

23 (8) by striking “, express, sleeping car,” in sub-
 24 section (c)(1);

1 (9) by striking “Secretary of the” in subsection
2 (c);

3 (10) in subsection (d)—

4 (A) by striking “, express, sleeping car,”;
5 and

6 (B) by striking “who filed the tariff”;

7 (11) by striking subsection (e); and

8 (12) by striking “Commission” each place it ap-
9 pears and inserting in lieu thereof “Transportation
10 Board”.

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

14 **SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.**

15 Section 10330 is amended—

16 (1) by striking “Interstate Commerce Commis-
17 sion” in subsection (a) and inserting in lieu thereof
18 “Transportation Board”;

19 (2) by striking “subchapter I of” in the first
20 sentence of subsection (a);

21 (3) by striking “Secretary of the Commission”
22 in subsection (a) and inserting in lieu thereof
23 “Transportation Board”;

24 (4) by striking subsection (b); and

1 (5) by redesignating subsection (c) as sub-
2 section (b).

3 **SEC. 215. FEDERAL HIGHWAY ADMINISTRATION RULE-**
4 **MAKING.**

5 The Federal Highway Administration shall issue an
6 advance notice of proposed rulemaking dealing with a vari-
7 ety of fatigue-related issues (including 8 hours of continu-
8 ous sleep after 10 hours of driving, loading and unloading
9 operations, automated and tamper-proof recording de-
10 vices, rest and recovery cycles, fatigue and stress in longer
11 combination vehicles, fitness for duty, and other appro-
12 priate regulatory and enforcement countermeasures for re-
13 ducing fatigue-related incidents and increasing driver
14 alertness) not later than March 1, 1996.

15 **TITLE III—RAIL AND PIPELINE**
16 **TRANSPORTATION**

17 **SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMIS-**
18 **SION, ETC.**

19 Subtitle IV is amended—

20 (1) by striking “Interstate Commerce Commis-
21 sion” each place it appears (including chapter and
22 section headings) and inserting “Intermodal Surface
23 Transportation Board”;

24 (2) by striking “Commission” each place it ap-
25 pears in reference to the Interstate Commerce Com-

1 mission (including chapter and section headings)
 2 and inserting “Transportation Board”;

3 (3) by striking “Commissioner” each place it
 4 appears in reference to a member of the Interstate
 5 Commerce Commission (including chapter and sec-
 6 tion headings) and inserting “Transportation Board
 7 member”;

8 (4) by striking “Commissioners” each place it
 9 appears in reference to members of the Interstate
 10 Commerce Commission (including chapter and sec-
 11 tion headings) and inserting “Transportation Board
 12 members”;

13 (5) by striking “this subtitle” each place it ap-
 14 pears and inserting “this part”;

15 (6) by inserting “PART A—RAIL AND PIPELINE
 16 CARRIERS” after “SUBTITLE IV—INTERSTATE
 17 COMMERCE”;

18 (7) by inserting before section 10101 the follow-
 19 ing:

“Part B—MOTOR CARRIERS, WATER CARRIERS, BRO-
 KERS, AND FREIGHT FORWARDERS

<i>“Chapter</i>	<i>“SEC.</i>
“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

1 “PART A—RAIL AND PIPELINE CARRIERS”.

2 **SEC. 302. RAIL TRANSPORTATION POLICY.**

3 Section 10101a is amended by—

4 (1) striking “and” after the semicolon in para-
5 graph (14);

6 (2) striking the period at the end of paragraph
7 (15) and inserting a semicolon and “and”; and

8 (3) adding at the end the following:

9 “(16) to provide expeditious remedies for traffic
10 and facilities lacking effective transportation com-
11 petition.”.

12 **SEC. 303. DEFINITIONS.**

13 Section 10102 is amended by—

14 (1) striking paragraphs (1), (2), (5), (6) (8)
15 through (18), (19), (25), (27), and (30) through
16 (33);

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

19 (3) striking paragraph (2) (as redesignated)
20 and inserting

21 “(2) ‘common carrier’ means a pipeline carrier
22 and a rail carrier;”;

23 (4) inserting “common carrier” after “railroad”
24 in paragraph (6) (as redesignated);

1 (5) striking “, fare,” in paragraph (8) (as re-
2 designated);

3 (6) striking “of passengers or property, or
4 both,” in paragraph (10)(A) (as redesignated) and
5 inserting “of property,”; and

6 (7) striking “passengers and” in paragraph
7 (10)(B) (as redesignated).

8 **SEC. 304. GENERAL JURISDICTION.**

9 Section 10501 is amended by—

10 (1) striking “Subject to this chapter and other
11 law, the” in subsection (a), and inserting “The”;

12 (2) inserting “of property” after “transpor-
13 tation” in subsection (a);

14 (3) striking “express carrier, sleeping car car-
15 rier,” in subsection (a)(1);

16 (4) striking “passengers or” in subsection
17 (b)(1);

18 (5) striking “subchapter” in subsection (c) and
19 inserting “chapter” and by striking “(1) the trans-
20 portation is deemed to be subject to the jurisdiction
21 of the Commission pursuant to section
22 11501(b)(4)(B) of this title, or (2)” in subsection
23 (c); and

24 (6) striking “(b)” after “section 11501” in sub-
25 section (d).

1 **SEC. 305. RAILROAD AND WATER TRANSPORTATION CON-**
2 **NECTIONS AND RATES.**

3 Section 10503 is amended by—

4 (1) striking “passengers or” each place it ap-
5 pears in subsection (a)(2); and

6 (2) striking “passengers,” in subsection
7 (a)(2)(B).

8 **SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND**
9 **MOTOR CARRIER TRANSPORTATION.**

10 Section 10505 is amended by—

11 (1) striking “rail carrier and motor carrier”
12 from the section heading;

13 (2) striking subsection (a) and inserting the fol-
14 lowing:

15 “(a) In a matter subject to the jurisdiction of the
16 Intermodal Surface Transportation Board under this
17 chapter, the Transportation Board shall exempt a person,
18 class of persons, or a transaction or service from the appli-
19 cation of a provision of this title in whole or in part within
20 180 days after the filing of an application for an exemp-
21 tion, when the Transportation Board finds that the appli-
22 cation of that provision in whole or in part—

23 “(1) is not necessary to carry out the transpor-
24 tation policy of section 10101 or section 10101a of
25 this title; and

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

5 (3) striking subsection (d) and inserting the fol-
6 lowing:

7 “(d) The Transportation Board shall revoke an ex-
8 emption in whole or in part, to the extent that application
9 of a provision of this title to the person, class, or transpor-
10 tation is necessary to carry out the transportation policy
11 of section 10101a of this title. The Transportation Board
12 shall conclude a proceeding under this subsection within
13 180 days. In acting upon a request for revocation, the
14 Transportation Board shall consider the availability of
15 other economic transportation alternatives, in addition to
16 any other factors it deems relevant. If a request for rev-
17 ocation under this subsection is accompanied by a com-
18 plaint seeking monetary damages for a violation of a provi-
19 sion of this title by a railroad, and the Transportation
20 Board does not render a final decision on such request
21 within 180 days after the filing of the revocation request
22 and complaint, then any monetary damages which the
23 Transportation Board may award at the conclusion of the
24 proceeding shall be calculated no later than the 181st day
25 following the filing of the revocation request and complaint

1 if the Transportation Board finds that such failure to
2 render a final decision within said 180 days is due in sub-
3 stantial part to dilatory practices of the railroad”;

4 (4) striking subsection (f) and inserting the fol-
5 lowing:

6 “(f) The Transportation Board may exercise its au-
7 thority under this section to exempt transportation that
8 is provided by a carrier as a part of a continuous inter-
9 modal movement.”; and

10 (5) striking subsection (g) and inserting the fol-
11 lowing:

12 “(g) The Transportation Board may not exercise its
13 authority under this section to relieve a carrier of its obli-
14 gation to protect the interests of employees as required
15 by this part.”.

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

17 Section 10701 is amended by—

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

20 (2) striking “subchapter I or III of chapter
21 105” in subsection (b) as so redesignated and insert-
22 ing “chapter 105”;

23 (3) striking “the jurisdiction of the Commission
24 under either of those subchapters” in subsection (b)
25 as so redesignated and inserting “jurisdiction either

1 under chapter 105 of this part or under part B of
 2 this subtitle”; and

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

4 **SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.**

5 Section 10701a is amended by—

6 (1) striking “subchapter I of” in subsection (a);

7 (2) striking “lesser of the percentages described
 8 in clauses (i) and (ii) of section 10707a(e)(2)(A) of
 9 this title” in subparagraphs (2)(A)(i) and (2)(B)(i)
 10 of subsection (b), and inserting “percentage de-
 11 scribed in section 10707a(d)(2)(A)”;

12 (3) adding at the end of subsection (b) the fol-
 13 lowing:

14 “(4)(A) Within 1 year after the date of enact-
 15 ment of the Interstate Commerce Commission Sun-
 16 set Act of 1995, the Transportation Board shall
 17 complete the Interstate Commerce Commission non-
 18 coal rate guidelines proceeding pending on the date
 19 of enactment of the Interstate Commerce Commis-
 20 sion Sunset Act of 1995 to establish a simplified and
 21 expedited method for determining the reasonableness
 22 of challenged rail rates in those cases in which a
 23 stand-alone cost presentation is impractical.

24 “(B) Within 6 months after that date of enact-
 25 ment, the Transportation Board shall establish pro-

1 cedures to ensure expeditious handling of challenges
 2 to the reasonableness of railroad rates. The proce-
 3 dures shall include appropriate measures for avoid-
 4 ing delay in the discovery and evidentiary phases of
 5 such proceedings and for ensuring prompt disposi-
 6 tion of motions and interlocutory administrative ap-
 7 peals.

8 “(C) In a proceeding to challenge the reason-
 9 ableness of a railroad rate, other than a proceeding
 10 arising under section 10707 of this title, the Trans-
 11 portation Board shall make its determination as to
 12 the reasonableness of the challenged rate—

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

16 “(ii) within 3 months after the close of the
 17 administrative record if the determination is
 18 based upon an alternative, simplified evi-
 19 dentiary presentation.”.

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

22 Section 10702 is amended by—

23 (1) beginning with “service,” in paragraph (2)
 24 of subsection (a) striking all that follows and insert-
 25 ing “service.”; and

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

2 **SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH**
 3 **THROUGH ROUTES.**

4 Section 10703 is amended by—

5 (1) striking “, express, sleeping car,” in para-
 6 graph (1) of subsection (a);

7 (2) striking paragraphs (3) and (4) of sub-
 8 section (a); and

9 (3) replacing “Commission under subchapter I,
 10 II (insofar as motor carriers of property are con-
 11 cerned), or III of” in subsection (b) with “Transpor-
 12 tation Board under”.

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

15 Section 10704 is amended by—

16 (1) striking “subchapter I of” and “(including
 17 a maximum or minimum rate, or both)” in the first
 18 sentence of subsection (a)(1);

19 (2) striking “subchapter” in the first sentence
 20 of subsection (a)(2) and inserting “chapter”;

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

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

- 1 (5) striking “within 180 days after the effective
- 2 date of the Staggers Rail Act of 1980 and” and
- 3 “thereafter” in subsection (a)(3), as redesignated;
- 4 (6) striking subsections (b), (c), (d) and (e);
- 5 (7) redesignating subsection (f) as subsection
- 6 (b);
- 7 (8) striking “on its own initiative or” in sub-
- 8 section (b) as redesignated; and
- 9 (9) striking the last sentence of subsection (b),
- 10 as redesignated.

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

13 Section 10705 is amended by—

- 14 (1) striking “subchapter I, II (except a motor
- 15 common carrier of property), or III of”, and “(in-
- 16 cluding maximum or minimum rates or both)” in
- 17 paragraph (1) of subsection (a);
- 18 (2) striking paragraph (3) of subsection (a);
- 19 (3) striking subsections (b) and (h) and redesi-
- 20 gnating subsections (c) through (g) as subsections
- 21 (b) through (f);
- 22 (4) striking “or (b)” and “, water carrier, or
- 23 motor common carrier of property” in subsection
- 24 (b), as redesignated;

1 (5) striking “tariff” in subsection (d), as redese-
 2 ignated, and inserting “proposed rate change”;

3 (6) striking “, water common carrier, or motor
 4 common carrier of property” in subsection (d), as
 5 redesignated;

6 (7) striking “or (b)” and “on its own initiative
 7 or” in the first sentence of subsection (e)(1) as re-
 8 designated;

9 (8) striking “if the proceeding is brought on
 10 complaint or within 18 months after the commence-
 11 ment of a proceeding on the initiative of the Com-
 12 mission” in the second sentence of subsection (e)(1),
 13 as redesignated; and

14 (9) striking “subsection (f)” in subsection (f),
 15 as redesignated, and inserting “subsection (e)”.

16 **SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.**

17 Section 10706 is amended by—

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

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

21 (3) striking “consider” in subsection
 22 (a)(3)(B)(ii)(II), as redesignated, and inserting
 23 “considered”;

24 (4) striking “subchapter I of” in subsection
 25 (a)(5)(A);

1 (5) striking “the effective date of the Staggers
2 Rail Act of 1980” in subsection (a)(5)(C), and in-
3 serting “October 1, 1980,”;

4 (6) striking subsections (b), (c), and (d) and re-
5 designating subsections (e) through (g) as sub-
6 sections (b) through (d);

7 (7) striking the first sentence of subsection (c),
8 as redesignated, and inserting “The Transportation
9 Board may review an agreement approved under
10 subsection (a) of this section and shall change the
11 conditions of approval or terminate it when nec-
12 essary to comply with the public interest.”;

13 (8) striking “subsection (a), (b), or (c) of this
14 section.” in subsection (d), as redesignated and in-
15 serting “subsection (a).”; and

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

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

19 Section 10707 is amended by—

20 (1) striking the first sentence of subsection (a)
21 and inserting “When a new individual or joint rate
22 or individual or joint classification, rule, or practice
23 related to a rate is proposed by a rail carrier provid-
24 ing transportation subject to the jurisdiction of the
25 Intermodal Surface Transportation Board under

1 chapter 105 of this title, the Transportation Board
 2 may begin a proceeding, on complaint of an inter-
 3 ested party, to determine whether the proposed rate,
 4 classification, rule, or practice violates this part.”;

5 (2) striking “days, except that this paragraph
 6 shall not apply to general rate increases under sec-
 7 tion 10706 of this title.” in subsection (d)(2) and in-
 8 serting “days.”;

9 (3) striking subsection (d)(3) and redesignating
 10 subsection (d)(4) as (d)(3); and

11 (4) striking “or section 10761” in subsection
 12 (d)(3), as redesignated.

13 **SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.**

14 Section 10707a is amended by—

15 (1) striking “Commencing with the fourth quar-
 16 ter of 1980, the” in subsection (a)(2)(B) and insert-
 17 ing “The”;

18 (2) striking “subchapter I of chapter 105 of
 19 this title may” in subsection (b)(1) and inserting
 20 “chapter 105 of this title is authorized to”;

21 (3) inserting a period after “involved” in para-
 22 graph (1) of subsection (b) and striking the remain-
 23 der of the paragraph;

24 (4) striking “may not” in subsection (b)(3) and
 25 inserting “is not authorized to”;

1 (5) striking “(A)” and “or (B) inflation based
2 rate increases under section 10712 of this title appli-
3 cable to that rate” in subsection (b)(3);

4 (6) striking subsections (c), (d) and (e), redес-
5 ignating subsections (f), (g), and (h) as subsections
6 (d), (e), and (f), and inserting after subsection (b)
7 the following:

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

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

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

18 “(3) the carrier’s mix of rail traffic to deter-
19 mine whether one commodity is paying an unreason-
20 able share of the carrier’s overall revenues.”; and

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

23 “(d)(1) A finding by the Commission that a rate in-
24 crease exceeds the increase authorized under this section
25 does not establish a presumption that the rail carrier pro-

1 posing such rate increase has or does not have market
2 dominance over the transportation to which the rate ap-
3 plies.

4 “(2)(A) If a rate increase authorized under this sec-
5 tion in any year results in a revenue-variable cost percent-
6 age for the transportation to which the rate applies that
7 is equal to or greater than 20 percentage points above the
8 revenue-variable cost percentage applicable under section
9 10709(d) of this title, the Transportation Board may on
10 complaint of an interested party, begin an investigation
11 proceeding to determine whether the proposed rate in-
12 crease violates this subtitle.

13 “(B) In determining whether to investigate or not to
14 investigate any proposed rate increase that results in a
15 revenue-variable cost percentage for the transportation to
16 which the rate applies that is equal to or greater than the
17 percentage described in subparagraph (A) of this para-
18 graph (without regard to whether such rate increase is au-
19 thorized under this section), the Transportation Board
20 shall set forth its reasons therefor, giving due consider-
21 ation to the following factors—

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

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

5 “(iii) the impact of the proposed rate or rate in-
6 crease on the attainment of the national energy
7 goals and the rail transportation policy under section
8 10101a of this title, taking into account the rail-
9 roads’ role as a primary source of energy transpor-
10 tation and the need for a sound rail transportation
11 system in accordance with the revenue adequacy
12 goals of section 10704 of this title.

13 This subparagraph shall not be construed to change exist-
14 ing law with regard to the nonreviewability of such deter-
15 mination.”.

16 **SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPE-**
17 **LINE CARRIER RATES, ETC.**

18 Section 10708 is amended by—

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

21 “(a)(1) The Intermodal Surface Transportation
22 Board may begin a proceeding to determine the lawfulness
23 of a proposed rate, classification, rule, or practice on appli-
24 cation of an interested party when a new individual or
25 joint rate or individual or joint classification, rule, or prac-

1 tice affecting a rate is proposed by a pipeline carrier sub-
 2 ject to the Transportation Board's jurisdiction under
 3 chapter 105 of this part.”;

4 (2) striking “an express, sleeping car, or” in
 5 the third sentence of subsection (b) and inserting
 6 “a”; and

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

8 **SEC. 317. DETERMINATION OF MARKET DOMINANCE.**

9 Section 10709 is amended by—

10 (1) adding at the end of subsection (a) the fol-
 11 lowing: “In making a determination under this sec-
 12 tion, the Transportation Board shall consider the
 13 availability of other economic transportation alter-
 14 natives, in addition to any other factors it deems rel-
 15 evant.”

16 (2) striking “subchapter I of” in the first sen-
 17 tence of subsection (b); and

18 (3) striking subsection (d) and inserting the fol-
 19 lowing:

20 “(d) DETERMINATIONS OF RATE CHALLENGES.—

21 “(1) 180 PERCENT SAFE HARBOR.—In making
 22 a determination under this section, the Transpor-
 23 tation Board shall find that the rail carrier estab-
 24 lishing the challenged rate does not have market
 25 dominance over the transportation to which the rate

1 applies if such rail carrier proves that the rate
2 charged results in a revenue-variable cost percentage
3 for such transportation that is less than 180 per-
4 cent.

5 “(2) METHODOLOGY.—For purposes of deter-
6 mining the revenue-variable cost percentage for a
7 particular transportation, variable costs shall be de-
8 termined by using the carrier’s costs, calculated
9 using the Uniform Railroad Costing System (or an
10 alternative cost finding methodology adopted by the
11 Transportation Board in lieu thereof), with use of
12 the current cost of capital for calculating the return
13 on investment, and indexed quarterly to account for
14 current wage and price levels in the region in which
15 the carrier operates.

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

22 (4) NO PRESUMPTIONS CREATED.—A finding
23 by the Transportation Board that a rate charged by
24 a rail carrier results in a revenue-variable cost per-
25 centage for the transportation to which the rate ap-

1 plies that is equal to or greater than 180 percent
2 does not establish a presumption that—

3 “(A) such rail carrier has or does not have
4 market dominance over such transportation, or
5 “(B) the proposed rate exceeds or does not
6 exceed a reasonable maximum.”.

7 **SEC. 318. CONTRACTS.**

8 Section 10713 is amended by—

9 (1) striking “subchapter I of” in the first sen-
10 tence of subsection (a);

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

13 “(b)(1) A summary of each contract for the transpor-
14 tation of agricultural products, including grain as defined
15 in section 3 of the United States Grain Standards Act (7
16 U.S.C. 75) and products thereof, entered into under this
17 section shall be filed with the Transportation Board, con-
18 taining such nonconfidential information as the Transpor-
19 tation Board prescribes. The Transportation Board shall
20 publish special rules for such contracts in order to assure
21 that the essential terms of the contract are available to
22 the general public. The parties to any such contract shall
23 supply a copy of the full contract to the Transportation
24 Board upon request.”;

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

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

4 (5) striking “other than a contract for the
5 transportation of agricultural commodities (including
6 forest products and paper),” in subsection (d)(2)(A)
7 and inserting “for the transportation of agricultural
8 commodities,”;

9 (6) strike “only” in (d)(2)(A)(i);

10 (7) striking “the case of a contract for the
11 transportation of agricultural commodities (including
12 forest products and paper), in” in subsection
13 (d)(2)(B);

14 (8) inserting “of agricultural commodities”
15 after “filed by a shipper” in subsection (d)(2)(B);

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

18 (10) striking “A contract that is approved by
19 the Commission” in subsection (i)(1) and inserting
20 “If the shipper in writing expressly waives all rights
21 and remedies under this part for the transportation
22 covered by the contract, a contract entered into”;

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

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

4 **SEC. 319. RATES AND LIABILITY BASED ON VALUE.**

5 Section 10730 is amended by—

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

7 (2) striking “(c)”;

8 (3) striking “rail carrier” and inserting “car-
9 rier”; and

10 (4) striking “subchapter I of”.

11 **SEC. 320. PROHIBITIONS AGAINST DISCRIMINATION BY**
12 **COMMON CARRIERS.**

13 Section 10741 is amended by—

14 (1) striking “subchapter I of” in subsection (a);

15 (2) striking subsection (c) and inserting the fol-
16 lowing:

17 “(c) A carrier providing transportation subject to the
18 jurisdiction of the Transportation Board under chapter
19 105 of this title may not subject a freight forwarder pro-
20 viding service subject to jurisdiction under part B of this
21 subtitle to unreasonable discrimination whether or not the
22 freight forwarder is controlled by that carrier.”;

23 (3) striking “subchapter I of” in subsection (e);

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

4 (5) striking paragraphs (2), (3), and (5) of sub-
5 section (f) and redesignating paragraph (4) as para-
6 graph (2); and

7 (6) striking “paragraphs (2), (3), and (4)” in
8 subsection (f) and inserting “paragraph (2)”.

9 **SEC. 321. FACILITIES FOR INTERCHANGE OF TRAFFIC.**

10 Section 10742 is amended by—

11 (1) striking “subchapter I or III of” and “pas-
12 sengers and”; and

13 (2) striking “either of those subchapters.” and
14 inserting “Part A or B of this subtitle.”.

15 **SEC. 322. LIABILITY FOR PAYMENT OF RATES.**

16 Section 10744 is amended by—

17 (1) striking “, motor, or water common” in the
18 first sentence of subsection (a)(1);

19 (2) striking “or express” in the first sentence of
20 subsection (b);

21 (3) striking “subtitle” in the first sentence of
22 subsections (a)(1) and (b) and inserting “part”;

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

1 (5) striking “or express” in subsection (c)(2),
2 as redesignated.

3 **SEC. 323. CONTINUOUS CARRIAGE OF FREIGHT.**

4 Section 10745 is amended by striking “subchapter I
5 of”.

6 **SEC. 324. TRANSPORTATION SERVICES OR FACILITIES FUR-**
7 **NISHED BY SHIPPER.**

8 Section 10747 is amended by—

9 (1) striking the first and second sentences and
10 inserting the following: “A carrier providing trans-
11 portation or service subject to the jurisdiction of the
12 Intermodal Surface Transportation Board under
13 chapter 105 of this title may establish a charge or
14 allowance for transportation or service for property
15 when the owner of the property, directly or indi-
16 rectly, furnishes a service related to or an instru-
17 mentality used in the transportation or service. The
18 Transportation Board may prescribe the maximum
19 reasonable charge or allowance paid for such service
20 or instrumentality furnished.”; and

21 (2) striking “on its own initiative or” in the
22 last sentence.

23 **SEC. 325. DEMURRAGE CHARGES.**

24 Section 10750 is amended by striking “subchapter I
25 of”.

1 **SEC. 326. TRANSPORTATION PROHIBITED WITHOUT TAR-**
2 **IFF.**

3 Section 10761 is amended to read as follows:

4 **“§ 10761. Transportation prohibited without tariff**

5 “Except when providing transportation by contract
6 as provided in this subtitle, a carrier providing transpor-
7 tation of agricultural products including grain as defined
8 in section 3 of the United States Grain Standards Act (7
9 U.S.C. 75) and products thereof, subject to the jurisdic-
10 tion of the Intermodal Surface Transportation Board
11 under chapter 105 of this title shall provide that transpor-
12 tation only if the rate for the transportation is contained
13 in a tariff that is in effect under this subchapter. A carrier
14 subject to this subsection may not charge or receive a dif-
15 ferent compensation for that transportation than the rate
16 specified in the tariff whether by returning a part of that
17 rate to a person, giving a person a privilege, allowing the
18 use of a facility that affects the value of that transpor-
19 tation, or another device.”.

20 **SEC. 326. GENERAL ELIMINATION OF TARIFF FILING RE-**
21 **QUIREMENTS.**

22 Section 10762 is amended to read as follows:

23 **“§ 10762. General elimination of tariff filing require-**
24 **ments**

25 “(a) Except as provided in this section and section
26 10713 of this title, a carrier providing transportation of

1 agricultural products including grain as defined in section
2 3 of the United States Grain Standards Act (7 U.S.C. 75)
3 and products thereof, subject to the jurisdiction of the
4 Intermodal Surface Transportation Board under chapter
5 105 of this title shall publish, keep open and retain for
6 public inspection, and immediately furnish to an entity re-
7 questing the same, tariffs containing its rates for the
8 transportation of such commodities and its classifications,
9 rules, and practices related to such rates.

10 “(b)(1) Within 180 days after the enactment of the
11 Interstate Commerce Commission Sunset Act of 1995, the
12 Intermodal Surface Transportation Board shall prescribe
13 the form and manner of publishing, keeping open, furnish-
14 ing to the public, and retaining for public inspection tariffs
15 under this section. The Transportation Board may pre-
16 scribe specific charges to be identified in a tariff required
17 under this section to be published, kept open, furnished
18 to the public, or retained for public inspection, but those
19 tariffs must identify plainly—

20 “(A) the places between which property will be
21 transported;

22 “(B) privileges given and facilities allowed; and

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

1 “(2) A joint tariff published and filed by a carrier
2 under this section shall identify the carriers that are par-
3 ties to it. The carriers that are parties to a joint tariff,
4 other than the carrier filing it, must file a concurrence
5 or acceptance of the tariff with the Transportation Board.
6 The Transportation Board may prescribe or approve what
7 constitutes a concurrence or acceptance.

8 “(c)(1) When a carrier proposes to change a rate for
9 transportation subject to this section, or a classification,
10 rule, or practice related to such rate the carrier shall pub-
11 lish, transmit, and keep open for public inspection a notice
12 of the proposed change as required under subsections (a)
13 and (b) of this section.

14 “(2) A notice published or filed under this subsection
15 shall plainly identify the proposed change or new or re-
16 duced rate and indicate its proposed effective date. A pro-
17 posed rate change resulting in an increased rate or a new
18 rate shall not become effective for 20 days after the notice
19 is published and a proposed rate change resulting in a re-
20 duced rate shall not become effective for 1 day after the
21 notice is published, except that a contract authorized
22 under section 10713 of this title shall become effective in
23 accordance with the provisions of such section.

24 “(d) The Transportation Board may reduce the no-
25 tice period of subsection (c) of this section if cause exists.

1 The Transportation Board may change the other require-
 2 ments of this section if cause exists in particular instances
 3 or as they apply to special circumstances.

4 “(e) Acting in response to a complaint or on its own
 5 motion, the Transportation Board may reject a tariff pub-
 6 lished or filed under this section if that tariff violates this
 7 section or a regulation of the Transportation Board carry-
 8 ing out this section.”.

9 **SEC. 327. DESIGNATION OF CERTAIN ROUTES.**

10 Section 10763 is amended by striking “subchapter I
 11 of” in subsection (a)(1).

12 **SEC. 328. AUTHORIZING CONSTRUCTION AND OPERATION**
 13 **OF RAILROAD LINES.**

14 Section 10901 is amended by—

15 (1) striking “subchapter I of” in subsection (a);

16 and

17 (2) adding at the end the following new sub-
 18 section:

19 “(f) **SPECIAL RULE FOR NON-CLASS I TRANS-**
 20 **ACTIONS.**—For all transactions involving Class II freight
 21 rail carriers, Class III freight rail carriers and non-car-
 22 riers, that are not owned or controlled by a Class I rail
 23 carrier and that are not a commuter, switching or terminal
 24 railroad, which propose to sell, acquire, construct, operate,
 25 or provide transportation over a railroad line pursuant to

1 this section, the Transportation Board may, consistent
 2 with the public interest, require an arrangement for the
 3 protection of the interest of railroad employees who are
 4 adversely affected by the transaction not to exceed one
 5 year's salary per adversely affected employee and protec-
 6 tion no less than required by sections 2 through 5 of the
 7 Worker Adjustment and Retraining Act, unless the ad-
 8 versely affected employees or their representatives and the
 9 parties to the transaction agree otherwise.”.

10 **SEC. 329. AUTHORIZING ACTION TO PROVIDE FACILITIES.**

11 Section 10902 is amended by striking “subchapter I
 12 of” in the first sentence.

13 **SEC. 330. AUTHORIZING ABANDONMENT AND DISCONTINU-**
 14 **ANCE.**

15 Section 10903 is amended by striking “subchapter I
 16 of” in subsection (a).

17 **SEC. 331. FILING AND PROCEDURE FOR APPLICATIONS TO**
 18 **ABANDON OR DISCONTINUE.**

19 Section 10904 is amended by—

- 20 (1) striking “subchapter I of” in subsection
- 21 (a)(2);
- 22 (2) striking subsection (d)(2);
- 23 (3) striking “(1)” in subsection (d); and
- 24 (4) striking “the application was approved by
- 25 the Secretary of Transportation as part of a plan or

1 proposal under section 333(a)-(d) of this title, or” in
2 subsection (e)(3).

3 **SEC. 332. EXCEPTIONS.**

4 Section 10907 is amended by striking “subchapter I
5 of” in subsection (a).

6 **SEC. 333. RAILROAD DEVELOPMENT.**

7 Section 10910 is amended by—

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

10 “(2) ‘railroad line’ means any line of railroad.”;

11 (2) striking “the effective date of the Staggers
12 Rail Act of 1980” in subsection (g)(2), and inserting
13 “October 1, 1980,”; and

14 (3) striking subsection (k) and inserting the fol-
15 lowing:

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

19 **SEC. 334. PROVIDING TRANSPORTATION, SERVICE, AND**
20 **RATES.**

21 Section 11101 is amended to read as follows:

22 **“§ 11101. Providing transportation, service, and rates**

23 “(a) A carrier providing transportation or service
24 subject to the jurisdiction of the Intermodal Surface
25 Transportation Board under chapter 105 of this title shall

1 provide the transportation or service on reasonable re-
2 quest.

3 “(b) Notwithstanding any other provision of this title,
4 a rail carrier providing transportation service subject to
5 the jurisdiction of the Transportation Board under chap-
6 ter 105 of this title shall provide, on reasonable written
7 request, common carrier rates and other common carrier
8 service terms of the type requested for specified services
9 between specified points. The response by a rail carrier
10 to a request for such rates or other service terms shall
11 be in writing and forwarded to the requesting person no
12 later than 30 days after receipt of the request. A rail car-
13 rier shall not refuse to respond to a request under this
14 subsection on grounds that the movement at issue is sub-
15 ject at the time a request is made to a contract entered
16 into under section 10713 of this title.

17 “(c) Common carrier rates and service terms pro-
18 vided pursuant to subsection (b) of this section shall be
19 subject to the provisions of this title.

20 “(d) A rail carrier may not increase any common car-
21 rier rates, or change any common carrier service terms,
22 provided pursuant to subsection (b) unless at least 20
23 days’ written notice is first provided to the person that
24 made the request for the issue rate or service. Any such

1 increases or changes shall be subject to provisions of this
2 subtitle.”.

3 **SEC. 335. USE OF TERMINAL FACILITIES.**

4 Section 11103 is amended by striking “subchapter I
5 of” in subsection (a).

6 **SEC. 336. SWITCH CONNECTIONS AND TRACKS.**

7 Section 11104 is amended by striking “subchapter I
8 of” in subsection (a).

9 **SEC. 337. CRITERIA.**

10 Section 11121 is amended by—

11 (1) striking “subchapter I of” in subsection
12 (a)(1);

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

15 “(2) The Transportation Board may require a
16 rail carrier to file its car service rules with the
17 Transportation Board.”;

18 (3) striking “, 11127,” in subsection (b); and

19 (4) adding at the end the following:

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

1 **SEC. 338. REROUTING TRAFFIC ON FAILURE OF RAIL CAR-**
 2 **RIER TO SERVE PUBLIC.**

3 Section 11124 is amended by striking “subchapter I
 4 of” in subsection (a).

5 **SEC. 339. DIRECTED RAIL TRANSPORTATION.**

6 Section 11125 is amended by striking “subchapter I
 7 of” in subsection (a).

8 **SEC. 340. WAR EMERGENCIES; EMBARGOES.**

9 Section 11128 is amended by—

10 (1) striking “sections 11123(a)(4) and
 11 11127(a)(1)(C)” and inserting “section 11123(a)”
 12 in subsection (a)(1); and

13 (2) striking “subchapter I of” in subsection
 14 (a)(2).

15 **SEC. 341. DEFINITIONS FOR SUBCHAPTER III.**

16 Section 11141 is amended to read as follows:

17 **“§ 11141. Definitions**

18 “In this subchapter—

19 “(1) ‘carrier’ and ‘lessor’ include a receiver or
 20 trustee of a carrier and lessor respectively.

21 “(2) ‘lessor’ means a person owning a railroad
 22 or a pipeline that is leased to and operated by a car-
 23 rier providing transportation subject to the jurisdic-
 24 tion of the Intermodal Surface Transportation
 25 Board under chapter 105 of this title.

1 “(3) ‘association’ means an organization main-
 2 tained by or in the interest of a group of carriers
 3 providing transportation or service subject to the ju-
 4 risdiction of the Intermodal Surface Transportation
 5 Board that performs a service, or engages in activi-
 6 ties, related to transportation under this part.”.

7 **SEC. 342. DEPRECIATION CHARGES.**

8 Section 11143 is amended by—

- 9 (1) striking “subchapter I or III of”; and
- 10 (2) striking “and may, for a class of carriers
 11 providing transportation subject to its jurisdiction
 12 under subchapter II of that chapter,”.

13 **SEC. 343. RECORDS, ETC.**

14 Section 11144 is amended by—

- 15 (1) striking “, brokers,” in subsection (a)(1);
- 16 (2) striking “or express” and “subchapter I of”
 17 in subsection (a)(2);
- 18 (3) striking “, broker,” in subsection (b)(1);
- 19 (4) striking “broker,” in subsection (b)(2)(A);
- 20 (5) striking “or express” in subsection
 21 (b)(2)(C);
- 22 (6) redesignating subsection (d) as subsection
 23 (c); and
- 24 (7) striking “brokers,” in subsection (c), as re-
 25 designated.

1 **SEC. 344. REPORTS BY CARRIERS, LESSORS, AND ASSOCIA-**
2 **TIONS.**

3 Section 11145 is amended by—

4 (1) striking “brokers,” in subsection (a)(1);

5 (2) striking “or express,” in subsection (a)(2);

6 (3) striking “broker,” in the first sentence of
7 subsection (b)(1);

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

10 (5) striking subsection (c).

11 **SEC. 345. ACCOUNTING AND COST REPORTING.**

12 Section 11166 is amended by—

13 (1) striking “subchapter I of” in the first sen-
14 tence of subsection (a);

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

17 (3) striking “the cost accounting principles es-
18 tablished by the Transportation Board or under gen-
19 erally accepted accounting principles or the require-
20 ments of the Securities and Exchange Commission”
21 in subsection (b) and inserting “the appropriate cost
22 accounting principles”.

23 **SEC. 346. EQUIPMENT TRUSTS.**

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

1 “(c) The Transportation Board shall collect, maintain
2 and keep open for public inspection a railway equipment
3 register consistent with the manner and format main-
4 tained at the time of enactment of the Interstate Com-
5 merce Commission Sunset Act of 1995.

6 “(d) A mortgage, lease, equipment trust agreement,
7 conditional sales agreement, or other instrument evidenc-
8 ing the mortgage, lease, conditional sale, or bailment of
9 or security interest in railroad cars, locomotives, or other
10 rolling stock, or accessories used on such railroad cars,
11 locomotives, or other rolling stock (including super-
12 structures and racks), or any assignment thereof, which—

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

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

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

21 “(e) Interests with respect to which documents are
22 filed or recognized under this section are deemed perfected
23 in all jurisdictions, and shall be governed by applicable
24 State or foreign law in all matters not specifically gov-
25 erned by this section.”.

1 **SEC. 347. RESTRICTIONS ON OFFICERS AND DIRECTORS.**

2 Section 11322 is amended by—

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

5 (2) inserting before subsection (b), as redesign-
6 nated, the following:

7 “(a) In this section “carrier” means a rail carrier
8 providing transportation subject to the jurisdiction of the
9 Intermodal Surface Transportation Board under chapter
10 105 of this title (except a street, suburban, or interurban
11 electric railway not operated as a part of a general railroad
12 system of transportation), and a corporation organized to
13 provide transportation by rail carrier subject to that chap-
14 ter.”;

15 (3) striking “as defined in section 11301(a)(1)
16 of this title” in subsection (b) as redesignated; and

17 (4) striking “subsection (a)” and inserting
18 “subsection (b)” in subsection (c), as redesignated.

19 **SEC. 348. LIMITATION ON POOLING AND DIVISION OF**
20 **TRANSPORTATION OR EARNINGS.**

21 Section 11342 is amended by—

22 (1) striking “subchapter I, II, or III of” in the
23 first sentence of subsection (a);

24 (2) striking “Except as provided in subsection
25 (b) for agreements or combinations between or
26 among motor common carriers of property, the” in

1 the second sentence of subsection (a) and inserting
2 “The”; and

3 (3) striking subsections (b) and (d) and redesignig-
4 nating subsections (c) and (e) as subsections (b) and
5 (c), respectively.

6 **SEC. 349. CONSOLIDATION, MERGER, AND ACQUISITION OF**
7 **CONTROL.**

8 Section 11343 is amended by—

9 (1) inserting “(except a pipeline carrier)” after
10 “involving carriers” in subsection (a);

11 (2) striking “subchapter I (except a pipeline
12 carrier), II, or III of” in subsection (a);

13 (3) striking paragraph (1) of subsection (d) and
14 striking “(2)” in paragraph (2); and

15 (4) striking subsection (e).

16 **SEC. 350. GENERAL PROCEDURE AND CONDITIONS OF AP-**
17 **PROVAL FOR CONSOLIDATION, ETC.**

18 Section 11344 is amended by—

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

20 (2) striking “subchapter I of that chapter” in
21 the last sentence of subsection (a) and inserting
22 “chapter 105”;

23 (3) striking paragraph (2) of subsection (b) and
24 striking “(1)” in the first paragraph of subsection
25 (b);

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

3 (5) striking “When a rail carrier is involved in
4 the transaction, the” in the last sentence of sub-
5 section (c) and inserting “The”;

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

8 (7) striking subsection (e).

9 **SEC. 351. RAIL CARRIER PROCEDURE FOR CONSOLIDA-**
10 **TION, ETC.**

11 Section 11345 is amended by—

12 (1) striking “subchapter I of” in the first sen-
13 tence of subsection (a);

14 (2) inserting “, including comments by the Sec-
15 retary of Transportation and the Attorney General,”
16 before “may be filed” in the first sentence of sub-
17 section (c)(1);

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

20 (4) inserting “, including comments by the Sec-
21 retary of Transportation and the Attorney General,”
22 before “may be filed” in the first sentence of sub-
23 section (d)(1); and

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

1 **SEC. 352. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

2 Section 11347 is amended by striking “or section
3 11346” in the first sentence.

4 **SEC. 353. AUTHORITY OVER NONCARRIER ACQUIRERS.**

5 Section 11348 is amended by—

6 (1) striking “(a)” in subsection (a);

7 (2) striking subsection (b); and

8 (3) striking all after the colon and inserting
9 “sections 504(f) and 10764, subchapter III of chap-
10 ter 111, and sections 11901(e) and 11909.”.

11 **SEC. 354. AUTHORITY OVER INTRASTATE TRANSPOR-**
12 **TATION.**

13 Section 11501 is amended by—

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

17 (2) striking paragraphs (2) through (6) of sub-
18 section (a), as redesignated;

19 (3) striking “(1)” and “subchapter I of” in
20 subsection (a), as redesignated;

21 (4) striking “subchapter I of” in subsection (b),
22 as redesignated;

23 (5) striking “subchapter I of” in subsection
24 (c)(1), as redesignated;

25 (6) striking “subsection (a) of this section and”
26 in subsection (c)(2), as redesignated; and

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

5 **SEC. 355. TAX DISCRIMINATION AGAINST RAIL TRANSPOR-**
6 **TATION PROPERTY.**

7 Section 11503 is amended by—

- 8 (1) striking “subchapter I of” in subsection
9 (a)(3); and
10 (2) striking “subchapter I of” in subsection
11 (b)(4).

12 **SEC. 356. WITHHOLDING STATE AND LOCAL INCOME TAX**
13 **BY CERTAIN CARRIERS.**

14 Section 11504 is amended by—

- 15 (1) striking “subchapter I of” in subsection (a);
16 (2) striking subsections (b) and (c) and redesign-
17 ating subsection (d) as subsection (b); and
18 (3) striking “, motor, and motor private” and
19 “subsection (a) or (b) of” in subsection (b), as re-
20 designated.

21 **SEC. 357. GENERAL AUTHORITY FOR ENFORCEMENT, IN-**
22 **VESTIGATIONS, ETC.**

23 Section 11701 is amended by—

- 24 (1) striking “, broker or freight forwarder” in
25 the second and fourth sentences of subsection (a);

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

2 (3) striking the first 2 sentences of subsection

3 (b) and inserting the following: “A person, including

4 a governmental authority, may file with the Trans-

5 portation Board a complaint about a violation of this

6 part by a carrier providing transportation or service

7 subject to the jurisdiction of the Transportation

8 Board under this part. The complaint must state the

9 facts that are the subject of the violation.”; and

10 (4) striking “subchapter I of” in the last sen-

11 tence of subsection (b).

12 **SEC. 358. ENFORCEMENT.**

13 Section 11702 is amended by—

14 (1) striking “(a)” in subsection (a);

15 (2) striking paragraphs (4) through (6) of sub-

16 section (a);

17 (3) striking “or 10933” in paragraph (1);

18 (4) striking paragraph (2) and inserting the fol-

19 lowing:

20 “(2) to enforce subchapter III of chapter 113

21 of this title and to compel compliance with an order

22 of the Transportation Board under that subchapter;

23 and”

24 (5) striking “subchapter I of” in paragraph (3);

1 (6) striking the semicolon at the end of para-
2 graph (3) and inserting a period; and

3 (7) striking subsection (b).

4 **SEC. 359. ATTORNEY GENERAL ENFORCEMENT.**

5 Section 11703 is amended by striking “or permit”
6 wherever it appears in subsection (a).

7 **SEC. 360. RIGHTS AND REMEDIES.**

8 Section 11705 is amended by—

9 (1) striking “or a freight forwarder” in sub-
10 section (a);

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

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

18 (3) striking “subparagraph I or III of” in sub-
19 section (b)(2);

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

21 (5) striking “subchapter I or III of” in the first
22 sentence of subsection (c)(1);

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

1 (7) striking “subchapter I or III of” in the sec-
2 ond sentence of subsection (c)(2);

3 (8) striking “subchapter I or III of” in the first
4 sentence of subsection (d)(1); and

5 (9) striking “, or (D) if a water carrier, in
6 which a port of call on a route operated by that car-
7 rier is located” and inserting “or” before “(C)” in
8 the fourth sentence of subsection (d)(1).

9 **SEC. 361. LIMITATION ON ACTIONS.**

10 Section 11706 is amended by—

11 (1) striking subsection (a) and inserting the fol-
12 lowing:

13 “(a) A carrier providing transportation or service
14 subject to the jurisdiction of the Intermodal Surface
15 Transportation Board under chapter 105 of this title must
16 begin a civil action to recover charges for the transpor-
17 tation or service provided by the carrier within 3 years
18 after the claim accrues.”;

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

23 (3) striking “subchapter I or III of” in the last
24 sentence of subsection (b);

25 (4) striking “(1)” in subsection (c);

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

3 (6) striking “(c)(1)” in the second sentence of
4 subsection (d) and inserting “(c)”.

5 **SEC. 362. LIABILITY OF COMMON CARRIERS UNDER RE-**
6 **CEIPTS AND BILLS OF LADING.**

7 (a) Section 11707 is amended by—

8 (1) striking “(a)(1)” in subsection (a) and in-
9 serting “(a)”;

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

11 (3) striking “subchapter I, II, or IV of” and
12 “and a freight forwarder” in the first sentence of
13 subsection (a), as amended;

14 (4) striking “or freight forwarder” in the sec-
15 ond sentence of subsection (a), as amended;

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

20 (6) striking “, except in the case of a freight
21 forwarder,” in the third sentence of subsection (a),
22 as amended;

23 (7) striking “diverted under a tariff filed under
24 subchapter IV of chapter 107 of this title.” in the

1 third sentence of subsection (a), as amended, and in-
 2 serting “diverted.”;

3 (8) striking “or freight forwarder” in the fourth
 4 sentence of subsection (a);

5 (9) striking “and freight forwarder” in sub-
 6 section (c)(1), and striking “filed with the Commis-
 7 sion”;

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

10 (11) striking “or freight forwarder” wherever it
 11 appears in subsection (e); and

12 (12) striking “or freight forwarder’s” in sub-
 13 section (e)(2).

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

“Sec. 11707. Liability of Carriers under receipts and bills of lading.”.

17 **SEC. 363. LIABILITY WHEN PROPERTY IS DELIVERED IN**
 18 **VIOLATION OF ROUTING INSTRUCTIONS.**

19 Section 11710 is amended by striking “subchapter I
 20 of” in subsection (a)(1).

21 **SEC. 364. GENERAL CIVIL PENALTIES.**

22 Section 11901 is amended by:

23 (1) striking “subchapter I of” in subsection (a)
 24 and subsection (b);

1 (2) striking subsection (c) and subsections (g)
 2 through (l), and redesignating subsections (d)
 3 through (f) as (c) through (e), respectively, and sub-
 4 section (m) as (f);

5 (3) striking “11127” in subsection (d), as re-
 6 designated;

7 (4) striking “(1)” in subsection (d), as redesign-
 8 ated, and striking paragraph (2) of that subsection;

9 (5) striking “subchapter I of” each place it ap-
 10 pears in subsection (e), as redesignated;

11 (6) striking “(1)” in subsection (f), as redesign-
 12 ated, and striking paragraph (2) of that subsection;
 13 and

14 (7) striking “subsections (a)–(f) of” in sub-
 15 section (f), as redesignated.

16 **SEC. 365. CIVIL PENALTY FOR ACCEPTING REBATES FROM**
 17 **COMMON CARRIER.**

18 Section 11902 is amended by striking “contained in
 19 a tariff filed with the Commission under subchapter IV
 20 of chapter 107 of this title”.

21 **SEC. 366. RATE, DISCRIMINATION, AND TARIFF VIOLA-**
 22 **TIONS.**

23 Section 11903 is amended by striking “under chapter
 24 107 of this title” in subsection (a).

1 **SEC. 367. ADDITIONAL RATE AND DISCRIMINATION VIOLA-**
2 **TIONS.**

3 Section 11904 is amended by—

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

5 (2) striking “(a)(1)” in subsection (a) and in-
6 serting “(a)”;

7 (3) redesignating paragraphs (2) and (3) of
8 subsection (a) as subsections (b) and (c), respec-
9 tively;

10 (4) striking “(A)” and “(B)” in subsection (b),
11 as redesignated, and inserting “(1)” and “(2)”, re-
12 spectively;

13 (5) striking “subchapter I of” in subsections
14 (b) and (c), as redesignated; and

15 (6) striking “under chapter 107 of this title” in
16 subsection (b), as redesignated.

17 **SEC. 368. INTERFERENCE WITH RAILROAD CAR SUPPLY.**

18 Section 11907 is amended by striking “subchapter I
19 of” in subsections (a) and (b).

20 **SEC. 369. RECORD KEEPING AND REPORTING VIOLATIONS.**

21 Section 11909 is amended by—

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

23 (2) striking “subchapter I of” in subsection (a);
24 and

25 (3) striking “(a)” in subsection (a).

1 **SEC. 370. UNLAWFUL DISCLOSURE OF INFORMATION.**

2 Section 11910 is amended by—

3 (1) striking paragraphs (2) through (4) of sub-
4 section (a);

5 (2) striking “(a)(1)” in subsection (a) and in-
6 serting “(a)”;

7 (3) striking “(A)” and “(B)” in subsection (a)
8 and inserting “(1)” and “(2)”, respectively;

9 (4) striking “subchapter I of” in subsections
10 (a) and (d); and

11 (5) striking “or broker” in subsection (b).

12 **SEC. 371. CONSOLIDATION, MERGER, AND ACQUISITION OF**
13 **CONTROL.**

14 Section 11912 is amended by striking out “11346,”.

15 **SEC. 372. GENERAL CRIMINAL PENALTY.**

16 Section 11914 is amended by—

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

18 (2) striking “(a)” in subsection (a);

19 (3) striking “subchapter I of” in the first sen-
20 tence; and

21 (4) striking “11321(a) or” in the last sentence.

22 **SEC. 373. FINANCIAL ASSISTANCE FOR STATE PROJECTS.**

23 Section 22101 is amended by striking “subchapter I
24 of” in the first sentence of subsection (a).

1 **SEC. 374. STATUS OF AMTRAK AND APPLICABLE LAWS.**

2 Section 24301 is amended by striking “subchapter I
3 of” in subsection (c)(2)(B) and (d).

4 **SEC. 375. RAIL-SHIPPER TRANSPORTATION ADVISORY**
5 **COUNCIL.**

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

8 **“SUBCHAPTER VI. RAIL AND SHIPPER**
9 **TRANSPORTATION ADVISORY COUNCIL**

10 **§ 10391. Rail and Shipper Transportation Advisory**
11 **Council**

12 “(a) ESTABLISHMENT; MEMBERSHIP.—There is es-
13 tablished the Rail-Shipper Transportation Advisory Coun-
14 cil (hereinafter in this section referred to as the “Coun-
15 cil”) to be composed of 15 members appointed by the
16 Chairman of the Transportation Board, upon rec-
17 ommendation from carrier and shipper groups, within 60
18 days after the date of enactment of the Interstate Com-
19 merce Commission Sunset Act of 1995. The members of
20 the Council shall be appointed as follows:

21 “(1) The members of the Council shall be ap-
22 pointed from among citizens of the United States
23 who are not regular full-time employees of the Unit-
24 ed States and shall be selected for appointment so
25 as to provide as nearly as practicable a broad rep-

1 resentation of the various segments of the rail and
2 rail shipper industry.

3 “(2) Nine of the members shall be appointed
4 from senior executive officers of organizations en-
5 gaged in the railroad and rail shipping industry,
6 which 9 members shall be the voting members of the
7 Council. Council action and Council positions shall
8 be determined by a majority vote of said members
9 or by a majority vote of a quorum thereof. A major-
10 ity of such voting members shall constitute a
11 quorum. Of such 9 voting members—

12 “(A) at least 4 shall be from organizations
13 representative of small shippers (as determined
14 by the Chairman); and

15 “(B) at least 4 shall be from organizations
16 representative of small railroads (Class II or
17 III).

18 “(3) The remaining 6 members of the Council
19 shall serve in a non-voting advisory capacity only,
20 but shall be entitled to participate in Council delib-
21 erations. Of said remaining members—

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

23 “(B) 3 shall be from large shipper organi-
24 zations (as determined by the Chairman).

1 “(4) The Secretary of Transportation and the
2 members of the Transportation Board shall serve as
3 ex officio members of the Council. The Council shall
4 not be subject to the Federal Advisory Committee
5 Act. A list of the members appointed to the Council
6 shall be forwarded to the Chairmen and ranking
7 members of the Senate Committee on Commerce,
8 Science, and Transportation and the House Commit-
9 tee on Transportation and Infrastructure.

10 “(5) Each ex-officio member of the Council may
11 designate an alternate, who shall serve as a member
12 of the Council whenever the ex-officio member is un-
13 able to attend a meeting of the Council. Any such
14 designated alternate shall be selected from individ-
15 uals who exercise significant decision-making author-
16 ity in the Federal agency involved.

17 “(b) TERM OF OFFICE.—The members of the Council
18 shall be appointed for a term of office of three years, ex-
19 cept that of the members first appointed—

20 “(1) 5 members shall be appointed for terms of
21 1 year, and

22 “(2) 5 members shall be appointed for terms of
23 2 years,

24 as designated by the Chairman at the time of appoint-
25 ment. Any member appointed to fill a vacancy occurring

1 before the expiration of the term for which the member's
2 predecessor was appointed shall be appointed only for the
3 remainder of such term. A member may serve after the
4 expiration of his term until his successor has taken office.
5 Vacancies on the Council shall be filled in the same man-
6 ner in which the original appointments were made. No
7 member of the Council shall be eligible to serve in excess
8 of two consecutive terms.

9 “(c) ELECTION AND DUTIES OF OFFICERS.—The
10 Council Chairman and Vice Chairman and other appro-
11 priate officers of the Council shall be elected by and from
12 the voting members of the Council. The Council Chairman
13 shall serve as the Council's executive officer and shall di-
14 rect the administration of the Council, assign officer and
15 committee duties, and shall be responsible for issuing and
16 communicating the reports, policy positions and state-
17 ments of the Council. In the event that the Council Chair-
18 man is unable to serve, the Vice Chairman shall act as
19 Council Chairman.

20 “(d) EXPENSES.—The members of the Council shall
21 receive no compensation for their services as such, but
22 upon request by the Council Chairman, based on a show-
23 ing of significant economic burden, the Secretary of
24 Transportation or the Chairman may provide reasonable
25 and necessary travel expenses for such individual Council

1 members from Department or Transportation Board fund-
2 ing sources in order to foster balanced representation on
3 the Council. Upon request by the Council Chairman, the
4 Secretary or Chairman may but is not required to pay the
5 reasonable and necessary expenses incurred by the Council
6 in connection with the coordination of Council activities,
7 announcement and reporting of meetings, and preparation
8 of such Council documents as are required or permitted
9 by this Act. However, prior to making any funding re-
10 quests the Council Chairman shall undertake best efforts
11 to fund such activities privately unless he or she reason-
12 ably feels such private funding would create irreconcilable
13 conflicts or the appearance thereof, or is otherwise imprac-
14 tical. The Council Chairman shall not request funding
15 from any federal agency unless he or she provides written
16 justification as to why private funding would create such
17 conflict or appearance, or is otherwise impractical. To en-
18 able the Council to carry out its functions—

19 “(1) the Council Chairman may request directly
20 from any Federal department or agency such per-
21 sonnel, information, services, or facilities, on a com-
22 pensated or uncompensated basis, as he or she de-
23 termines necessary to carry out the functions of the
24 Council;

1 “(2) each Federal department or agency may,
2 in their discretion, furnish the Council with such in-
3 formation, services, and facilities as the Council
4 Chairman may request to the extent permitted by
5 law and within the limits of available funds; and

6 “(3) Federal agencies and departments may, in
7 their discretion, detail to temporary duty with the
8 Council, such personnel as the Council Chairman
9 may request for carrying out the functions of the
10 Council, each such detail to be without loss of se-
11 niority, pay, or other employee status.

12 “(e) MEETINGS.—The Council shall meet at least
13 semi-annually and shall hold such other meetings as
14 deemed prudent by and at the call of the Council Chair-
15 man. Appropriate federal facilities, where available, may
16 be used for such meetings. Whenever the Council, or a
17 committee of the Council, considers matters that affect the
18 jurisdictional interests of Federal agencies that are not
19 represented on the Council, the Council Chairman may in-
20 vite the heads of such agencies, or their alternates, to par-
21 ticipate in the deliberations of the Council.

22 “(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—
23 The Council shall advise the Secretary, Chairman, and rel-
24 evant Congressional transportation policy oversight com-
25 mittees with respect to rail transportation policy issues it

1 deems significant, with particular attention to issues of
2 importance to small shippers and small railroads, includ-
3 ing car supply, rates, competition, and effective procedures
4 for addressing legitimate shipper and other claims. To the
5 extent the Council addresses specific grain car issues, it
6 shall coordinate such activities with the Grain Car Coun-
7 cil. The Secretary and Chairman shall work in cooperation
8 with the Council to provide research, technical and other
9 reasonable support in developing any documents provided
10 for hereby. The Council shall endeavor to develop within
11 the private sector mechanisms to prevent or identify and
12 effectively address obstacles to the most effective and effi-
13 cient transportation system practicable. The Council shall
14 prepare an annual report concerning its activities and the
15 results of Council efforts to resolve industry issues within
16 the Council structure in lieu of seeking regulatory or legis-
17 lative relief, and propose whatever regulatory or legislative
18 relief it deems appropriate in the event such efforts are
19 unsuccessful. The Council shall include therein such rec-
20 ommendations as it deems appropriate with respect to the
21 performance of the Secretary and Chairman under this
22 chapter, and with respect to the operation and effective-
23 ness of meetings and industry developments relating to the
24 Council's efforts, and such other information as it deems
25 appropriate. Such annual reports shall be reviewed by the

1 Secretary and Chairman, and shall include the Secretary's
 2 and Chairman's views or comments relating to the accu-
 3 racy of information therein, Council efforts and reason-
 4 ableness of Council positions and actions and any other
 5 aspects of the Council's work as they may deem appro-
 6 priate. The Council may prepare other reports or develop
 7 policy statements as the Council deems appropriate. Each
 8 annual report shall cover a fiscal year and shall be submit-
 9 ted to the Secretary and Chairman on or before the thirty-
 10 first day of December following the close of the fiscal year.
 11 Other such reports and statements may be communicated
 12 as the Council deems appropriate.”.

13 (b) CONFORMING AMENDMENT.—The table of sub-
 14 chapters for chapter 103 is amended by adding at the end
 15 thereof the following:

“SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION
 ADVISORY COUNCIL

“10391. Rail and shipper advisory council.”.

1 **TITLE IV—MOTOR CARRIER,**
 2 **WATER CARRIER, BROKER,**
 3 **AND FREIGHT FORWARDER**
 4 **TRANSPORTATION**

5 **Subtitle A—Addition of Part B**

6 **SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE**
 7 **49, UNITED STATES CODE.**

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

10 “PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND
 11 FREIGHT FORWARDERS

12 **“CHAPTER 131—GENERAL PROVISIONS**

13 **“§ 13101. Transportation policy**

14 “(a) Except where policy has an impact on rail car-
 15 riers, in which case the principles of section 10101a of
 16 this title shall govern, to ensure the development, coordi-
 17 nation, and preservation of a transportation system that
 18 meets the transportation needs of the United States, in-
 19 cluding the United States Postal Service and national de-
 20 fense, it is the policy of the United States Government
 21 to provide for the impartial regulation of the modes of
 22 transportation , and—

23 “(1) in regulating those modes—

24 “(A) to recognize and preserve the inher-
 25 ent advantage of each mode of transportation;

1 “(B) to promote safe, adequate, economi-
2 cal, and efficient transportation;

3 “(C) to encourage sound economic condi-
4 tions in transportation, including sound eco-
5 nomic conditions among carriers;

6 “(D) to encourage the establishment and
7 maintenance of reasonable rates for transpor-
8 tation, without unreasonable discrimination or
9 unfair or destructive competitive practices;

10 “(E) to cooperate with each State and the
11 officials of each State on transportation mat-
12 ters; and

13 “(F) to encourage fair wages and working
14 conditions in the transportation industry;

15 “(2) in regulating transportation by motor car-
16 rier, to promote competitive and efficient transpor-
17 tation services in order to (A) encourage fair com-
18 petition, and reasonable rates for transportation by
19 motor carriers of property; (B) promote Federal reg-
20 ulatory efficiency in the motor carrier transportation
21 system and to require fair and expeditious regu-
22 latory decisions when regulation is required; (C)
23 meet the needs of shippers, receivers, passengers,
24 and consumers; (D) allow a variety of quality and
25 price options to meet changing market demands and

1 the diverse requirements of the shipping and travel-
2 ing public; (E) allow the most productive use of
3 equipment and energy resources; (F) enable efficient
4 and well-managed carriers to earn adequate profits,
5 attract capital, and maintain fair wages and working
6 conditions; (G) provide and maintain service to small
7 communities and small shippers and intrastate bus
8 services; (H) provide and maintain commuter bus
9 operations; (I) improve and maintain a sound, safe,
10 and competitive privately owned motor carrier sys-
11 tem; (J) promote greater participation by minorities
12 in the motor carrier system; and (K) promote inter-
13 modal transportation; and

14 “(3) in regulating transportation by motor car-
15 rier of passengers (A) to cooperate with the States
16 on transportation matters for the purpose of encour-
17 aging the States to exercise intrastate regulatory ju-
18 risdiction in accordance with the objectives of this
19 part; (B) to provide Federal procedures which en-
20 sure that intrastate regulation is exercised in accord-
21 ance with this part; and (C) to ensure that Federal
22 reform initiatives enacted by section 31138 of this
23 title and the Bus Regulatory Reform Act of 1995 of
24 1982 are not nullified by State regulatory actions.

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

3 **“§ 13102. Definitions**

4 “‘In this part—

5 “(1) ‘broker’ means a person, other than a
6 motor carrier or an employee or agent of a motor
7 carrier, that as a principal or agent sells, offers for
8 sale, negotiates for, or holds itself out by solicitation,
9 advertisement, or otherwise as selling, providing, or
10 arranging for, transportation by motor carrier for
11 compensation.

12 “(2) ‘carrier’ means a motor carrier, a water
13 carrier, and a freight forwarder, and, for purposes of
14 sections 13902, 13905, and 13906, the term in-
15 cludes foreign motor carriers and foreign motor pri-
16 vate carriers;

17 “(3) ‘contract carriage’ means—

18 “(A) for transportation provided before the
19 date of enactment of the Interstate Commerce
20 Commission Sunset Act of 1995, service pro-
21 vided pursuant to a permit issued under former
22 section 10923 of this subtitle; and

23 “(B) for transportation provided on or
24 after that date, service provided under an

1 agreement entered into under section 14101(b)
2 of this part;

3 “(4) ‘control’, when referring to a relationship
4 between persons, includes actual control, legal con-
5 trol, and the power to exercise control, through or
6 by (A) common directors, officers, stockholders, a
7 voting trust, or a holding or investment company, or
8 (B) any other means;

9 “(5) ‘foreign motor carrier’ means a person (in-
10 cluding a motor carrier of property but excluding a
11 motor private carrier)—

12 “(A)(i) which is domiciled in a contiguous
13 foreign country; or

14 “(ii) which is owned or controlled by per-
15 sons of a contiguous foreign country and is not
16 domiciled in the United States; and

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

1 “(6) ‘foreign motor private carrier’ means a
2 person (including a motor private carrier but exclud-
3 ing a motor carrier of property)—

4 “(A)(i) which is domiciled in a contiguous
5 foreign country; or

6 “(ii) which is owned or controlled by per-
7 sons of a contiguous foreign country and is not
8 domiciled in the United States; and

9 “(B) in the case of a person which is not
10 a motor private carrier, which provides inter-
11 state transportation of property by motor vehi-
12 cle under an agreement or contract entered into
13 with a person (other than a motor carrier of
14 property or a motor private carrier described in
15 subparagraph (A));

16 “(7) ‘freight forwarder’ means a person holding
17 itself out to the general public (other than as a pipe-
18 line, rail, motor, or water carrier) to provide trans-
19 portation of property for compensation and in the
20 ordinary course of its business—

21 “(A) assembles and consolidates, or pro-
22 vides for assembling and consolidating, ship-
23 ments and performs or provides for break-bulk
24 and distribution operations of the shipments;

1 “(B) assumes responsibility for the trans-
2 portation from the place of receipt to the place
3 of destination; and

4 “(C) uses for any part of the transpor-
5 tation a carrier subject to jurisdiction under
6 part A or part B of this subtitle; but the term
7 does not include a person using transportation
8 of an air carrier subject to part A of subtitle
9 VII of this title;

10 “(8) ‘highway’ means a road, highway, street,
11 and way in a State;

12 “(9) ‘household goods’ means—

13 “(A) personal effects and property used or
14 to be used in a dwelling when a part of the
15 equipment or supply of such dwelling and simi-
16 lar property, whether the transportation is—

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

22 “(ii) arranged and paid for by another
23 party;

24 “(B) furniture, fixtures, equipment, and
25 the property of stores, offices, museums, insti-

1 tutions, hospitals or other establishments when
2 a part of the stock, equipment, or supply of
3 such stores, offices, museums, institutions, hos-
4 pitals, or other establishments and similar prop-
5 erty; except that this subparagraph shall not be
6 construed to include the stock-in-trade of any
7 establishment, whether consignor or consignee,
8 other than used furniture and used fixtures, ex-
9 cept when transported as incidental to moving
10 of the establishment, or a portion thereof, from
11 one location to another; and

12 “(C) articles, including objects of art, dis-
13 plays, and exhibits, which because of their un-
14 usual nature or value require the specialized
15 handling and equipment usually employed in
16 moving household goods and similar articles; ex-
17 cept that this subparagraph shall not be con-
18 strued to include any article, whether crated or
19 uncrated, which does not, because of its un-
20 usual nature or value, require the specialized
21 handling and equipment usually employed in
22 moving household goods;

23 “(10) ‘household goods freight forwarder’
24 means a freight forwarder of one or more of the fol-

1 lowing items: household goods, unaccompanied bag-
2 gage, or used automobiles;

3 “(11) ‘motor carrier’ means a person providing
4 motor vehicle transportation for compensation;

5 “(12) ‘motor private carrier’ means a person,
6 other than a motor carrier, transporting property by
7 motor vehicle when—

8 “(A) the transportation is as provided in
9 section 13501 of this title;

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

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

15 “(13) ‘motor vehicle’ means a vehicle, machine,
16 tractor, trailer, or semitrailer propelled or drawn by
17 mechanical power and used on a highway in trans-
18 portation, or a combination determined by the Sec-
19 retary, but does not include a vehicle, locomotive, or
20 car operated only on a rail, or a trolley bus operated
21 by electric power from a fixed overhead wire, and
22 providing local passenger transportation similar to
23 street-railway service;

24 “(14) ‘non-contiguous domestic trade’ means
25 motor-water transportation subject to jurisdiction

1 under chapter 135 of this title involving traffic origi-
2 nating in or destined to Alaska, Hawaii, or a terri-
3 tory or possession of the United States;

4 “(15) ‘person’, in addition to its meaning under
5 section 1 of title 1, includes a trustee, receiver, as-
6 signee, or personal representative of a person;

7 “(16) ‘State’ means a State of the United
8 States and the District of Columbia;

9 “(17) ‘transportation’ includes—

10 “(A) a motor vehicle, vessel, warehouse,
11 wharf, pier, dock, yard, property, facility, in-
12 strumentality, or equipment of any kind related
13 to the movement of passengers or property, or
14 both, regardless of ownership or an agreement
15 concerning use; and

16 “(B) services related to that movement, in-
17 cluding receipt, delivery, elevation, transfer in
18 transit, refrigeration, icing, ventilation, storage,
19 handling, and interchange of passengers and
20 property;

21 “(18) ‘United States’ means the States of the
22 United States and the District of Columbia;

23 “(19) ‘vessel’ means a watercraft or other arti-
24 ficial contrivance that is used, is capable of being

1 used, or is intended to be used, as a means of trans-
2 portation by water; and

3 “(20) ‘water carrier’ means a person providing
4 water transportation for compensation.

5 **“§ 13103. Remedies are cumulative**

6 “Except as otherwise provided in this part, the rem-
7 edies provided under this part are in addition to remedies
8 existing under another law or at common law.

9 **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

10 **“§ 13301. Powers**

11 “(a) Except as otherwise specified, the Secretary of
12 Transportation shall carry out this part. Enumeration of
13 a power of the Secretary in this part does not exclude an-
14 other power the Secretary may have in carrying out this
15 part. The Secretary may prescribe regulations in carrying
16 out this part.

17 “(b) The Secretary may obtain from carriers provid-
18 ing, and brokers for, transportation and service subject
19 to this part, and from persons controlling, controlled by,
20 or under common control with those carriers or brokers
21 to the extent that the business of that person is related
22 to the management of the business of that carrier or
23 broker, information the Secretary decides is necessary to
24 carry out this part.

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

7 “(2) The district courts of the United States have
8 jurisdiction to enforce a subpoena issued under this section.
9 Trial is in the district in which the proceeding is con-
10 ducted. The court may punish a refusal to obey a subpoena
11 as a contempt of court.

12 “(d)(1) In a proceeding under this part, the Secretary
13 may take the testimony of a witness by deposition and
14 may order the witness to produce records. A party to a
15 proceeding pending under this part may take the testi-
16 mony of a witness by deposition and may require the wit-
17 ness to produce records at any time after a proceeding
18 is at issue on petition and answer.

19 “(2) If a witness fails to be deposed or to produce
20 records under paragraph (1) of this subsection, the Sec-
21 retary may subpoena the witness to take a deposition,
22 produce the records, or both.

23 “(3) A deposition may be taken before a judge of a
24 court of the United States, a United States magistrate
25 judge, a clerk of a district court, or a chancellor, justice,

1 or judge of a supreme or superior court, mayor or chief
2 magistrate of a city, judge of a county court, or court of
3 common pleas of any State, or a notary public who is not
4 counsel or attorney of a party or interested in the proceed-
5 ing.

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

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

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

22 “(e) Each witness summoned before the Secretary or
23 whose deposition is taken under this section and the indi-
24 vidual taking the deposition are entitled to the same fees

1 and mileage paid for those services in the courts of the
2 United States.

3 “(f) For those provisions of this part that are speci-
4 fied to be carried out by the Intermodal Surface Transpor-
5 tation Board, the Transportation Board shall have the
6 same powers as the Secretary has under this section.

7 **“§ 13302. Intervention**

8 “Under regulations of the Secretary of Transpor-
9 tation, reasonable notice of, and an opportunity to inter-
10 vene and participate in, a proceeding under this part relat-
11 ed to transportation subject to jurisdiction under sub-
12 chapter I of chapter 135 of this title shall be given to in-
13 terested persons.

14 **“§ 13303. Service of notice in proceedings under this**
15 **part**

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

22 “(b) A notice to a motor carrier, broker, or freight
23 forwarder is served personally or by mail on the motor
24 carrier, broker, or freight forwarder or on its designated
25 agent. Service by mail on the designated agent is made

1 at the address filed for the agent. When notice is given
2 by mail, the date of mailing is considered to be the time
3 when the notice is served. If a motor carrier, broker, or
4 freight forwarder does not have a designated agent, service
5 may be made by posting a copy of the notice at the head-
6 quarters of the Department of Transportation.

7 **“§ 13304. Service of process in court proceedings**

8 “(a) A motor carrier or broker providing transpor-
9 tation subject to jurisdiction under chapter 135 of this
10 title, including a motor carrier or broker operating within
11 the United States while providing transportation between
12 places in a foreign country or between a place in one for-
13 eign country and a place in another foreign country, shall
14 designate an agent in each State in which it operates by
15 name and post office address on whom process issued by
16 a court with subject matter jurisdiction may be served in
17 an action brought against that carrier or broker. The des-
18 ignation shall be in writing and filed with the Department
19 of Transportation and each State may require that an ad-
20 ditional designation be filed with it. If a designation under
21 this subsection is not made, service may be made on any
22 agent of the carrier or broker within that State.

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

1 **“CHAPTER 135—JURISDICTION**

2 “SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

3 **“§ 13501. General jurisdiction**

4 “The Secretary of Transportation and the Intermodal
5 Surface Transportation Board have jurisdiction, as speci-
6 fied in this part, over transportation by motor carrier and
7 the procurement of that transportation, to the extent that
8 passengers, property, or both, are transported by motor
9 carrier—

10 “(1) between a place in—

11 “(A) a State and a place in another State;

12 “(B) a State and another place in the
13 same State through another State;

14 “(C) the United States and a place in a
15 territory or possession of the United States to
16 the extent the transportation is in the United
17 States;

18 “(D) the United States and another place
19 in the United States through a foreign country
20 to the extent the transportation is in the United
21 States; or

22 “(E) the United States and a place in a
23 foreign country to the extent the transportation
24 is in the United States; and

25 “(2) in a reservation under the exclusive juris-
26 diction of the United States or on a public highway.

1 **“§ 13502. Exempt transportation between Alaska and**
2 **other States**

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

7 “(1) neither the Secretary of Transportation
8 nor the Intermodal Surface Transportation Board
9 has jurisdiction to impose a requirement over con-
10 duct of the motor carrier in the foreign country con-
11 flicting with a requirement of that country; but

12 “(2) the motor carrier, as a condition of provid-
13 ing transportation in the United States, shall com-
14 ply, with respect to all transportation provided be-
15 tween Alaska and the other State, with the require-
16 ments of this part related to rates and practices ap-
17 plicable to the transportation.

18 **“§ 13503. Exempt motor vehicle transportation in ter-**
19 **minal areas**

20 “(a)(1) Neither the Secretary of Transportation nor
21 the Intermodal Surface Transportation Board has juris-
22 diction under this subchapter over transportation by
23 motor vehicle provided in a terminal area when the trans-
24 portation—

25 “(A) is a transfer, collection, or delivery;

26 “(B) is provided by—

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

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

5 “(iii) a freight forwarder subject to juris-
6 diction under subchapter III of this chapter;
7 and

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

12 “(2) Transportation exempt from jurisdiction under
13 paragraph (1) of this subsection is subject to jurisdiction
14 under chapter 105 of this title when provided by such a
15 rail carrier, under subchapter II of this chapter when pro-
16 vided by such a water carrier, and under subchapter III
17 of this chapter when provided by such a freight forwarder.

18 “(b)(1) Except to the extent provided by paragraph
19 (2) of this subsection, neither the Secretary nor the Trans-
20 portation Board has jurisdiction under this subchapter
21 over transportation by motor vehicle provided in a termi-
22 nal area when the transportation—

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

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

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

3 “(ii) a motor carrier subject to jurisdiction
4 under this subchapter;

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

7 “(iv) a freight forwarder subject to juris-
8 diction under subchapter III of this chapter.

9 “(2) Transportation exempt from jurisdiction under
10 paragraph (1) of this subsection is considered transpor-
11 tation provided by the carrier or service provided by the
12 freight forwarder for whom the transportation was pro-
13 vided and is subject to jurisdiction under chapter 105 of
14 this title when provided for such a rail carrier, under this
15 subchapter when provided for such a motor carrier, under
16 subchapter II of this chapter when provided for such a
17 water carrier, and under subchapter III of this chapter
18 when provided for such a freight forwarder.

19 **“§ 13504. Exempt motor carrier transportation en-**
20 **tirely in one State**

21 “Neither the Secretary of Transportation nor the
22 Intermodal Surface Transportation Board has jurisdiction
23 under this subchapter over transportation, except trans-
24 portation of household goods, by a motor carrier operating
25 solely within the State of Hawaii. The State of Hawaii

1 may regulate transportation exempt from jurisdiction
2 under this section and, to the extent provided by a motor
3 carrier operating solely within the State of Hawaii, trans-
4 portation exempt under section 13503 of this title.

5 “SUBCHAPTER II—WATER CARRIER TRANSPORTATION

6 **“§ 13521. General jurisdiction**

7 “The Transportation Board has jurisdiction over
8 transportation insofar as water carriers are concerned—

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

12 “(2) by water carrier and motor carrier from a
13 place in a State to a place in another State, except
14 that if part of the transportation is outside the Unit-
15 ed States, the Secretary only has jurisdiction over
16 that part of the transportation provided—

17 “(A) by motor carrier that is in the United
18 States; and

19 “(B) by water carrier that is from a place
20 in the United States to another place in the
21 United States; and

22 “(3) by water carrier or by water carrier and
23 motor carrier between a place in the United States
24 and a place outside the United States, to the extent
25 that—

1 “(A) when the transportation is by motor
2 carrier, the transportation is provided in the
3 United States;

4 “(B) when the transportation is by water
5 carrier to a place outside the United States, the
6 transportation is provided by water carrier from
7 a place in the United States to another place in
8 the United States before transshipment from a
9 place in the United States to a place outside
10 the United States; and

11 “(C) when the transportation is by water
12 carrier from a place outside the United States,
13 the transportation is provided by water carrier
14 from a place in the United States to another
15 place in the United States after transshipment
16 to a place in the United States from a place
17 outside the United States.

18 “SUBCHAPTER III—FREIGHT FORWARDER SERVICE

19 **“§ 13531. General jurisdiction**

20 “(a) The Secretary of Transportation and the Inter-
21 modal Surface Transportation Board have jurisdiction, as
22 specified in this part, over service that a freight forwarder
23 undertakes to provide, or is authorized or required under
24 this part to provide, to the extent transportation is pro-
25 vided in the United States and is between—

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

4 “(2) a place in a State and another place in the
5 same State through a place outside the State; or

6 “(3) a place in the United States and a place
7 outside the United States.

8 “(b) Neither the Secretary nor the Transportation
9 Board has jurisdiction under subsection (a) of this section
10 over service undertaken by a freight forwarder using
11 transportation of an air carrier subject to part A of sub-
12 title VII of this title.

13 “SUBCHAPTER IV—AUTHORITY TO EXEMPT

14 **“§ 13541. Authority to exempt transportation or serv-**
15 **ices**

16 “(a) In any matter subject to jurisdiction under this
17 chapter, the Secretary of Transportation or the Inter-
18 modal Surface Transportation Board, as applicable, shall
19 exempt a person, class of persons, or a transaction or serv-
20 ice from the application of a provision of this title, or use
21 this exemption authority to modify a provision of this title,
22 when the Secretary or Transportation Board finds that
23 the application of that provision in whole or in part—

24 “(1) is not necessary to carry out the transpor-
25 tation policy of section 13101 of this title; and

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

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

11 “(b) The Secretary or Transportation Board, as ap-
12 plicable, may, where appropriate, begin a proceeding
13 under this section on the Secretary’s or Transportation
14 Board’s own initiative or on application by an interested
15 party.

16 “(c) The Secretary or Transportation Board, as ap-
17 plicable, may specify the period of time during which an
18 exemption granted under this section is effective.

19 “(d) The Secretary or Transportation Board, as ap-
20 plicable, may revoke an exemption, to the extent specified,
21 on finding that application of a provision of this title to
22 the person, class, or transportation is necessary to carry
23 out the transportation policy of section 13101 of this title.

24 “(e) This exemption authority may not be used to re-
25 lieve a person (except a person that would have been cov-

1 ered by a statutory exemption under subchapter II or IV
 2 of chapter 105 of this title that was repealed by the Inter-
 3 state Commerce Commission Sunset Act of 1995) from
 4 the application of, and compliance with, any law, rule, reg-
 5 ulation, standard, or order pertaining to cargo loss and
 6 damage; insurance; or safety fitness.

7 **“CHAPTER 137—RATES AND THROUGH ROUTES**

8 **“§ 13701. Requirements for reasonable rates, classi-**
 9 **fications, through routes, rules, and prac-**
 10 **tices for certain transportation**

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

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

17 “(ii) a joint rate for a through movement with
 18 a water carrier in non-contiguous domestic trade,
 19 must be reasonable.

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

23 “(b) When the Intermodal Surface Transportation
 24 Board finds it necessary to stop or prevent a violation of
 25 subsection (a), the Transportation Board shall prescribe

1 the rate, classification, rule, practice, through route, or di-
2 vision of joint rates to be applied for such transportation
3 or service.

4 **“§ 13702. Tariff requirement for certain transpor-**
5 **tation**

6 “(a) A carrier subject to jurisdiction under sub-
7 chapters I or III of chapter 135 of this title may provide
8 transportation or service that is

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

11 “(2) for movement of household goods described
12 in section 13102(9)(A)(i) of this title,

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

22 “(b)(1) A carrier providing transportation or service
23 described in paragraph (1) of subsection (a) shall publish
24 and file with the Intermodal Surface Transportation
25 Board tariffs containing the rates established for such

1 transportation or service. The Transportation Board may
2 prescribe other information that carriers shall include in
3 such tariffs.

4 “(2) Carriers that publish tariffs under this sub-
5 section shall keep them open for public inspection.

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

12 “(1) the carriers that are parties to it;

13 “(2) the places between which property will be
14 transported;

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

18 “(4) privileges given and facilities allowed; and

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

21 “(d) The Transportation Board may permit carriers
22 to change rates, classifications, rules, and practices with-
23 out filing complete tariffs that cover matter that is not
24 being changed when the Transportation Board finds that

1 action to be consistent with the public interest. Those car-
2 riers may either—

3 “(1) publish new tariffs that incorporate
4 changes, or

5 “(2) plainly indicate the proposed changes in
6 the tariffs then in effect and kept open for public in-
7 spection.

8 “(e) The Transportation Board may reject a tariff
9 submitted to it by a carrier under subsection (b) if that
10 tariff violates this section or regulation of the Transpor-
11 tation Board carrying out this section.

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

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

24 “(3) A carrier that maintains a tariff under this sub-
25 section is bound by the tariff except as otherwise provided

1 in this subtitle. A carrier that does not maintain a tariff
 2 as provided in this subsection may not enforce the tariff
 3 against any individual shipper except as otherwise pro-
 4 vided in this subtitle, and shall not transport household
 5 goods described in section 13102(9)(A)(i).

6 “(4) A carrier may incorporate by reference the rates,
 7 terms, and other conditions in a tariff in agreements cov-
 8 ering the transportation of household goods (except those
 9 household goods described in section 13102(9)(A)(i)), if
 10 the tariff is maintained as provided in this subsection and
 11 the agreement gives notice of the incorporation and of the
 12 availability of the tariff for inspection by the commercial
 13 shipper.

14 “(5) A complaint that a rate or related rule or prac-
 15 tice maintained in a tariff under this subsection violates
 16 section 13701(a) may be filed with the Transportation
 17 Board.

18 **“§ 13703. Certain collective activities; exemption from**
 19 **antitrust laws**

20 “(a) AGREEMENTS.—

21 “(1) AUTHORITY TO ENTER.—A motor carrier
 22 providing transportation or service subject to juris-
 23 diction under chapter 135 may enter into an agree-
 24 ment with one or more such carriers to establish—

25 “(A) through routes and joint rates;

1 “(B) rates for the transportation of house-
2 hold goods described in section 13102(9)(a);

3 “(C) classifications;

4 “(D) mileage guides;

5 “(E) rules;

6 “(F) divisions;

7 “(G) rate adjustments of general applica-
8 tion based on industry average carrier costs (so
9 long as there is no discussion of individual mar-
10 kets or particular single-line rates); or

11 “(H) procedures for joint consideration,
12 initiation, or establishment of matters described
13 in subparagraphs (a) through (g).

14 “(2) SUBMISSION OF AGREEMENT TO PANEL;
15 APPROVAL.—An agreement entered into under sub-
16 section (a) may be submitted by any carrier or car-
17 riers that are parties to such agreement to the panel
18 for approval and may be approved by the panel only
19 if it finds that such agreement is in the public inter-
20 est.

21 “(3) CONDITIONS.—The panel may require
22 compliance with reasonable conditions consistent
23 with this part to assure that the agreement furthers
24 the transportation policy set forth in section 13101.

1 “(4) INVESTIGATIONS.—The panel may sus-
2 pend and investigate the reasonableness of any clas-
3 sification or rate adjustment of general application
4 made pursuant to an agreement under this section.

5 “(5) EFFECT OF APPROVAL.—If the panel ap-
6 proves the agreement or renews approval of the
7 agreement, it may be made and carried out under its
8 terms and under the conditions required by the
9 panel, and the antitrust laws, as defined in the first
10 section of the Clayton Act (15 U.S.C. 12), do not
11 apply to parties and other persons with respect to
12 making or carrying out the agreement.

13 “(b) RECORDS.—The panel may require an organiza-
14 tion established or continued under an agreement ap-
15 proved under this section to maintain records and submit
16 reports. The panel, or its delegate, may inspect a record
17 maintained under this section, or monitor any organiza-
18 tion’s compliance with this section.

19 “(c) REVIEW.—The panel may review an agreement
20 approved under this section, on its own initiative or on
21 request, and shall change the conditions of approval or
22 terminate it when necessary to protect the public interest
23 action of the panel under this section—

24 “(1) approving an agreement,

25 “(2) denying, ending, or changing approval,

1 “(3) prescribing the conditions on which ap-
2 proval is granted, or

3 “(4) changing those conditions, has effect only
4 as related to application of the antitrust laws re-
5 ferred to in subsection (a).

6 “(d) EXPIRATION OF APPROVALS; RENEWALS.—Sub-
7 ject to subsection (c), approval of an agreement under sub-
8 section (a) shall expire 3 years after the date of approval
9 unless renewed under this subsection. The approval may
10 be renewed upon request of the parties to the agreement
11 if such parties resubmit the agreement to the panel, the
12 agreement is unchanged, and the panel approves such re-
13 newal. The panel shall approve the renewal unless it finds
14 that the renewal is not in the public interest.

15 “(e) EXISTING AGREEMENTS.—Agreements approved
16 under former section 10706(b) and in effect on the day
17 before the effective date of this section shall be treated
18 for purposes of this section as approved by the panel under
19 this section beginning on such effective date.

20 “(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

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

24 “(2) OBLIGATION OF SHIPPER.—Nothing in
25 this title, the Interstate Commerce Commission Sun-

1 set Act of 1995, or any amendments or repeals
2 made by such Act shall be construed as creating any
3 obligation for a shipper based solely on a classifica-
4 tion that was on file with the Interstate Commerce
5 Commission or elsewhere on the day before the ef-
6 fective date of this section.

7 “(g) MILEAGE RATE LIMITATION.—No carrier sub-
8 ject to jurisdiction under subchapter I or III of chapter
9 135 of this title may enforce collection of its mileage rates
10 unless such carrier or forwarder maintains its own inde-
11 pendent publication of mileage and classification which
12 can be examined by any interested person upon reasonable
13 request or is a participant in a publication of mileages for-
14 mulated under an agreement approved under this section.

15 “(h) SINGLE LINE RATE DEFINED.—In this section,
16 the term ‘single line rate’ means a rate, charge, or allow-
17 ance proposed by a single motor carrier that is applicable
18 only over its line and for which the transportation can be
19 provided by that carrier.

20 **“§ 13704. Household goods rates—estimates; guaran-**
21 **tees of service**

22 “(a)(1) Subject to the provisions of paragraph (2) of
23 this subsection, a motor carrier providing transportation
24 of household goods subject to jurisdiction under sub-
25 chapter I of chapter 135 of this title may establish a rate

1 for the transportation of household goods which is based
2 on the carrier's written, binding estimate of charges for
3 providing such transportation.

4 “(2) Any rate established under this subsection must
5 be available on a nonpreferential basis to shippers and
6 must not result in charges to shippers which are preda-
7 tory.

8 “(b)(1) Subject to the provisions of paragraph (2) of
9 this subsection, a motor carrier providing transportation
10 of household goods subject to jurisdiction under sub-
11 chapter I of chapter 135 of this title may establish rates
12 for the transportation of household goods which guarantee
13 that the carrier will pick up and deliver such household
14 goods at the times specified in the contract for such serv-
15 ices and provide a penalty or per diem payment in the
16 event the carrier fails to pick up or deliver such household
17 goods at the specified time. The charges, if any, for such
18 guarantee and penalty provision may vary to reflect one
19 or more options available to meet a particular shipper's
20 needs.

21 “(2) Before a carrier may establish a rate for any
22 service under paragraph (1) of this subsection, the Sec-
23 retary of Transportation may require such carrier to have
24 in effect and keep in effect, during any period such rate
25 is in effect under such paragraph, a rate for such service

1 which does not guarantee the pick up and delivery of
2 household goods at the times specified in the contract for
3 such services and which does not provide a penalty or per
4 diem payment in the event the carrier fails to pick up or
5 deliver household goods at the specified time.

6 **“§ 13705. Requirements for through routes among**
7 **motor carriers of passengers**

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

12 “(b) A through route between motor carriers provid-
13 ing transportation of passengers subject to jurisdiction
14 under subchapter I of chapter 135 must be reasonable.

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

22 **“§ 13706. Liability for payment of rates**

23 “(a) Liability for payment of rates for transportation
24 for a shipment of property by a shipper or consignor to
25 a consignee other than the shipper or consignor, is deter-

1 mined under this section when the transportation is pro-
2 vided by motor carrier under this part. When the shipper
3 or consignor instructs the carrier transporting the prop-
4 erty to deliver it to a consignee that is an agent only, not
5 having beneficial title to the property, the consignee is lia-
6 ble for rates billed at the time of delivery for which the
7 consignee is otherwise liable, but not for additional rates
8 that may be found to be due after delivery if the consignee
9 gives written notice to the delivering carrier before delivery
10 of the property—

11 “(1) of the agency and absence of beneficial
12 title; and

13 “(2) of the name and address of the beneficial
14 owner of the property if it is reconsigned or diverted
15 to a place other than the place specified in the origi-
16 nal bill of lading.

17 “(b) When the consignee is liable only for rates billed
18 at the time of delivery under subsection (a) of this section,
19 the shipper or consignor, or, if the property is reconsigned
20 or diverted, the beneficial owner is liable for those addi-
21 tional rates regardless of the bill of the lading or contract
22 under which the property was transported. The beneficial
23 owner is liable for all rates when the property is
24 reconsigned or diverted by an agent but is refused or
25 abandoned at its ultimate destination if the agent gave

1 the carrier in the reconsignment or diversion order a no-
2 tice of agency and the name and address of the beneficial
3 owner. A consignee giving the carrier erroneous informa-
4 tion about the identity of the beneficial owner of the prop-
5 erty is liable for the additional rates.

6 **“§ 13707. Billing and collecting practices**

7 “(a) A motor carrier subject to jurisdiction under
8 subchapter I of chapter 135 shall disclose, when a docu-
9 ment is presented or electronically transmitted for pay-
10 ment to the person responsible directly to the motor car-
11 rier for payment or agent of such responsible person, the
12 actual rates, charges, or allowances for any transportation
13 service. No person may cause a motor carrier to present
14 false or misleading information on a document about the
15 actual rate, charge, or allowance to any party to the trans-
16 action. When the actual rate, charge, or allowance is de-
17 pendent upon the performance of a service by a party to
18 the transportation arrangement, such as tendering a vol-
19 ume of freight over a stated period of time, the motor car-
20 rier shall indicate in any document presented for payment
21 to the person responsible directly to the motor carrier that
22 a reduction, allowance, or other adjustment may apply.

23 “(b) The Transportation Board shall promulgate reg-
24 ulations that prohibit a motor carrier subject to jurisdic-
25 tion under subchapter II of chapter 105 of this title from

1 providing a reduction in a rate for the provision of trans-
2 portation of property to any person other than—

3 “(1) the person paying the motor carrier di-
4 rectly for the transportation service according to the
5 bill of lading, receipt, or contract; or

6 “(2) an agent of the person paying for the
7 transportation.

8 **“§ 13708. Procedures for resolving claims involving**
9 **unfiled, negotiated transportation rates**

10 “(a) IN GENERAL.—When a claim is made by a
11 motor carrier of property (other than a household goods
12 carrier) providing transportation subject to jurisdiction
13 under subchapter II of chapter 105 of this title (as in ef-
14 fect on the day before the effective date of this section)
15 or subchapter I of chapter 135 of this title, by a freight
16 forwarder (other than a household goods freight for-
17 warder), or by a party representing such a carrier or
18 freight forwarder regarding the collection of rates or
19 charges for such transportation in addition to those origi-
20 nally billed and collected by the carrier or freight for-
21 warder for such transportation, the person against whom
22 the claim is made may elect to satisfy the claim under
23 the provisions of subsection (b), (c), or (d) , upon showing
24 that—

1 “(1) the carrier or freight forwarder is no
2 longer transporting property or is transporting prop-
3 erty for the purpose of avoiding the application of
4 this section; and

5 “(2) with respect to the claim—

6 “(A) the person was offered a transpor-
7 tation rate by the carrier or freight forwarder
8 other than that legally on file at the time with
9 the Transportation Board or with the former
10 Interstate Commerce Commission, as required,
11 for the transportation service;

12 “(B) the person tendered freight to the
13 carrier or freight forwarder in reasonable reli-
14 ance upon the offered transportation rate;

15 “(C) the carrier or freight forwarder did
16 not properly or timely file with the Transpor-
17 tation Board or with the former Interstate
18 Commerce Commission, as required, a tariff
19 providing for such transportation rate or failed
20 to enter into an agreement for contract car-
21 riage;

22 “(D) such transportation rate was billed
23 and collected by the carrier or freight for-
24 warder; and

1 “(E) the carrier or freight forwarder de-
2 mands additional payment of a higher rate filed
3 in a tariff.

4 If there is a dispute as to the showing under para-
5 graph (1), such dispute shall be resolved by the
6 court in which the claim is brought. If there is a dis-
7 pute as to the showing under paragraph (2), such
8 dispute shall be resolved by the Intermodal Surface
9 Transportation Board. Pending the resolution of any
10 such dispute, the person shall not have to pay any
11 additional compensation to the carrier or freight for-
12 warder. Satisfaction of the claim under subsection
13 (b), (c), or (d) shall be binding on the parties, and
14 the parties shall not be subject to chapter 149 of
15 this title or chapter 119 of this title, as such chapter
16 was in effect on the date before the date of enact-
17 ment of the Interstate Commerce Commission Sun-
18 set Act of 1995.

19 “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING
20 10,000 POUNDS OR LESS.—A person from whom the ad-
21 ditional legally applicable and effective tariff rate or
22 charges are sought may elect to satisfy the claim if the
23 shipments each weighed 10,000 pounds or less, by pay-
24 ment of 20 percent of the difference between the carrier’s
25 applicable and effective tariff rate and the rate originally

1 billed and paid. In the event that a dispute arises as to
2 the rate that was legally applicable to the shipment, such
3 dispute shall be resolved by the Transportation Board .

4 “(c) CLAIMS INVOLVING SHIPMENTS WEIGHING
5 MORE THAN 10,000 POUNDS.—A person from whom the
6 additional legally applicable and effective tariff rate or
7 charges are sought may elect to satisfy the claim if the
8 shipments each weighed more than 10,000 pounds, by
9 payment of 15 percent of the difference between the car-
10 rier’s applicable and effective tariff rate and the rate origi-
11 nally billed and paid. In the event that a dispute arises
12 as to the rate that was legally applicable to the shipment,
13 such dispute shall be resolved by the Transportation
14 Board.

15 “(d) CLAIMS INVOLVING PUBLIC WAREHOUSE-
16 MEN.—Notwithstanding subsections (b) and (c), a person
17 from whom the additional legally applicable and effective
18 tariff rate or charges are sought may elect to satisfy the
19 claim by payment of 5 percent of the difference between
20 the carrier’s applicable and effective tariff rate and the
21 rate originally billed and paid if such person is a public
22 warehouseman. In the event that a dispute arises as to
23 the rate that was legally applicable to the shipment, such
24 dispute shall be resolved by the Transportation Board.

1 “(e) EFFECTS OF ELECTION.—When a person from
2 whom additional legally applicable freight rates or charges
3 are sought does not elect to use the provisions of sub-
4 sections (b), (c) or (d), the person may pursue all rights
5 and remedies existing under this part or, for transpor-
6 tation provided before the effective date of this section,
7 all rights and remedies that existed under this title on the
8 day before the date of enactment of the Interstate Com-
9 merce Commission Sunset Act of 1995.

10 “(f) STAY OF ADDITIONAL COMPENSATION.—When
11 a person proceeds under this section to challenge the rea-
12 sonableness of the legally applicable freight rate or
13 charges being claimed by a carrier or freight forwarder
14 described in subsection (a) in addition to those already
15 billed and collected, the person shall not have to pay any
16 additional compensation to the carrier or freight forwarder
17 until the Transportation Board has made a determination
18 as to the reasonableness of the challenged rate as applied
19 to the freight of the person against whom the claim is
20 made.

21 “(g) NOTIFICATION OF ELECTION.—

22 “(1) GENERAL RULE.—A person must notify
23 the carrier or freight forwarder as to its election to
24 proceed under subsection (b), (c), or (d). Except as

1 provided in paragraphs (2), (3), and (4), such elec-
2 tion may be made at any time.

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

13 “(A) the 60th day following the filing of an
14 answer to a suit for the collection of such addi-
15 tional legally applicable freight rate or charges,
16 or

17 “(B) March 5, 1994.

18 “(3) PENDING SUITS FOR COLLECTION MADE
19 BEFORE DECEMBER 4, 1993.—If the carrier or
20 freight forwarder or party representing such carrier
21 or freight forwarder has filed, before December 4,
22 1993, a suit for the collection of additional freight
23 charges and notifies the person from whom addi-
24 tional freight charges are sought of the provisions of
25 subsections (a) through (f), the election must be

1 made not later than the 90th day following the date
2 on which such notification is received.

3 “(4) DEMANDS FOR PAYMENT MADE BEFORE
4 DECEMBER 4, 1993.—If the carrier or freight for-
5 warder or party representing such carrier or freight
6 forwarder has demanded the payment of additional
7 freight charges, and has not filed a suit for the col-
8 lection of such additional freight charges, before De-
9 cember 4, 1993, and notifies the person from whom
10 additional freight charges are sought of the provi-
11 sions of subsections (a) through (f), the election
12 must be made not later than the later of—

13 “(A) the 60th day following the filing of an
14 answer to a suit for the collection of such addi-
15 tional legally applicable freight rate or charges,
16 or

17 “(B) March 5, 1994.

18 “(h) CLAIMS INVOLVING SMALL-BUSINESS CON-
19 CERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE
20 MATERIALS.—Notwithstanding subsections (b), (c), and
21 (d), a person from whom the additional legally applicable
22 and effective tariff rate or charges are sought shall not
23 be liable for the difference between the carrier’s applicable
24 and effective tariff rate and the rate originally billed and
25 paid—

1 “(1) if such person qualifies as a small-business
2 concern under the Small Business Act (15 U.S.C.
3 631 et seq.),

4 “(2) if such person is an organization which is
5 described in section 501(c)(3) of the Internal Reve-
6 nue Code of 1986 and exempt from tax under sec-
7 tion 501(a) of such Code, or

8 “(3) if the cargo involved in the claim is recy-
9 clable materials. In this provision, ‘recyclable mate-
10 rials’ means waste products for recycling or reuse in
11 the furtherance of recognized pollution control pro-
12 grams.

13 **“§ 13709. Additional motor carrier undercharge pro-**
14 **visions**

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

22 “(2) In those cases where a motor carrier (other than
23 a motor carrier providing transportation of household
24 goods or in noncontiguous domestic trade) seeks to collect
25 charges in addition to those billed and collected which are

1 contested by the payor, the carrier may request that the
2 Transportation Board determine whether any additional
3 charges over those billed and collected must be paid. A
4 carrier must issue any bill for charges in addition to those
5 originally billed within 180 days of the receipt of the origi-
6 nal bill in order to have the right to collect such charges.

7 “(3) If a shipper seeks to contest the charges origi-
8 nally billed, the shipper may request that the Transpor-
9 tation Board determine whether the charges originally
10 billed must be paid. A shipper must contest the original
11 bill within 180 days in order to have the right to contest
12 such charges.

13 “(4) Any tariff on file with the Interstate Commerce
14 Commission on August 26, 1994, not required to be filed
15 after that date is null and void beginning on that date.
16 Any tariff on file with the Interstate Commerce Commis-
17 sion on the effective date of the Interstate Commerce
18 Commission Sunset Act of 1995 not required to be filed
19 after that date is null and void beginning on that date.

20 “(b) If a motor carrier (other than a motor carrier
21 providing transportation of household goods) subject to ju-
22 risdiction under subchapter I of chapter 135 of this title
23 had authority to provide transportation as both a motor
24 common carrier and a motor contract carrier and a dis-
25 pute arises as to whether certain transportation that was

1 provided prior to the effective date of the Interstate Com-
2 merce Commission Sunset Act of 1995 was provided in
3 its common carrier or contract carrier capacity and the
4 parties are not able to resolve the dispute consensually,
5 the Transportation Board shall resolve the dispute.

6 **“§ 13710. Alternative procedure for resolving under-**
7 **charge disputes**

8 “(a) GENERAL RULE.—It shall be an unreasonable
9 practice for a motor carrier of property (other than a
10 household goods carrier) providing transportation that is
11 subject to jurisdiction of subchapter I of chapter 135 of
12 this title or was subject to jurisdiction under subchapter
13 II of chapter 105 of this title, a freight forwarder (other
14 than a household goods freight forwarder), or a party rep-
15 resenting such a carrier or freight forwarder to attempt
16 to charge or to charge for a transportation service the dif-
17 ference between—

18 “(1) the applicable rate that was lawfully in ef-
19 fect pursuant to a tariff that was filed in accordance
20 with this chapter, or with respect to transportation
21 provided before the effective date of this section in
22 accordance with chapter 107 of this title as in effect
23 on the date the transportation service was provided
24 by the carrier or freight forwarder applicable to such
25 transportation service; and

1 “(2) the negotiated rate for such transportation
2 service if the carrier or freight forwarder is no
3 longer transporting property between places de-
4 scribed in section 13501(1) of this title or is trans-
5 porting property between places described in section
6 13501(1) of this title for the purpose of avoiding the
7 application of this section.

8 “(b) JURISDICTION OF TRANSPORTATION BOARD.—
9 The Intermodal Surface Transportation Board shall have
10 jurisdiction to make a determination of whether or not at-
11 tempting to charge or the charging of a rate by a motor
12 carrier or freight forwarder or party representing a motor
13 carrier or freight forwarder is an unreasonable practice
14 under subsection (a). If the Transportation Board deter-
15 mines that attempting to charge or the charging of the
16 rate is an unreasonable practice under subsection (a), the
17 carrier, freight forwarder, or party may not collect the dif-
18 ference described in subsection (a) between the applicable
19 rate and the negotiated rate for the transportation service.
20 In making such determination, the Transportation Board
21 shall consider—

22 “(1) whether the person was offered a transpor-
23 tation rate by the carrier or freight forwarder or
24 party other than that legally on file with the Trans-
25 portation Board or with the Interstate Commerce

1 Commission, as required, at the time of the move-
2 ment for the transportation service;

3 “(2) whether the person tendered freight to the
4 carrier or freight forwarder in reasonable reliance
5 upon the offered transportation rate;

6 “(3) whether the carrier or freight forwarder
7 did not properly or timely file with the Transpor-
8 tation Board or with the Interstate Commerce Com-
9 mission, as required, a tariff providing for such
10 transportation rate or failed to enter into an agree-
11 ment for contract carriage;

12 “(4) whether the transportation rate was billed
13 and collected by the carrier or freight forwarder; and

14 “(5) whether the carrier or freight forwarder or
15 party demands additional payment of a higher rate
16 filed in a tariff.

17 “(c) STAY OF ADDITIONAL COMPENSATION.—When
18 a person proceeds under this section to challenge the rea-
19 sonableness of the practice of a motor carrier, freight for-
20 warder, or party described in subsection (a) to attempt
21 to charge or to charge the difference described in sub-
22 section (a) between the applicable rate and the negotiated
23 rate for the transportation service in addition to those
24 charges already billed and collected for the transportation
25 service, the person shall not have to pay any additional

1 compensation to the carrier, freight forwarder, or party
2 until the Transportation Board has made a determination
3 as to the reasonableness of the practice as applied to the
4 freight of the person against whom the claim is made.

5 “(d) TREATMENT.—Subsection (a) is an exception to
6 the requirements of section 13702, and for transportation
7 prior to the effective date of the Interstate Commerce
8 Commission Sunset Act of 1995, to the requirements of
9 sections 10761(a) and 10762 of this title as in effect on
10 the date before the date of enactment of the Interstate
11 Commerce Commission Sunset Act of 1995, relating to a
12 filed tariff rate and other general tariff requirements.

13 “(e) NONAPPLICABILITY OF NEGOTIATED RATE DIS-
14 PUTIVE RESOLUTION PROCEDURE.—If a person elects to
15 seek enforcement of subsection (a) with respect to a rate
16 for a transportation or service, section 13708 of this part
17 shall not apply to such rate.

18 “(f) DEFINITIONS.—For purposes of this section, the
19 term ‘negotiated rate’ means a rate, charge, classification,
20 or rule agreed upon by a motor carrier or freight for-
21 warder and a shipper through negotiations pursuant to
22 which no tariff was lawfully and timely filed and for which
23 there is written evidence of such agreement.

1 **“§ 13711. Government traffic**

2 “A carrier providing transportation or service for the
3 United States Government may transport property or indi-
4 viduals for the United States Government without charge
5 or at a rate reduced from the applicable commercial rate.
6 Section 3709 of the Revised Statutes (41 U.S.C. 5) does
7 not apply when transportation for the United States Gov-
8 ernment can be obtained from a carrier lawfully operating
9 in the area where the transportation would be provided.

10 **“§ 13712. Food and grocery transportation**

11 “(a) CERTAIN COMPENSATION PROHIBITED.—Not-
12 withstanding any other provision of law, it shall not be
13 unlawful for a seller of food and grocery products using
14 a uniform zone delivered pricing system to compensate a
15 customer who picks up purchased food and grocery prod-
16 ucts at the shipping point of the seller if such compensa-
17 tion is available to all customers of the seller on a non-
18 discriminatory basis and does not exceed the actual cost
19 to the seller of delivery to such customer.

20 “(b) SENSE OF CONGRESS.—It is the sense of the
21 Congress that any savings accruing to a customer by rea-
22 son of compensation permitted by subsection (a) of this
23 section should be passed on to the ultimate consumer.

“CHAPTER 139—REGISTRATION**2 “§ 13901. Requirement for registration**

3 “A person may provide transportation or service sub-
4 ject to jurisdiction under subchapter I or III of chapter
5 135 of this title or be a broker for transportation subject
6 to jurisdiction under subchapter I of that chapter, only
7 if the person is currently registered under this chapter to
8 provide the transportation or service.

9 “§ 13902. Registration of motor carriers

10 “(a)(1) Except as provided in this section, the Sec-
11 retary of Transportation shall register a person to provide
12 transportation subject to jurisdiction under subchapter I
13 of chapter 135 of this title as a motor carrier if the Sec-
14 retary finds that the person is willing and able to comply
15 with—

16 “(A) this part, the applicable regulations of the
17 Secretary and the Intermodal Surface Transpor-
18 tation Board, and any safety requirements imposed
19 by the Secretary,

20 “(B) the safety fitness requirements established
21 by the Secretary under section 31144 of this title,
22 and

23 “(C) the minimum financial responsibility re-
24 quirements established by the Secretary pursuant to
25 sections 13906 and 31128 of this title.

1 “(2) The Secretary shall consider and, to the extent
2 applicable, make findings on, any evidence demonstrating
3 that the registrant is unable to comply with the require-
4 ments of subparagraph (A), (B), or (C) of paragraph (1).

5 “(3) The Secretary shall find any registrant as a
6 motor carrier under this section to be unfit if the reg-
7 istrant does not meet the fitness requirements under para-
8 graph (1) of this subsection and shall withhold registra-
9 tion.

10 “(4) The Secretary may hear a complaint from any
11 person concerning a registration under this subsection
12 only on the ground that the registrant fails or will fail
13 to comply with this part, the applicable regulations of the
14 Secretary and the Transportation Board, the safety re-
15 quirements of the Secretary, or the safety fitness or mini-
16 mum financial responsibility requirements of paragraph
17 (1) of this subsection.

18 “(b) MOTOR CARRIERS OF PASSENGERS.—

19 “(1) REGISTRATION OF PRIVATE RECIPIENTS
20 OF GOVERNMENT ASSISTANCE.—The Secretary shall
21 register under subsection (a)(1) a private recipient
22 of governmental assistance to provide special or
23 charter transportation subject to jurisdiction under
24 subchapter I of chapter 135 as a motor carrier of
25 passengers if the Secretary finds that the recipient

1 meets the requirements of subsection (a)(1), unless
2 the Secretary finds, on the basis of evidence pre-
3 sented by any person objecting to the registration,
4 that the transportation to be provided pursuant to
5 the registration is not in the public interest.

6 “(2) REGISTRATION OF PUBLIC RECIPIENTS OF
7 GOVERNMENTAL ASSISTANCE.—

8 “(A) CHARTER TRANSPORTATION.—The
9 Secretary shall register under subsection (a)(1)
10 a public recipient of governmental assistance to
11 provide special or charter transportation subject
12 to jurisdiction under subchapter I of chapter
13 135 as a motor carrier of passengers if the Sec-
14 retary finds that—

15 “(i) the recipient meets the require-
16 ments of subsection (a)(1); and

17 “(ii)(I) no motor carrier of passengers
18 (other than a motor carrier of passengers
19 which is a public recipient of governmental
20 assistance) is providing, or is willing to
21 provide, the transportation; or

22 “(II) the transportation is to be pro-
23 vided entirely in the area in which the pub-
24 lic recipient provides regularly scheduled
25 mass transportation services.

1 “(B) REGULAR-ROUTE TRANSPOR-
2 TATION.—The Secretary shall register under
3 subsection (a)(1) a public recipient of govern-
4 mental assistance to provide regular-route
5 transportation subject to jurisdiction under sub-
6 chapter I of chapter 135 as a motor carrier of
7 passengers if the Secretary finds that the recip-
8 ient meets the requirements of subsection
9 (a)(1), unless the Secretary finds, on the basis
10 of evidence presented by any person objecting
11 to the registration, that the transportation to be
12 provided pursuant to the registration is not in
13 the public interest.

14 “(C) TREATMENT OF CERTAIN PUBLIC RE-
15 CIPIENTS.—Any public recipient of govern-
16 mental assistance which is providing or seeking
17 to provide transportation of passengers subject
18 to jurisdiction under subchapter I of chapter
19 135 shall, for purposes of this part, be treated
20 as a person which is providing or seeking to
21 provide transportation of passengers subject to
22 such jurisdiction.

23 “(3) INTRASTATE TRANSPORTATION BY INTER-
24 STATE CARRIERS.—A motor carrier of passengers
25 that is registered by the Secretary under subsection

1 (a) is authorized to provide regular-route transpor-
2 tation entirely in one State as a motor carrier of
3 passengers if such intrastate transportation is to be
4 provided on a route over which the carrier provides
5 interstate transportation of passengers.

6 “(4) JURISDICTION OVER CERTAIN INTRASTATE
7 TRANSPORTATION.—Any intrastate transportation
8 authorized under this subsection shall be deemed to
9 be transportation subject to jurisdiction under sub-
10 chapter I of chapter 135 of this title until such time,
11 not later than 30 days after the date on which a
12 motor carrier of passengers first begins providing
13 transportation entirely in one State pursuant to this
14 paragraph, as the carrier takes such action as is
15 necessary to establish under the laws of such State
16 rates, rules, and practices applicable to such trans-
17 portation.

18 “(5) SPECIAL OPERATIONS.—This subsection
19 shall not apply to any regular-route transportation
20 of passengers provided entirely in one State which is
21 in the nature of a special operation.

22 “(6) REVOCATION OF AUTHORITY FOR INTRA-
23 STATE TRANSPORTATION.—Notwithstanding para-
24 graph (3) of this subsection, intrastate transpor-
25 tation authorized under this subsection may be sus-

1 pended or revoked by the Secretary under section
2 13905 of this title at any time.

3 “(7) PREEMPTION OF STATE REGULATION.—

4 No State or political subdivision thereof and no
5 interstate agency or other political agency of two or
6 more States shall enact or enforce any law, rule, reg-
7 ulation, standard or other provision having the force
8 and effect of law relating to the provision of pickup
9 and delivery of express packages, newspapers, or
10 mail in a commercial zone if the shipment has had
11 or will have a prior or subsequent movement by bus
12 in intrastate commerce and, if a city within the com-
13 mercial zone, is served by a motor carrier of pas-
14 sengers providing regular-route transportation of
15 passengers subject to jurisdiction under subchapter
16 I of chapter 135 of this title.

17 “(8) DEFINITIONS.—In this subsection, the fol-
18 lowing definitions apply:

19 “(A) PUBLIC RECIPIENT OF GOVERN-
20 MENTAL ASSISTANCE.—The term ‘public recipi-
21 ent of governmental assistance’ means—

22 “(i) any State,

23 “(ii) any municipality or other politi-
24 cal subdivision of a State,

1 “(iii) any public agency or instrumen-
2 tality of one or more states and municipali-
3 ties and political subdivisions of a State,

4 “(iv) any Indian tribe,

5 “(v) any corporation, board, or other
6 person owned or controlled by any entity
7 described in clause (i), (ii), (iii), or (iv),
8 and

9 which, before, on, or after the effective date of
10 this subsection received governmental assistance
11 for the purchase or operation of any bus.

12 “(B) PRIVATE RECIPIENT OF GOVERN-
13 MENT ASSISTANCE.—The term ‘private recipi-
14 ent of government assistance’ means any person
15 (other than a person described in subparagraph
16 (A)) who before, on or after the effective date
17 of this paragraph received governmental finan-
18 cial assistance in the form of a subsidy for the
19 purchase, lease, or operation of any bus.

20 “(C) RESTRICTIONS ON MOTOR CARRIERS DOMI-
21 CILED IN OR OWNED OR CONTROLLED BY NATIONALS OF
22 A CONTIGUOUS FOREIGN COUNTRY.—

23 “(1) If the President of the United States, or
24 his or her delegate, determines that an act, policy,
25 or practice of a foreign country contiguous to the

1 United States, or any political subdivision or any in-
2 strumentality of any such country is unreasonable or
3 discriminatory and burdens or restricts United
4 States transportation companies providing, or seek-
5 ing to provide, motor carrier transportation of prop-
6 erty or passengers to, from, or within such foreign
7 country, the President, or his or her delegate, may—

8 “(A) seek elimination of such practices
9 through consultations; or

10 “(B) notwithstanding any other provision
11 of law, suspend, modify, amend, condition, or
12 restrict operations, including geographical re-
13 striction of operations, in the United States by
14 motor carriers of property or passengers domi-
15 ciled in such foreign country or owned or con-
16 trolled by persons of such foreign country.

17 “(2) Any action taken under paragraph (1)(A)
18 to eliminate an act, policy, or practice shall be so de-
19 vised so as to equal to the extent possible the bur-
20 dens or restrictions imposed by such foreign country
21 on United States transportation companies.

22 “(3) The President, or his or her delegate, may
23 remove or modify in whole or in part any action
24 taken under paragraph (1)(A) if the President, or
25 his or her delegate, determines that such removal or

1 modification is consistent with the obligations of the
2 United States under a trade agreement or with
3 United States transportation policy.

4 “(4) Unless and until the President or his or
5 her delegate makes a determination under para-
6 graphs (1) or (3) above, nothing in this subsection
7 shall affect—

8 “(A) operations of motor carriers of prop-
9 erty or passengers domiciled in any contiguous
10 foreign country or owned or controlled by per-
11 sons of any contiguous foreign country per-
12 mitted in the commercial zones along the Unit-
13 ed States-Mexico border as defined at the time
14 of enactment of the Interstate Commerce Com-
15 mission Sunset Act of 1995; or

16 “(B) any existing restrictions on oper-
17 ations of motor carriers of property or pas-
18 sengers domiciled in any contiguous foreign
19 country or owned or controlled by persons of
20 any contiguous foreign country or any modifica-
21 tions thereof pursuant to section 6 of the Bus
22 Regulatory Reform Act of 1982.

23 “(5) Unless the President, or his or her dele-
24 gate, determines that expeditious action is required,
25 the President shall publish in the Federal Register

1 any determination under paragraphs (1) or (3) to-
2 gether with a description of the facts on which such
3 a determination is based and any proposed action to
4 be taken pursuant to paragraphs (1)(B) or (3) and
5 provide an opportunity for public comments.

6 “(6) The President may delegate any or all au-
7 thority under this subsection to the Secretary of
8 Transportation, who shall consult with other agen-
9 cies as appropriate. In accordance with the direc-
10 tions of the President, the Secretary of Transpor-
11 tation may issue regulations to enforce this sub-
12 section.

13 “(7) Either the Secretary of Transportation or
14 the Attorney General may bring a civil action in an
15 appropriate district court of the United States to en-
16 force this subsection or a regulation prescribed or
17 order issued under this subsection. The court may
18 award appropriate relief, including injunctive relief.

19 “(8) This subsection shall not affect the re-
20 quirement for all foreign motor carriers and foreign
21 motor private carriers operating in the United
22 States to fully comply with all applicable laws and
23 regulations pertaining to fitness; safety of oper-
24 ations; financial responsibility; and taxes imposed by
25 section 4481 of the Internal Revenue Code of 1994.

1 **“§ 13903. Registration of freight forwarders**

2 “(a) The Secretary of Transportation shall register
3 a person to provide service subject to jurisdiction under
4 subchapter III of chapter 135 as a freight forwarder, if
5 the Secretary finds that the person is fit, willing, and able
6 to provide the service and to comply with this part and
7 applicable regulations of the Secretary and the Intermodal
8 Surface Transportation Board.

9 “(b) The freight forwarder may provide transpor-
10 tation as the carrier itself only if the freight forwarder
11 also has been registered to provide transportation as a car-
12 rier under this chapter.

13 **“§ 13904. Registration of motor carrier brokers**

14 “(a) The Secretary of Transportation shall register,
15 subject to section 13906(b) of this title, a person to be
16 a broker for transportation of property subject to jurisdic-
17 tion under subchapter I of chapter 135 of this title, if the
18 Secretary finds that the person is fit, willing, and able to
19 be a broker for transportation and to comply with this
20 part and applicable regulations of the Secretary.

21 “(b)(1) The broker may provide the transportation
22 itself only if the broker also has been registered to provide
23 the transportation under this chapter.

24 “(2) This subsection does not apply to a motor car-
25 rier registered under this chapter or to an employee or
26 agent of the motor carrier to the extent the transportation

1 is to be provided entirely by the motor carrier, with other
2 registered motor carriers, or with rail or water carriers.

3 “(c) Regulations of the Secretary shall provide for the
4 protection of shippers by motor vehicle, to be observed by
5 brokers.

6 “(d) The Secretary may impose on brokers for motor
7 carriers of passengers such requirements for bonds or in-
8 surance or both as the Secretary determines are needed
9 to protect passengers and carriers dealing with such bro-
10 kers.

11 **“§ 13905. Effective periods of registration**

12 “(a) Each registration under section 13902, 13903,
13 or 13904 of this title is effective from the date specified
14 by the Secretary of Transportation and remains in effect
15 for a period of 5 years except as otherwise provided in
16 this section or in section 13906. The Secretary may re-
17 quire any carrier or registrant to provide periodic updat-
18 ing of carrier information.

19 “(b) On application of the holder, the Secretary may
20 amend or revoke a registration. On complaint or on the
21 Secretary’s own initiative and after notice and an oppor-
22 tunity for a proceeding, the Secretary may suspend,
23 amend, or revoke any part of the registration of a motor
24 carrier, broker, or freight forwarder for willful failure to
25 comply with this part, an applicable regulation or order

1 of the Secretary or of the Intermodal Surface Transpor-
2 tation Board, or a condition of its registration.

3 “(c)(1) Except on application of the holder, the Sec-
4 retary may revoke a registration of a motor carrier, freight
5 forwarder, or broker, only after the Secretary has issued
6 an order to the holder under section 14701 of this title
7 requiring compliance with this part, a regulation of the
8 Secretary, or a condition of the registration of the holder,
9 and the holder willfully does not comply with the order.

10 “(2) The Secretary may act under paragraph (1) of
11 this subsection only after giving the holder of the registra-
12 tion at least 30 days to comply with the order.

13 “(d)(1) Without regard to subchapter II of chapter
14 5 of title 5, the Secretary may suspend the registration
15 of a motor carrier, a freight forwarder, or a broker for
16 failure to comply with safety requirements of the Sec-
17 retary or the safety fitness requirements pursuant to sec-
18 tion 13904(c), 13906, or 31144, of this title, or an order
19 or regulation of the Secretary prescribed under those sec-
20 tions.

21 “(2) Without regard to subchapter II of chapter 5
22 of title 5, the Secretary may suspend a registration of a
23 motor carrier of passengers if the Secretary finds that
24 such carrier is conducting unsafe operations which are an
25 imminent hazard to public health or property.

1 “(3) The Secretary may suspend the registration only
2 after giving notice of the suspension to the holder. The
3 suspension remains in effect until the holder complies with
4 those applicable sections or, in the case of a suspension
5 under paragraph (2) of this subsection, until the Secretary
6 revokes such suspension.

7 **“§ 13906. Security of motor carriers, brokers, and**
8 **freight forwarders**

9 “(a)(1) The Secretary of Transportation may register
10 a motor carrier under section 13902 only if the registering
11 carrier (including a motor private carrier, a foreign motor
12 carrier, and a foreign motor private carrier) files with the
13 Secretary a bond, insurance policy, or other type of secu-
14 rity approved by the Secretary, in an amount not less than
15 such amount as the Secretary prescribes pursuant to, or
16 as is required by, sections 31138 and 31139 of this title,
17 and the laws of the State or States in which the carrier
18 is operating, to the extent applicable. The security must
19 be sufficient to pay, not more than the amount of the secu-
20 rity, for each final judgment against the carrier for bodily
21 injury to, or death of, an individual resulting from the neg-
22 ligent operation, maintenance, or use of motor vehicles,
23 or for loss or damage to property (except property referred
24 to in paragraph (3) of this subsection), or both. A registra-

1 tion remains in effect only as long as the carrier continues
2 to satisfy the security requirements of this paragraph.

3 “(2) A motor carrier and a foreign motor private car-
4 rier and foreign motor carrier operating in the United
5 States (when providing transportation between places in
6 a foreign country or between a place in one foreign coun-
7 try and a place in another foreign country) shall comply
8 with the requirements of sections 13303 and 13304. To
9 protect the public, the Secretary may require any such
10 motor carrier to file the type of security that a motor car-
11 rier is required to file under paragraph (1) of this sub-
12 section.

13 “(3) The Secretary may require a registered motor
14 carrier to file with the Secretary a type of security suffi-
15 cient to pay a shipper or consignee for damage to property
16 of the shipper or consignee placed in the possession of the
17 motor carrier as the result of transportation provided
18 under this part. A carrier required by law to pay a shipper
19 or consignee for loss, damage, or default for which a con-
20 necting motor carrier is responsible is subrogated, to the
21 extent of the amount paid, to the rights of the shipper
22 or consignee under any such security.

23 “(b) The Secretary may register a person as a broker
24 under section 13904 of this title only if the person files
25 with the Secretary a bond, insurance policy, or other type

1 of security approved by the Secretary to ensure that the
2 transportation for which a broker arranges is provided.
3 The registration remains in effect only as long as the
4 broker continues to satisfy the security requirements of
5 this subsection.

6 “(c)(1) The Secretary may register a person as a
7 freight forwarder under section 13903 of this title only
8 if the person files with the Secretary a bond, insurance
9 policy, or other type of security approved by the Secretary.
10 The security must be sufficient to pay, not more than the
11 amount of the security, for each final judgment against
12 the freight forwarder for bodily injury to, or death of, an
13 individual, or loss of, or damage to, property (other than
14 property referred to in paragraph (2) of this subsection),
15 resulting from the negligent operation, maintenance, or
16 use of motor vehicles by or under the direction and control
17 of the freight forwarder when providing transfer, collec-
18 tion, or delivery service under this part.

19 “(2) The Secretary may require a registered freight
20 forwarder to file with the Secretary a bond, insurance pol-
21 icy, or other type of security approved by the Secretary
22 sufficient to pay, not more than the amount of the secu-
23 rity, for loss of, or damage to, property for which the
24 freight forwarder provides service.

1 “(3) The freight forwarder’s registration remains in
2 effect only as long as the freight forwarder continues to
3 satisfy the security requirements of this subsection.

4 “(d) The Secretary may determine the type and
5 amount of security filed under this section. A motor car-
6 rier may submit proof of qualifications as a self-insurer
7 to satisfy the security requirements of this section. The
8 Secretary shall adopt regulations governing the standards
9 for approval as a self-insurer. Motor carriers which have
10 been granted authority to self-insure as of the date of en-
11 actment of the Interstate Commerce Commission Sunset
12 Act of 1995 shall retain that authority unless, for good
13 cause shown and after notice and an opportunity for a
14 hearing, the Secretary finds that the authority must be
15 revoked.

16 “(e) The Secretary shall promulgate regulations re-
17 quiring the submission to the Secretary of notices of insur-
18 ance cancellation sufficiently in advance of actual cancella-
19 tion so as to enable the Secretary to promptly revoke the
20 registration of any carrier or broker after the effective
21 date of the cancellation. The Secretary shall also prescribe
22 the appropriate form of endorsement to be appended to
23 policies of insurance and surety bonds which will subject
24 the insurance policy or surety bond to the full security
25 limits of the coverage required under this section.

1 **“§ 13907. Household goods agents**

2 “(a) Each motor carrier providing transportation of
3 household goods subject to jurisdiction under subchapter
4 I of chapter 135 of this title shall be responsible for all
5 acts or omissions of any of its agents which relate to the
6 performance of household goods transportation services
7 (including accessorial or terminal services) subject to ju-
8 risdiction under subchapter I of chapter 135 of this title
9 and which are within the actual or apparent authority of
10 the agent from the carrier or which are ratified by the
11 carrier.

12 “(b) Each motor carrier providing transportation of
13 household goods subject to jurisdiction under subchapter
14 I of chapter 135 of this title shall use due diligence and
15 reasonable care in selecting and maintaining agents who
16 are sufficiently knowledgeable, fit, willing, and able to pro-
17 vide adequate household goods transportation services (in-
18 cluding accessorial and terminal services) and to fulfill the
19 obligations imposed upon them by this part and by such
20 carrier.

21 “(c)(1) Whenever the Secretary of Transportation
22 has reason to believe from a complaint or investigation
23 that an agent providing household goods transportation
24 services (including accessorial and terminal services)
25 under the authority of a motor carrier providing transpor-
26 tation of household goods subject to jurisdiction under

1 subchapter I of chapter 135 of this title has violated sec-
2 tion 14901(e) or 14912 of this title or is consistently not
3 fit, willing, and able to provide adequate household goods
4 transportation services (including accessorial and terminal
5 services), the Secretary may issue to such agent a com-
6 plaint stating the charges and containing notice of the
7 time and place of a hearing which shall be held no later
8 than 60 days after service of the complaint to such agent.

9 “(2) Such agent shall have the right to appear at
10 such hearing and rebut the charges contained in the com-
11 plaint.

12 “(3) If such person does not appear at the hearing
13 or if the Secretary finds that the agent has violated section
14 14901(e) or 14912 of this title or is consistently not fit,
15 willing, and able to provide adequate household goods
16 transportation services (including accessorial and terminal
17 services), the Secretary may issue an order to compel com-
18 pliance with the requirement that the agent be fit, willing,
19 and able. Thereafter, the Secretary may issue an order
20 to limit, condition, or prohibit such agent from any in-
21 volvement in the transportation or provision of services in-
22 cidental to the transportation of household goods subject
23 to jurisdiction under subchapter I of chapter 135 of this
24 title if, after notice and an opportunity for a hearing, the
25 Secretary finds that such agent, within a reasonable time

1 after the date of issuance of a compliance order under this
2 section, but in no event less than 30 days after such date
3 of issuance, has willfully failed to comply with such order.

4 “(4) Upon filing of a petition with the Secretary by
5 an agent who is the subject of an order issued pursuant
6 to the second sentence of paragraph (3) of this subsection
7 and after notice, a hearing shall be held with an oppor-
8 tunity to be heard. At such hearing, a determination shall
9 be made whether the order issued pursuant to paragraph
10 (3) of this subsection should be rescinded.

11 “(5) Any agent adversely affected or aggrieved by an
12 order of the Secretary issued under this subsection may
13 seek relief in the appropriate United States court of ap-
14 peals as provided by and in the manner prescribed in chap-
15 ter 158 of title 28, United States Code.

16 “(d) The antitrust laws, as defined in the first section
17 of the Clayton Act (15 U.S.C. 12), do not apply to discus-
18 sions or agreements between a motor carrier providing
19 transportation of household goods subject to jurisdiction
20 under subchapter I of chapter 135 of this title and its
21 agents (whether or not an agent is also a carrier) related
22 solely to (1) rates for the transportation of household
23 goods under the authority of the principal carrier, (2) ac-
24 cessorial, terminal, storage, or other charges for services
25 incidental to the transportation of household goods trans-

1 ported under the authority of the principal carrier, (3) al-
2 lowances relating to transportation of household goods
3 under the authority of the principal carrier, and (4) own-
4 ership of a motor carrier providing transportation of
5 household goods subject to jurisdiction under subchapter
6 I of chapter 135 of this title by an agent or membership
7 on the board of directors of any such motor carrier by
8 an agent.

9 **“§ 13908. Registration and other reforms**

10 “(a) IN GENERAL.—Within 18 months after the date
11 of enactment of the Interstate Commerce Commission
12 Sunset Act of 1995, the Secretary, in cooperation with the
13 States, industry groups, and other interested parties shall
14 complete a rulemaking to determine whether, and to what
15 extent, the current Department of Transportation identi-
16 fication number system, the single State registration sys-
17 tem under section 14506, the registration system con-
18 tained in this chapter, and the financial responsibility in-
19 formation system under section 13906, should be replaced
20 with a single, on-line Federal system.

21 “(b) FACTORS TO BE CONSIDERED.—In conducting
22 the rulemaking under subsection (a), the Secretary shall,
23 at a minimum, consider the following factors:

24 “(1) Funding for State enforcement of motor
25 carrier safety regulations.

1 “(2) Whether the existing single State registra-
2 tion system is duplicative and burdensome.

3 “(3) The justification and need for collecting
4 the statutory fee for such system under section 145–
5 5(c)(2)(B)(iv).

6 “(4) The public safety.

7 “(5) The efficient delivery of transportation
8 services.

9 “(6) How, and under what conditions, to extend
10 the registration system to motor private carriers and
11 to carriers exempt under sections 13502, 13503, and
12 13506.

13 “(c) FEE SYSTEM.—The Secretary may establish,
14 under section 9701 of title 31, a fee system for registra-
15 tion and filing evidence of financial responsibility under
16 the new system under subsection (a). Fees collected under
17 the fee system shall cover the costs of operating and up-
18 grading the registration system, including all personnel
19 costs associated with the system. Fees collected under this
20 subsection may be credited to the Department of Trans-
21 portation appropriations account for purposes for which
22 such fees are collected, and shall be available for expendi-
23 ture until expended.

24 “(d) STATE REGISTRATION PROGRAMS.—If the Sec-
25 retary determines that no State should require insurance

1 filings or collect fees for such filings under section 14504,
2 the Secretary may prevent any State or political subdivi-
3 sion thereof, or any political authority of 2 or more States,
4 from imposing any insurance filing requirements or fees
5 that are for the same purposes as filings or fees the Sec-
6 retary requires under the new system under subsection
7 (a).

8 “(e) DEADLINE FOR CONCLUSION; MODIFICA-
9 TIONS.—Not later than 18 months after the date of enact-
10 ment of the Interstate Commerce Commission Sunset Act
11 of 1995, the Secretary—

12 “(1) shall conclude the rulemaking under this
13 section;

14 “(2) may implement such changes under this
15 section as the Secretary considers appropriate and in
16 the public interest; and

17 “(3) shall transmit to Congress a report on any
18 findings of the rulemaking and the changes being
19 implemented under this section, together with such
20 recommendations for legislative language necessary
21 to conform this part to such changes.

1 **“CHAPTER 141—OPERATIONS OF CARRIERS**

2 **“SUBCHAPTER I—GENERAL REQUIREMENTS**

3 **“§ 14101. Providing transportation and service**

4 “(a) A carrier providing transportation or service
5 subject to jurisdiction under chapter 135 of this title shall
6 provide the transportation or service on reasonable re-
7 quest. In addition, a motor carrier shall provide safe and
8 adequate service, equipment, and facilities.

9 “(b) A carrier providing transportation or service
10 subject to jurisdiction under chapter 135 of this title may
11 enter into a contract with a shipper, other than a shipper
12 of household goods described in section 13102(a)(A)(i), to
13 provide specified services under specified rates and condi-
14 tions. If the shipper and carrier in writing expressly waives
15 any or all rights and remedies under this part for the
16 transportation covered by the contract, the transportation
17 provided under that contract shall not be subject to those
18 provisions of this part, and may not be subsequently chal-
19 lenged on the ground that it violates such provision. The
20 parties may not waive the provisions governing registra-
21 tion, insurance, or safety fitness. The exclusive remedy for
22 any alleged breach of a contract entered into under this
23 subsection shall be an action in an appropriate State court
24 or United States district court, unless the parties other-
25 wise agree.

1 **“§ 14102. Leased motor vehicles**

2 “(a) The Secretary of Transportation may require a
3 motor carrier providing transportation subject to jurisdic-
4 tion under subchapter I of chapter 135 of this title that
5 uses motor vehicles not owned by it to transport property
6 under an arrangement with another party to—

7 “(1) make the arrangement in writing signed
8 by the parties specifying its duration and the com-
9 pensation to be paid by the motor carrier;

10 “(2) carry a copy of the arrangement in each
11 motor vehicle to which it applies during the period
12 the arrangement is in effect;

13 “(3) inspect the motor vehicles and obtain li-
14 ability and cargo insurance on them; and

15 “(4) have control of and be responsible for op-
16 erating those motor vehicles in compliance with re-
17 quirements prescribed by the Secretary on safety of
18 operations and equipment, and with other applicable
19 law as if the motor vehicles were owned by the
20 motor carrier.

21 “(b) The Secretary shall require, by regulation, that
22 any arrangement, between a motor carrier of property pro-
23 viding transportation subject to jurisdiction under sub-
24 chapter I of chapter 135 of this title and any other person,
25 under which such other person is to provide any portion
26 of such transportation by a motor vehicle not owned by

1 the carrier shall specify, in writing, who is responsible for
2 loading and unloading the property onto and from the
3 motor vehicle.

4 **“§ 14103. Loading and unloading motor vehicles**

5 “(a) Whenever a shipper or receiver of property re-
6 quires that any person who owns or operates a motor vehi-
7 cle transporting property in interstate commerce (whether
8 or not such transportation is subject to jurisdiction under
9 subchapter I of chapter 135 of this title) be assisted in
10 the loading or unloading of such vehicle, the shipper or
11 receiver shall be responsible for providing such assistance
12 or shall compensate the owner or operator for all costs
13 associated with securing and compensating the person or
14 persons providing such assistance.

15 “(b) It shall be unlawful to coerce or attempt to co-
16 erce any person providing transportation of property by
17 motor vehicle for compensation in interstate commerce
18 (whether or not such transportation is subject to jurisdic-
19 tion under subchapter I of chapter 135 of this title) to
20 load or unload any part of such property onto or from
21 such vehicle or to employ or pay one or more persons to
22 load or unload any part of such property onto or from
23 such vehicle, except that this subsection shall not be con-
24 strued as making unlawful any activity which is not unlaw-
25 ful under the National Labor Relations Act or the Act of

1 March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), com-
2 monly known as the Norris-LaGuardia Act.

3 **“§ 14104. Household goods carrier operations**

4 “(a)(1) The Secretary of Transportation may issue
5 regulations, including regulations protecting individual
6 shippers, in order to carry out this part with respect to
7 the transportation of household goods by motor carriers
8 subject to jurisdiction under subchapter I of chapter 135
9 of this title. The regulations and paperwork required of
10 motor carriers providing transportation of household
11 goods shall be minimized to the maximum extent feasible
12 consistent with the protection of individual shippers.

13 “(2) Regulations of the Secretary protecting individ-
14 ual shippers shall include, where appropriate, reasonable
15 performance standards for the transportation of household
16 goods subject to jurisdiction under subchapter I of chapter
17 135 of this title. In establishing performance standards
18 under this paragraph, the Secretary shall take into ac-
19 count at least the following:

20 “(A) The level of performance that can be
21 achieved by a well-managed motor carrier transport-
22 ing household goods.

23 “(B) The degree of harm to individual shippers
24 which could result from a violation of the regulation.

1 “(C) The need to set the level of performance
2 at a level sufficient to deter abuses which result in
3 harm to consumers and violations of regulations.

4 “(D) Service requirements of the carriers.

5 “(E) The cost of compliance in relation to the
6 consumer benefits to be achieved from such compli-
7 ance.

8 “(F) The need to set the level of performance
9 at a level designed to encourage carriers to offer
10 service responsive to shipper needs.

11 “(3) Nothing in this section shall be construed to
12 limit the Secretary’s authority to require reports from
13 motor carriers providing transportation of household
14 goods or to require such carriers to provide specified infor-
15 mation to consumers concerning their past performance.

16 “(b)(1) Every motor carrier providing transportation
17 of household goods subject to jurisdiction under sub-
18 chapter I of chapter 135 of this title may, upon request
19 of a prospective shipper, provide the shipper with an esti-
20 mate of charges for transportation of household goods and
21 for the proposed services. The Secretary shall not prohibit
22 any such carrier from charging a prospective shipper for
23 providing a written, binding estimate for the transpor-
24 tation and proposed services.

1 “(2) Any charge for an estimate of charges provided
2 by a motor carrier to a shipper for transportation of
3 household goods subject to jurisdiction under subchapter
4 I of chapter 135 of this title shall be subject to the anti-
5 trust laws, as defined in the first section of the Clayton
6 Act (15 U.S.C. 12).

7 “(c) The Secretary shall issue regulations that pro-
8 vide motor carriers providing transportation of household
9 goods subject to jurisdiction under subchapter I of chapter
10 135 of this title with the maximum possible flexibility in
11 weighing shipments, consistent with assurance to the ship-
12 per of accurate weighing practices. The Secretary shall not
13 prohibit such carriers from backweighing shipments or
14 from basing their charges on the reweigh weights if the
15 shipper observes both the tare and gross weighings (or,
16 prior to such weighings, waives in writing the opportunity
17 to observe such weighings) and such weighings are per-
18 formed on the same scale.

19 “SUBCHAPTER II—REPORTS AND RECORDS

20 “§ 14121. **Definitions**

21 “In this subchapter—

22 “(1) ‘carrier’ and ‘broker’ include a receiver or
23 trustee of a carrier and broker, respectively.

24 “(2) ‘association’ means an organization main-
25 tained by or in the interest of a group of carriers or

1 brokers providing transportation or service subject
2 to jurisdiction under chapter 135 of this title that
3 performs a service, or engages in activities, related
4 to transportation under this part.

5 **“§ 14122. Records: form; inspection; preservation**

6 “(a) The Secretary of Transportation or the Inter-
7 modal Surface Transportation Board, as applicable, may
8 prescribe the form of records required to be prepared or
9 compiled under this subchapter by carriers and brokers,
10 including records related to movement of traffic and re-
11 ceipts and expenditures of money.

12 “(b) The Secretary or Transportation Board, or an
13 employee designated by the Secretary or Transportation
14 Board, may on demand and display of proper creden-
15 tials—

16 “(1) inspect and examine the lands, buildings,
17 and equipment of a carrier or broker; and

18 “(2) inspect and copy any record of—

19 “(A) a carrier, broker, or association; and

20 “(B) a person controlling, controlled by, or
21 under common control with a carrier if the Sec-
22 retary or Transportation Board, as applicable,
23 considers inspection relevant to that person’s
24 relation to, or transaction with, that carrier.

1 “(c) The Secretary or Transportation Board, as ap-
2 plicable, may prescribe the time period during which oper-
3 ating, accounting, and financial records must be preserved
4 by carriers.

5 **“§ 14123. Reports by carriers, brokers, and associa-**
6 **tions**

7 “(a) The Secretary—

8 “(1) shall require class I and class II motor
9 carriers (as defined by the Secretary) to file annual
10 reports with the Secretary, including a detailed bal-
11 ance sheet and income statement, information relat-
12 ed to the ownership or lease of equipment operated
13 by the motor carrier, and data related to the move-
14 ment of traffic and safety performance, the form
15 and substance of which shall be prescribed by the
16 Secretary and may vary for different classes of
17 motor carriers;

18 “(2) may require carriers, freight forwarders,
19 brokers, lessors, and associations, or classes of them
20 as the Secretary may prescribe, to file quarterly,
21 periodic, or special reports with the Secretary and to
22 respond to surveys concerning their operations; and

23 “(3) shall have the authority upon good cause
24 shown to exempt any party from the financial re-

1 porting requirements prescribed by subsection (a)(1)
2 or (a)(2).

3 “(b) Any request for exemption under paragraph (3)
4 of subsection (a) must demonstrate, at a minimum, that
5 an exemption is required to avoid competitive harm and
6 preserve confidential business information that is not oth-
7 erwise publicly available. Exemptions shall only be granted
8 for one-year periods.”.

9 “(c) The Intermodal Surface Transportation Board
10 may require carriers to file special reports containing in-
11 formation needed by the Transportation Board.

12 **“CHAPTER 143—FINANCE**

13 **“§ 14301. Security interests in certain motor vehicles**

14 “(a) In this section—

15 “(1) ‘motor vehicle’ means a truck of rated ca-
16 pacity (gross vehicle weight) of at least 10,000
17 pounds, a highway tractor of rated capacity (gross
18 combination weight) of at least 10,000 pounds, a
19 property-carrying trailer or semitrailer with at least
20 one load-carrying axle of at least 10,000 pounds, or
21 a motor bus with a seating capacity of at least 10
22 individuals.

23 “(2) ‘lien creditor’ means a creditor having a
24 lien on a motor vehicle and includes an assignee for
25 benefit of creditors from the date of assignment, a

1 trustee in a case under title 11 from the date of fil-
2 ing of the petition in that case, and a receiver in eq-
3 uity from the date of appointment of the receiver.

4 “(3) ‘security interest’ means an interest (in-
5 cluding an interest established by a conditional sales
6 contract, mortgage, equipment trust, or other lien or
7 title retention contract, or lease) in a motor vehicle
8 when the interest secures payment or performance of
9 an obligation.

10 “(4) ‘perfection’, as related to a security inter-
11 est, means taking action (including public filing, re-
12 cording, notation on a certificate of title, and posses-
13 sion of collateral by the secured party), or the exist-
14 ence of facts, required under law to make a security
15 interest enforceable against general creditors and
16 subsequent lien creditors of a debtor, but does not
17 include compliance with requirements related only to
18 the establishment of a valid security interest between
19 the debtor and the secured party.

20 “(b) A security interest in a motor vehicle owned by,
21 or in the possession and use of, a carrier registered under
22 section 13902 of this title and owing payment or perform-
23 ance of an obligation secured by that security interest is
24 perfected in all jurisdictions against all general, and subse-
25 quent lien, creditors of, and all persons taking a motor

1 vehicle by sale (or taking or retaining a security interest
2 in a motor vehicle) from, that carrier when—

3 “(1) a certificate of title is issued for a motor
4 vehicle under a law of a jurisdiction that requires or
5 permits indication, on a certificate or title, of a secu-
6 rity interest in the motor vehicle if the security in-
7 terest is indicated on the certificate;

8 “(2) a certificate of title has not been issued
9 and the law of the State where the principal place
10 of business of that carrier is located requires or per-
11 mits public filing or recording of, or in relation to,
12 that security interest if there has been such a public
13 filing or recording; and

14 “(3) a certificate of title has not been issued
15 and the security interest cannot be perfected under
16 paragraph (2) of this subsection, if the security in-
17 terest has been perfected under the law (including
18 the conflict of laws rules) of the State where the
19 principal place of business of that carrier is located.

20 **“§ 14302. Pooling and division of transportation or**
21 **earnings**

22 “(a) A carrier providing transportation subject to ju-
23 risdiction under subchapter I of chapter 135 of this title
24 may not agree or combine with another such carrier to
25 pool or divide traffic or services or any part of their earn-

1 ings without the approval of the Intermodal Surface
2 Transportation Board under this section.

3 “(b) The Transportation Board may approve and au-
4 thorize an agreement or combination between or among
5 motor carriers of passengers, or between a motor carrier
6 of passengers and a rail carrier of passengers, if the car-
7 riers involved assent to the pooling or division and the
8 Transportation Board finds that a pooling or division of
9 traffic, services, or earnings—

10 “(1) will be in the interest of better service to
11 the public or of economy of operation; and

12 “(2) will not unreasonably restrain competition.

13 “(c)(1) Any motor carrier of property may apply to
14 the Transportation Board for approval of an agreement
15 or combination with another such carrier to pool or divide
16 traffic or any services or any part of their earnings by
17 filing such agreement or combination with the Transpor-
18 tation Board not less than 50 days before its effective
19 date. Prior to the effective date of the agreement or com-
20 bination, the Transportation Board shall determine wheth-
21 er the agreement or combination is of major transpor-
22 tation importance and whether there is substantial likeli-
23 hood that the agreement or combination will unduly re-
24 strain competition. If the Transportation Board deter-
25 mines that neither of these two factors exists, it shall,

1 prior to such effective date and without a hearing, approve
2 and authorize the agreement or combination, under such
3 rules and regulations as the Transportation Board may
4 issue, and for such consideration between such carriers
5 and upon such terms and conditions as shall be found by
6 the Transportation Board to be just and reasonable. If
7 the Transportation Board determines either that the
8 agreement or combination is of major transportation im-
9 portance or that there is substantial likelihood that the
10 agreement or combination will unduly restrain competi-
11 tion, the Transportation Board shall hold a hearing con-
12 cerning whether the agreement or combination will be in
13 the interest of better service to the public or of economy
14 in operation and whether it will unduly restrain competi-
15 tion and shall suspend operation of such agreement or
16 combination pending such hearing and final decision
17 thereon. After such hearing, the Transportation Board
18 shall indicate to what extent it finds that the agreement
19 or combination will be in the interest of better service to
20 the public or of economy in operation and will not unduly
21 restrain competition and if assented to by all the carriers
22 involved, shall to that extent, approve and authorize the
23 agreement or combination, under such rules and regula-
24 tions as the Transportation Board may issue, and for such
25 consideration between such carriers and upon such terms

1 and conditions as shall be found by the Transportation
2 Board to be just and reasonable.

3 “(2) In the case of an application for Transportation
4 Board approval of an agreement or combination between
5 a motor carrier providing transportation of household
6 goods and its agents to pool or divide traffic or services
7 or any part of their earnings, such agreement or combina-
8 tion shall be presumed to be in the interest of better serv-
9 ice to the public and of economy in operation and not to
10 restrain competition unduly if the practices proposed to
11 be carried out under such agreement or combination are
12 the same as or similar to practices carried out under
13 agreements and combinations between motor carriers pro-
14 viding transportation of household goods to pool or divide
15 traffic or service of any part of their earnings approved
16 by the Interstate Commerce Commission before the date
17 of enactment of the Interstate Commerce Commission
18 Sunset Act of 1995.

19 “(3) The Transportation Board shall streamline, sim-
20 plify, and expedite, to the maximum extent practicable, the
21 process (including, but not limited to, any paperwork) for
22 submission and approval of applications under this section
23 for agreements and combinations between motor carriers
24 providing transportation of household goods and their
25 agents.

1 “(d) The Transportation Board may impose condi-
2 tions governing the pooling or division and may approve
3 and authorize payment of a reasonable consideration be-
4 tween the carriers.

5 “(e) The Transportation Board may begin a proceed-
6 ing under this section on its own initiative or on applica-
7 tion.

8 “(f) A carrier may participate in an arrangement ap-
9 proved by or exempted by the Transportation Board under
10 this section without the approval of any other federal,
11 State, or municipal body. A carrier participating in an ap-
12 proved or exempted arrangement is exempt from the anti-
13 trust laws and from all other law, including State and mu-
14 nicipal law, as necessary to let that person carry out the
15 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.

21 **“CHAPTER 145—FEDERAL-STATE RELATIONS**

22 **“§ 14501. Federal authority over intrastate transpor-**
23 **tation**

24 “(a) MOTOR CARRIERS OF PASSENGERS.—No State
25 or political subdivision thereof and no interstate agency

1 or other political agency of two or more States shall enact
 2 or enforce any law, rule, regulation, standard, or other
 3 provisions having the force and effect of law relating to
 4 scheduling of interstate or intrastate transportation (in-
 5 cluding discontinuance or reduction in the level of service)
 6 provided by motor carrier of passengers subject to juris-
 7 diction under subchapter I of chapter 135 of this title on
 8 an interstate route or relating to the implementation of
 9 any change in the rates for such transportation except to
 10 the extent that notice, not in excess of 30 days, of changes
 11 in schedules may be required. This subsection shall not
 12 apply to intrastate commuter bus operations.

13 “(b) FREIGHT FORWARDERS AND TRANSPORTATION
 14 BROKERS.—

15 “(1) GENERAL RULE.—Subject to paragraph
 16 (2) of this subsection, no State or political subdivi-
 17 sion thereof and no intrastate agency or other politi-
 18 cal agency of two or more States shall enact or en-
 19 force any law, rule, regulation, standard, or other
 20 provision having the force and effect of law relating
 21 to intrastate rates, intrastate routes, or intrastate
 22 services of any freight forwarder or transportation
 23 broker.

24 “(2) CONTINUATION OF HAWAII’S AUTHOR-
 25 ITY.—Nothing in this subsection and the amend-

1 ments made by the Surface Freight Forwarder De-
2 regulation Act of 1986 shall be construed to affect
3 the authority of the State of Hawaii to continue to
4 regulate a motor carrier operating within the State
5 of Hawaii.

6 “(c) MOTOR CARRIERS OF PROPERTY.—

7 “(1) GENERAL RULE.—Except as provided in
8 paragraphs (2) and (3), a State, political subdivision
9 of a State, or political authority of 2 or more States
10 may not enact or enforce a law, regulation, or other
11 provision having the force and effect of law related
12 to a price, route, or service of any motor carrier
13 (other than a carrier affiliated with a direct air car-
14 rier covered by section 41713(b)(4) of this title) or
15 any motor private carrier or any transportation
16 intermediary (as defined in sections 13102(1) and
17 13102(7) of this subtitle) with respect to the trans-
18 portation of property.

19 “(2) MATTERS NOT COVERED.—Paragraph
20 (1)—

21 “(A) shall not restrict the safety regulatory
22 authority of a State with respect to motor vehi-
23 cles, the authority of a State to impose highway
24 route controls or limitations based on the size
25 or weight of the motor vehicle or the hazardous

1 nature of the cargo, or the authority of a State
2 to regulate motor carriers with regard to mini-
3 mum amounts of financial responsibility relat-
4 ing to insurance requirements and self-insur-
5 ance authorization;

6 “(B) does not apply to the transportation
7 of household goods; and

8 “(C) does not apply to the authority of a
9 State or a political subdivision of a State to
10 enact or enforce a law, regulation, or other pro-
11 vision relating to the price and related condi-
12 tions of for-hire motor vehicle transportation by
13 a tow truck, if such transportation is per-
14 formed—

15 “(i) at the request of a law enforce-
16 ment agency; or

17 “(ii) without the prior consent or au-
18 thorization of the owner or operator of the
19 motor vehicle.

20 “(3) STATE STANDARD TRANSPORTATION PRAC-
21 TICES.—

22 “(A) CONTINUATION.—Paragraph (1) shall
23 not affect any authority of a State, political
24 subdivision of a State, or political authority of
25 2 or more States to enact or enforce a law, reg-

1 ulation, or other provision, with respect to the
2 intrastate transportation of property by motor
3 carriers, related to

4 “(i) uniform cargo liability rules,

5 “(ii) uniform bills of lading or receipts
6 for property being transported,

7 “(iii) uniform cargo credit rules, or

8 “(iv) antitrust immunity for joint line
9 rates or routes, classifications, and mileage
10 guides,

11 if such law, regulation, or provision meets the
12 requirements of subparagraph (B).

13 “(B) REQUIREMENTS.—A law, regulation,
14 or provision of a State, political subdivision, or
15 political authority meets the requirements of
16 this subparagraph if—

17 “(i) the law, regulation, or provision
18 covers the same subject matter as, and
19 compliance with such law, regulation, or
20 provision is no more burdensome than
21 compliance with, a provision of this part or
22 a regulation issued by the Secretary of
23 Transportation or the Intermodal Surface
24 Transportation Board under this part; and

1 “(ii) the law, regulation, or provision
2 only applies to a carrier upon request of
3 such carrier.

4 “(C) ELECTION.—Notwithstanding any
5 other provision of law, a carrier affiliated with
6 a direct air carrier through common controlling
7 ownership may elect to be subject to a law, reg-
8 ulation, or provision of a State, political sub-
9 division, or political authority under this para-
10 graph.

11 “(4) This subsection shall not apply with re-
12 spect to the State of Hawaii until August 22, 1997.

13 **“§ 14502. Tax discrimination against motor carrier**
14 **transportation property**

15 “(a) In this section—

16 “(1) ‘assessment’ means valuation for a prop-
17 erty tax levied by a taxing district;

18 “(2) ‘assessment jurisdiction’ means a geo-
19 graphical area in a State used in determining the as-
20 sessed value of property for ad valorem taxation;

21 “(3) ‘motor carrier transportation property’
22 means property, as defined by the Secretary of
23 Transportation, owned or used by a motor carrier
24 providing transportation in interstate commerce
25 whether or not such transportation is subject to ju-

1 jurisdiction under subchapter I of chapter 135 of this
2 title; and

3 “(4) ‘commercial and industrial property’
4 means property, other than transportation property
5 and land used primarily for agricultural purposes or
6 timber growing, devoted to a commercial or indus-
7 trial use and subject to a property tax levy.

8 “(b) The following acts unreasonably burden and dis-
9 criminate against interstate commerce and a State, sub-
10 division of a State, or authority acting for a State or sub-
11 division of a State may not do any of them:

12 “(1) Assess motor carrier transportation prop-
13 erty at a value that has a higher ratio to the true
14 market value of the motor carrier transportation
15 property than the ratio that the assessed value of
16 other commercial and industrial property in the
17 same assessment jurisdiction has to the true market
18 value of the other commercial and industrial prop-
19 erty.

20 “(2) Levy or collect a tax on an assessment
21 that may not be made under paragraph (1) of this
22 subsection.

23 “(3) Levy or collect an ad valorem property tax
24 on motor carrier transportation property at a tax
25 rate that exceeds the tax rate applicable to commer-

1 cial and industrial property in the same assessment
2 jurisdiction.

3 “(c) Notwithstanding section 1341 of title 28 and
4 without regard to the amount in controversy or citizenship
5 of the parties, a district court of the United States has
6 jurisdiction, concurrent with other jurisdiction of courts
7 of the United States and the States, to prevent a violation
8 of subsection (b) of this section. Relief may be granted
9 under this subsection only if the ratio of assessed value
10 to true market value of motor carrier transportation prop-
11 erty exceeds by at least 5 percent, the ratio of assessed
12 value to true market value of other commercial and indus-
13 trial property in the same assessment jurisdiction. The
14 burden of proof in determining assessed value and true
15 market value is governed by State law. If the ratio of the
16 assessed value of other commercial and industrial property
17 in the assessment jurisdiction to the true market value of
18 all other commercial and industrial property cannot be de-
19 termined to the satisfaction of the district court through
20 the random-sampling method known as a sales assessment
21 ratio study (to be carried out under statistical principles
22 applicable to such a study), the court shall find, as a viola-
23 tion of this section—

24 “(1) an assessment of the motor carrier trans-
25 portation property at a value that has a higher ratio

1 to the true market value of the motor carrier trans-
2 portation property than the assessment value of all
3 other property subject to a property tax levy in the
4 assessment jurisdiction has to the true market value
5 of all such other property; and

6 “(2) the collection of ad valorem property tax
7 on the motor carrier transportation property at a
8 tax rate that exceeds the tax ratio rate applicable to
9 taxable property in the taxing district.

10 **“§ 14503. Withholding State and local income tax by**
11 **certain carriers**

12 “(a)(1) No part of the compensation paid by a motor
13 carrier providing transportation subject to jurisdiction
14 under subchapter I of chapter 135 of this title or by a
15 motor private carrier to an employee who performs regu-
16 larly assigned duties in 2 or more States as such an em-
17 ployee with respect to a motor vehicle shall be subject to
18 the income tax laws of any State or subdivision of that
19 State, other than the State or subdivision thereof of the
20 employee’s residence.

21 “(2) In this subsection ‘employee’ has the meaning
22 given such term in section 31132 of this title.

23 “(b)(1) In this subsection, an employee is deemed to
24 have earned more than 50 percent of pay in a State or
25 subdivision of that State in which the time worked by the

1 employee in the State or subdivision is more than 50 per-
2 cent of the total time worked by the employee while em-
3 ployed during the calendar year.

4 “(2) A water carrier providing transportation subject
5 to the jurisdiction of the Secretary of Transportation
6 under subchapter II of chapter 135 of this title shall file
7 income tax information returns and other reports only
8 with—

9 “(A) the State and subdivision of residence of
10 the employee (as shown on the employment records
11 of the carrier); and

12 “(B) the State and subdivision in which the em-
13 ployee earned more than 50 percent of the pay re-
14 ceived by the employee from the carrier during the
15 preceding calendar year.

16 “(3) This subsection applies to pay of a master, offi-
17 cer, or sailor who is a member of the crew on a vessel
18 engaged in foreign, coastwise, intercoastal or noncontig-
19 uous trade or in the fisheries of the United States.

20 “(c) A motor and motor private carrier withholding
21 pay from an employee under subsection (a) of this section
22 shall file income tax information returns and other reports
23 only with the State and subdivision of residence of the em-
24 ployee.

1 **“§ 14504. State tax**

2 “A State or political subdivision thereof may not
3 collect or levy a tax, fee, head charge, or other charge
4 on —

5 “(1) a passenger traveling in interstate com-
6 merce by motor carrier;

7 “(2) the transportation of a passenger traveling
8 in interstate commerce by motor carrier;

9 “(3) the sale of passenger transportation in
10 interstate commerce by motor carrier; or

11 “(4) the gross receipts derived from such trans-
12 portation.

13 **“§ 14505. Bus charter provision—subsidization by**
14 **public entities**

15 **“CHAPTER 147—ENFORCEMENT;**

16 **INVESTIGATIONS; RIGHTS; REMEDIES**

17 **“§ 14701. General authority**

18 “(a) The Secretary of Transportation or the Inter-
19 modal Surface Transportation Board, as applicable, may
20 begin an investigation under this part on the Secretary’s
21 or the Transportation Board’s own initiative or on com-
22 plaint. If the Secretary or Transportation Board, as appli-
23 cable finds that a carrier or broker is violating this part,
24 the Secretary or Transportation Board, as applicable,
25 shall take appropriate action to compel compliance with
26 this part. If the Secretary finds that a foreign motor car-

1 rier or foreign motor private carrier is violating chapter
2 139 of this title, the Secretary shall take appropriate ac-
3 tion to compel compliance with that chapter. The Sec-
4 retary or Transportation Board, as applicable, may take
5 action under this subsection only after giving the carrier
6 or broker notice of the investigation and an opportunity
7 for a proceeding.

8 “(b) A person, including a governmental authority,
9 may file with the Secretary or Transportation Board, as
10 applicable, a complaint about a violation of this part by
11 a carrier providing, or broker for, transportation or service
12 subject to jurisdiction under this part or a foreign motor
13 carrier or foreign motor private carrier providing trans-
14 portation registered under section 13902 of this title. The
15 complaint must state the facts that are the subject of the
16 violation. The Secretary or Transportation Board, as ap-
17 plicable, may dismiss a complaint that it determines does
18 not state reasonable grounds for investigation and action.

19 “(c) A formal investigative proceeding begun by the
20 Secretary or Transportation Board under subsection (a)
21 of this section is dismissed automatically unless it is con-
22 cluded with administrative finality by the end of the third
23 year after the date on which it was begun.

1 **“§ 14702. Enforcement by the regulatory authority**

2 “(a) The Secretary of Transportation or the Inter-
3 modal Surface Transportation Board, as applicable, may
4 bring a civil action—

5 “(1) to enforce section 14103 of this title; or

6 “(2) to enforce this part, or a regulation or
7 order of the Secretary or Transportation Board, as
8 applicable, when violated by a carrier or broker pro-
9 viding transportation or service subject to jurisdic-
10 tion under subchapter I or III of chapter 135 of this
11 title or by a foreign motor carrier or foreign motor
12 private carrier providing transportation registered
13 under section 13902 of this title.

14 “(b) In a civil action under subsection (a)(2) of this
15 section—

16 “(1) trial is in the judicial district in which the
17 carrier, foreign motor carrier, foreign motor private
18 carrier, or broker operates;

19 “(2) process may be served without regard to
20 the territorial limits of the district or of the State
21 in which the action is instituted; and

22 “(3) a person participating with a carrier or
23 broker in a violation may be joined in the civil action
24 without regard to the residence of the person.

1 “(c) The Transportation Board, through its own at-
2 torneys, may bring or participate in any civil action involv-
3 ing motor carrier undercharges.

4 **“§ 14703. Enforcement by the Attorney General**

5 “The Attorney General may, and on request of either
6 the Secretary of Transportation or Intermodal Surface
7 Transportation Board shall, bring court proceedings (1)
8 to enforce this part or a regulation or order of the Sec-
9 retary or Transportation Board or terms of registration
10 under this part and (2) to prosecute a person violating
11 this part or a regulation or order of the Secretary or
12 Transportation Board or term of registration under this
13 part.

14 **“§ 14704. Rights and remedies of persons injured by**
15 **carriers or brokers**

16 “(a) A person injured because a carrier or broker pro-
17 viding transportation or service subject to jurisdiction
18 under chapter 135 of this title does not obey an order of
19 the Secretary of Transportation or the Intermodal Surface
20 Transportation Board, as applicable, under this part, ex-
21 cept an order for the payment of money, may bring a civil
22 action to enforce that order under this subsection.

23 “(b)(1) A carrier providing transportation or service
24 subject to jurisdiction under chapter 135 of this title is
25 liable to a person for amounts charged that exceed the

1 applicable rate for transportation or service contained in
2 a tariff filed under section 13702 of this title.

3 “(2) A carrier or broker providing transportation or
4 service subject to jurisdiction under chapter 135 of this
5 title is liable for damages sustained by a person as a result
6 of an act or omission of that carrier or broker in violation
7 of this part.

8 “(c)(1) A person may file a complaint with the Trans-
9 portation Board or the Secretary, as applicable, under sec-
10 tion 14701(b) of this title or bring a civil action under
11 subsection (b) (1) or (2) of this section to enforce liability
12 against a carrier or broker providing transportation or
13 service subject to jurisdiction under chapter 135 of this
14 title.

15 “(2) When the Transportation Board or Secretary,
16 as applicable, makes an award under subsection (b) of this
17 section, the Transportation Board or Secretary, as appli-
18 cable, shall order the carrier to pay the amount awarded
19 by a specific date. The Transportation Board or Secretary,
20 as applicable, may order a carrier or broker providing
21 transportation or service subject to jurisdiction under
22 chapter 135 of this title to pay damages only when the
23 proceeding is on complaint. The person for whose benefit
24 an order of the Transportation Board or Secretary requir-
25 ing the payment of money is made may bring a civil action

1 to enforce that order under this paragraph if the carrier
2 or broker does not pay the amount awarded by the date
3 payment was ordered to be made.

4 “(d)(1) When a person begins a civil action under
5 subsection (b) of this section to enforce an order of the
6 Transportation Board or Secretary requiring the payment
7 of damages by a carrier or broker providing transportation
8 or service subject to jurisdiction under chapter 135 of this
9 title, the text of the order of the Transportation Board
10 or Secretary must be included in the complaint. In addi-
11 tion to the district courts of the United States, a State
12 court of general jurisdiction having jurisdiction of the par-
13 ties has jurisdiction to enforce an order under this para-
14 graph. The findings and order of the Transportation
15 Board or Secretary are competent evidence of the facts
16 stated in them. Trial in a civil action brought in a district
17 court of the United States under this paragraph is in the
18 judicial district in which the plaintiff resides or in which
19 the principal operating office of the carrier or broker is
20 located. In a civil action under this paragraph, the plain-
21 tiff is liable for only those costs that accrue on an appeal
22 taken by the plaintiff.

23 “(2) All parties in whose favor the award was made
24 may be joined as plaintiffs in a civil action brought in a
25 district court of the United States under this subsection

1 and all the carriers that are parties to the order awarding
2 damages may be joined as defendants. Trial in the action
3 is in the judicial district in which any one of the plaintiffs
4 could bring the action against any one of the defendants.
5 Process may be served on a defendant at its principal op-
6 erating office when that defendant is not in the district
7 in which the action is brought. A judgment ordering recov-
8 ery may be made in favor of any of those plaintiffs against
9 the defendant found to be liable to that plaintiff.

10 “(3) The district court shall award a reasonable at-
11 torney’s fee as a part of the damages for which a carrier
12 or broker is found liable under this subsection. The dis-
13 trict court shall tax and collect that fee as a part of the
14 costs of the action.

15 **“§ 14705. Limitation on actions by and against car-**
16 **riers**

17 “(a) A carrier providing transportation or service
18 subject to jurisdiction under chapter 135 of this title must
19 begin a civil action to recover charges for transportation
20 or service provided by the carrier within 18 months after
21 the claim accrues.

22 “(b) A person must begin a civil action to recover
23 overcharges within 18 months after the claim accrues. If
24 the claim is against a carrier providing transportation sub-
25 ject to jurisdiction under chapter 135 of this title and an

1 election to file a complaint with the Intermodal Surface
2 Transportation Board or Secretary of Transportation, as
3 applicable, is made under section 14704(c)(1), the com-
4 plaint must be filed within 3 years after the claim accrues.

5 “(c) A person must file a complaint with the Trans-
6 portation Board or Secretary, as applicable, to recover
7 damages under section 14704(b)(2) of this title within 2
8 years after the claim accrues.

9 “(d) The limitation periods under subsection (b) of
10 this section are extended for 6 months from the time writ-
11 ten notice is given to the claimant by the carrier of dis-
12 allowance of any part of the claim specified in the notice
13 if a written claim is given to the carrier within those limi-
14 tation periods. The limitation periods under subsection (b)
15 of this section and the 2-year period under subsection (c)
16 of this section are extended for 90 days from the time
17 the carrier begins a civil action under subsection (a) of
18 this section to recover charges related to the same trans-
19 portation or service, or collects (without beginning a civil
20 action under that subsection) the charge for that transpor-
21 tation or service if that action is begun or collection is
22 made within the appropriate period.

23 “(e) A person must begin a civil action to enforce
24 an order of the Transportation Board or Secretary against

1 a carrier for the payment of money within one year after
2 the date the order required the money to be paid.

3 “(f) This section applies to transportation for the
4 United States Government. The time limitations under
5 this section are extended, as related to transportation for
6 or on behalf of the United States Government, for 3 years
7 from the date of (1) payment of the rate for the transpor-
8 tation or service involved, (2) subsequent refund for over-
9 payment of that rate, or (3) deduction made under section
10 3726 of title 31, whichever is later.

11 “(g) A claim related to a shipment of property ac-
12 crues under this section on delivery or tender of delivery
13 by the carrier.

14 **“§ 14706. Liability of carriers under receipts and bills**
15 **of lading**

16 “(a)(1) A carrier providing transportation or service
17 subject to jurisdiction under subchapter I or III of chapter
18 135 of this title shall issue a receipt or bill of lading for
19 property it receives for transportation under this part.
20 That carrier and any other carrier that delivers the prop-
21 erty and is providing transportation or service subject to
22 jurisdiction under subchapter I or III of chapter 135 or
23 chapter 105 of this title are liable to the person entitled
24 to recover under the receipt or bill of lading. The liability
25 imposed under this paragraph is for the actual loss or in-

1 jury to the property caused by (1) the receiving carrier,
2 (2) the delivering carrier, or (3) another carrier over
3 whose line or route the property is transported in the
4 United States or from a place in the United States to a
5 place in an adjacent foreign country when transported
6 under a through bill of lading and, except in the case of
7 a freight forwarder, applies to property reconsigned or di-
8 verted under a tariff filed under section 13702 of this title.
9 Failure to issue a receipt or bill of lading does not affect
10 the liability of a carrier. A delivering carrier is deemed
11 to be the carrier performing the line-haul transportation
12 nearest the destination but does not include a carrier pro-
13 viding only a switching service at the destination.

14 “(2) A freight forwarder is both the receiving and de-
15 livering carrier. When a freight forwarder provides service
16 and uses a motor carrier providing transportation subject
17 to jurisdiction under subchapter I of chapter 135 of this
18 title to receive property from a consignor, the motor car-
19 rier may execute the bill of lading or shipping receipt for
20 the freight forwarder with its consent. With the consent
21 of the freight forwarder, a motor carrier may deliver prop-
22 erty for a freight forwarder on the freight forwarder’s bill
23 of lading, freight bill, or shipping receipt to the consignee
24 named in it, and receipt for the property may be made
25 on the freight forwarder’s delivery receipt.

1 “(b) The carrier issuing the receipt or bill of lading
2 under subsection (a) of this section or delivering the prop-
3 erty for which the receipt or bill of lading was issued is
4 entitled to recover from the carrier over whose line or
5 route the loss or injury occurred the amount required to
6 be paid to the owners of the property, as evidenced by
7 a receipt, judgment, or transcript, and the amount of its
8 expenses reasonably incurred in defending a civil action
9 brought by that person.

10 “(c)(1) A carrier may limit or be exempt from liabil-
11 ity imposed under subsection (a) of this section by a mu-
12 tual agreement recorded in writing or in an electronic me-
13 dium, that is referred to in the receipt, bill of lading, or
14 contract for the transportation involved entered into with
15 the shipper, to limit liability to a specified amount.

16 “(2) If loss or injury to property occurs while it is
17 in the custody of a water carrier, the liability of that car-
18 rier is determined by its bill of lading and the law applica-
19 ble to water transportation. The liability of the initial or
20 delivering carrier is the same as the liability of the water
21 carrier.

22 “(d)(1) A civil action under this section may be
23 brought against a delivering carrier (other than a rail car-
24 rier) in a district court of the United States or in a State
25 court. Trial, if the action is brought in a district court

1 of the United States is in a judicial district, and if in a
2 State court, is in a State through which the defendant
3 carrier operates.

4 “(2)(A) A civil action under this section may be
5 brought against the carrier alleged to have caused the loss
6 or damage, in the judicial district in which such loss or
7 damage is alleged to have occurred.

8 “(B) A civil action under this section may be brought
9 in a United States district court or in a State court.

10 “(C) In this section, ‘judicial district’ means (i) in
11 the case of a United States district court, a judicial dis-
12 trict of the United States, and (ii) in the case of a State
13 court, the applicable geographic area over which such
14 court exercises jurisdiction.

15 “(e) A carrier may not provide by rule, contract, or
16 otherwise, a period of less than 9 months for filing a claim
17 against it under this section and a period of less than 2
18 years for bringing a civil action against it under this sec-
19 tion. The period for bringing a civil action is computed
20 from the date the carrier gives a person written notice that
21 the carrier has disallowed any part of the claim specified
22 in the notice. For the purposes of this subsection—

23 “(1) an offer of compromise shall not constitute
24 a disallowance of any part of the claim unless the
25 carrier, in writing, informs the claimant that such

1 part of the claim is disallowed and provides reasons
2 for such disallowance; and

3 “(2) communications received from a carrier’s
4 insurer shall not constitute a disallowance of any
5 part of the claim unless the insurer, in writing, in-
6 forms the claimant that such part of the claim is
7 disallowed, provides reason for such disallowance,
8 and informs the claimant that the insurer is acting
9 on behalf of the carrier.

10 “(f) A carrier or group of carriers subject to jurisdic-
11 tion under subchapter I or III of chapter 135 of this title
12 may petition the Transportation Board to modify, elimi-
13 nate, or establish rates for the transportation of household
14 goods under which the liability of the carrier for that prop-
15 erty is limited to a value established by written declaration
16 of the shipper or by a written agreement.

17 “(g) Within one year after enactment of the Inter-
18 state Commerce Commission Sunset Act of 1995, the Sec-
19 retary shall deliver to the appropriate Congressional au-
20 thorizing committees a report on the benefit of revising
21 or modifying the terms or applicability of this section, to-
22 gether with any proposed legislation to implement the
23 study’s recommendations, if any.

1 **“§ 14707. Private enforcement of registration require-**
2 **ment**

3 “(a) If a person provides transportation by motor ve-
4 hicle or service in clear violation of section 13901-13904
5 or 13906 of this title, a person injured by the transpor-
6 tation or service may bring a civil action to enforce any
7 such section. In a civil action under this subsection, trial
8 is in the judicial district in which the person who violated
9 that section operates.

10 “(b) A copy of the complaint in a civil action under
11 subsection (a) of this section shall be served on the Sec-
12 retary of Transportation and a certificate of service must
13 appear in the complaint filed with the court. The Sec-
14 retary may intervene in a civil action under subsection (a)
15 of this section. The Secretary may notify the district court
16 in which the action is pending that the Secretary intends
17 to consider the matter that is the subject of the complaint
18 in a proceeding before the Secretary. When that notice is
19 filed, the court shall stay further action pending disposi-
20 tion of the proceeding before the Secretary.

21 “(c) In a civil action under subsection (a) of this sec-
22 tion, the court may determine the amount of and award
23 a reasonable attorney’s fee to the prevailing party. That
24 fee is in addition to costs allowable under the Federal
25 Rules of Civil Procedure.

1 **“§ 14708. Dispute settlement program for household**
2 **goods carriers**

3 “(a)(1) As a condition of registration under section
4 13902 or 13903 of this title, a carrier providing transpor-
5 tation of household goods subject to jurisdiction under
6 subchapter I or III of chapter 135 of this title must agree
7 to offer to shippers neutral arbitration as a means of set-
8 tling disputes between such carriers and shippers of house-
9 hold goods concerning the transportation of household
10 goods.

11 “(b)(1) The arbitration that is offered must be de-
12 signed to prevent a carrier from having any special advan-
13 tage in any case in which the claimant resides or does
14 business at a place distant from the carrier’s principal or
15 other place of business.

16 “(2) The carrier must provide the shipper an ade-
17 quate notice of the availability of neutral arbitration, in-
18 cluding a concise easy-to-read, accurate summary of the
19 arbitration procedure and disclosure of the legal effects
20 of election to utilize arbitration. Such notice must be given
21 to persons for whom household goods are to be trans-
22 ported by the carrier before such goods are tendered to
23 the carrier for transportation.

24 “(3) Upon request of a shipper, the carrier must
25 promptly provide such forms and other information as are

1 necessary for initiating an action to resolve a dispute
2 under arbitration.

3 “(4) Each person authorized to arbitrate or otherwise
4 settle disputes must be independent of the parties to the
5 dispute and must be capable, as determined under such
6 regulations as the Secretary of Transportation may issue,
7 to resolve such disputes fairly and expeditiously. The car-
8 rier must ensure that each person chosen to settle the dis-
9 putes is authorized and able to obtain from the shipper
10 or carrier any material and relevant information to the
11 extent necessary to carry out a fair and expeditious deci-
12 sion making process.

13 “(5) No fee for instituting an arbitration proceeding
14 may be charged the shipper; except that, if the arbitration
15 is binding solely on the carrier, the shipper may be
16 charged a fee of not more than \$25 for instituting an arbi-
17 tration proceeding. In any case in which a shipper is
18 charged a fee under this paragraph for instituting an arbi-
19 tration proceeding and such dispute is settled in favor of
20 the shipper, the person settling the dispute must refund
21 such fee to the shipper unless the person settling the dis-
22 pute determines that such refund is inappropriate.

23 “(6) The carrier must not require the shipper to
24 agree to utilize arbitration prior to the time that a dispute
25 arises.

1 “(7) The arbitrator may provide for an oral presen-
2 tation of a dispute concerning transportation of household
3 goods by a party to the dispute (or a party’s representa-
4 tive), but such oral presentation may be made only if all
5 parties to the dispute expressly agree to such presentation
6 and the date, time, and location of such presentation.

7 “(8) The arbitrator must, as expeditiously as possible
8 but at least within 60 days of receipt of written notifica-
9 tion of the dispute, render a decision based on the infor-
10 mation gathered, except that, in any case in which a party
11 to the dispute fails to provide in a timely manner any in-
12 formation concerning such dispute which the person set-
13 tling the dispute may reasonably require to resolve the dis-
14 pute, the arbitrator may extend such 60-day period for
15 a reasonable period of time. A decision resolving a dispute
16 may include any remedies appropriate under the cir-
17 cumstances, including repair, replacement, refund, reim-
18 bursement for expenses, and compensation for damages.

19 “(c) Materials and information obtained in the course
20 of a decision making process to settle a dispute by arbitra-
21 tion under this section may not be used to bring an action
22 under section 14905 of this title.

23 “(d) In any court action to resolve a dispute between
24 a shipper of household goods and a motor carrier provid-
25 ing transportation or service subject to jurisdiction under

1 subchapter I or III of chapter 135 of this title concerning
2 the transportation of household goods by such carrier, the
3 shipper shall be awarded reasonable attorney's fees if—

4 “(1) the shipper submits a claim to the carrier
5 within 120 days after the date the shipment is deliv-
6 ered or the date the delivery is scheduled, whichever
7 is later;

8 “(2) the shipper prevails in such court action;
9 and

10 “(3)(A) a decision resolving the dispute was not
11 rendered through arbitration under this section with-
12 in the period provided under subsection (b)(8) of
13 this section or an extension of such period under
14 such subsection; or

15 “(B) the court proceeding is to enforce a deci-
16 sion rendered through arbitration under this section
17 and is instituted after the period for performance
18 under such decision has elapsed.

19 “(e) In any court action to resolve a dispute between
20 a shipper of household goods and a carrier providing
21 transportation, or service subject to jurisdiction under
22 subchapter I or III of chapter 135 of this title concerning
23 the transportation of household goods by such carrier,
24 such carrier may be awarded reasonable attorney's fees

1 by the court only if the shipper brought such action in
2 bad faith—

3 “(1) after resolution of such dispute through
4 arbitration under this section; or

5 “(2) after institution of an arbitration proceed-
6 ing by the shipper to resolve such dispute under this
7 section but before (A) the period provided under
8 subsection (b)(8) for resolution of such dispute (in-
9 cluding, if applicable, an extension of such period
10 under such subsection) ends, and (B) a decision re-
11 solving such dispute is rendered.

12 “(f) The provisions of this section shall apply only
13 in the case of collect-on-delivery transportation of those
14 types of household goods described in section 13102(9)(A)
15 of this title.

16 **“§ 14709. Tariff reconciliation rules for motor car-**
17 **riers of property**

18 “Subject to review and approval by the Intermodal
19 Surface Transportation Board, motor carriers subject to
20 jurisdiction under subchapter I of chapter 135 of this title
21 (other than motor carriers providing transportation of
22 household goods) and shippers may resolve, by mutual
23 consent, overcharge and under-charge claims resulting
24 from incorrect tariff provisions or billing errors arising
25 from the inadvertent failure to properly and timely file and

1 maintain agreed upon rates, rules, or classifications in
2 compliance with section 13702 of this part or sections
3 10761 and 10762 of this title prior to the effective date
4 of the Interstate Commerce Commission Sunset Act of
5 1995. Resolution of such claims among the parties shall
6 not subject any party to the penalties for departing from
7 a filed tariff.

8 **“§ 14710. Rate Discounts**

9 “A person, or an officer, employee, or agent of that
10 person, that knowingly pays, accepts, or solicits a reduced
11 rate or rates in violation of the regulations issued under
12 section 13707 of this title is liable to the injured party
13 or the United States for a civil penalty of not less than
14 \$5,000 and not more than \$10,000 plus 3 times the
15 amount of damages which a party incurs because of such
16 violation.

17 **“CHAPTER 149—CIVIL AND CRIMINAL PENALTIES**

18 **“§ 14901. General civil penalties**

19 “(a) A person required to make a report to the Sec-
20 retary of Transportation or to the Intermodal Surface
21 Transportation Board, answer a question, or make, pre-
22 pare, or preserve a record under this part concerning
23 transportation subject to jurisdiction under subchapter I
24 or III of chapter 135 of this title or transportation by a
25 foreign carrier registered under section 13902 of this title,

1 or an officer, agent, or employee of that person that (1)
2 does not make the report, (2) does not specifically, com-
3 pletely, and truthfully answer the question, (3) does not
4 make, prepare, or preserve the record in the form and
5 manner prescribed, (4) does not comply with section
6 13901 of this title, or (5) does not comply with section
7 13902(c) of this title is liable to the United States Govern-
8 ment for a civil penalty of not less than \$500 for each
9 violation and for each additional day the violation contin-
10 ues; except that, in the case of a person who does not have
11 authority under this part to provide transportation of pas-
12 sengers, or an officer, agent, or employee of such person,
13 that does not comply with section 13901 of this title with
14 respect to providing transportation of passengers, the
15 amount of the civil penalty shall not be less than \$2,000
16 for each violation and for each additional day the violation
17 continues.

18 “(b) A person subject to jurisdiction under sub-
19 chapter I of chapter 135 of this title, or an officer, agent,
20 or employee of that person, and who is required to comply
21 with section 13901 of this title but does not so comply
22 with respect to the transportation of hazardous wastes as
23 defined by the Environmental Protection Agency pursuant
24 to section 3001 of the Solid Waste Disposal Act (but not
25 including any waste the regulation of which under the

1 Solid Waste Disposal Act has been suspended by Con-
2 gress) shall be liable to the United States for a civil pen-
3 alty not to exceed \$20,000 for each violation.

4 “(c) In determining and negotiating the amount of
5 a civil penalty under subsection (a) or (d) concerning
6 transportation of household goods, the degree of culpabil-
7 ity, any history of prior such conduct, the degree of harm
8 to shipper or shippers, ability to pay, the effect on ability
9 to do business, whether the shipper has been adequately
10 compensated before institution of the proceeding, and such
11 other matters as fairness may require shall be taken into
12 account.

13 “(d) If a carrier providing transportation of house-
14 hold goods subject to jurisdiction under subchapter I or
15 III of chapter 135 of this title or a receiver or trustee
16 of such carrier fails or refuses to comply with any regula-
17 tion issued by the Secretary or the Transportation Board
18 relating to protection of individual shippers, such carrier,
19 receiver, or trustee is liable to the United States for a civil
20 penalty of not less than \$1,000 for each violation and for
21 each additional day during which the violation continues.

22 “(e) Any person that knowingly engages in or know-
23 ingly authorizes an agent or other person (1) to falsify
24 documents used in the transportation of household goods
25 subject to jurisdiction under subchapter I or III of chapter

1 135 of this title which evidence the weight of a shipment,
 2 or (2) to charge for accessorial services which are not per-
 3 formed or for which the carrier is not entitled to be com-
 4 pensated in any case in which such services are not rea-
 5 sonably necessary in the safe and adequate movement of
 6 the shipment, is liable to the United States for a civil pen-
 7 alty of not less than \$2,000 for each violation and of not
 8 less than \$5,000 for each subsequent violation. Any State
 9 may bring a civil action in the United States district
 10 courts to compel a person to pay a civil penalty assessed
 11 under this subsection.

12 “(f) Trial in a civil action under subsections (a)
 13 through (e) of this section is in the judicial district in
 14 which (1) the carrier or broker has its principal office, (2)
 15 the carrier or broker was authorized to provide transpor-
 16 tation or service under this part when the violation oc-
 17 curred, (3) the violation occurred, or (4) the offender is
 18 found. Process in the action may be served in the judicial
 19 district of which the offender is an inhabitant or in which
 20 the offender may be found.

21 **“§ 14902. Civil penalty for accepting rebates from**
 22 **carrier**

23 “A person—

24 “(1) delivering property to a carrier providing
 25 transportation or service subject to jurisdiction

1 under chapter 135 of this title for transportation
2 under this part or for whom that carrier will trans-
3 port the property as consignor or consignee for that
4 person from a State or territory or possession of the
5 United States to another State or possession, terri-
6 tory, or to a foreign country; and

7 “(2) knowingly accepting or receiving by any
8 means a rebate or offset against the rate for trans-
9 portation for, or service of, that property contained
10 in a tariff required under section 13702 of this title,
11 is liable to the United States Government for a civil pen-
12 alty in an amount equal to 3 times the amount of money
13 that person accepted or received as a rebate or offset and
14 3 times the value of other consideration accepted or re-
15 ceived as a rebate or offset. In a civil action under this
16 section, all money or other consideration received by the
17 person during a period of 6 years before an action is
18 brought under this section may be included in determining
19 the amount of the penalty, and if that total amount is
20 included, the penalty shall be 3 times that total amount.

21 **“§ 14903. Tariff violations**

22 “(a) A person that knowingly offers, grants, gives,
23 solicits, accepts, or receives by any means transportation
24 or service provided for property by a carrier subject to
25 jurisdiction under chapter 135 of this title at less than

1 the rate in effect under section 13702 of this title shall
2 be fined at least \$1,000 but not more than \$20,000, im-
3 prisoned for not more than 2 years, or both.

4 “(b) A carrier providing transportation or service
5 subject to jurisdiction under chapter 135 of this title or
6 an officer, director, receiver, trustee, lessee, agent, or em-
7 ployee of a corporation that is subject to jurisdiction under
8 that chapter, that willfully does not observe its tariffs as
9 required under section 13702 of this title, shall be fined
10 at least \$1,000 but not more than \$20,000, imprisoned
11 for not more than 2 years, or both.

12 “(c) When acting in the scope of their employment,
13 the actions and omissions of persons acting for or em-
14 ployed by a carrier or shipper that is subject to subsection
15 (a) or (b) of this section are considered to be the actions
16 and omissions of that carrier or shipper as well as that
17 person.

18 “(d) Trial in a criminal action under this section is
19 in the judicial district in which any part of the violation
20 is committed or through which the transportation is con-
21 ducted.

22 **“§ 14904. Additional rate violations**

23 “(a) A person, or an officer, employee, or agent of
24 that person, that—

1 “(1) knowingly offers, grants, gives, solicits, ac-
2 cepts, or receives a rebate for concession, in violation
3 of a provision of this part related to motor carrier
4 transportation subject to jurisdiction under sub-
5 chapter I of chapter 135 of this title; or

6 “(2) by any means knowingly and willfully as-
7 sists or permits another person to get transportation
8 that is subject to jurisdiction under that subchapter
9 at less than the rate in effect for that transportation
10 under section 13702 of this title,
11 shall be fined at least \$200 for the first violation and at
12 least \$250 for a subsequent violation.

13 “(b)(1) A freight forwarder providing service subject
14 to jurisdiction under subchapter III of chapter 135 of this
15 title, or an officer, agent, or employee of that freight for-
16 warder, that knowingly and willfully assists a person in
17 getting, or willingly permits a person to get, service pro-
18 vided under that subchapter at less than the rate in effect
19 for that service under section 13702 of this title, shall be
20 fined not more than \$500 for the first violation and not
21 more than \$2,000 for a subsequent violation.

22 “(2) A person that knowingly and willfully by any
23 means gets, or attempts to get, service provided under
24 subchapter III of chapter 135 of this title at less than
25 the rate in effect for that service under section 13702 of

1 this title, shall be fined not more than \$500 for the first
2 violation and not more than \$2,000 for a subsequent viola-
3 tion.

4 **“§ 14905. Penalties for violations of rules relating to**
5 **loading and unloading motor vehicles**

6 “(a) Any person who knowingly authorizes, consents
7 to, or permits a violation of subsection (a) or (b) of section
8 14103 of this title or who knowingly violates subsection
9 (a) of such section is liable to the United States Govern-
10 ment for a civil penalty of not more than \$10,000 for each
11 violation.

12 “(b) Any person who knowingly violates section
13 14103(b) of this title shall be fined not more than
14 \$10,000, imprisoned for not more than 2 years, or both.

15 **“§ 14906. Evasion of regulation of carriers and**
16 **brokers**

17 “A person, or an officer, employee, or agent of that
18 person that by any means knowingly and willfully tries to
19 evade regulation provided under this part for carriers or
20 brokers shall be fined at least \$200 for the first violation
21 and at least \$250 for a subsequent violation.

22 **“§ 14907. Record keeping and reporting violations**

23 “A person required to make a report to the Secretary
24 of Transportation or to the Intermodal Surface Transpor-
25 tation Board, as applicable, answer a question, or make,

1 prepare, or preserve a record under this part about trans-
2 portation subject to jurisdiction under subchapter I or III
3 of chapter 135 of this title, or an officer, agent, or em-
4 ployee of that person, that (1) willfully does not make that
5 report, (2) willfully does not specifically, completely, and
6 truthfully answer that question in 30 days from the date
7 the Secretary or Transportation Board, as applicable, re-
8 quires the question to be answered, (3) willfully does not
9 make, prepare, or preserve that record in the form and
10 manner prescribed, (4) knowingly and willfully falsifies,
11 destroys, mutilates, or changes that report or record, (5)
12 knowingly and willfully files a false report or record, (6)
13 knowingly and willfully makes a false or incomplete entry
14 in that record about a business related fact or transaction,
15 or (7) knowingly and willfully makes, prepares, or pre-
16 serves a record in violation of an applicable regulation or
17 order of the Secretary or Transportation Board shall be
18 fined not more than \$5,000.

19 **“§ 14908. Unlawful disclosure of information**

20 “(a)(1) A carrier or broker providing transportation
21 subject to jurisdiction under subchapter I, II, or III of
22 chapter 135 of this title or an officer, receiver, trustee,
23 lessee, or employee of that carrier or broker, or another
24 person authorized by that carrier or broker to receive in-
25 formation from that carrier or broker may not knowingly

1 disclose to another person, except the shipper or con-
2 signee, and another person may not solicit, or knowingly
3 receive, information about the nature, kind, quantity, des-
4 tination, consignee, or routing of property tendered or de-
5 livered to that carrier or broker for transportation pro-
6 vided under this part without the consent of the shipper
7 or consignee if that information may be used to the det-
8 riment of the shipper or consignee or may disclose improv-
9 erly to a competitor the business transactions of the ship-
10 per or consignee.

11 “(2) A person violating paragraph (1) of this sub-
12 section shall be fined not less than \$2,000. Trial in a
13 criminal action under this paragraph is in the judicial dis-
14 trict in which any part of the violation is committed.

15 “(b) This part does not prevent a carrier or broker
16 providing transportation subject to jurisdiction under
17 chapter 135 of this title from giving information—

18 “(1) in response to legal process issued under
19 authority of a court of the United States or a State;

20 “(2) to an officer, employee, or agent of the
21 United States Government, a State, or a territory or
22 possession of the United States; or

23 “(3) to another carrier or its agent to adjust
24 mutual traffic accounts in the ordinary course of
25 business.

1 **“§ 14909. Disobedience to subpoenas**

2 “A person not obeying a subpoena or requirement of
3 the Secretary of Transportation or the Intermodal Surface
4 Transportation Board to appear and testify or produce
5 records shall be fined not less than \$5,000, imprisoned
6 for not more than one year, or both.

7 **“§ 14910. General criminal penalty when specific pen-**
8 **alty not provided**

9 “When another criminal penalty is not provided
10 under this chapter, a person that knowingly and willfully
11 violates a provision of this part or a regulation or order
12 prescribed under this part, or a condition of a registration
13 under this part related to transportation that is subject
14 to jurisdiction under subchapter I or III of chapter 135
15 of this title or a condition of a registration under section
16 13902 of this title, shall be fined at least \$500 for the
17 first violation and at least \$500 for a subsequent violation.
18 A separate violation occurs each day the violation contin-
19 ues.

20 **“§ 14911. Punishment of corporation for violations**
21 **committed by certain individuals**

22 “An act or omission that would be a violation of this
23 part if committed by a director, officer, receiver, trustee,
24 lessee, agent, or employee of a carrier providing transpor-
25 tation or service subject to jurisdiction under chapter 135
26 of this title that is a corporation is also a violation of this

1 part by that corporation. The penalties of this chapter
2 apply to that violation. When acting in the scope of their
3 employment, the actions and omissions of individuals act-
4 ing for or employed by that carrier are considered to be
5 the actions and omissions of that carrier as well as that
6 individual.

7 **“§ 14912. Weight-bumping in household goods trans-**
8 **portation**

9 “(a) For the purposes of this section, ‘weight-bump-
10 ing’ means the knowing and willful making or securing
11 of a fraudulent weight on a shipment of household goods
12 which is subject to jurisdiction under subchapter I or III
13 of chapter 135 of this title.

14 “(b) Any individual who has been found to have com-
15 mitted weight-bumping shall, for each offense, be fined at
16 least \$1,000 but not more than \$10,000, imprisoned for
17 not more than 2 years, or both.

18 **“§ 14913. Conclusiveness of rates in certain prosecu-**
19 **tions**

20 “When a carrier publishes or files a particular rate
21 under section 13702 or participates in such a rate, the
22 published or filed rate is conclusive proof against that car-
23 rier, its officers, and agents that it is the legal rate for
24 that transportation or service in a proceeding begun under
25 section 14902 or 14903 of this title. A departure, or offer

1 to depart, from that published or filed rate is a violation
2 of those sections.”.

3 **Subtitle B—Motor Carrier Reg-**
4 **istration and Insurance Re-**
5 **quirements**

6 **SEC. 451. AMENDMENT OF SECTION 31102.**

7 Section 31102(b)(1) is amended by—

8 (1) striking “and” at the end of subparagraph
9 (O);

10 (2) striking the period at the end of subpara-
11 graph (P) and inserting a semicolon and “and”; and

12 (3) adding at the end thereof the following:

13 “(Q) ensures that the State will cooperate in
14 the enforcement of registration and financial respon-
15 sibility requirements under sections 31140 and
16 31146 of this title, or regulations issued there-
17 under.”

18 **SEC. 452. AMENDMENT OF SECTION 31138.**

19 (a) Section 31138(c) is amended by adding at the end
20 thereof the following new paragraph:

21 “(3) A motor carrier may obtain the required
22 amount of financial responsibility from more than
23 one source provided the cumulative amount is equal
24 to the minimum requirements of this section.”.

1 (b) Section 31138 is amended by adding at the end
2 thereof the following:

3 “(f) LOWER COVERAGE PERMITTED FOR CERTAIN
4 OPERATIONS.—Under regulations promulgated by the
5 Secretary, the minimum amount set forth in subsection
6 (b)(1) shall not apply to motor vehicles used, under a pro-
7 gram funded in whole or in part with a Federal transit
8 grant, to provide supplemental para-transit services for
9 the elderly and disabled.”.

10 (c) Section 31139(e) is amended by adding at the end
11 thereof the following:

12 “(3) A motor carrier may obtain the required
13 amount of financial responsibility from more than
14 one source provided the cumulative amount is equal
15 to the minimum requirements of this section.”.

16 **SEC. 453. SELF-INSURANCE RULES.**

17 The Secretary of Transportation shall continue to en-
18 force the rules and regulations of the Interstate Commerce
19 Commission, as in effect on July 1, 1995, governing the
20 qualifications for approval of a motor carrier as a self-
21 insurer, until such time as the Secretary finds it in the
22 public interest to revise such rules. The revised rules must
23 provide for—

24 (1) continued ability of motor carriers to qualify
25 as self-insurers; and

1 (B) the continued qualification of all carriers
 2 then so qualified under the terms and conditions set
 3 by the Interstate Commerce Commission or Sec-
 4 retary at the time of qualification.

5 **SEC. 454. MOTOR CARRIER FINANCIAL RESPONSIBILITY IN-**
 6 **FORMATION SYSTEM.**

7 (a) Subchapter III of chapter 311 is amended by—

8 (1) redesignating section 31140 as 31140a; and

9 (2) inserting after section 31139 the following:

10 **“§ 31140. Motor Carrier Financial Responsibility In-**
 11 **formation System**

12 “(a) GENERAL REQUIREMENT.—The Secretary of
 13 Transportation shall establish and maintain a Motor Car-
 14 rier Register that will serve as a clearinghouse and deposi-
 15 tory of information on compliance with the required levels
 16 of financial responsibility, service of process agents, and
 17 identification and disqualification of motor carriers re-
 18 quired to register with the Secretary pursuant to section
 19 13901 and 13906 of this title. The Secretary shall consult
 20 with the States, motor carriers, and insurers in carrying
 21 out this section.

22 “(b) ACCESS TO REGISTER INFORMATION.—

23 “(1) The information on the Register shall be
 24 made available by electronic and other means to any

1 person or State upon the receipt of a request for
 2 such information.

3 “(2) The Secretary is authorized to establish a
 4 user fee system for making inquiries to obtain finan-
 5 cial responsibility information from the information
 6 system, pursuant to section 9701, title 31, United
 7 States Code. The fees shall not exceed 120 percent
 8 of the direct costs of responding to the inquiry. Fees
 9 collected under this subsection in a fiscal year shall
 10 not exceed the costs of operating the information
 11 system in that fiscal year. Such fees may be credited
 12 to the Department of Transportation appropriation
 13 account charged in proportion to the amount ex-
 14 pended from the account for these purposes, and
 15 shall be available for expenditure until expended.
 16 The Secretary shall waive the fees applicable to
 17 States for access to the motor carrier register.”.

18 (b) The index for subchapter III of chapter 311 is
 19 amended by striking the item relating to section 31140
 20 and inserting the following:

“31140. Motor carrier financial responsibility information system
 “31140a. Submission of State laws and regulations for review”.

21 **SEC. 455. SAFETY FITNESS OF OWNERS AND OPERATORS.**

22 Section 31144 is amended by—

1 (1) striking “In cooperation with the Interstate
2 Commerce Commission, the” in the first sentence of
3 subsection (a) and inserting “The”;

4 (2) by striking “sections 10922 and 10923” in
5 that sentence and inserting “section 13902”;

6 (3) striking “and the Commission” in sub-
7 section (a)(1)(C); and

8 (4) striking subsection (b) and inserting the fol-
9 lowing:

10 “(b) Findings and action on registrations.—The Sec-
11 retary shall—

12 “(1) find a registrant as a motor carrier unfit
13 if the registrant does not meet the safety fitness re-
14 quirements established under subsection (a) of this
15 section; and

16 “(2) withhold registration.”.

17 **SEC. 456. REGISTRATION.**

18 (a) Subchapter III of chapter 311 is amended by add-
19 ing at the end the following:

20 **“§ 31148. Registration**

21 **“(a) PERSONS REQUIRED TO FILE.—**

22 “(1) The Secretary of Transportation shall re-
23 quire any motor carrier of passengers or property,
24 operating in interstate commerce, to register its

1 motor vehicle operations with the Department of
2 Transportation.

3 “(2) The Secretary shall require motor carriers
4 and motor private carriers domiciled in foreign coun-
5 tries or owned or controlled by nationals of foreign
6 countries contiguous to the United States to register
7 with the Department of Transportation when offer-
8 ing or providing transportation services within the
9 United States or between the United States and a
10 foreign country.

11 “(3) Department of Transportation Identifica-
12 tion Number.—Upon receipt of a registration state-
13 ment completed in accordance with the requirements
14 of this section, the Secretary shall issue a Depart-
15 ment of Transportation identification number.

16 “(4) Regulations.—

17 “(A) The Secretary shall promulgate regu-
18 lations to implement the requirements of this
19 section. Such regulations shall become effective
20 no later than 6 months after the date of enact-
21 ment of the Interstate Commerce Commission
22 Sunset Act of 1995.

23 “(B) The information regarding financial
24 responsibility and agent for service of process
25 shall be submitted in formats to be prescribed

1 by the Secretary. Such information may be sub-
2 mitted either electronically or non-electronically.
3 Until the Secretary prescribes such formats, the
4 information shall continue to be submitted on
5 forms authorized by the Interstate Commerce
6 Commission as of the date of enactment of the
7 Interstate Commerce Commission Sunset Act of
8 1995.

9 “(b) COMPLIANCE WITH REGISTRATION REQUIRE-
10 MENTS.—

11 “(1) No carrier required to file a registration
12 statement under subsection (a) may operate any
13 commercial motor vehicle, as defined in section
14 31132 of this title, in commerce unless the carrier’s
15 operations are currently registered with the Sec-
16 retary and the carrier has a valid number issued by
17 the Secretary.

18 “(2) The Secretary may deny, revoke, or sus-
19 pend a carrier’s operations, as provided for in this
20 section, because of noncompliance with the motor
21 carrier safety fitness standards, required levels of fi-
22 nancial responsibility, or any restrictions or condi-
23 tions imposed pursuant to section 31181, as deter-
24 mined by the Secretary.

1 “(c) FINANCIAL RESPONSIBILITY OF CARRIERS.—

2 The Secretary may issue a Department of Transportation
3 identification number under this section only if the carrier
4 applying for such registration number files with the Sec-
5 retary proof of financial responsibility in an amount not
6 less than that prescribed by the Secretary pursuant to sec-
7 tions 31138 and 31139 of this title.

8 “(d) FILING DEADLINES.—

9 “(1) Carriers that have valid operating author-
10 ity from the Interstate Commerce Commission as of
11 the date of enactment need not make a separate reg-
12 istration filing with the Department but shall be
13 considered to have validly registered with the De-
14 partment.

15 “(2) Any carrier that does not currently have
16 operating authority from the Interstate Commerce
17 Commission and is required to file a registration
18 statement under subsection (a) of this section shall
19 file its registration statement with the Department
20 within 90 days of the effective date of the regula-
21 tions issued pursuant to this section or prior to initi-
22 ating operations described in subsection (a).

23 “(3) A carrier’s registration shall remain in ef-
24 fect for the 5-year term without any additional filing
25 or renewal as long as the carrier continues to pro-

1 vide transportation in interstate commerce and con-
2 tinues to meet its financial responsibility require-
3 ments.

4 “(4) A carrier shall file or have filed for it, no-
5 tice of any change in the status of its financial re-
6 sponsibility requirements.

7 “(e) FEE SYSTEM.—The Secretary is authorized to
8 establish a fee system for filing registration statements
9 and evidence of financial responsibility, pursuant to sec-
10 tion 9701 of title 31, United States Code. Fees collected
11 under this subsection shall equal as nearly as possible the
12 costs of operating the registration system in the fiscal
13 year, except—

14 “(1) the fee for registering a motor carrier pur-
15 suant to this section shall not exceed \$300; and

16 “(2) the fee for filing evidence of financial re-
17 sponsibility pursuant to this section shall not exceed
18 \$10 per filing.

19 No fee shall be charged for the filing of agents for service
20 of process or the filing of other information relating to
21 financial responsibility. Fees collected under this sub-
22 section may be credited to the Department of Transpor-
23 tation appropriation account charged in proportion to the
24 amount expended from the account for these purposes,
25 and shall be available for expenditure until expended.

1 “(f) LIMITATIONS.—The Secretary shall have no au-
 2 thority to require any registration filing from any motor
 3 private carrier or from any carrier providing transpor-
 4 tation described in section 10526 of this title as in effect
 5 on July 1, 1995, unless such carrier also provides trans-
 6 portation that would have been subject to section 10521
 7 of this title as in effect on July 1, 1995.”.

8 (b) The index for subchapter III of chapter 311 is
 9 amended by adding at the end thereof the following:

“31148. Registration”.

10 **TITLE V—AMENDMENTS TO** 11 **OTHER LAWS**

12 **SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.**

13 Section 401 of the Federal Election Campaign Act
 14 of 1971 (2 U.S.C. 451) is amended by—

15 (1) striking “Interstate Commerce Commis-
 16 sion,” and inserting “Intermodal Surface Transpor-
 17 tation Board,”; and

18 (2) striking “promulgate, within ninety days
 19 after the date of enactment of this Act,” and insert-
 20 ing “maintain”.

21 **SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.**

22 Section 201 of the Agricultural Adjustment Act of
 23 1938 (7 U.S.C. 1291) is amended by—

1 (1) striking “Interstate Commerce Commis-
2 sion” and inserting “Intermodal Surface Transpor-
3 tation Board” each place it appears;

4 (2) striking “Commission”, wherever it appears
5 and inserting “Transportation Board”; and

6 (3) striking “Commission’s” in subsection (b)
7 and inserting “Transportation Board’s”.

8 **SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.**

9 Section 203(j) of the Agricultural Marketing Act of
10 1946 (7 U.S.C. 1622(j)) is amended by striking “Inter-
11 state Commerce Commission,” and inserting “Intermodal
12 Surface Transportation Board,”.

13 **SEC. 504. ANIMAL WELFARE ACT.**

14 Section 15(a) of the Animal Welfare Act (7 U.S.C.
15 2145(a)) is amended by striking “Interstate Commerce
16 Commission” and inserting “Intermodal Surface Trans-
17 portation Board”.

18 **SEC. 505. TITLE 11, UNITED STATES CODE.**

19 (a) Section 1164 of title 11, United States Code, is
20 amended by striking “Commission” and inserting “Inter-
21 modal Surface Transportation Board”.

22 (b) Section 1170 of title 11, United States Code, is
23 amended by—

1 (1) striking “Commission” the first time it ap-
2 pays in subsection (b) and inserting “Intermodal
3 Surface Transportation Board”; and

4 (2) striking “Commission” wherever else it ap-
5 pays and inserting “Transportation Board”.

6 (c) Section 1172 of title 11, United States Code, is
7 amended by—

8 (1) striking “Commission” the first time it ap-
9 pays in subsection (b) and inserting “Intermodal
10 Surface Transportation Board”; and

11 (2) striking “Commission” wherever else it ap-
12 pays and inserting “Transportation Board”.

13 **SEC. 506. CLAYTON ACT.**

14 The Clayton Act (15 U.S.C. 12 et seq.) is amended
15 by—

16 (1) striking “Interstate Commerce Commis-
17 sion” in the last sentence of section 7 (15 U.S.C.
18 18) and inserting “Intermodal Surface Transpor-
19 tation Board”;

20 (2) inserting a comma and “Transportation
21 Board,” after “such Commission” in the last sen-
22 tence of that section;

23 (3) striking “Interstate Commerce Commis-
24 sion” in the first sentence of section 11(a) (15

1 U.S.C. 21) and inserting “Intermodal Surface
2 Transportation Board”; and

3 (4) striking “Interstate Commerce Commis-
4 sion” in section 16 (15 U.S.C. 26) and inserting
5 “Intermodal Surface Transportation Board”.

6 **SEC. 507. CONSUMER CREDIT PROTECTION ACT.**

7 The Consumer Credit Protection Act (15 U.S.C.
8 1601 et seq.) is amended by—

9 (1) striking “Interstate Commerce Commis-
10 sion” in section 621(b)(4) (15 U.S.C. 1681s) and in-
11 serting “Intermodal Surface Transportation Board”;

12 (2) inserting a comma and “and part B of sub-
13 title IV of title 49, United States Code, by the Sec-
14 retary of Transportation with respect to any com-
15 mon carrier subject to such part;” in section
16 621(b)(4) (15 U.S.C. 1681s) after “those Acts”;

17 (3) striking “Interstate Commerce Commis-
18 sion” in section 704(a)(4) (15 U.S.C. 1691c) and in-
19 serting “Intermodal Surface Transportation Board”;

20 (4) inserting a comma and “and part B of sub-
21 title IV of title 49, United States Code, by the Sec-
22 retary of Transportation with respect to any com-
23 mon carrier subject to such part” in section
24 704(a)(4) (15 U.S.C. 1691c) after “those Acts”;

1 (5) striking “Interstate Commerce Commis-
2 sion” in section 814(b)(4) (15 U.S.C. 1692l) and in-
3 serting “Intermodal Surface Transportation Board”;
4 and

5 (6) inserting a comma and “and part B of sub-
6 title IV of title 49, United States Code, by the Sec-
7 retary of Transportation with respect to any com-
8 mon carrier subject to such part” in section
9 814(b)(4) (15 U.S.C. 1692l) after “those Acts”.

10 **SEC. 508. NATIONAL TRAILS SYSTEM ACT.**

11 The National Trails System Act (16 U.S.C. 1241 et
12 seq.) is amended by—

13 (1) striking “Interstate Commerce Commis-
14 sion” in the first sentence of section 8(d) (16 U.S.C.
15 1247(d)) and inserting “Intermodal Surface Trans-
16 portation Board”;

17 (2) striking “Commission” in the last sentence
18 of section 8(d) (16 U.S.C. 1247(d)) and inserting
19 “Intermodal Surface Transportation Board”; and

20 (3) striking “Interstate Commerce Commis-
21 sion” in section 9(b) (16 U.S.C. 1248(d)) and in-
22 serting “Intermodal Surface Transportation Board”.

23 **SEC. 509. TITLE 18, UNITED STATES CODE.**

24 Section 6001 of title 18, United States Code, is
25 amended by striking “Interstate Commerce Commission”

1 in subsection (1) and inserting “Intermodal Surface
2 Transportation Board”.

3 **SEC. 510. INTERNAL REVENUE CODE OF 1986.**

4 (a) Section 3231 of the Internal Revenue Code of
5 1986 (26 U.S.C. 3231) is amended by—

6 (1) striking “Interstate Commerce Commis-
7 sion” in subsection (a) and inserting “Intermodal
8 Surface Transportation Board”; and

9 (2) striking subsection (g) and inserting the fol-
10 lowing:

11 “(g) CARRIER.—For purposes of this chapter, the
12 term ‘carrier’ means a rail carrier providing transpor-
13 tation subject to chapter 105 of title 49, United States
14 Code.”.

15 (b) Section 7701(a) of the Internal Revenue Code of
16 1986 (26 U.S.C. 7701(a)) is amended by—

17 (1) striking “Federal Power Commission” in
18 paragraph (33)(B) and inserting “Federal Energy
19 Regulatory Commission”;

20 (2) striking “Interstate Commerce Commis-
21 sion” in paragraph (33)(C)(i) and inserting “Inter-
22 modal Surface Transportation Board”;

23 (3) striking “Interstate Commerce Commis-
24 sion” in paragraph (33)(C)(ii) with “Federal Energy
25 Regulatory Commission”;

1 (4) striking “Interstate Commerce Commission
2 under subchapter III of chapter 105” in paragraph
3 (33)(F) and inserting “Secretary of Transportation
4 under subchapter II of chapter 135”;

5 (5) striking “subchapter I of” in paragraph
6 (33)(G); and

7 (6) striking “subchapter I of” in the first sen-
8 tence of paragraph (33)(H).

9 **SEC. 511. TITLE 28, UNITED STATES CODE.**

10 (a) The heading of chapter 157 of part VI of title
11 28, United States Code, is amended by striking “INTER-
12 STATE COMMERCE COMMISSION” and inserting
13 “INTERMODAL SURFACE TRANSPORTATION
14 BOARD”.

15 (b) Section 2321 of title 28, United States Code, is
16 amended by—

17 (1) striking “Commission’s” in the section cap-
18 tion and inserting “Intermodal Surface Transpor-
19 tation Board’s”; and

20 (2) striking “Interstate Commerce Commis-
21 sion” in subsections (a) and (b) and inserting
22 “Intermodal Surface Transportation Board”.

23 (c) Section 2323 of title 28, United States Code, is
24 amended by—

1 (1) striking “Interstate Commerce Commis-
2 sion” and inserting “Intermodal Surface Transpor-
3 tation Board”; and

4 (2) striking “Commission”, wherever it appears,
5 and inserting “Transportation Board”.

6 (d) Section 2341 of title 28, United States Code, is
7 amended by—

8 (1) striking “Interstate Commerce Commis-
9 sion” in paragraph (3)(A);

10 (2) striking “and” in paragraph (3)(C);

11 (3) striking “Act.” in paragraph (3)(D) and in-
12 serting “Act; and”; and

13 (4) inserting after paragraph (3)(D) the follow-
14 ing:

15 “(E) the Transportation Board, when the
16 order was entered by the Intermodal Surface
17 Transportation Board.”.

18 (e) Section 2342 of title 28, United States Code, is
19 amended by—

20 (1) inserting “or pursuant to part B of subtitle
21 IV of title 49, United States Code” at the end of
22 paragraph (3)(A); and

23 (2) striking paragraph (5) and inserting the fol-
24 lowing:

1 “(5) all rules, regulations, or final orders of the
2 Intermodal Surface Transportation Board made
3 reviewable by section 2321 of this title; and”.

4 **SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORK-**
5 **ER PROTECTION ACT.**

6 Section 401(b) of the Migrant and Seasonal Agricul-
7 tural Worker Protection Act (29 U.S.C. 1841(b)) is
8 amended by—

9 (1) striking “part II of the Interstate Com-
10 merce Act (49 U.S.C. 301 et seq.) , or any successor
11 provision of” in paragraph (2)(C) and inserting
12 “part B of”; and

13 (2) striking “part II of the Interstate Com-
14 merce Act (49 U.S.C. 301 et seq.), and any succes-
15 sor provision of” in paragraph (3) and inserting
16 “part B of”.

17 **SEC. 513. TITLE 39, UNITED STATES CODE.**

18 (a) Section 5005 of title 39, United States Code, is
19 amended by striking “Interstate Commerce Commission”
20 in subsection (b)(3) and inserting “Intermodal Surface
21 Transportation Board”.

22 (b) Section 5203 of title 39, United States Code, is
23 amended by—

24 (1) striking subsection (f) and redesignating
25 subsection (g) as subsection (f); and

1 (2) striking “Commission” in subsection (f), as
 2 redesignated, and inserting “Intermodal Surface
 3 Transportation Board”.

4 (c) Section 5207 of title 39, United States Code, is
 5 amended by—

6 (1) striking “Interstate Commerce Commis-
 7 sion”, in both the section caption and subsection (a),
 8 and inserting “Intermodal Surface Transportation
 9 Board”; and

10 (2) striking “Commission” wherever it appears
 11 and inserting “Transportation Board”.

12 (d) Section 5208 of title 39, United States Code, is
 13 amended by—

14 (1) striking “Commission’s” in subsection (a)
 15 and inserting “Transportation Board’s”; and

16 (2) striking “Commission” wherever it appears
 17 and inserting “Transportation Board”.

18 (e) The index for chapter 52 of title 39, United States
 19 Code, is amended by striking out the items relating to sec-
 20 tion 5207 and inserting in lieu thereof the following:

“5207. Intermodal Surface Transportation Board to fix rates.”

21 **SEC. 514. ENERGY POLICY ACT OF 1992.**

22 Section 1340 of the Energy Policy Act of 1992 (42
 23 U.S.C. 13369) is amended by striking “Interstate Com-
 24 merce Commission” in subsections (a) and (d) and insert-
 25 ing “Intermodal Surface Transportation Board”.

1 **SEC. 515. RAILWAY LABOR ACT.**

2 Section 151 of the Railway Labor Act (45 U.S.C.
3 151) is amended by—

4 (1) striking “any express company, sleeping-car
5 company, carrier by railroad, subject to” in the first
6 paragraph and inserting “any railroad subject to”;

7 (2) striking “Interstate Commerce Commis-
8 sion” in the first and fifth paragraphs and inserting
9 “Intermodal Surface Transportation Board”; and

10 (3) striking “Commission”, wherever it appears
11 in the fifth paragraph and inserting “Intermodal
12 Surface Transportation Board”.

13 **SEC. 516. RAILROAD RETIREMENT ACT OF 1974.**

14 Section 1 of the Railroad Retirement Act of 1974 (45
15 U.S.C. 231) is amended by—

16 (1) striking subsection (a)(1)(i) and inserting:

17 “(i) any carrier by railroad subject to chapter
18 105 of title 49, United States Code;”;

19 (2) striking “Interstate Commerce Commis-
20 sion” in subsection (a)(2)(ii) and inserting “Inter-
21 modal Surface Transportation Board”;

22 (3) striking “Board,” in subsection (a)(2)(ii)
23 and inserting “Railroad Retirement Board,”; and

24 (4) inserting “Intermodal Surface Transpor-
25 tation Board,” after Interstate Commerce Commis-
26 sion,” in the first sentence of subsection (o).

1 **SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.**

2 (a) Section 1 of the Railroad Unemployment Insur-
3 ance Act (45 U.S.C. 351) is amended by—

4 (1) striking “Interstate Commerce Commis-
5 sion” in the second sentence of paragraph (a) and
6 inserting “Intermodal Surface Transportation
7 Board”;

8 (2) striking “Board,” in the second sentence of
9 paragraph (a) and inserting “Railroad Retirement
10 Board,”; and

11 (3) striking paragraph (b) and inserting the fol-
12 lowing:

13 “(b) The term ‘carrier’ means a carrier by railroad
14 subject to chapter 105 of title 49, United States Code.”.

15 (b) Section 2(h)(3) of the Railroad Unemployment
16 Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

17 (1) striking “Interstate Commerce Commis-
18 sion” and inserting “Intermodal Surface Transpor-
19 tation Board”; and

20 (2) striking “Board,” and inserting “Railroad
21 Retirement Board,”.

22 **SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.**

23 Section 3 of the Emergency Rail Services Act of 1970
24 (45 U.S.C. 662) is amended by striking “Commission”,
25 wherever it appears in subsections (a) and (b), and insert-
26 ing “Intermodal Surface Transportation Board”.

1 **SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.**

2 (a) Section 304 of the Regional Rail Reorganization
3 Act of 1973 (45 U.S.C. 744) is amended by—

4 (1) striking “Commission” in subsection
5 (d)(1)(A) and inserting “Intermodal Surface Trans-
6 portation Board”; and

7 (2) striking “Commission” wherever else it ap-
8 pears in paragraph (1) or (3) of subsection (d), and
9 in subsections (f) and (g), and inserting “Transpor-
10 tation Board”.

11 (b) Section 305 of the Regional Rail Reorganization
12 Act of 1973 (45 U.S.C. 745) is amended by—

13 (1) striking “or the Association” and “or the
14 Association, as the case may be,” in the first sen-
15 tence of subsection (a);

16 (2) striking the second sentence of subsection
17 (a);

18 (3) striking the third sentence of subsection (a)
19 and inserting “A proposal shall state and describe
20 any transactions proposed, the rail properties in-
21 volved, the parties to such transactions, the financial
22 and other terms of such transactions, and the pur-
23 poses of the chapter or the goals of the final system
24 plan intended to be effectuated by such trans-
25 actions.”;

1 (4) striking the last sentence of subsection (a)
2 and inserting “Upon the development of a proposal,
3 the Secretary shall publish a summary of such pro-
4 posal in the Federal Register, and shall afford inter-
5 ested persons (including the Corporation when prop-
6 erty is to be transferred to or from the Corporation)
7 an opportunity to comment thereon.”;

8 (5) striking “Association” wherever it appears
9 in subsection (b) and inserting “Secretary”;

10 (6) striking “Commission”, in the subsection
11 caption and first sentence of subsection (c) and in-
12 serting “Intermodal Surface Transportation Board”;

13 (7) striking “Commission” wherever else it ap-
14 pears in subsection (c) and inserting “Transpor-
15 tation Board”;

16 (8) striking “Association” wherever it appears
17 in the first sentence of subsection (d)(1) and insert-
18 ing “Secretary”;

19 (9) striking “Commission’s” in the first and
20 last sentences of subsection (d)(1) and inserting
21 “Transportation Board’s”;

22 (10) striking the second sentence of subsection
23 (d)(1);

24 (11) striking “the Association (in the case of a
25 proposal developed by the Association) or” and “(in

1 the case of a proposal developed by the Secretary)”
2 in the third sentence of subsection (d)(2);

3 (12) striking “either the Association or” in sub-
4 section (d)(3);

5 (13) striking “evaluation by the Association,
6 the Secretary, or the Commission” in the first sen-
7 tence of subsection (d)(5) and inserting “the Sec-
8 retary or the Transportation Board”; and

9 (14) striking “Association” wherever it appears
10 in subsection (e) and inserting “Secretary”.

11 **SEC. 520. ALASKA RAILROAD TRANSFER ACT OF 1982.**

12 Section 608 of the Alaska Railroad Transfer Act of
13 1982 (45 U.S.C. 1207) is amended by striking “Interstate
14 Commerce Commission” wherever it appears in sub-
15 sections (a) and (c) and inserting “Intermodal Surface
16 Transportation Board”.

17 **SEC. 521. MERCHANT MARINE ACT, 1920.**

18 (a) Section 8 of Merchant Marine Act, 1920 (46
19 U.S.C. App. 867) is amended by—

20 (1) striking “Interstate Commerce Commis-
21 sion” in both places that it appears and inserting
22 “Intermodal Surface Transportation Board”; and

23 (2) striking “commission” and inserting
24 “board”.

1 (b) Section 28 of the Merchant Marine Act, 1920 (46
2 U.S.C. App. 884) is amended by—

3 (1) striking “Interstate Commerce Commis-
4 sion” where it first appears and inserting “Inter-
5 modal Surface Transportation Board”; and

6 (2) striking “Interstate Commerce Commis-
7 sion” wherever else it appears and inserting “Trans-
8 portation Board”.

9 **SEC. 522. SERVICE CONTRACT ACT OF 1965.**

10 Section 356(3) of the Service Contract Act of 1965
11 (41 U.S.C. 356(3)), is amended by striking “where pub-
12 lished tariff rates are in effect”.

13 **SEC. 523. FEDERAL AVIATION ADMINISTRATION AUTHOR-**
14 **IZATION ACT OF 1994.**

15 Section 601(d) of the Federal Aviation Administra-
16 tion Authorization Act of 1994 (Public Law 103–305) is
17 amended by striking all after “subsection (c)” and insert-
18 ing “shall not take effect as long as section 11501(g)(2)
19 of title 49, United States Code, applies to that State.”.

20 **TITLE VI—AUTHORIZATION**

21 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

22 For the purpose of carrying out the provisions of this
23 Act, there are authorized to be appropriated—

1 (1) for the closedown of the Interstate Com-
 2 merce Commission and severance costs for Interstate
 3 Commerce Commission personnel, \$6,493,400;

4 (2) for the operations of the Interstate Com-
 5 merce Commission for the remainder of fiscal year
 6 1995 and fiscal year 1996, \$8,395,000; and

7 (3) for the operations of the Intermodal Surface
 8 Transportation Board, \$12,000,000 for each of the
 9 fiscal years 1996, 1997, and 1998.

10 **TITLE VII—EFFECTIVE DATE**

11 **SEC. 701. EFFECTIVE DATE.**

12 Except as otherwise expressly provided, this Act and
 13 the amendments made by this Act shall take effect on Jan-
 14 uary 1, 1996.

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