Watts (OK)	Whitfield	Young (FL)
Weldon (FL)	Wicker	Zeliff
Weldon (PA)	Wolf	Zimmer
Weller	Wynn	
White	Young (AK)	

NOES—179

Abercrombie	Gonzalez	Olver
Ackerman	Gordon	Ortiz
Andrews	Green	Orton
Baesler	Gutierrez	Owens
Baldacci	Hall (OH)	Pallone
Barcia	Hamilton	Pastor
Barrett (WI)	Harman	Payne (NJ)
Becerra	Hastings (FL)	Payne (VA)
Beilenson	Hefner	Pelosi
Bentsen	Hilliard	Peterson (FL)
Berman	Hinchey	Pickett
Bevill	Hoyer	Pomeroy
Bishop	Jackson-Lee	Poshard
Bonior	Jacobs	Rahall
Borski	Jefferson	Rangel
Boucher	Johnson (SD)	Reed
Brown (CA)	Johnson, E.B.	Richardson
Brown (FL)	Johnston	Rivers
Brown (OH)	Kanjorski	Roemer
Bryant (TX)	Kaptur	Rose
Cardin	Kennedy (MA)	Roybal-Allard
Clay	Kennedy (RI)	Rush
Clayton	Kennelly	Sabo
Clyburn	Kildee	Sanders
Coleman	Kleczka	Sawyer
Collins (IL)	Klink	Schroeder
Collins (MI)	LaFalce	Schumer
Conyers	Lantos	Scott
Costello	Levin	Serrano
Coyne	Lewis (GA)	Shays
Danner	Lincoln	Skaggs
de la Garza	Lofgren	Slaughter
DeFazio	Lowey	Spratt
DeLauro	Luther	Stark
Dellums	Maloney	Stenholm
Deutsch	Manton	Stokes
Dicks	Markey	Studds
Dingell	Martinez	Stupak
Dixon	Mascara	Tanner
Dooley	Matsui	Tejeda
Doyle	McCarthy	Thompson
Durbin	McDermott	Thornton
Edwards	McHale	Thurman
Engel	McKinney	Torres
Eshoo	McNulty	Torricelli
Evans	Meehan	Towns
Farr	Meek	Velazquez
Fattah	Menendez	Vento
Fazio	Mfume	Visclosky
Filner	Miller (CA)	Volkmer
Flake	Minge	Ward
Foglietta	Mink	Waters
Ford	Moakley	Watt (NC)
Frank (MA)	Mollohan	Waxman
Frost	Moran	Williams
Furse	Murtha	Wilson
Gejdenson	Nadler	Wise
Gephardt	Neal	Woolsey
Geren	Oberstar	Wyden
Gibbons	Obey	

NOT VOTING—6

Fields (LA)	Lewis (CA)	Waldholtz
Kasich	Tucker	Yates

☐ 1509

Messrs. CHAPMAN, SKELTON, SISISKY, and CRAMER changed their vote from ''nay'' to ''yea.''

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOGLIETTA. Mr. Speaker, due to a delayed flight to Washington, I was forced to miss the vote on Senate Concurrent Resolution 31, honoring Yitzhak Rabin. Had I been present, I would have voted ''aye.''

ICC TERMINATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 259 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 259

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with section 302(f) or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first section and each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI or section 302(f) of the Congressional Budget Act of 1974 are waived. Before consideration of any other amendment, if shall be in order without intervention of any point of order to consider the amendment caused by the chairman of the Committee on Transportation and Infrastructure to be printed in the portion of the Congressional Record designated for the purpose in clause 6 of rule XXIII. That amendment may be offered only by the chairman of the Committee on Transportation and Infrastructure or his designee, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for the purpose in clause 6 of the rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

☐ 1515

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished ranking member of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 259 is an open rule providing for the consideration of H.R. 2539, the ICC Termination Act of 1995. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives section 302(f)—prohibiting consideration of legislation providing new entitlement authority in excess of a committee's allocation—and section 308(a)—requiring a CBO cost estimate in the committee report on legislation containing new entitlement, spending, or budget authority, or a change in revenues—of the Congressional Budget Act of 1974 against consideration of the bill.

The bill creates the position of director of the transportation adjudication panel and prescribes the rate of pay for this position. This would be considered an entitlement and, therefore, requires these Budget Act waivers.

The rule makes in order the Committee on Transportation and Infrastructure amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. Section 302(f) of the Congressional Budget Act and clause 5(a) of rule XXI—prohibiting appropriations in a legislative bill—are waived against the committee amendment in the nature of a substitute.

These waivers are necessary to protect provisions which authorize the Secretary of Transportation to collect registration fees and use them to cover costs of operations relating to the registration system without further appropriation.

Mr. Speaker, the rule further provides for the consideration of a manager's amendment printed in the CONGRESSIONAL RECORD of November 13, 1995, which is considered as read, not subject to amendment or to a division of the question, and is debatable for 10 minutes equally divided between the proponent and an opponent of the amendment. If adopted, the amendment is considered as part of the base text for the purpose of further amendment.

Under the rule, the Chair may accord priority in recognition to members who

have preprinted their amendments in the CONGRESSIONAL RECORD. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2539 provides for the immediate elimination of the Interstate Commerce Commission. The bill repeals many motor carrier and rail laws and regulations and reforms and transfers the remaining functions of the ICC to the Department of Transportation.

The House provided no funding for the ICC in the fiscal year 1996 transportation bill, and this measure will complete the formal elimination of the ICC.

This bill is just one step in the long climb to reduce the size and scope of the Federal Government. This open rule will allow all Members to fully participate in the amendment process, and I urge my colleagues to support the rule and the bill.

Mr. Speaker, I insert the following material into the RECORD on the amendment process under special rules reported by the Committee on Rules, 103d Congress versus 104th Congress:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of November 10, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	53	68
Modified Closed[3]	49	47	19	24
Closed[4]	9	9	6	8
Total	104	100	78	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of November 10, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of November 10, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H.Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 259.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, my dear friend from Tennessee [Mr. QUILLEN], for yielding me the customary half hour.

Mr. Speaker, I am glad to see this open rule come to the floor today. This bill has some serious antiworker provisions that have to be fixed, and this open rule makes that a very real possibility. Without an open rule, Mr. Speaker, we would be unable to make sure that employees of class 2 and class 3 railroads are given the same worker protection as employees of class 1 railroads.

If the worker protection amendment passes the House this afternoon, I may just vote for the bill, and all because we have been given an open rule, one that we have been fighting for since this Congress started. So, despite the Government shutdown, Capitol Hill has not completely gone to the dogs. Not yet.

So I urge my colleagues to support this open rule.

Mr. Speaker, I include for the RECORD the floor procedure in the 104th Congress, compiled by the Democrats on the Committee on Rules:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a ''Queen of the Hill'' procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a ''Queen of the Hill'' procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. *RULE AMENDED*	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	.....
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491	7 Year Balanced Budget Reconciliation	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D.
H. Con. Res. 109	Social Security Earnings Test Reform			
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	.....
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.

*Contract Bills, 67% restrictive; 33% open. **All legislation, 55% restrictive; 45% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. MOAKLEY. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I would like to advise the gentleman from Massachusetts that I have no requests for time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Tennessee. I would like to tell the gentleman from Tennessee that I have two requests, and at this time I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the former chairman for yielding me time. It is good to see the gentleman back here. I am so happy to see the gentleman looking so well and so fit back in this Chamber, where we need you.

I take this time simply to say that I appreciate the Committee on Rules granting an open rule as we requested, so that we can have full and open debate, 1 hour of general debate and then open debate on any amendments that may be offered. There will be relatively few amendments. One will be of very great significance, and we will dispose of that issue at the time that it is offered.

I would say to my colleagues on the Democratic side that I would hope the rule will pass without a recorded vote, and that we can get quickly to the business at hand under the ICC legislation. So I urge voice vote support of this very fair and appropriate open rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I, too, rise in support of the rule. I want to thank the gentleman from Pennsylvania [Mr. SHUSTER], committee chairman, and the gentlewoman from New York [Ms. MOLINARI], the subcommittee chairman, as well as the gentleman from Minnesota [Mr. OBERSTAR], the ranking member.

Much of this bill is a bipartisan bill. Many of the provisions affect Members on both sides of the aisle. They have been worked out with a lot of negotiation and fairness. The bill does permit the areas where there are differences to have full and open debate. I look forward to that.

No matter how people feel about the bill as it is later shaped, I think it is important to acknowledge this is an open rule, and we ought to be supporting it. I urge support of the rule.

Ms. PRYCE. Mr. Speaker, I am pleased to rise in support of this open rule for the consideration of H.R. 2539, the ICC Termination Act.

Under the terms of this very fair rule, the House will have ample opportunity to debate the major issues surrounding the closure of the Interstate Commerce Commission. First, we will consider the managers amendment, which, if adopted, will become part of the base text.

Then, through the open amendment process, any Member can be heard on any germane amendment to the bill, as long as it is consistent with the standing rules of the House. As we have done in the past, this rule also accords priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

H.R. 2539 abolishes the ICC while preserving its most important functions within an independent panel at the Department of Transportation. This Congress has already determined that the Interstate Commerce Commission,

which was created in 1887 to regulate interstate commerce, is no longer needed. The ICC will run out of money in December, and without this needed legislation, the Interstate Commerce Act will still be on the books without an agency to administer it. There are several functions of the ICC which are essential and must be transferred, including authority over line sales, mergers, abandonments, maximum rate regulation, and interchange agreements.

Failure to pass this legislation would be extremely detrimental for the 600 cases pending at the ICC. Shippers, carriers, and States will be ill-served if this happens.

This legislation reduces many of the burdensome regulations on shipping, truck, and rail companies. Retained regulatory functions are transferred to a three member independent board within the Department of Transportation.

Terminating the ICC and transferring its remaining functions to the Department of Transportation is critical to our efforts to downsize and streamline the Federal Government. A year ago, we pledged to the American people that we would reduce the size and cost of Government, and this legislation brings us a step closer to a smaller, more effective Federal Government.

Mr. Speaker, this fair, open rule was reported unanimously by the Rules Committee last week. I urge my colleagues to give it their full support, and to pass this important legislation without any delay.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 259 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2539.

□ 1523

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation, the ICC Termination Act of 1995. This is a very important piece of legislation which will eliminate the oldest regulatory agency in the Federal Government, the Interstate Commerce Commission. This bill in fact is the final chapter in a long history behind the termination of the ICC. The ICC has gone from about 2,000 employees and a $60 million a year budget down to 400 employees today and about a $30 million a year budget. And with this elimination of the ICC and the transference of residual functions to the Department of Transportation, it means that we will have about 120 employees and a budget of $7.9 million over in the Department of Transportation to handle the residual functions of both rail and motor carrier.

It is essential that we move very quickly with this legislation. In fact, many of us would have liked to have had more time. However, the transportation appropriations bill which has cleared both bodies cuts out the funding of all funding for the ICC by December 31 of this year. That means that under Federal Government personnel regulations, the ICC, if we do not have in place this authorizing legislation to transfer residual functions, if we do not have it in place by December 5, signed into law, then the ICC must RIF, that is eliminate, its entire work force, and send out those notices by that time. This would create chaos in the transportation industry.

For example, if the ICC were to shut down without this authorizing legislation transferring remaining functions, it would be impossible for the railroads to record liens on purchase of new rolling stock. That is the equivalent of telling a car dealer that he can sell new cars, but there is nowhere he can go to transfer the title to the car. So it is absolutely crucial that we move quickly with this legislation.

Now, the rail part of this legislation repeals and reduces numerous regulatory requirements. It eliminates the tariff filing with a requirement that the railroads must notify shippers of changes in rates. It repeals the separate rate regime for recyclable commodities. The bill focuses remaining regulation of rail transportation on the minimum necessary backstop of agency remedies to address problems involving rates, access to facilities, and the restructuring of the industry.

The bill also includes provisions to facilitate the transfer of lines that would otherwise be abandoned, so another carrier can keep them in service, something of extreme importance to rural America.

The bill also, in order to ensure fairness, provides that any proceeding that is begun before this bill is enacted, could be continued under the law in effect before enactment.

Th bill continues the basic structure of the Staggers Act under which the freight railroad industry has seen remarkable recovery, primarily due to the benefits of deregulation.

The most controversial issue in the bill relates to labor reforms on small railroad transactions. I want to emphasize as strongly as I can that it is essential to preserve rail service as provided in this legislation. The class 1 railroads are entering a new round of consolidation, that is the big railroads, and thousands of miles of track, whether we like it or not, are going to be abandoned. Without these reforms that reduce the cost of purchasing these lines by small operators, that is to say the class 2 operators and the class 3 operators, the smaller railroads, this rail service is going to be lost forever.

I would strongly urge opposition to any amendment that weakens the reforms in this bill, because if we impose labor protection on the small railroads, and we have no problem with the labor protection on the class 1, the large railroads, but if we impose labor protection on the small railroads in this bill, the effect is going to be massive abandonment of rail lines in rural America. So it is very important that we preserve the provisions in this bill.

Another area of controversy relates to the protection of shippers, primarily grain shippers. We have made substantial compromises in this bill, and we are very concerned that the delicate balance between the various groups might be weakened by amendment and could disrupt the balance that we have crafted here.

So for all these reasons, we are very hopeful and we strongly urge support for the rail provisions in this bill.

With regard to the motor carrier provisions, the bill eliminates numerous unnecessary motor carrier functions, such as tariff filing and substantial rate regulation, except for household goods.

The bill transfers the remaining motor carrier functions to the Department of Transportation, where they will be absorbed for the most part without any additional funding and will be within current personnel caps.

The bill represents actually the fourth major motor carrier deregulation bill that Congress has passed in the last few years, including the Negotiated Rates Act of 1993, the preemption of State regulation of trucking, and the Trucking Industry Regulatory Reform Act of 1994.

□ 1530

In conclusion, Mr. Chairman, this is a good bill; it is a necessary bill; it is an urgent bill that reduces regulation, reduces government personnel and cost to the taxpayer. It is another step in a 15-year effort to modernize the rail and motor carrier industries.

I might say that we do indeed expect to have further hearings next year to study further the question of further modernization. I urge all Members to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself 4 minutes.

I want to compliment our full committee chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the gentlewoman from New York [Ms. MOLINARI], the Chair of the Subcommittee on Railroads, and the gentleman from Wisconsin [Mr. PETRI], Chair of the Subcommittee on Surface Transportation, and, on our side, the gentleman from West Virginia [Mr. RAHALL], our ranking member on the Subcommittee on Surface Transportation, the gentleman from West Virginia [Mr. WISE], the ranking member on the Subcommittee on Railroads, and the gentleman from Illinois [Mr. LIPINSKI], who spent so much of his time as previous ranking member on the Subcommittee on Railroads helping to shape this legislation.

This is an item long in the coming, an issue whose incubation period has been years, not days or weeks; but the actual shape of the bill itself has come very recently, after very long negotiations and discussions.

Mr. Chairman, it is important legislation that will ensure continuation of very important, one could even say critical, safety and economic regulation of trucks and rails when the ICC, by action of the Committee on Appropriations, closes its doors in December.

Like the gentleman from Pennsylvania [Mr. SHUSTER], I support this bill, mostly. I want to say to my good friend from Pennsylvania, we have worked very close, very hard. We spent a lot of time in frank, free, and open discussions trying to come to a resolution. We have reached agreement on most issues, but there is one of overriding significance, for me and I think for many on our side, that keeps us from coming to closure on the bill as a whole.

Apart from the question of labor protective provisions, this has been a bipartisan bill; and I really appreciate the cooperation we have had on the Republican side, working with our Democratic minority Members to craft a bill that responds to important policy considerations.

The bill, unfortunately, does take away severance pay benefits, which the law now provides for workers when they lose their job because of rail mergers or sale of rail lines. It also gives the ICC's successor the power to terminate severance pay and other job protections in collective bargaining agreements which employees and rail companies have freely negotiated.

Mr. Chairman, my father was a founder of the steelworkers union in the iron ore mining country in northern Minnesota. He taught me from my very youth that an individual needed to respect family, faith, and the union contract. Ten years ago, when he died, he was buried with his steelworkers' contract in his hand. No legislative body should ever take that way from anybody, and I will not support any legislation that operates to that objective, ever.

Now, there is a lot in this bill that we can and do support, and there will be an amendment offered by the gentleman from Kentucky [Mr. WHITFIELD] which I urge all Members on our side to support, and I hope a good number of free-thinking, open-minded, thinking Members on the Republican side will support as well. If that happens and that amendment passes, then this is a bill we can support on our side and will support. But if it fails, should the Whitfield amendment not pass, Mr. Chairman, then it is a bill that we cannot support and must oppose.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from New York [Ms. MOLINARI], chairwoman of the Subcommittee on Railroads.

Ms. MOLINARI. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in very strong support of this extremely significant bill. It embodies a broad, bipartisan effort to delete obsolete and unnecessary regulation, to avoid the extra cost imposed by having an independent ICC, and to focus any remaining regulation on the essential safety net or backstop role to which it was properly relegated by the Staggers Act.

Since 1980, the rail industry has come back from the verge of bankruptcy and possible nationalization to sound, private-sector health. This is due mostly to the deregulation of rail rates and other economic matters in the Staggers Act. Once the marketplace was allowed to operate in most rail matters, the industry prospered, and rail service was preserved.

Not only are far more service options available to shippers today, but the rates the shippers pay have actually fallen by 50 percent on average since 1980 in constant dollars. Against this background, our task was to retain the successful attributes of the Staggers Act, while further pruning regulations that have since become obsolete.

A few of these new deletions are the complete elimination of paper tariffs; eliminating all forms of entry, exit, and fare regulation; streamlining the process for approval of mergers and abandonments; and establishing clear, defined ground rules for the start-up and expansion of small railroads who can keep otherwise marginal rail lines in service.

There are many, many more good illustrations of how comprehensive our review of this 108-year-old law has been. We have consulted in this process with shippers, with carriers and other concerned citizens. We have also held extensive hearings. Most of all, we have continued to refine this legislation to reflect continuing comment and input from interested parties.

Let me just state one misrepresentation that has gone on. This bill does not terminate collective bargaining agreements in any way, shape, or form. In fact, the bill retains exactly the same standard that has been in merger statutes for decades: That agency approval of a merger displaces any other laws ''to the extent necessary to implement the merger.''

This does not abrogate contracts, but the Whitfield amendment does alter laws. I will go into more detail when this is offered, but listen to me very clearly so everyone can understand what they are doing. The Whitfield amendment gives labor the power to halt the implementation of approved mergers involving smaller railroads. That is an amazing power we are giving.

The amendment forbids work reassignments and shifts of work from a union work force. This directly contravenes existing law.

Finally, Mr. Chairman, I want to stress the absolute necessity for quick enactment of ICC terminating legislation. Given the end of ICC funding on December 31, as the chairman has said, the agency would have to terminate its entire work force on December 5 unless it has an enacted law delineating exactly which functions must be transferred to the Department of Transportation.

Although this bill may not be perfect, and there are still concerns, it surely represents a consensus efforts to fashion modern, market-oriented regulation for the railroad industry; and I believe it strongly deserves the support of all Members.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. RAHALL], the ranking member of the Subcommittee on Surface Transportation.

Mr. RAHALL. Mr. Chairman, I thank the distinguished ranking member for yielding me time.

Mr. Chairman, it is, in a sense, appropriate that we consider legislation to complete the process of abolishing the oldest Federal regulatory agency today in an atmosphere where the Federal Government is unable to conduct its daily business due to a lack of appropriations.

The Interstate Commerce Commission, created to combat the railroad robber barons, will be no longer with the enactment of the pending bill. The process of terminating the ICC, while Republican inspired, began last year under a Democratic majority in the Congress.

It has been a thoughtful process, undertaken through both appropriations and authorizations over the course of the last year, culminating on this day with our consideration of H.R. 2539.

This is, as such, not a meat ax approach to knocking off a Federal agency as some this year have proposed as part of their philosophical or economic jihad to make Government smaller.

To be sure, there are essential functions at stake here, and this legislation transfers those ICC functions—both motor carrier and rail—to the Department of Transportation with many of

them being vested with a new Transportation Adjudication Panel.

In my capacity last year as the chairman of the Subcommittee on Surface Transportation, and this year as its ranking Democrat, I have sought to insure that this legislation causes the least disruption to the trucking industry, its employees, and the general public.

The Trucking Industry Regulatory Reform Act of 1994 not only began the process of downsizing the ICC's responsibilities, but further deregulated the motor carrier industry.

In that law, as with this bill, however, we preserve regulatory regimes where they are necessary to promote the public interest.

The area of household goods carriers, for example, will continue under some regulation.

In addition, certain motor carrier practices, which well serve the industry and its customers, such as commodity classifications and ratemaking for intermodal shipments and joint lines, are maintained as well.

Mr. Chairman, there is one other item, in this bill that should be noted. Last year, inadvertently, the Congress preempted the ability of local governments to regulate the tow truck industry. This was a mistake.

The Congress did not intend to do this, and in fact, has no business intruding in this intrastate and local matter.

The pending legislation would restore the local authority to engage in regulating the prices charged by tow trucks in nonconsensual towing situations.

These are situations where the owner of the auto is unable to consent to it being towed, such as in cases of a severe accident.

Finally, while my primary responsibility on this legislation is in the motor carrier area, I want to make note that its rail provisions have been modified to maintain the captive shipper protections contained in the Staggers Rail Act of 1980.

These protections are especially necessary for shippers of bulk commodities, such as coal, iron ore and gain, who often have no viable transportation alternative but a single rail line.

They are, as such, captive to that railroad, and could be subject to monopolistic pricing practices without the protections afforded them by the Staggers act, and now, this legislation.

Mr. Chairman, while no fan to abolishing the ICC, under the circumstances, this legislation represents the best course of action to take and I urge it be adopted.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume to say that I appreciate the distinguished ranking member of the Subcommittee on Surface Transportation expressing his support for this legislation.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI], the distinguished chairman of the Subcommittee on Surface Transportation.

Mr. PETRI. Mr. Chairman, the motor carrier provisions in the ICC Termination Act of 1995 continue the economic deregulation of this industry which began in 1980 and was followed by various other deregulation initiatives, including three major bills just last Congress. It is important to note, in reviewing this bill, that substantial deregulation of the motor carrier industry has already been accomplished.

This bill before us will abolish the ICC and eliminate many of the Commission's remaining motor carrier functions that are no longer appropriate in today's current competitive motor carrier industry.

Functions and responsibilities which do remain are transferred to either the Department of Transportation—which primarily will oversee registration and licensing—or the Transportation Adjudication Panel—which primarily will be responsible for the limited remaining rate regulation and tariff filings, final resolution of undercharge claims, and approval and oversight of agreements for antitrust immunity. Much of the regulation that remains has been streamlined and reformed, such as limiting agreements for antitrust immunity to 3-year periods.

While we have provided for continued deregulation in this bill, I do believe we could have gone further. In the interests of working in a bipartisan and timely fashion, the bill does contain many compromises, and so many interested groups are not totally satisfied, just as I am not. Those groups which were looking for more significant reforms should know that opportunities for further reform do exist in the future.

The committee intends to closely monitor the status of the industry and the need to retain those remaining functions that are transferred to the Department and to the panel. This bill should not be considered as the final word on these matters.

It is imperative that we complete our work on this bill today since the ICC is funded only through the end of this year.

The bill before us will not only terminate the ICC, but will also achieve significant reforms in the motor carrier industry, and I ask for the support of the Members of the House for the bill as it is brought before us.

□ 1545

Mr. OBERSTAR. Mr. Chairman, I yield 3½ minutes to the gentleman from West Virginia [Mr. WISE], the ranking member on the Subcommittee on Railroads.

Mr. WISE. Mr. Chairman, I am not quite sure how I am rising right now. I am rising in support of the process, and definitely in favor of the Whitfield amendment. We will see at the end of the day whether I am supporting the bill.

Mr. Chairman, I do think the Whitfield amendment is that important in the bill. I do think that the gentleman from Pennsylvania [Mr. SHUSTER] and the gentlewoman from New York [Ms. MOLINARI], the subcommittee chair, have done an excellent job. I also want to thank the gentleman from Illinois [Mr. LIPINSKI], former ranking member, for his help and assistance and advice in making this transition as I move to the ranking membership. The gentleman has been great to work with.

Mr. Chairman, this bill undertakes to do a lot that is important. There is clearly a need to address the situation with the Interstate Commerce Commission. It is my understanding the bill needs to be enacted into law by December 5, in order to avoid the layoff of all ICC employees on that date.

So, many of the issues that are of concern to all Members, abandonment, captive shipping situations, common carrier, have been addressed in a bipartisan way. For that, I am grateful to the gentleman from Pennsylvania, the full committee chair, and to the gentlewoman from New York, the subcommittee chair.

Mr. Chairman, let us talk for a minute about what is, I think, going to be a main bone of contention on this bill, and that is the Whitfield amendment. Some Members would say why would there be any labor protection at all? I think it is important to understand the delicate balance that exists in the rail industry.

Mr. Chairman, the rail industry has a situation where collective bargaining agreements can be overridden by the ICC. Well, the quid pro quo for that is labor protection. If we are able to override somebody's collective bargaining agreement, then at the same time we need to give them some kind of protection. That is the purpose of labor protection.

Indeed, the Whitfield amendment kind of surprised me, to be honest with my colleagues, because I think it is not as strong as I would have liked from a labor protection standpoint. But I think it is a fair and reasonable compromise, and I know the gentleman from Kentucky has worked very hard on that.

Mr. Chairman, there is another way we can go on this if Members want. If we do not want labor protection, then let us not also have the constraints on labor either. Permit them to truly operate in the marketplace. That means that strikes can be called at any moment; that means that the Class 1 railroads can face a shutdown, as opposed to the 6 days of shutdown that we have seen across the country since 1980 and the enactment of the Staggers Deregulation Rail Act. There is another way we can go on this.

If Members really like the free market, they can have a belly full of it, but I do not think that is what people want and certainly this Congress has tried to craft a delicate balance.

So, Mr. Chairman, I would urge Members to remember that as they consider this. The labor protection provisions

have provided labor peace. I think it is important to note in the Whitfield amendment in several cases we go from 6 years to 1 year in many of the situations, and that is a significant concession I feel as well.

Mr. Chairman, I would urge support of that amendment, and hopefully, if that passes, I can urge support of the bill.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. KIM], a member of the committee.

Mr. KIM. Mr. Chairman, I rise in strong support of this ICC Termination Act, and urge my colleagues to support the bill.

Mr. Chairman, this legislation is a major step on the road to government deregulation and downsizing. Many of us were sent to Congress this year with a clear purpose: End the burdensome regulations, eliminate wasteful spending, and downsize the Federal Government. This bill does all of those.

The ICC is a perfect example of an agency that has outlived its usefulness and become obsolete. The ICC was created back in the 1800's when railroads carried most cargo and passenger traffic in the country. Entire communities depended on one mode of transportation and many towns were dependent upon one railroad company. Back then, the railroad had tremendous monopoly power and we needed the ICC to regulate and control the monopoly industry.

But, Mr. Chairman, times have changed. Today we have cars, trucks, trains, ships, and airplanes to move cargo and passengers. Transportation is a competitive industry now and we do not need a huge bureaucracy to regulate the competition. The ICC has become obsolete and it is time for it to go.

Mr. Chairman, when my committee first held hearings on the ICC, many of us felt that we could simply eliminate ICC overnight. We quickly realized that is not possible. Before we can eliminate the ICC, we have to do something about all the mandates, the regulations of the Interstate Commerce Act, mandates and regulations that, by the way, have been piling up since way back in the 1800's. Just eliminating the ICC will create chaos for the companies required by the law to follow these mandates.

Mr. Chairman, let me give just one example of what will happen if we cut off the ICC without changing these mandates. The railroads are required by law to file liens on their equipment with the ICC. Without a place to file their liens, they would not be able to go to the bank and borrow money for equipment.

Mr. Chairman, to avoid this hardship, our committee went through the Interstate Commerce Act and reviewed all the mandates and requirements. Then our committee wrote a bill that eliminated obsolete and unnecessary provisions. Then we consolidated what was left into a minimum safety net for the consumers, workers, shippers, and carriers. Then we transferred these regulations to the Department of Transportation, where they can be handled with a minimum number of personnel and minimum amount of money.

By doing this, we keep the bureaucracy and regulatory costs at the lowest possible level. Our bill eliminates the ICC in a responsible and orderly manner. We eliminate the burdensome regulation and cut Government spending by $21 million a year and reduce the bureaucracy. Mr. Chairman, this bill yields tremendous benefits.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI], former ranking member of the Subcommittee on Railroads, who has contributed so much to the shaping of the legislation that we bring to the floor today.

Mr. Chairman, I compliment the gentleman on the time that he has spent and the effort he has made and the original ideas contributed to the splendid piece of legislation before us.

Mr. LIPINSKI. Mr. Chairman, H.R. 2539 will eliminate the Interstate Commerce Commission, the Nation's oldest independent Federal agency. I think we can all agree this is consistent with the direction Congress has been moving with substantial deregulation of the railroad and motor carrier industries in the past 15 years.

Although many Members, including me, have opposed elimination of the ICC in years past, we recognize that the time has come to take this action. As the ranking member of the Subcommittee on Railroads, a position which I held for the first 10 months of this Congress, I had the opportunity to consider the functions of the ICC in great detail through hearings our subcommittee held last winter. On the majority of issues contained in this legislation, both the Republicans and the Democrats worked together to craft legislation we can all support. I want to commend Chairman SHUSTER and Chairwoman MOLINARI and their staffs for the bipartisan manner in which we began the drafting of this measure and for their attempts resolve the remaining issues of difference.

However, despite our best cooperative efforts, there is one provision currently contained in H.R. 2539 which prevents me from supporting the legislation in its current form. In its present form, H.R. 2539 contains a hostile provision that destroys the longstanding rights of certain rail workers. I understand that our colleague from Kentucky, Mr. WHITFIELD, will be offering an amendment to correct this injustice. I urge support of that amendment.

Elimination of the Interstate Commerce Commission is something we should all support. Abrogating contracts between railroads and their employees is something we should not. Vote for the Whitfield amendment, and if it passes, vote for this bill.

If the amendment fails, I urge every Member of this body to oppose H.R. 2539, and stand up for the American working men and women.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I want to thank the gentleman from Pennsylvania for yielding the time, and also for his tremendous work on this piece of legislation. Also, I would like to extend my thanks to the gentlewoman from New York [Ms. MOLINARI] for her work as well.

Mr. Chairman, as you know I have been introducing legislation, amendments to appropriations bills, and so forth, over the past 7 or 8 years to abolish our Nation's oldest regulatory agency, the Interstate Commerce Commission. When I first started doing that, we were almost laughed out of the Chamber. Then, the next year we got a few more votes.

Mr. Chairman, I remember the year that it almost passed in this House Chamber. I sat over there on that front row with the gentleman from Michigan [Mr. DINGELL], who was a very articulate spokesman in favor of keeping the ICC. I said, ''We did not get it this year, but we are going to get it. We ought to sit down in a reasonable way and figure out how to phase this agency out.''

Mr. Chairman, that is exactly what the gentleman from Pennsylvania [Mr. SHUSTER] has done. The gentleman has produced a bill that will reasonably begin to phase this agency out. When several of my colleagues and I started this, like the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. COX], who is here and will speak on it today, we thought it was almost a losing battle. Now, the day has come and I am very proud of that day.

Mr. Chairman, I do still have some concerns about this legislation. If I might, I would like to engage the gentleman from Pennsylvania in a colloquy just for a moment.

Mr. Chairman, I think my biggest concern with the legislation is that it still leaves in place a lot of regulation that could and should probably continue to be scaled down or eliminated. I would like to encourage the gentleman to hold hearings in 1996 concerning further deregulation of the transportation industry. I believe the gentleman indicated earlier that that is what his plans were.

Mr. SHUSTER. Mr. Chairman, if the gentleman would yield, I want to assure the gentleman that that is exactly what our plans are and we will be holding hearings next year.

Mr. HEFLEY. Mr. Chairman, reclaiming my time, I would further request that the workload of the adjudication panel, and I have some concerns about the adjudication panel, but that workload be closely monitored.

After several issues are resolved over the next year or two, the role of the panel, I think, should naturally decrease. If that does happen, I would ask that the funding levels be reconsidered and reduced accordingly for 1997 and 1998.

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, I would say to the gentleman that we certainly intend to look at it very closely.

Mr. HEFLEY. Mr. Chairman, again reclaiming my time, finally I appreciate the willingness of the gentleman from Pennsylvania to include several changes in the manager's amendments which were brought up by myself and the gentleman from Texas [Mr. DELAY].

The changes regarding the panel's authority over partial line abandonments help give rail carriers authority to conduct their business as the market dictates and not as the Federal Government dictates. Removing the language allowing the adjudication panel to conduct investigations at their initiative would assure that the panel does not assume an investigative power that Congress does not intend for it to have.

Mr. Chairman, with these changes and promises for the future, I am happy to stand here and support the bill which will eliminate the ICC.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. CLEMENT].

(Mr. CLEMENT asked and was given permission to revise and extend his remarks.)

Mr. CLEMENT. Mr. Chairman, I rise to enter into a colloquy with the distinguished chairman of the Committee on Transportation and Infrastructure.

Mr. Chairman, as we dismantle the Interstate Commerce Commission and transfer its functions to the Department of Transportation and the States, I believe that it is important that we declare our intent not to burden the State with any unfunded mandates. Moreover, I believe it is important to declare our positive intent to preserve State revenues.

My concern is with a section 13908 of H.R. 2539 entitled ''Registration and Other Reforms,'' which directs the Secretary of Transportation to replace four existing motor carrier information systems, including the Single State Registration System, with a single Federal system.

Mr. Chairman, last year Tennessee collected $4.4 million in Single State Registration System fees, which went to pay for 51 percent of their truck and bus safety program. Nationwide, a total of $90 million in revenues are collected by the States under the Single State Registration System. These fees in no way affect our efforts to reduce Federal spending.

Mr. Chairman, I would like to receive the assurance of the gentleman from Pennsylvania [Mr. SHUSTER] that these discretionary State funds would not be jeopardized by the rulemaking called for in this section of the bill.

Mr. SHUSTER. Mr. Chairman, if the gentleman would yield, I thank the gentleman for his concern. The bill strikes a compromise between those who wanted to eliminate the Single State Registration System because it was burdensome and alleged to be costly, and the States who wanted to keep the program intact.

In conducting his review, the Secretary will determine whether to replace the existing Single State Registration System with a new system, and as well consider the safety and the funding needs of the States. The States are also to be fully involved in this process, I would say to my friend.

Mr. CLEMENT. Mr. Chairman, reclaiming my time, I thank the gentleman for participating in this colloquy with me. The gentleman has resolved a lot of problems that might otherwise have existed.

Mr. Chairman, I also stand in support of the Whitfield amendment. It is a good amendment and it ought to be passed.

□ 1600

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, the closet thing to eternal life on earth, Ronald Reagan once said, is a government agency. If that is true, then the ICC, the Interstate Commerce Commission, should at least be cannonized. It has been around an awfully long time.

How old is the ICC? It is so old that during Grover Cleveland's second term it was then the oldest Government regulatory agency. That is because it was formed by Congress in 1886 in Grover Cleveland's first term. It was put together by Congress with a single purpose, to regulate railroad rates, but like Government agencies so often do, it expanded its mission and grew so that eventually it covered not only railroads but also buses, trucks, household movers and on and on.

In its salad days before bipartisan congressional majorities clipped its wing, the ICC was a regulatory terror. It became the textbook example of mindless regulation. Liberal consumer groups, free market conservatives alike opposed it. And as a result of this consensus, the ICC's overregulation was trimmed back by Democrats and Republicans, first in 1908, with the passage of three deregulatory bills: the Staggers Act; the Motor Carrier and Household Goods Transportation Act; then in 1982, the Congress passed the Bus Regulatory Reform Act. And last year Congress eliminated the requirement that 90 percent of trucking rates be filed with the ICC.

Together these bills have effectively deregulated all surface transportation in America, and they cut the number of ICC employees to 80 percent. But the ICC continues to live on.

What incidentally has been the effect of all of the deregulation? It has been a boon to consumers. Railroad rates, which rose during the decade prior to the 1980 cutback, have since decreased by 25 percent. That has reduced the cost of items ranging from cars and trucks to electricity, which after all is powered by coal shipped on rail.

According to the Department of Transportation, ICC deregulation has saved consumers $20 billion since 1980. The ICC remains, however, a relic of the 19th century. Even though it is a shell of its former self, it still is alive and kicking.

Despite the dramatic decline in its authority and its operations, the ICC continues to impose unnecessary regulatory burdens that require Federal approval, for example, just to operate a trucking company, or that require common carriage rates, prices, in the rail industry to be filed with Federal authorities even though the Federal authorities no longer have control over those very rates.

Mr. Chairman, enough is enough. We are supposed to be running a government, not an antique collection. By accomplishing the long overdue termination of the ICC, legislation that I have long sponsored, Republicans in Congress will finish the job and demonstrate our firm commitment to eliminating Government waste and needless bureaucracy.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. VENTO], a gentleman who has been an indefatigable advocate for working men and women, especially the organized labor movement.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his kind comments and for his work on the committee and for the chairman and their work.

This is, after all, the way that the measure should be dealt with, on the authorizing basis. While the underlying measure reinvents the ICC as the Transportation Adjudication Panel [TAP] and seems necessary finally because of the funding cut off to the ICC. This is the right way to do it through the authorizing law. However, the bill, H.R. 2539, raises many concerns for our country's working men and women and working families. Embedded into the measure is an unnecessary assault by this new Congress on working men and women. As a result of the Republican leadership's control of this House, the working people of our Nation are facing tax increases to pay for an upper-class tax break, efforts to repeal Davis-Bacon, proposals to gut OSHA, and a refusal to budge on an updated minimum wage. Now, the majority wants to take away the right of employees to collectively bargain contracts.

Mr. Chairman, I object to the provisions in H.R. 2539 which would allow the successor to the ICC to abrogate,

through merger, longstanding employee protections which were collectively bargained. That is why I support the Whitfield amendment to be offered later this day. Without such an amendment to this measure, any transaction involving class II and class III railroads, which includes all railroads with up to $250 million of annual revenue, could disregard important employee rights. This is unfair and unacceptable. Mergers and acquisitions should not use the workers as the grease for the gears of such combinations. Such business transactions should preserve the sanctity of labor contracts and stand on their business merit, not destroy railroad labor employee protections.

Under current law, railroad employees who lose their jobs because of a merger are eligible for up to 6 years of severance pay. Under this bill, they will get only a 60-day notice of layoff. Again, this is unfair and unacceptable. The purpose of this protection is not to reward someone for not working, but rather to ensure that jobs are preserved—and in fact, that is what happens. This provision works and workers remain employed because of it. Furthermore, this provision has been achieved in good faith bargaining by labor and management and the law or regulators ought to respect such an agreement.

Mr. Chairman, recently we have learned anew the profound impact a merger and acquisition may have upon hundreds of jobs in Minnesota. The Burlington Northern-Santa Fe merger this year has confused and clouded important labor employee contract provisions that have been in place for over three decades. Hundreds of long-time Burlington Northern workers do not know today whether they will keep their jobs, or even have the opportunity to move 600–700 miles to a new community to maintain a job. This is not fair; this is not equitable. These large railroad mergers are not stalled or impaired by employee protection provisions, in fact through attrition and an ordered reorganization, employee protections can be maintained. Finally, the Rail Labor Act provides for collective bargaining and affords the full opportunity to resolve issues by a management-labor agreement—the law and the regulators should be neutral. Mergers, acquisitions, modernization of the railroads are not being held up by labor or employees. The law should not intrude and mandate criteria. Let's leave the essential employee protections in place. Let's support the Whitfield amendment today.

The Whitfield amendment attempts to repair the damage this legislation would inflict on U.S. railworkers. The amendment would preserve the integrity of collective bargaining, and ensure labor protections for employees of small and medium rail carriers in case of acquisition or merger. This is fair, this is equitable, and we should signal to rail management and labor our support for their contractual accords.

I urge my colleagues to support the Whitfield amendment and put some equity and dignity back in this bill for the workers of America.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the Whitfield amendment for the following reasons: The Whitfield amendment would create, would mandate a 1-year labor protection for workers of class 2 and 3 railroads. A class 2 railroad has operating revenues between $20 and $250 million. The class 3 railroads have operating revenues of less than $20 million. So class 2 and 3 railroads are very small railroads. We do not need to mandate in Federal law 1-year labor buy-out agreements.

The bill before us, H.R. 2539, does create a safe harbor. I want to thank the chairman for creating the safe harbor from some of these expensive mandates. It would give representatives of the labor unions and representatives of the railroads an opportunity to go before the Department of Transportation and hear both sides of the argument and then determine whether and what type of labor protection should be required.

The bill before us retains existing law that gives agency approval of a merger and then requires, as I just said, the DOT to hear the case in terms of labor protection.

We do not need to mandate a 1-year labor protection in this by accepting the Whitfield amendment.

I do want to commend the gentleman from Kentucky [Mr. WHITFIELD] and the supporters of their amendment though because they have backed down from 5 years to 1 year, and that is at least moving in the right direction. So I would hope that we would oppose the amendment and keep the bill as is.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding to me.

I want to emphasize that there is nothing in here which would prohibit the class 2 railroads and labor from entering into a negotiations for labor protection. They can have 1 year, 5 years, 10 years. All this does is say that the small railroads, the Federal Government will not mandate that they must have labor protection.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, I point out that the American Short Line Railroad Association strongly opposes the Whitfield amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. NADLER], who has played a very important role in the shaping of this legislation.

Mr. NADLER. Mr. Chairman, I am not a great fan of deregulation. I do not believe we should abolish the ICC. I am not a great fan of this bill.

But I rise today to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, and his staff for working with me in addressing some particular major concerns I had with a number of provisions of the bill.

The bill as originally drafted would have terminated the feeder line development program. Many railroads are the only carriers of goods to and from certain areas of the country. Because of this monopoly, there must be an ability to protect shippers and residents of such areas from decisions by a railroad, perhaps after a merger, by a railroad that enjoys the local monopoly status to eliminate service to an area.

This program has provided for many years that, if a railroad does not provide service on a line it owns, it can be compelled to sell that portion of the line to a railroad that will provide service in that area.

This provision has been utilized successfully in many cases, for example, by railroads such as the Northern & Eastern and the Tennessee Central Railroad. These railroads are now profitable, viable, and support their communities' economy, none of which would have been possible without the provisions of current law that are commonly known as the feeder line development program. It is for these reasons I am pleased that the chairman's en bloc amendments to this bill will preserve these provisions of the law and this program.

The second concern I had was that the common carrier provisions of the law were diluted in the original bill to the point that it would have undermined one of the original purposes of the ICC. That is to protect shippers and the general public from monopolies and to enable commerce to flow freely. Under the existing law a railroad is mandated to provide service to anyone who makes a reasonable request for that service. Many of these requests are from small communities which do not have other viable ways to ship their goods or from small shippers of whom the same is true. Requests can also come from large shippers that rely on one railroad to carry their goods.

In both cases, if a railroad is allowed to deny or minimize services, they are given the power to decide which communities and which businesses will prosper and which will die. In a perfect world, we might let carriers decide who they would service. The reality is that we only have so many rail lines in this country and that it is imperative that we preserve the common carrier provision so that anyone can get service. That is why it was imperative that this provision be amended to more closely resemble the current law.

As I said earlier, I want to thank Chairman SHUSTER for working with

me to see that the feeder line development program is included, which it is, and the common carrier provision is still a viable part of the new regulatory body of law that will oversee interstate commerce. I think that, with the chairman's en bloc amendment, it will.

At the same time, I need to express my dismay with the process and the haste with which this bill was brought before us. As a member of the Committee on Transportation and Infrastructure, we received a 280-page bill on Thursday night and were asked to review, evaluate, and vote on amendments in 4 days, 4 days to determine how we were going to restructure a body of law that had taken 100 years to develop. It is my understanding that the reason we had to do a bill in such haste is that the Committee on Appropriations had not provided funding for the ICC, and we had to amend the law accordingly and quickly.

I hope that in the future we will take more deliberate speed in amending such a major body of law. But again, I wanted to thank the chairman and his staff for working out what I believe to be a satisfactory resolution of the two problems, the common carrier doctrine and of the feeder line development program.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the chairman for yielding time to me.

Wise men have said that the nearest thing to eternal life or immortality is to be a Federal agency or a Federal commission. I guess it is true. Today we are debating the demise of the Interstate Commerce Commission founded in 1887. That is 108 years ago. In 1887 railroads did have an iron grip on how products were sent to market, but that has been a long time ago. Congressional Members who wish to continue this commission and who want to save it after 108 years are looking backward. I think we have to look forward. If we are going to release our economy, allow our economy and our businesses to grow, then I think we must get in step with the 21st century. So I am very much in favor of this legislation.

I think the ICC was useful at one time, but it has outlived its usefulness. For example, I know the largest hauler of freight in this country is a 21st century company but yet, stated briefly, the ICC continues to require financial reports of this motor carrier, despite the fact that it no longer has a need for them. It has moved out of the business of regulating years ago, yet all the paperwork required has cost the company hundreds of thousands of dollars.

□ 1615

The ICC claims it needs the reports so that it can in turn, now listen to this, so that it can present an annual report to Congress. What do we need with an annual report? Who reads it? We are so busy doing all of the other things, but Congress keeps the ICC in existence that is, more and more bureaucracy, more and more paperwork. That is why today when the President said the Government was shutdown, only the essential workers had to come to work, 800,000 nonessential employees headed for home. Maybe that is why, we have too much Government, my colleagues, we have got too much redtape.

Let us use some common sense, and let us pass this legislation. Let us bring our country into the 21st century.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, I rise today to urge support for the Whitfield amendment and, with adoption of that amendment, to recommend support for the bill. Inclusion of the Whitfield language will make this a bill worthy of passage.

One of the functions of the ICC is to evaluate and approve railway mergers. The impacts of such mergers can be wide and far reaching—affecting other railroads, rail passengers, rail employees, farmers, small businesses, and shippers who depend on reliable, affordable rail transit. It is in the national interest to ensure that mergers which take place do not have a deleterious effect on any of these important functions.

It is essential that the new Department of Transportation panel, created under this legislation, be vigilant and thorough in its examination of rail mergers. Only through full and complete consideration of such a merger can all of the potential ramifications be properly examined. It is also important that other appropriate voices, such as that of the Attorney General, be a part of the deliberative process.

We have an obligation, Mr. Chairman, to ensure that the public has access to affordable modes of rail transportation, that small railroads can compete with the larger ones, and that rail employees be treated fairly. I expect the new DOT panel to fully take into account these important issues when considering railroad mergers.

Mr. SHUSTER. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the labor issue aside, the bill that we are considering does strike a good balance between continuing deregulation of the rail and motor carrier industries while at the same time preserving very important safety and economic regulatory powers needed to protect shippers against abuses that will not be remedied by competition. In the rail arena the legislation eliminates many and modifies other railroad economic regulatory requirements and transfers remaining ICC rail oversight responsibilities to a newly created transportation adjudicatory panel housed within the Department of Transportation. The bill repeals requirements that freight rail carriers file rates with the Federal Government. It repeals prohibitions against transporting commodities produced by the carrier itself or which the carrier owns. It repeals requirements that railroads get Federal rail regulatory approval to issue securities or to assume financial liabilities with respect to other securities. It does, however, maintain, this legislation does, some critical functions that both the rail industry and the shippers agree are necessary: maximum rate standards to protect captive shippers from unreasonably high rates. The common carrier obligation is restated here, the legal duty of a rail carrier to provide transportation on reasonable request, a longstanding provision of American law. It protects requirements or preserves requirements that rail carriers establish rates, classifications, rules, and practices governing rail transportation, and it preserves the authority of the Federal Government to review and to order changes in those items. All of these are necessary to maintain the balance in a rail transportation field that I feel, and many are fearful, would not be maintained simply by competition alone. This panel that we create, this arbitration or adjudicatory panel rather, will have authority to exempt railroads and rail services from regulatory requirements through administrative action rather than going through the laborious process of lawsuits and through the Justice Department's antitrust suit authority.

We did make progress in the area protecting captive shippers from possible market abuse. That is a longstanding problem in this rail arena, one that goes back into the 19th century and the early part of this century. Captive shippers are particularly a concern in the coal sector where powerplants are so dependent upon coal and upon the one means of bringing coal to their plant. We have got protections in here that are in the interests of all who use electricity produced by coal. Soon our chairman will offer a bill manager's amendment which will further clarify the roles of the Secretary and the Transportation Adjudication Panel.

On the trucking side, the motor carrier side, the bill eliminates virtually all remaining tariff filings. It deregulates significant portions of the household goods market. It eliminates the possibility of future undercharge claims, an issue that we have had to deal with so intensively last year and again this year. It eliminates the Federal role in routine commercial disputes. It retains a limited number of key provisions—uniform commercial rules, and, for small regional carriers that compete with national carriers, provisions of current law that protect those small carriers and provisions of law that protect shippers in the household goods marketplace.

But I do want to come back to the point that disturbs me so greatly, and that is the failure to preserve the safety net that railworkers now have when they lose their jobs due to mergers or line sales. We had labor protective provisions in airline deregulation, and my colleagues know that in the first 5 years after airline deregulation, 1978 to 1983, there were 22 new entrants into the airline business. But within 8 years those 22 new entrants were swallowed up; there are only 5 left, and there is only 1 left today. But not once were the labor protective provisions for airline workers imposed, not once.

Just last night, as I was on my way back to Washington, the Minneapolis-St. Paul airport, I was stopped by a Northwest Airline employee, a baggage handler. He had been an Eastern Airlines employee, and there was anger in his voice, anger in his eyes, over the deregulation, and he talked about this bill that we are taking up today, and he said, ''Don't let happen to rail workers what happened to us. We never got any protection. We lost our jobs.'' This merger swept people away and made huge profits for the big corporate owners, and the little guy got crushed, and that voice still rings in my mind today, my heart today, and I do not want to see that happen, and I urge my colleagues' support for the Whitfield amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to emphasize, in fact empathize as well as emphasize, with what my good friend from Minnesota has just said and the words of that airline captain, ''Don't let them do to railroads what was done to the big airlines.'' We are not letting that happened with the class 1 railroads. That is the important point to be made, Mr. Chairman. We are not touching labor protection as it pertains to the big railroads. The labor protection that is in place stays in place. What we are doing, however, is with the small railroads, the class 2 railroads. We are saying that we are not going to impose mandatory government-imposed labor protection.

Now the class 2 railroads, the management and labor, can negotiate any kind of labor protection they want to negotiate. That is perfectly permissible within this legislation. All we are saying is we are not going to mandate, the Federal Government is not going to mandate, what the labor protection will be, and why not? Because with the small railroads, Mr. Chairman, our major concern is to keep them running, and the problem we face is, if a small railroad is faced with the opportunity to acquire a line or merge in order to keep that line functioning, to keep to keep that little railroad operating, we do not want to be in the position of saying, ''You must accept federally mandated labor protection,'' because the result will be the unintended consequence of that line being abandoned. WE do not want abandonments. We want these small railroads to keep running.

In addition I would say, particularly to my colleagues on both sides of the aisle, ''if you're from rural America, and if you have these small railroads in your district, you had better be very, very concerned about the Federal Government mandating labor protection on these small railroads, because the result is going to be the abandonment of those railroads because they simply can't afford to pay the labor protection in many cases.''

So we continue to support the full labor protection. We do not touch it as far as the large railroads are concerned, but indeed we say with the small railroads, ''Let's be very careful that we don't mandate Federal protection because we want to keep those lines running in the small communities across America.'' That seems to be the most contentious issue we have outlined and emphasized our reasons for asking support for this bill and opposition to the Whitfield amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Minnesota is recognized for 30 seconds.

Mr. OBERSTAR. Mr. Chairman, let me just use my 30 seconds to say when we are talking about these small railroads, let us just remember that the small railroads, the class 2, include Wisconsin Central, which Business Week magazine earlier this year estimated was one of the 1,000 most valuable corporations in the United States with a stock market value of $800 million. That is not small where I come from.

□ 1630

Mr. SHUSTER. Mr. Chairman, I would say to my friend, the class 2 can also be a little railroad with only $21 million a year in revenue.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I chaired the budget working group that recommended we terminate the Interstate Commerce Commission.

Mr. Chairman, it is time for the Interstate Commerce Commission to go. This bureaucracy was created in the 1880's to regulate emerging railroad monopolies. It is only fitting that one of the first agencies that we kill in the first year of the Republican revolution be the oldest independent regulatory agency in the Federal Government.

But the case for eliminating the ICC is much greater than just trophy hunting. Much of what the ICC does has been made unnecessary over the past decade and a half of transportation deregulation. Much of what remains needs to go, too. Tariff filing, probably the most obvious example of why we should kill the ICC, is a boon for bureaucrats, but a burden on trucking companies.

For these reasons, I support the ICC Termination Act. But I wish it could have gone farther and eliminated more. The bill creates an independent Transportation Adjudication Panel. I fear that this ensures that too much of what the ICC does—and who does it—may remain the same.

Currently there are three seats for ICC Commissioners and two are vacant. The adjudication panel created by this bill would consist of three members, and ''On the effective date * * * the members of the Interstate Commerce Commission then serving unexpired terms shall become members of the panel.'' It also allows staff of the current commissioners to transfer.

Are we just changing the name on the door? I would prefer that this panel did not exist and remaining essential regulatory issues be folded into the Department of Transportation.

Also this bill allows rail merger issues to be reviewed by the Transportation Adjudication Panel. I would also prefer that this function be performed by the Department of Justice, which handles mergers for all other industries.

The administration has stated that the President will likely veto this legislation because it ''renam[es] the ICC and mov[es] its most burdensome regulatory elements to a new Federal entity.'' In my view, there is truth to this.

Mr. Chairman, I wish our knife were sharper, and I hope it will be as we cut in the future. I urge a ''yes'' vote on this bill.

Mr. HAYES. Mr. Chairman, during this budgetary stalemate, at a time when the political rhetoric overshadows the substance and importance of our efforts to streamline the Federal Government, we have a rare opportunity to move forward an issue in which bipartisan support exists. Both the executive branch and Congress have called for the ICC to be abolished. Accordingly, I am confident that the remaining details, although contentious, will be worked out during our debate here today and in conference with the Senate. I especially commend Chairman SHUSTER for his willingness to work with Members to resolve particular problems.

I, therefore, rise to urge the adoption of H.R. 2539. This bill will provide for a prudent and orderly transition of the ICC's vital functions to the independent Transportation Adjudication Board within the Department of Transportation, while getting rid of wasteful and unnecessary tasks. I believe that H.R. 2539 will further ensure that such a transition does not prejudice current market activities or conditions and appropriately accounts for the expectations of the regulated community.

No Federal agency epitomizes the outdated, obsolete mentality of Federal bureaucrats more than the ICC. The ICC's original jurisdiction has been extended over the years across the regulatory spectrum—from railroad and other surface transportation matters to the telegraph, cable, and securities industries. The subsequent creation of specialized oversight agencies, such as the Securities and Exchange Commission, left the ICC with duplicate authority that should have been eliminated long ago. The cumulative impact of deregulation of the railroad, trucking, and intercity bus industries in the 1980's caused the ICC to go from as many as 2,000 employees in the 1970's to the current level of 400 today, underscoring the need to reduce the ICC's regulatory role further.

The ICC was created in 1887 in response to outcries from farmers, small merchants, and

shippers to appropriately control the practices of unfair rates and inadequate competition. It is ironic that these concerns, over 100 years later, once again are at the heart of our debate.

I was pleased to see an agreement included in the bill that is intended to guarantee preservation of the captive shipper protection authority of the ICC. Southwest Louisiana's economy depends on the efficient movement of bulk commodities, such as agricultural and petrochemical products. Transferring such protections to the Transportation Adjudication Panel is essential to ensure their access to a competitive transportation market. I thank my colleague NICK JOE RAHALL for his tireless work on this issue.

Additionally, meeting the demand of agricultural producers to get commodities to market at a competitive rate on time during the harvest season is the major problem facing rail grain users, particularly rice farmers in my district. Substantial progress has been made in developing acceptable safeguards to enforce contracts and rates suitably. While all my concerns were not allayed here today, I believe that stronger language akin to the Senate version is needed and will ultimately be approved.

Finally, the en bloc amendment will establish a level playing field that does not upset the present balance of the ICC's obligation to protect the public interest with the need for efficiencies in the marketplace through consolidation and mergers. Potential captive shippers in my district fear that the penchant for mergers could place them at the mercy of rates that limit their ability to compete. I was glad to see that my suggestions were included in the bill to better guarantee such competitive rates without adversely impacting railroads seeking to improve their own competitive position.

I urge my colleagues to approve this measure and look forward to resolving the outstanding issues in a thoughtful and amicable fashion.

Mr. POMEROY. Mr. Chairman, I rise in strong opposition to H.R. 2539, the Interstate Commerce Commission Termination Act.

North Dakota is a leading producer of many agricultural commodities such as wheat, durum, barley, canola, and sunflowers. A large portion of these commodities are shipped to processing facilities beyond our borders. The farmers and grain elevators in my State fit the classic definition of the captive shipper lacking access to effective alternative means of transportation. We do not enjoy access to any waterways and trucks are not considered a viable alternative to rail transportation. In fact, the North Dakota Public Service Commission estimates that it would take 650,000 long-haul trucks to move 1 year's harvest to market. That's more trucks than we have people in my State.

Because North Dakota's economy depends on moving our commodities to market by rail, it is critical for us to have access to affordable and reliable rail service. I have concerns about several provisions of this bill, but one affects my State directly.

H.R. 2539 deletes a provision in current law which has been critical in maintaining rail service in North Dakota. Commonly known as the ''Andrews amendment,'' this law prohibits the wholesale abandonment of railroads in North Dakota by Burlington Northern [BN].

In the early 1980's, BN planned to abandon over 20 percent of its railroad miles in my State. Such a wholesale abandonment would have been devastating to the farmers and small grain elevators who depended on those lines to get their commodities to market. The Andrews amendment originally allowed BN to abandon 350 miles in North Dakota. Subsequent legislation allowed BN to pursue abandonment when it was shown that no customer demand existed for a line.

Due to our dependence on a single railroad and a lack of access to competing modes of transportation, many farmers and elevator owners do not have any economically feasible options. The Andrews amendment has played a critical role in ensuring that BN took a go slow approach to abandoning lines in North Dakota.

For the RECORD, I am also submitting two letters. One from myself to Representative SUSAN MOLINARI, chairwoman for the Subcommittee on Railroads and the second from the North Dakota Public Service Commissioners stating their support for continuing the Andrews amendment.

Additionally, I am concerned this legislation unfairly tips the balance too far in favor of the railroads. The pre-emption of State and Federal laws takes away the option shippers have to pursue common law remedies. Also the power to suspend rates or practices while a charge of unfavorable treatment is reviewed has been suspended.

CONGRESS OF THE UNITED STATES,
October 10, 1995.

HON. SUSAN MOLINARI,
Chairwoman, Subcommittee on Railroads, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRWOMAN MOLINARI: As you prepare to introduce legislation to merge the Interstate Commerce Commission (ICC) into the Department of Transportation (DOT), I am writing to express my strong support for preserving a vital protection for North Dakota farmers and grain shippers against wholesale railroad abandonment.

To realize the importance of this provision to North Dakota, one must first understand the unparalleled degree to which North Dakota agriculture is dependent upon railroad transportation. North Dakota is the nation's most prolific producer of agriculture commodities—our farmers lead the nation in the production of wheat, durum, barley and sunflowers. And North Dakota is uniquely dependent upon railroads to transport these commodities to market.

North Dakota is not only the nation's largest agriculture producer, it is also, geographically, the most remote from processing centers and points of export. Unlike other large agriculture producing states, there is no realistic alternative mode of transportation to rail. Barge traffic is unavailable and trucking bulk shipments over such great distances is not economically viable.

As a result, on average, the 475 local country grain elevators in North Dakota rely on railroads to ship 75 percent of their commodities to market. The majority of these elevators fit the textbook definition of ''captive shipper,'' where the railroad faces no effective competition. To illustrate this point, consider the circumstances of the grain elevator in Beach, North Dakota. The elevator in Beach is 750 miles from the nearest grain market, 750 miles from the nearest navigable waterway, and 150 miles from the nearest competing railroad.

Although North Dakota's overwhelming reliance on railroads continues to create difficulties in the marketing of grain, for the last 15 years, we have achieved a degree of stability for our farmers and shippers through an abandonment limitation—the socalled ''Andrews amendment.''

In the early 1980's, Burlington Northern (BN) railroad filed applications with the ICC to abandon 1,200 miles of rail in North Dakota—more than 20 percent of the total railroad miles in the state. The proposal threatened the livelihood of farmers and small grain elevators across the state. In response, Senator Mark Andrews (R–ND) offered an amendment stating that Burlington Northern railroad could not abandon more than 350 miles of rail in North Dakota (P.L. 97–102, Sec. 402).

It should be noted that the Andrews amendment was modified by the FY 1992 Department of Transportation Appropriations Act to permit BN to exceed the 350 mile statutory limit for a abandonments under the exemption provided by section 1152 of title 49 of the Code of Federal Regulations. As you know, this provision allows railroads to bypass normal abandonment proceedings when it is demonstrated that there is no customer demand for the line. Therefore, the Andrews amendment is not a prohibition on rail abandonment—it is a reasonable safeguard that recognizes the unique dependence of North Dakota on rail transportation.

In sum, as you consider changes to the Interstate Commerce Act, I strongly urge you to preserve the abandonment limitation provided by P.L. 97–102. I appreciate your careful consideration of this important issue.

Sincerely,

EARL POMEROY,
Member of Congress.

PUBLIC SERVICE COMMISSION,
STATE OF NORTH DAKOTA,
Bismark, ND, October 23, 1995.

HON. SUSAN MOLINARI,
Chairwoman, Subcommittee on Railroads, Committee on Transportation and Intrastructure, Rayburn House Office Building, Washington, DC

DEAR CHAIRWOMAN MOLINARI: Congressman Pomeroy has already contacted you concerning the vital importance of the ''Andrews Amendment'' which prohibits wholesale rail abandonment in North Dakota (copy attached). As the agency that is responsible for representing our state's transportation interests before Congress and federal agencies, we share in his concern and urge congressional action to retain this protection.

North Dakota is perhaps the Nation's most agricultural state. We are often the leading producer of major commodities such as wheat (flour), durum (pasta), barley (beer and animal feed), and sunflower (oil and food). Virtually all of this grain is shipped to consumption centers and processors that are located hundreds and even thousands of miles away.

North Dakota is highly dependent on rail transportation because of its location and its lack of other transportation alternatives. Unlike their counterparts in other grain producing states, North Dakota grain shippers are located an average of 450 miles from the nearest source of water transportation and trucks just are not a viable alternative. It would take nearly 650,000 long-haul trucks to move one year's harvest to market.

North Dakota's grain industry had more competitive choices 25 years ago. At that time the state was served by five national rail carriers; today there are two. These carriers can be far more aggressive concerning abandonments because, in all likelihood, if they abandon a line, farmers and grain companies will simply be forced to deliver their grain to that same railroad at some more

distant point. These local entities would experience higher delivery costs and local roads would see experience far greater wear. Elevators which have made capital investments to their facilities would be left with significant stranded investments.

The ''Andrews Amendment'' was put in place to force North Dakota's major rail carrier to take a go-slow approach to abandonments. It has worked to the benefit of both the state and the railroad. Less than half of the lines proposed for abandonment in 1981 have been abandoned. Some of the once-targeted lines have even been upgraded and now serve as major sources of freight revenue for the railroad.

North Dakota will, quite possibly, be faced with another major abandonment threat in the near future. Recent and pending mega rail mergers, the advent of even larger rail cars, and proposed changes to the Interstate Commerce Act threaten to create a renewed interest in ''system rationalization.''

North Dakota has not opposed a single abandonment application in the past ten years but we do not welcome the prospects of another round of wholesale abandonments. The ''Andrews Amendment'' prevents such a threat.

It is important to remember that this provision does not preclude abandonments. Hundreds of miles of track have been abandoned since its passage and even more unused lines could be abandoned today if their operator chose to make the required filings with the ICC.

The ''Andrews Amendment'' simply prohibits a railroad from abandoning a line in anticipation of future free market occurrences and forces them to respond to changed market conditions rather than presupposing them.

We appreciate and urge your favorable support.

Sincerely,

BRUCE HAGEN,
Commissioner.
SUSAN E. WEFALD,
President.
LEO M. REINBOLD,
Commissioner.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute shall be considered by titles as an original bill for the purposes of amendment. The first section in each title is considered as read.

Before consideration of any other amendment it shall be in order to consider the amendment printed in the designated place in the CONGRESSIONAL RECORD if offered by the gentleman from Pennsylvania [Mr. SHUSTER] or his designee. That amendment shall be considered as read, may amend portions of the bill not yet read for amendment, is not subject to amendment, and is not subject to a demand for a division of the question. Debate on the amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

If that amendment is adopted, the bill as then perfected will be considered as an original bill for the purpose of further amendment.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''ICC Termination Act of 1995''.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER:

Page 5, line 24, insert ''common carrier'' after ''a person providing''.

Page 7, line 8, insert ''with respect to regulation of rail transportation'' after ''provided under this part''.

Page 9, line 24, insert ''The enactment of the ICC Termination Act of 1995 shall have no effect on which employees and employers are covered by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.'' after ''local governmental authority.''.

Page 12, in the table of sections for subchapter I of chapter 105, strike ''Inflation-based rate increases'' and insert in lieu thereof ''Rail cost adjustment factor''.

Page 13, line 21, strike ''shall recognize'' and insert in lieu thereof ''shall give due consideration to—

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

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

''(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing''.

Page 14, lines 2 through 5, strike ''to establish simplified'' and all that follows through ''evidence is impractical''.

Page 14, line 11, strike ''including'' and insert in lieu thereof ''to the extent required by section 10507,''.

Page 17, line 11, strike ''11101'' and insert in lieu thereof ''10902''.

Page 29, line 11, strike ''Class I''.

Page 29, lines 12 and 13, strike ''Panel's Rail Form A'' and insert in lieu thereof ''Uniform Rail Costing System''.

Page 30, line 7, through page 31, line 3, amend section 10508 to read as follows:

''§ 10508. Rail cost adjustment factor

''(a) The Panel shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Panel, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

''(b) The rail cost adjustment factor published by the Panel under subsection (a) of this section shall take into account changes in railroad productivity. The Panel shall also publish a similar index that does not take into account changes in railroad productivity.

Page 31, line 22, insert ''The district courts of the United States shall not have jurisdiction pursuant to this section based on section 1331 or 1337 of title 28, United States Code.'' after ''parties otherwise agree.''.

Page 31, after line 22, insert the following:

''(d)(1) A summary of each contract for the transportation of agricultural commodities entered into under this section shall be filed with the Panel, containing such nonconfidential information as the Panel prescribes. The Panel shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

Page 31, line 23, strike ''(d)'' and insert in lieu thereof ''(2)''.

Page 32, after line 6, insert the following new subsection:

''(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 10901, with respect to rail transportation not provided under such a contract.

Page 37, in the table of sections for chapter 107, insert at the end the following new item:

''10707. Railroad development.

Page 45, line 10, strike ''paragraph (2) or''.

Page 45, lines 13 through 22, strike paragraph (2).

Page 45, line 23, strike ''(3)'' and insert in lieu thereof ''(2)''.

Page 47, line 18, strike ''6 months'' and insert in lieu thereof ''4 months''.

Page 48, line 2, page 49, lines 21 and 25, and page 50, line 5, strike ''6-month'' and insert in lieu thereof ''4-month''.

Page 51, line 20, insert ''The Panel does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.'' after ''or side tracks.''.

Page 51, after line 20, insert the following new section:

''§ 10707. Railroad development

''(a) In this section, the term 'financially responsible person' means a person who—

''(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

''(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

''(b)(1) When the Panel finds that—

''(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

''(ii) a railroad line is on a system diagram map as required under section 10703 of this title, but the rail carrier owning such line has not filed a notice of intent to abandon such line under section 10703 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

''(B) an application to purchase such line has been filed by a financially responsible person,

the Panel shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

''(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

''(c)(1) For purposes of this section, the Panel may determine that the public convenience and necessity require or permit the

sale of a railroad line if the Panel determines, after a hearing on the record, that—

''(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

''(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

''(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

''(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

''(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

''(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Panel finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Panel shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

''(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Panel shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Panel shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

''(e) The Panel shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

''(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Panel for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Panel shall, within 30 days after the date such petition is filed and pursuant to section 10505(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

''(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 105 of this title with respect to transportation under a joint rate.

''(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

''(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

''(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

Page 52, line 9, insert ''Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.'' after ''requests for service.''.

Page 53, line 3, insert ''20 days have expired after'' after ''service terms unless''.

Page 53, lines 11 and 12, strike '', including appropriate periods of notice.'' and insert in lieu thereof ''. Final regulations shall be adopted by the Panel not later than 180 days after the date of the enactment of the ICC Termination Act of 1995.''.

Page 66, line 12, insert ''in order to perfect the security interest that is the subject of such instrument'' after ''filed with the Panel''.

Page 68, after line 15, insert the following new subsection:

''(g) The Panel shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of the date of the enactment of the ICC Termination Act of 1995.

Page 69, line 8, insert ''(except section 11122)'' after ''under this subchapter''.

Page 73, line 19, strike ''rights. Any trackage rights'' and insert in lieu thereof ''rights and access to other facilities. Any trackage rights and related''.

Page 73, line 20, insert ''operating terms and'' after ''shall provide for''.

Page 74, lines 21 and 22, strike ''Secretary of Transportation'' and insert in lieu thereof ''Attorney General''.

Page 84, lines 2 and 3, strike ''The Panel may begin an investigation under this part on its own initiative or on complaint.'' and insert in lieu thereof ''Except as otherwise provided in this part, the Panel may begin an investigation under this part only on complaint.''.

Page 85, line 24, insert ''in a United States District Court'' after ''civil action''.

Page 105, line 3, strike the first comma and all that follows through the period on line 5 and insert a period.

Page 115, line 6, before ''authority'' insert ''appropriate''.

Page 115, strike lines 7 and 8 and insert a period.

Page 117, line 4, strike ''shall''.

Page 132, line 4, strike ''has'' and insert ''and the Panel have''.

Page 133, after line 17, insert the following:

''(b) LIMITATION.—The Panel may not exempt a water carrier from the application of, or compliance with, sections 13701 and 13702 for transportation in noncontiguous domestic trade.

Page 133, line 18, strike ''(b)'' and insert ''(c)''.

Page 136, line 2, after ''section 13703'' insert ''or 14302''.

Page 136, in the matter following line 3—

(1) redesignate the items relating to sections 13707–13712 as items relating to sections 13708–13713, respectively;

(2) insert after the item relating to section 13706 the following:

'' '13707. Payment of rates.''; and

(3) strike the item relating to section 13710, as redesignated by paragraph (1), and insert the following:

'' '13710. Additional billing and collecting practices.''.

Page 136, lines 14 and 15, strike ''described in section 13102(9)(A), or'' and insert a comma.

Page 136, line 17, after the comma insert ''or''.

Page 136, after line 17, insert the following:

''(C) rates, rules, and classifications made collectively by motor carriers under agreement pursuant to section 13703,

Page 138, lines 9 and 10, strike ''described in section 13102(9)(A)''.

Page 140, line 13, strike ''kept open'' and insert ''make the tariffs as changed available''.

Page 141, line 11, strike ''in'' and insert ''of''.

Page 141, lines 12 and 13, strike ''households described in section 13102(9)(B)'' and insert ''household goods''.

Page 142, line 7, strike ''described in section 13102(9)(A)''.

Page 143, strike lines 5 through 8 and insert the following:

''(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be precluded, from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

''(5) INVESTIGATIONS.—

''(A) REASONABLENESS.—The Panel may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

''(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Panel may investigate any action taken pursuant to an agreement approved under this section. If the Panel finds that the action is not in the public interest, the Panel may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

Page 143, line 9, strike ''(5)'' and insert ''(6)''.

Page 144, line 18, after the period insert the following:

Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.

Page 145, strike line 11 and insert the following:

''(g) INDUSTRY STANDARD GUIDES.—

''(1) IN GENERAL.—

''(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

''(B) PARTICIPATION OF CARRIERS.—

''(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

''(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

''(2) MILEAGE LIMITATION.—No carrier subject

Page 145, line 15, strike ''(1)'' and insert ''(A)''.

Page 145, move lines 15 through 21 two ems to the right.

Page 145, strike line 16 and all that follows through ''which'' on line 17 and insert ''that

is developed independently of any other publication of mileage developed by any other carrier and that''.

Page 145, line 19, strike ''(2)'' and insert ''(B)''.

Page 149, after line 16, insert the following:

''§ 13707. Payment of rates

''(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

''(b) EXCEPTIONS.—

''(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

''(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

Redesignate subsequent sections of chapter 137 on pages 149 through 163, accordingly.

Page 149, line 18, strike ''TIMING'' and insert ''DISCLOSURE''.

Page 149, line 23, before the period insert ''and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made''.

Page 150, lines 13 and 14, strike ''BEFORE EFFECTIVE DATE'' and insert ''AT RATES OTHER THAN LEGAL TARIFF RATES''.

Page 150, line 21, after the comma insert ''or under subchapter I of chapter 135''.

Page 151, line 12, after ''Commission'' insert ''or the Panel, as required,''.

Page 151, line 20, after ''Commission'' insert ''or the Panel, as required,''.

Page 152, line 21, before the period insert '', or chapter 149''.

Page 154, line 7, before ''title'' insert ''part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this''.

Page 157, strike lines 11 and 12 and insert the following:

''§ 13710. Additional billing and collecting practices''

Page 157, line 20, after ''rate'' insert ''applicable to its shipment or''.

Page 157, line 23, strike ''With'' and all that follows through ''when'' on line 25 and insert ''When''.

Page 158, line 5, strike ''In those cases'' and insert the following:

''(3) BILLING DISPUTES.—

''(A) INITIATED BY MOTOR CARRIERS.—In those cases''

Page 158, strike line 16 and all that follows through ''if'' on line 18 and insert the following:

''(B) INITIATED BY SHIPPERS.—If''.

Page 160, line 1, before ''that'' insert ''subject to jurisdiction under subchapter I of chapter 135 or, before the effective date of this section, to have provided transportation''.

Page 160, line 2, strike ''before'' and insert '', as in effect on the day before''.

Page 160, line 7, after ''between'' insert ''(1)''.

Page 160, line 8, after ''with'' insert ''this chapter or, with respect to transportation provided before the effective date of this section, in accordance with''.

Page 160, line 9, strike ''of this title'' and insert '', as in effect on the date the transportation was provided,''.

Page 160, line 10, strike ''and'' and insert '', and (2)''.

Page 160, line 13, strike ''of this title''.

Page 160, lines 14 and 15, strike ''of this title''.

Page 161, line 11, after ''Commission'' insert ''or the Panel, as required,''.

Page 161, line 18, after ''Commission'' insert ''or the Panel, as required,''.

Page 162, line 20, strike ''relating'' and all that follows through the period on line 22 and insert the following:

as in effect on the day before such effective date, as such sections relate to a filed tariff rate and other general tariff requirements.

Page 163, line 1, strike ''13708'' and insert ''13709''.

Page 163, after line 8, insert the following:

''(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on the effective date of this section.

Page 164, in the item relating to section 13904 in the matter following line 7, strike ''motor carriers''.

Page 168, line 18, strike ''EXPRESS''.

Page 169, lines 7 and 8, strike ''Except as provided in section 14501(a), any'' and insert ''Any''.

Page 169, line 11, strike ''the 30th'' and all that follows through ''and'' on line 14 and insert ''such time as''.

Page 169, line 16, strike the period and insert the following:

, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

Page 173, line 15, after ''(3)'' insert a comma.

Page 174, after line 11, insert the following:

''(d) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term 'motor carrier' includes foreign motor carriers and foreign motor private carriers.

Page 174, line 23, strike ''**motor carrier**''.

Page 175, strike line 7 and move the matter on lines 8 through 10 after the subsection heading on line 6.

Page 175, strike lines 11 through 16.

Page 176, after line 1, insert the following:

''(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on the day before the effective date of this section, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

Redesignate subsequent subsections on page 176 accordingly.

Page 176, line 22, strike ''of the registrant''.

Page 186, line 22, after the period insert the following:

In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

Page 188, line 3, strike ''under section 14504,'' and insert ''(including filings and fees authorized under section 14504),''.

Page 196, line 19, before the period insert ''and brokers''.

Page 198, at the end of the matter following line 23, insert the following:

''14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

Page 201, line 14, strike ''of this title''.

Page 205, after line 11, insert the following:

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

''(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

''§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

''(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Panel:

''(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

''(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

''(3) Acquisition of control of a carrier by any number of carriers.

''(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

''(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

''(b) STANDARD FOR APPROVAL.—The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel shall consider at least the following:

''(1) The effect of the proposed transaction on the adequacy of transportation to the public.

''(2) The total fixed charges that result from the proposed transaction.

''(3) The interest of carrier employees affected by the proposed transaction.

The Panel may impose conditions governing the transaction.

''(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Panel shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

''(d) COMMENTS.—Written comments about an application may be filed with the Panel within 45 days after the date on which notice of the application is published under subsection (c).

''(e) DEADLINES.—The Panel shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Panel shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Panel may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

''(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Panel under this section, or exempted by the Panel from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or

person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

Page 205, line 17, strike ''two'' and insert ''2''.

Page 206, line 12, strike ''two'' and insert ''2''.

Page 208, line 2, strike ''performed'' and all that follows through ''without'' on line 5 and insert ''performed without''.

Page 212, line 6, after ''exceeds'' insert a comma.

Page 218, line 7, strike ''will be'' and insert ''is''.

Page 218, line 12, strike ''will minimize'' and insert ''minimizes''.

Page 218, line 15, strike ''will result'' and insert ''results''.

Page 221, after line 12, insert the following:

''(d) LIMITATION.—The Secretary and the Panel only have authority under this section with respect to matters within their respective jurisdictions under this part.

Page 222, lines 12 and 13, strike '', through its own attorneys,''.

Page 222, line 17, strike ''of Transportation''.

Page 222, lines 17 and 18, strike ''Intermodal Surface Transportation'' and insert ''the''.

Page 223, after line 2, insert the following:

''(a) IN GENERAL.—

Page 223, line 3, strike ''(a)'' and insert ''(1)''.

Page 223, line 3, strike ''ORDER'' and insert ''ORDER''.

Page 223, move lines 3 through 9 two ems to the right.

Move the sentence beginning on line 4 of page 224 after the period on line 9 of page 223.

Move paragraph (2) on lines 17 through 21 of page 223 after line 9 on page 223.

Page 223, strike lines 10 and 11 and insert the following:

''(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—

Page 223, move lines 12 through 16 two ems to the left.

Page 223, line 16, strike ''of this title''.

Page 223, line 26, strike ''of this title''.

Page 224, line 1, strike ''(1) or (2) of this section''.

Page 226, strike lines 10 through 14 and insert the following:

''(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

Page 226, line 10, strike ''

Page 227, line 6, strike ''of this title''.

Page 227, lines 13 and 14, strike ''subsection (b)'' and all that follows through ''section'' on line 15 and insert ''subsections (b) and (c)''.

Page 227, line 17, strike ''of this section''.

Page 229, line 12, strike ''filed''.

Page 229, line 12, strike ''of this title.''

Page 230, strike lines 18 through 24 and insert the following:

''(1) LIMITATION OF LIABILITY.—A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property (A) is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper, or (B) is contained in a schedule of rules and rates maintained by the carrier and provided to the shipper upon request. The schedule shall clearly state its dates of applicability.

Page 231, line 11, strike the parenthetical phrase.

Page 237, line 6, strike ''In any case'' and all that follows through the period on line 12 and insert the following:

The arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding.

Page 239, line 1, strike ''motor''.

Page 240, line 18, strike ''those types of''.

Page 240, after line 18, insert the following:

''(g) REVIEW BY SECRETARY.—Not later than 36 months after the effective date of this section, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

Page 241, line 4, after ''with'' insert ''section 13702 or, with respect to transportation provided before the effective date of this section,''.

Page 241, line 4, strike ''of this title'' and insert a comma.

Page 241, line 7, strike ''filed''.

Page 246, line 23, strike ''subsection (a) or (b) of''.

Page 248, line 6, strike ''AGENTS AND OTHERS'' and insert ''OTHERS''.

Page 249, line 4, after ''person'' insert a comma.

Page 252, line 9, after ''registration'' insert ''of a foreign motor carrier or foreign motor private carrier''.

Page 257, in the table of sections of subchapter II of chapter 7, strike the item relating to section 725 and redesignate the subsequent items accordingly.

Page 269, lines 16 through 25, strike section 725.

Page 270, lines 1 and 4, redesignate sections 726 and 727 as sections 725 and 726, respectively.

Page 271, line 2, after ''Panel'' insert ''or the Secretary''.

Page 271, line 3, after ''Panel'' insert ''or the Secretary''.

Page 271, line 3, strike ''or times'' and insert ''and to such extent''.

Page 271, line 24, insert ''The Panel shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.'' after ''operation of law.''.

Page 277, after line 22, insert the following:

(1) in section 5005(a)(4) by striking ''5201(7)'' and inserting ''5201(6)'';

Page 277, line 23, strike ''(1)'' and insert ''(2)''.

Page 278, line 1, strike ''(2)'' and insert ''(3)''.

Page 278, after line 5, insert the following:

(B) in section 5201(2) by striking ''a motor common carrier, or express carrier'' and inserting ''or a motor carrier'';

(C) in section 5201(4)—

(i) by striking ''common''; and

(ii) by striking ''permit'' and inserting ''registration'';

(D) in section 5201(5)—

(i) by striking ''common'' each place it appears;

(ii) by striking ''10102(14)'' and inserting ''13102(11)''; and

(iii) by striking ''certificate of public convenience and necessity'' and inserting ''registration'';

(E) by striking paragraph (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(G) in section 5201(6), as so redesignated, by striking ''certificate of public convenience and necessity'' and inserting ''certificate or registration'';

Redesignate subsequent subparagraphs on page 278, accordingly.

Page 278, line 10, strike ''(B)'' and insert ''(H)''.

Page 278, lines 10 and 11, strike ''paragraph,'' and all that follows through the semicolon on line 12 and insert the following:

paragraph—

(i) by striking ''Commission'' and inserting ''Panel''; and

(ii) by striking ''motor common carrier'' each place it appears and inserting ''motor carrier'';

Page 278, line 22, strike ''and''.

Page 279, line 2, strike the period and insert ''; and''.

Page 279, after line 2, insert the following:

(M) in section 5215(a) by striking ''motor common carrier'' and inserting ''motor carrier''.

Page 280, line 10, strike ''Board'' and insert ''Panel''.

Page 282, line 5, strike ''Board'' and insert ''Panel''.

Page 283, line 15, strike ''board'' and insert ''Panel''.

Page 291, line 1, before ''part'' insert ''common carriers of passengers under''.

Page 291, line 3, before ''part'' insert ''carriers of passengers under''.

Page 291, line 9, strike ''11501(g)(2)'' and insert ''14501(b)(2)''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 5 minutes, and the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will say this is a bipartisan amendment which has the support of both sides of the aisle on our committee. I would emphasize that this manager's amendment is something we have worked out with the various Members.

First of all, Mr. Chairman, the railroad provisions provide that in the clarification, that nothing in the bill is intended to change in any way the current coverage of the Railway Labor Act and the Railroad Retirement and Unemployment Act;

Second, restoration of certain Staggers Act captive shipper protections, such as the so-called Long-Cannon guidelines, requirements for filing of contract summaries and minimum notification periods for changes in rates;

Third, restoration of the feeder line development program, which provides shippers with a procedure by which to preserve rail service that is threatened by abandonment;

Fourth, restrictions on the investigative authority of the transportation adjudicatory panel which will inherit

remaining rail regulatory activities, as well as other technical clarifications.

With regard to the motor carrier provisions, there are several technical and clarifying changes to the motor carrier rate provisions. There is a reinstating of provisions from current law relating to the payment of rates, bus carrier merger authority, and updating several provisions from the Negotiated Rates Act of 1994; further, clarifying that carriers currently holding ICC operating authority are deemed to be registered with the Department of Transportation.

Next, there are several changes to the current household goods provisions, including revisions to pooling authority and the determination of which party should pay the cost of the loss and damage arbitration, and establishing that carriers will be able to establish ''released value'' liability rates, and that such rates may be set by electronic device, as is permitted under current law. The provision makes no changes in the underlying Carmack amendment.

Finally, I note that under the rule, the amendment, if adopted, is made part of the original text for purposes of amendment, so Members' rights to amend this package of amendments is fully protected.

Mr. Chairman, I urge support of the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the Chairman of the committee has correctly described the amendment as a bipartisan amendment, one on which we have worked together and have come to an agreement to improve the bill, and he has described quite well broad provisions in this manager's amendment. It does include the Long-Cannon criteria which are very important to our colleague, the gentleman from West Virginia [Mr. RAHALL].

It includes a provision that requires summaries of agricultural contracts to be filed with the panel. It includes a requirement that contract carriers remain subject to the common carrier obligation. It requires a feeder line development provision that would allow the panel to order the sale of a railroad line from a railroad that was not providing satisfactory service to another railroad in order to provide better service. Both of these are items that our colleague, the gentleman from New York [Mr. NADLER] is interested in.

It includes provisions to prohibit contract commitments that prevent a carrier from responding to reasonable requests for service, reasonable and hence vital to the common carrier obligation. I think that issue is reasonably resolved.

Mr. Chairman, there are several other amendments, particularly concerning abandonment, that I think are very important to this bill. The gentleman from Pennsylvania [Mr. SHUSTER] and I were fully agreed that we ought to insist on allowing abandonments to be reconfigured to make them more viable as stand-alone short lines and reduce the review period for abandonment from 6 months to 4 months.

All in all, Mr. Chairman, this is a very inclusive and carefully crafted piece of legislation that improves the overall status of this legislation.

Mr. Chairman, I am happy to yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the distinguished ranking minority Member for yielding time to me, and certainly associate myself with his comments, as well as the comments of our distinguished chairman, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. Chairman, this is an issue that has been of critical importance to those in the coal fields who are captive to one rail line or are captive shippers of coal and other bulk commodities as well, I might add, across the Nation.

As the gentleman from Minnesota mentioned, this amendment embodies the Long-Cannon guidelines as they relate to captive shippers, and that puts in place the current law that has worked well for us in the coal fields since the enactment of the Staggers Rail Act in 1980. It does provide for reasonable rates charged by railroads on these captive shippers, and for this I salute the gentleman from Pennsylvania, as well as the gentleman from Minnesota [Mr. OBERSTAR], for their working together with me, and for those of us who do represent captive shippers, whether they be coal, iron ore, grain, or whatever the bulk commodity may be, so I urge adoption of the Shuster en bloc amendments.

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this committee amendment. Since the subcommittee and full committee markups 2 weeks ago, we have had the opportunity to further review the legislative provisions and consider the further comments of the various groups, including carriers and shippers, as to ways to improve the bill. Some of the motor carrier provisions reflect the recommendations made by affected groups, the Department of Transportation, and the Interstate Commerce Commission, and relate to bus mergers, household goods arbitration disputes, cargo liability and a few other areas. The majority of provisions, however, are simply technical or conforming in nature.

I urge adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I rise to thank the committee chairman for this amendment. It does meet with a lot of problems, and I rise to remember that a lot of the problems in this bill are really not philosophical, they are regional, and the chairman has dealt well with this. I also have a concern about captive shipping as well. I appreciate a chance to vote for this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield the balance of our time to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, I simply want to say that this manager's amendment is a product of outstanding cooperation and bipartisanship between the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Wisconsin [Mr. PETRI], the gentleman from West Virginia [Mr. RAHALL], and the gentlewoman from New York [Ms. MOLINARI], and it is in the true spirit of the committee that all of us have served on for a long period of time. It is very nice to see that in this day and age, with the hostility that sometimes exists here between the majority and the minority, that we have managed to supersede that on our committee. I have always felt our committee has a special bipartisan flavor to it, and I compliment all the parties involved for working out this manager's amendment.

I particularly salute the chairman and the ranking minority member for working this out, because I know they have worked on numerous problems like this over the course of many years on the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time, and I urge support of the amendment.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

SEC. 101. ABOLITION.

The Interstate Commerce Commission is abolished.

SEC. 102. RAIL PROVISIONS.

(a) AMENDMENT.—Subtitle IV of title 49, United States Code, is amended to read as follows:

''SUBTITLE IV—INTERSTATE TRANSPORTATION

''PART A—RAIL

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

''PART A—RAIL

''CHAPTER 101—GENERAL PROVISIONS

''§ 10101. Rail transportation policy

''In regulating the railroad industry, it is the policy of the United States Government—

''(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

''(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

''(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Panel;

''(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

''(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

''(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

''(7) to reduce regulatory barriers to entry into and exit from the industry;

''(8) to operate transportation facilities and equipment without detriment to the public health and safety;

''(9) to encourage honest and efficient management of railroads;

''(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

''(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

''(12) to avoid undue concentrations of market power and to prohibit unlawful discrimination;

''(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

''(14) to encourage and promote energy conservation.

''§ 10102. Definitions

''In this part—

''(1) 'car service' includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

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

''(3) 'Panel' means the Transportation Adjudication Panel;

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

''(5) 'rail carrier' means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

''(6) 'railroad' includes—

''(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

''(B) the road used by a rail carrier and owned by it or operated under an agreement; and

''(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

''(7) 'rate' means a rate, fare, or charge for transportation;

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

''(9) 'transportation' includes—

''(A) a locomotive, car, vehicle, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

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

''(10) 'United States' means the States of the United States and the District of Columbia.

''§10103. Remedies are exclusive

''Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

''CHAPTER 103—JURISDICTION

''§ 10301. General jurisdiction

''(a)(1) Subject to this chapter and other law, the Panel has jurisdiction over transportation by rail carrier that is—

''(A) only by railroad; or

''(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

''(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

''(A) a State and a place in the same or another State;

''(B) a State and a place in a territory or possession of the United States;

''(C) a territory or possession of the United States and a place in another such territory or possession;

''(D) a territory or possession of the United States and another place in the same territory or possession;

''(E) the United States and another place in the United States through a foreign country; or

''(F) the United States and a place in a foreign country.

''(b) The jurisdiction of the Panel over—

''(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

''(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive.

''(c)(1) In this subsection—

''(A) the term 'local governmental authority'—

''(i) has the same meaning given that term by section 5302(a) of this title; and

''(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

''(B) the term 'mass transportation' means transportation services described in section 5302(a) of this title that are provided by rail.

''(2) Except as provided in paragraph (3), the Panel does not have jurisdiction under this part over mass transportation provided by a local governmental authority.

''(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

''(i) safety;

''(ii) the representation of employees for collective bargaining; and

''(iii) employment retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

''(B) The Panel has jurisdiction under sections 10902 and 10903 of this title over mass transportation provided by a local governmental authority. The enactment of the ICC Termination Act of 1995 shall have no effect on which employees and employers are covered by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act after local governmental authority.

''§ 10302. Authority to exempt rail carrier transportation

''(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the Panel, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Panel finds that the application of a provision of this part—

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

''(2) either—

''(A) the transaction or service is of limited scope; or

''(B) the application of the provision is not needed to protect shippers from the abuse of market power.

''(b) The Panel may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Panel shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Panel decides not to begin a proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within one year after it is begun.

''(c) The Panel may specify the period of time during which an exemption granted under this section is effective.

''(d) The Panel may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Panel shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Panel decides not to begin a proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within one year after it is begun.

''(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11506 of this title. Nothing in this subsection or section 11506 of this title shall prevent rail carriers from offering alternative terms nor give the Panel the authority to require any specific level of rates or

services based upon the provisions of section 11506 of this title.

''(f) The Panel may exercise its authority under this section to exempt transportation that is provided by a rail carrier.

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

''CHAPTER 105—RATES

''SUBCHAPTER I—GENERAL AUTHORITY

''SUBCHAPTER II—SPECIAL CIRCUMSTANCES

''SUBCHAPTER III—LIMITATIONS

''SUBCHAPTER I—GENERAL AUTHORITY

''§ 10501. Standards for rates, classifications, through routes, rules, and practices

''(a) A through route established by a rail carrier must be reasonable. Divisions of joint rates by rail carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

''(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the jurisdiction of the Panel under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

''(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transporation subject to the jurisdiction of the Panel under this part may establish any rate for transportation or other service provided by the rail carrier.

''(d)(1) If the Panel determines, under section 10507 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

''(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Panel shall give due consideration to—

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

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

''(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing the policy of this part that rail carriers shall earn adequate revenues, as established by the Panel under section 10504(a)(2) of this title.

''(3) The Panel shall, within one year after the date of the enactment of this paragraph, complete the pending Interstate Commerce Commission non-coal rate guidelines.

''§ 10502. Authority for rail carriers to establish rates, classifications, rules, and practices

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall establish reasonable—

''(1) rates, to the extent required by section 10507 divisions of joint rates, and classifications for transportation and service it may provide under this part; and

''(2) rules and practices on matters related to that transportation or service.

''§ 10503. Authority for rail carriers to establish through routes

''Rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall establish through routes with each other, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

''(1) reasonable facilities for operating the through route; and

''(2) reasonable compensation to persons entitled to compensation for services related to the through route.

''§ 10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel

''(a)(1) When the Panel, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Panel under this part, or that a classification, rule, or practice of that carrier does or will violate this part, the Panel may prescribe the maximum rate, classification, rule, or practice to be followed. The Panel may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Panel.

''(2) The Panel shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Panel shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

''(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

''(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

''(3) On the basis of the standards and procedures described in paragraph (2), the Panel shall annually determine which rail carriers are earning adequate revenues.

''(b) The Panel may begin a proceeding under this section on its own initiative or on complaint. A complaint under subsection (a) of this section must be made under section 11501 of this title, but the proceeding may also be in extension of a complaint pending before the Panel.

''§ 10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel

''(a)(1) The Panel may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

''(2) The Panel may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

''(A) required under sections 10541, 10542, or 10902 of this title;

''(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

''(C) the Panel decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation. The Panel shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

''(b) The Panel shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10503 of this title, or under a decision of the Panel under subsection (a) of this section, does or will violate section 10501 of this title.

''(c) If a division of a joint rate prescribed under a decision of the Panel is later found to violate section 10501 of this title, the Panel may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Panel decides is justified. The Panel may make a decision under this subsection effective as part of its original decision.

''§ 10506. Rate agreements: exemption from antitrust laws

''(a)(1) In this subsection—

''(A) the term 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' refers to equity holdings in a business entity of at least 5 percent;

''(B) the term 'single-line rate' refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

''(C) the term 'practicably participates in the movement' shall have such meaning as the Panel shall by regulation prescribe.

''(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part that is a party to an agreement of at least 2 rail carriers that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Panel for approval of that agreement under this subsection. The Panel shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the

agreement further that policy as a condition of its approval. If the Panel approves the agreement, it may be made and carried out under its terms and under the conditions required by the Panel, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Panel may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

''(B) The Panel may approve an agreement under subparagraph (A) of this paragraph only when the rail carriers applying for approval file a verified statement with the Panel. Each statement must specify for each rail carrier that is a party to the agreement—

''(i) the name of the carrier;

''(ii) the mailing address and telephone number of its headquarter's office; and

''(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

''(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

''(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad changes in rates, classifications, rules, and practices only, if the Panel finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

''(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

''(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. If the Panel finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.

''(B)(i) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

''(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

''(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

''(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

''(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Panel and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

''(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Panel approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Panel may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Panel may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.

''(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Panel under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Panel for approval of that agreement under this paragraph. The Panel shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Panel approves the agreement, it may be made and carried out under its terms and under the terms required by the Panel, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Panel shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

''(B) If the Panel approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Panel. The Panel shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Panel.

''(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

''(b) The Panel may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Panel may inspect a record maintained under this section.

''(c) The Panel may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Panel shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

''(d) The Panel may begin a proceeding under this section on its own initiative or on application. Action of the Panel under this section—

''(1) approving an agreement;

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

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

''(4) changing those conditions,

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

''(e) The Panel shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years—

''(1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest; and

''(2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system.

If the Panel finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval.

''(f)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Panel on—

''(A) possible anticompetitive features of—

''(i) agreements approved or submitted for approval under subsection (a) of this section; and

''(ii) an organization operating under those agreements; and

''(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

''(2) Reports received by the Panel under this subsection shall be published and made available to the public under section 552(a) of title 5.

''§ 10507. Determination of market dominance in rail rate proceedings

''(a) In this section, 'market dominance' means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

''(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part is challenged as being unreasonably high, the Panel shall determine, within 90 days after the start of a proceeding, whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Panel may make that determination on its own initiative or on complaint. A finding by the Panel that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Panel or set aside by a court of competent jurisdiction.

''(c) When the Panel finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that

transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

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

''(B) For purposes of this section, variable costs for a rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Uniform Rail Costing System cost finding methodology (or an alternative methodology adopted by the Panel in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates, with adjustments specified by the Panel. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with this paragraph, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Panel shall prescribe.

''(2) A finding by the Panel that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

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

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

''§ 10508. Rail cost adjustment factor

''(a) The Panel shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Panel, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

''(b) The rail cost adjustment factor published by the Panel under subsection (a) of this section shall take into account changes in railroad productivity. The Panel shall also publish a similar index that does not take into account changes in railroad productivity.

''§ 10509. Contracts

''(a) One or more rail carriers providing transportation subject to the jurisdiction of the Panel under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

''(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

''(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Panel or in any court on the grounds that such contract violates a provision of this part.

''(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree. The district courts of the United States shall not have jurisdiction pursuant to this section based on section 1331 or 1337 of title 28, United States Code.

''(d)(1) A summary of each contract for the transportation of agricultural commodities entered into under this section shall be filed with the Panel, containing such nonconfidential information as the Panel prescribes. The Panel shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

''(2) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

''(e) Any lawful contract between a rail carrier and one or more purchasers of rail service that was in effect on the effective date of the Staggers Rail Act of 1980 shall be considered a contract authorized by this section.

''(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 10901, with respect to rail transportation not provided under such a contract.

''SUBCHAPTER II—SPECIAL CIRCUMSTANCES

''§ 10521. Government traffic

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

''§ 10522. Emergency rates

''(a) The Panel may authorize a rail carrier providing transportation or service subject to its jurisdiction under this part to give reduced rates for service and transportation of property to or from an area in the United States to provide relief during emergencies. When the Panel takes action under this subsection, it must—

''(1) define the area of the United States in which the reduced rates will apply;

''(2) specify the period during which the reduced rates are to be in effect; and

''(3) define the class of persons entitled to the reduced rates.

''(b) The Panel may specify those persons entitled to reduced rates by reference to those persons designated as being in need of relief by the United States Government or by a State government authorized to assist in providing relief during the emergency. The Panel may act under this section without regard to subchapter II of chapter 5 of title 5.

''§ 10523. Car utilization

''In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Panel shall facilitate development of such charges so as to increase the utilization of equipment.

''SUBCHAPTER III—LIMITATIONS

''§ 10541. Prohibitions against discrimination by rail carriers

''(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

''(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

''(b) This section shall not apply to—

''(1) contracts described in section 10509 of this title;

''(2) rail rates applicable to different routes; or

''(3) discrimination against the traffic of another carrier providing transportation by any mode.

''(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

''§ 10542. Facilities for interchange of traffic

''A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier.

''§ 10543. Continuous carriage of freight

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

''§ 10544. Transportation services or facilities furnished by shipper

''A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may publish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Panel may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Panel may begin a proceeding under this section on its own initiative or on application.

''§ 10545. Demurrage charges

''A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

''(1) freight car use and distribution; and

''(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

''§ 10546. Designation of certain routes by shippers

''(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Panel under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

''(A) there are at least 2 through routes over which the property could be transported;

''(B) a through rate has been established for transportation over each of those through routes; and

''(C) the rail carrier is a party to those routes and rates.

''(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions.

When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

''(b) The Panel may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

''CHAPTER 107—LICENSING

''§ 10701. Authorizing construction and operation of railroad lines

''(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may—

''(1) construct an extension to any of its railroad lines;

''(2) construct an additional railroad line;

''(3) acquire or operate an extended or additional railroad line; or

''(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Panel issues a certificate authorizing such activity under subsection (c).

''(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

''(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

''(d)(1) When a certificate has been issued by the Panel under this section or section 10702 authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

''(A) the construction does not unreasonably interfere with the operation of the crossed line;

''(B) the operation does not materially interfere with the operation of the crossed line; and

''(C) the owner of the crossing line compensates the owner of the crossed line.

''(2) If the parties are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Panel for determination. The Panel shall make a determination under this paragraph within 90 days after the dispute is submitted for determination.

''(e) The Panel may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11126 of this title.

''(f) Subsections (a), (b), (c), and (e) of this section shall only apply to Class I rail carriers.

''§ 10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers

''(a)(1) A Class II or Class III (as defined by the Panel) rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier, may—

''(A) construct an extension of any of its railroad lines;

''(B) construct an additional railroad line; or

''(C) acquire or operate a railroad line,

only if the Panel issues a certificate authorizing such activity under subsection (c).

''(2) A certificate issued by the Panel under subsection (c) shall also be required for—

''(A) a Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier to provide transportation over, or by means of, a railroad line by trackage rights, lease, or joint ownership or joint use of the railroad line (and terminals incidental thereto);

''(B) a consolidation or merger of the properties or franchises of at least 2 Class II or Class III rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties;

''(C) the acquisition of control of a Class II or Class III rail carrier by one or more Class II or Class III rail carriers;

''(D) the acquisition of control of at least 2 Class II or Class III rail carriers by a person that is not a rail carrier; and

''(E) the acquisition of control of a Class II or Class III rail carrier by a person that is not a rail carrier but that controls at least one Class II or Class III rail carrier.

''(b) A proceeding to grant authority under subsection (a) begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

''(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity because—

''(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

''(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

''(d) When a person is involved in a transaction for which approval is sought under this section, the Panel shall require such person to protect the interest of affected employees to an extent equal to the protection required under sections 2 through 5 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101–2104).

''(e) The authority of the Panel over transactions described in subsection (a)(2) is exclusive. A rail carrier or corporation participating in or resulting from such a transaction may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property and exercise control or franchises acquired through the transaction.

''§ 10703. Filing and procedure for notice of intent to abandon or discontinue

''(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part who intends to—

''(A) abandon any part of its railroad lines; or

''(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file a notice of intent relating thereto with the Panel. An abandonment or discontinuance may be carried out only as authorized under this chapter.

''(2) When a rail carrier providing transportation subject to the jurisdiction of the Panel under this part files a notice of intent, the notice shall include—

''(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

''(B) a statement indicating that each interested person is entitled to make recommendations to the Panel on the future of the rail line; and

''(C)(i) a statement that the line is available for sale in accordance with section 10704 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the minimum purchase price, calculated in accordance with section 10704 of this title and (iii) the name and business address of the person who is authorized to discuss sale terms for the rail carrier.

''(3) The rail carrier shall—

''(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

''(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

''(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

''(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Panel) of the railroad line during the 12 months preceding the filing of the notice of intent; and

''(E) attach to the notice filed with the Panel an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the notice of intent is filed.

''(b)(1) Except as provided in paragraph (2) or subsection (d), abandonment and discontinuance may occur as provided in section 10704.

''(2) The Panel shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11126 and 24706(c) of this title.

''(c)(1) In this subsection, the term 'potentially subject to abandonment' has the meaning given the term in regulations of the Panel. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

''(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Panel and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

''(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

''(B) identify each railroad line for which the rail carrier plans to file a notice of intent to abandon or discontinue under subsection (a) of this section.

''(d) The Panel may disapprove a proposed abandonment or discontinuance if the Panel finds it inconsistent with the public convenience and necessity.

"§ 10704. Offers to purchase to avoid abandonment and discontinuance

''(a) Any rail carrier which has filed a notice of intent to abandon or discontinue shall provide promptly to a party considering an offer to purchase and shall provide concurrently to the Panel—

''(1) a statement of the minimum purchase price required;

''(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

''(3) traffic, revenue, and other data necessary to determine the commercial potential of the railroad line; and

''(4) any other information that the Panel considers necessary to allow a potential offeror to calculate an adequate purchase offer.

''(b) Within 4 months after a notice of intent is filed under section 10703, any person may offer to purchase the railroad line that is the subject of such notice of intent. Such offer shall be filed concurrently with the Panel. If the offer to purchase is less than the minimum purchase price stated pursuant to subsection (a)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

''(c)(1) Unless the Panel, within 15 days after the expiration of the 4-month period described in subsection (b), finds that one or more financially responsible persons (including a governmental authority) have offered to purchase that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out in accordance with section 10703.

''(2) If the Panel finds that such an offer or offers to purchase have been made within such period, abandonment or discontinuance shall be postponed until—

''(A) the carrier and a financially responsible person have reached agreement on a transaction for sale of the line; or

''(B) the conditions and amount of compensation are established under subsection (e).

''(d) Except as provided in subsection (e)(3), if the rail carrier and a financially responsible person (including a governmental authority) fail to agree on the amount or terms of the purchase, either party may, within 30 days after the offer is made, request that the Panel establish the conditions and amount of compensation.

''(e)(1) Whenever the Panel is requested to establish the conditions and amount of compensation under this section—

''(A) the Panel shall render its decision within 30 days;

''(B) the Panel shall determine the price and other terms of sale, except that in no case shall the Panel set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

''(2) The decision of the Panel shall be binding on both parties, except that the person who has offered to purchase the line may withdraw his offer within 10 days of the Panel's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

''(3) If a rail carrier receives more than one offer to purchase, it shall select the offeror with whom it wishes to transact business, and complete the sale agreement, or request that the Panel establish the conditions and amount of compensation before the 40th day after the expiration of the 4-month period described in subsection (b). If no agreement on sale is reached within such 40-day period and the Panel has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 4-month period described in subsection (b) may request that the Panel establish the conditions and amount of compensation. If the Panel has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 4-month period described in subsection (b) may accept the Panel's decision within 20 days after such decision, and the Panel shall require the carrier to enter into a sale agreement with such offeror, if such sale agreement incorporates the Panel's decision.

''(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

''(f) Upon abandonment of a railroad line under this section, the obligation of the rail carrier abandoning the line to provide transportation on that line, as required by section 10901(a), is extinguished.

"§ 10705. Offering abandoned rail properties for sale for public purposes

''When a rail carrier files a notice of intent to abandon or discontinue under section 10703, the Panel shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Panel finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Panel. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

"§ 10706. Exception

''Notwithstanding section 10701 and subchapter II of chapter 111 of this title, and without the approval of the Panel, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The Panel does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

"§ 10707. Railroad development

''(a) In this section, the term 'financially responsible person' means a person who—

''(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

''(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

''(b)(1) When the Panel finds that—

''(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

''(ii) a railroad line is on a system diagram map as required under section 10703 of this title, but the rail carrier owning such line has not filed a notice of intent to abandon such line under section 10703 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

''(B) an application to purchase such line has been filed by a financially responsible person,

the Panel shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

''(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

''(c)(1) For purposes of this section, the Panel may determine that the public convenience and necessity require or permit the sale of a railroad line if the Panel determines, after a hearing on the record, that—

''(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

''(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

''(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

''(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

''(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

''(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Panel finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Panel shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

''(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Panel shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Panel shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

''(e) The Panel shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

''(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Panel for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Panel shall, within 30 days after the date such petition is filed and pursuant to section 10505(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

''(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 105 of this title with respect to transportation under a joint rate.

''(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

''(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section.

Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

''(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

''CHAPTER 109—OPERATIONS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''§ 10901. Providing transportation, service, and rates

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10509 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

''(b) A rail carrier shall also provide to any person, on request, rates and other service terms. The response by a rail carrier to a request for rates and other service terms shall be—

''(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

''(2) promptly made available in electronic form.

''(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written notice is provided in accordance with subsection (d) to—

''(1) any person who has requested such rates or terms under subsection (b); and

''(2) any person who has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

''(d) The Panel shall, by regulation, establish rules to implement this section. Final regulations shall be adopted by the Panel not later than 180 days after the date of the enactment of the ICC Termination Act of 1995.

''§ 10902. Use of terminal facilities

''(a) The Panel may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, to be used by another rail carrier if the Panel finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the rail carriers cannot agree, the Panel may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

''(b) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover damages from the other rail carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

''(c)(1) The Panel may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Panel may establish such conditions and compensation.

''(2) The Panel may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

''(d) The Panel shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

''§ 10903. Switch connections and tracks

''(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

''(1) is reasonably practicable;

''(2) can be made safely; and

''(3) will furnish sufficient business to justify its construction and maintenance.

''(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Panel under section 11501 of this title. The Panel shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Panel may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

''SUBCHAPTER II—CAR SERVICE

''§ 10921. Criteria

''(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Panel may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Panel decides that the rail carrier has materially failed to furnish that service. The Panel may begin a proceeding under this paragraph when an interested person files an application with it. The Panel may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

''(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

''(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

''(C) providing the facilities or equipment will not impair the ability of the rail carrier to attract adequate capital.

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

''(b) The Panel may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 10923 and 10924(a)(1) of this title.

''§ 10922. Compensation and practice

''(a) The regulations of the Panel on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

''(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

''(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

''(3) sanctions for nonobservance.

''(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Panel shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

''§ 10923. Rerouting traffic on failure of rail carrier to serve the public

''(a) When the Panel considers that a rail carrier providing transportation subject to the jurisdiction of the Panel under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Panel may direct the handling, routing, and movement of the traffic of that rail carrier and its distribution over other railroad lines to promote commerce and service to the public. Subject to subsection (b)(2) of this section, the rail carriers may establish the terms of compensation between themselves.

''(b)(1) Except as provided in paragraph (2) of this subsection, the Panel may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

''(2) When the rail carriers do not agree on the terms of compensation under this section, the Panel may establish the terms for them in a later proceeding.

''(c) When there is a shortage of equipment, congestion of traffic, or other emergency declared by the Panel, it may prescribe temporary through routes that are desirable in the public interest on its own initiative or on application without regard to subchapter II of chapter 7 of this title, and subchapter II of chapter 5 of title 5.

''§ 10924. War emergencies; embargoes imposed by carriers

''(a)(1) When the President, during time of war or threatened war, notifies the Panel that it is essential to the defense and security of the

United States to give preference or priority to the movement of certain traffic, the Panel shall direct that preference or priority be given to that traffic.

''(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall adopt every means within their control to facilitate and expedite the military traffic.

''(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

''SUBCHAPTER III—REPORTS AND RECORDS

''§ 10941. Definitions

''In this subchapter—

''(1) the terms 'rail carrier' and 'lessor' include a receiver or trustee of a rail carrier and lessor, respectively;

''(2) the term 'lessor' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Panel under this part; and

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

''§ 10942. Uniform accounting system

''The Panel may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Panel under this part. To the maximum extent practicable, the Panel shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

''§ 10943. Depreciation charges

''The Panel shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Panel may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

''(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Panel;

''(2) charge another rate of depreciation; or

''(3) include other depreciation charges in operating expenses.

''§ 10944. Records: form; inspection; preservation

''(a) The Panel may prescribe the form of records required to be prepared or compiled under this subchapter—

''(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

''(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to the extent related to those cars or that service.

''(b) The Panel, or an employee designated by the Panel, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

''(2) inspect and copy any record of—

''(A) a rail carrier, lessor, or association; and

''(B) a person controlling, controlled by, or under common control with a rail carrier if the Panel considers inspection relevant to that person's relation to, or transaction with, that rail carrier.

''(c) The Panel may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

''§ 10945. Reports by rail carriers, lessors, and associations

''(a) The Panel may require rail carriers, lessors, and associations, or classes of them as the Panel may prescribe, to file annual, periodic, and special reports with the Panel containing answers to questions asked by it.

''(b)(1) An annual report shall contain an account, in as much detail as the Panel may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

''(2) An annual report shall be filed with the Panel by the end of the third month after the end of the year for which the report is made unless the Panel extends the filing date or changes the period covered by the report. The annual report and, if the Panel requires, any other report made under this section, shall be made under oath.

''SUBCHAPTER IV—RAILROAD COST ACCOUNTING

''§ 10961. Implementation of cost accounting principles

''Not less than once every five years after the promulgation of original rules implementing the cost accounting principles established by the Railroad Accounting Principles Board, the Panel shall review such principles and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this part. The Panel shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Panel shall conform such rules to generally accepted accounting principles.

''§ 10962. Rail carrier cost accounting system

''(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Panel under section 10961 of this title. A rail carrier may, after notifying the Panel, make modifications in such system unless, within 60 days after the date of notification, the Panel finds such modifications to be inconsistent with the rules promulgated by the Panel under section 10961 of this title.

''(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Panel, the Panel shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

''§ 10963. Cost availability

''As required by the rules of the Panel governing discovery in Panel proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Panel proceeding in which such data are required.

''§ 10964. Accounting and cost reporting

''(a) To obtain expense and revenue information for regulatory purposes, the Panel may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Panel under this part, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings under this part, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board.

''(b) Any reports required by the rules established by the Panel under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

''CHAPTER 111—FINANCE

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

''§ 11101. Equipment trusts: recordation; evidence of indebtedness

''(a) A mortgage, lease equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce shall be filed with the Panel in order to perfect the security interest that is the subject of such instrument. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Panel. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Panel regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents.

''(b) The Panel shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Panel shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

''(c) The Panel shall to the greatest extent practicable perform its functions under this section through contracts with private sector entities.

''(d) The Panel shall assess user fees for services performed by the Panel or a contractor thereof under this section. Such fees may be used by the Panel to offset its costs, to the extent provided in advance in appropriations Acts.

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

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

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

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

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

''(g) The Panel shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of the date of the enactment of the ICC Termination Act of 1995.

''SUBCHAPTER II—COMBINATIONS

''§ 11121. Scope of authority

''(a) The authority of the Panel under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Panel under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(b) The requirement to obtain the approval or authorization of the Panel under this subchapter (except section 11122) shall only apply to transactions involving at least one Class I rail carrier, and shall not apply to transactions described in section 10702.

''§ 11122. Limitation on pooling and division of transportation or earnings

''(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Panel under this section or section 10923 of this title. The Panel may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Panel finds that a pooling or division of traffic, services, or earnings—

''(1) will be in the interest of better service to the public or of economy of operation; and

''(2) will not unreasonably restrain competition.

''(b) The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

''(c) The Panel may begin a proceeding under this section on its own initiative or on application.

''§ 11123. Consolidation, merger, and acquisition of control

''(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Panel under this part may be carried out only with the approval and authorization of the Panel:

''(1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

''(2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.

''(3) Acquisition of control of a rail carrier by any number of rail carriers.

''(4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.

''(5) Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.

''(6) Acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

''(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those rail carriers, regardless of how that result is reached, only with the approval and authorization of the Panel under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

''(1) A transaction by a rail carrier that has the effect of putting that rail carrier and person affiliated with it, taken together, in control of another rail carrier.

''(2) A transaction by a person affiliated with a rail carrier that has the effect of putting that rail carrier and persons affiliated with it, taken together, in control of another rail carrier.

''(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated with a rail carrier) that has the effect of putting those persons and rail carriers and persons affiliated with any of them, or with any of those affiliated rail carriers, taken together, in control of another rail carrier.

''(c) A person is affiliated with a rail carrier under this subchapter if, because of the relationship between that person and a rail carrier, it is reasonable to believe that the affairs of another rail carrier, control of which may be acquired by that person, will be managed in the interest of the other rail carrier.

''§ 11124. Consolidation, merger, and acquisition of control: conditions of approval

''(a) The Panel may begin a proceeding to approve and authorize a transaction referred to in section 11123 of this title on application of the person seeking that authority. When an application is filed with the Panel, the Panel shall notify the chief executive officer of each State in which property of the rail carriers involved in the proposed transaction is located and shall notify those rail carriers. The Panel shall hold a public hearing unless the Panel determines that a public hearing is not necessary in the public interest.

''(b) In a proceeding under this section which involves the merger or control of at least two Class I railroads, as defined by the Panel, the Panel shall consider at least—

''(1) the effect of the proposed transaction on the adequacy of transportation to the public;

''(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

''(3) the total fixed charges that result from the proposed transaction;

''(4) the interest of rail carrier employees affected by the proposed transaction; and

''(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

''(c) The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Panel may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Panel may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Panel finds their inclusion to be consistent with the public interest.

''(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Panel, the Panel shall approve such an application unless it finds that—

''(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

''(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Panel shall, with respect to any application that is part of a plan or proposal developed under section 333(a)–(d) of this title, accord substantial weight to any recommendations of the Attorney General.

''(e)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

''(2) Ex parte communications, as defined in section 551(14) of title 5, United States Code, shall be permitted in proceedings described in paragraph (1) of this subsection, subject to the requirements of paragraph (3) of this subsection.

''(3)(A) Any member or employee of the Panel who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

''(B) Any member or employee of the Panel who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

''(4) Nothing in this subsection shall be construed to require the Panel or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Panel, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

''§ 11125. Consolidation, merger, and acquisition of control: procedure

''(a) The Panel shall publish notice of the application under section 11124 in the Federal Register by the end of the 30th day after the application is filed with the Panel. However, if the application is incomplete, the Panel shall reject it by the end of that period. The order of rejection is a final action of the Panel. The published notice shall indicate whether the application involves—

''(1) the merger or control of at least two Class I railroads, as defined by the Panel, to be decided within the time limits specified in subsection (b) of this section;

''(2) transactions of regional or national transportation significance, to be decided within

the time limits specified in subsection (c) of this section; or

''(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

''(b) If the application involves the merger or control of two or more Class I railroads, as defined by the Panel, the following conditions apply:

''(1) Written comments about an application may be filed with the Panel within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Panel by the end of the 15th day after the date of receipt of the written comments.

''(2) The Panel shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 90th day after publication of notice under that subsection.

''(3) The Panel must conclude evidentiary proceedings by the end of the 6th month after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

''(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Panel, which the Panel has determined to be of regional or national transportation significance, the following conditions apply:

''(1) Written comments about an application, including comments of the Attorney General, may be filed with the Panel within 30 days after notice of the application is published under subsection (a) of this section.

''(2) The Panel shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 60th day after publication of notice under that subsection.

''(3) The Panel must conclude any evidentiary proceedings by the 125th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

''(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

''(1) Written comments about an application, including comments of the Attorney General, may be filed with the Panel within 30 days after notice of the application is published under subsection (a) of this section.

''(2) The Panel must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

''§ 11126. Employee protective arrangements in transactions involving rail carriers

''When approval is sought for a transaction under sections 11124 and 11125 of this title, the Panel shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c) of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Panel (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

''§ 11127. Supplemental orders

''When cause exists, the Panel may make appropriate orders supplemental to an order made in a proceeding under sections 11122 through 11126 of this title.

''CHAPTER 113—FEDERAL-STATE RELATIONS

''§ 11301. Tax discrimination against rail transportation property

''(a) In this section—

''(1) the term 'assessment' means valuation for a property tax levied by a taxing district;

''(2) the term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

''(3) the term 'rail transportation property' means property, as defined by the Panel, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part; and

''(4) the term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

''(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

''(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

''(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

''(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

''(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

''(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

''(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

''§ 11302. Withholding State and local income tax by rail carriers

''(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

''CHAPTER 115—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

''§ 11501. General authority

''(a) Except as otherwise provided in this part, the Panel may begin an investigation under this part only on complaint. If the Panel finds that a rail carrier is violating this part, the Panel shall take appropriate action to compel compliance with this part.

''(b) A person, including a governmental authority, may file with the Panel a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part. The complaint must state the facts that are the subject of the violation. The Panel may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Panel may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part because of the absence of direct damage to the complainant.

''(c) A formal investigative proceeding begun by the Panel under subsection (a) of this section is dismissed automatically unless it is concluded by the Panel with administrative finality by the end of the third year after the date on which it was begun.

''§ 11502. Enforcement by the Panel

''The Panel may bring a civil action—

''(1) to enjoin a rail carrier from violating sections 10701 through 10706 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

''(2) to enforce subchapter II of chapter 111 of this title and to compel compliance with the order of the Panel under that subchapter; and

''(3) to enforce an order of the Panel, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

''§ 11503. Enforcement by the Attorney General

''The Attorney General may, and on request of the Panel shall, bring court proceedings to enforce this part, or a regulation or order of the Panel or certificate or permit issued under this part, and to prosecute a person violating this part or a regulation or order of the Panel or certificate or permit issued under this part.

''§ 11504. Rights and remedies of persons injured by rail carriers

''(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part does not obey an order of the Panel, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

''(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part.

''(c)(1) A person may file a complaint with the Panel under section 11501(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

''(2) When the Panel makes an award under subsection (b) of this section, the Panel shall order the rail carrier to pay the amount awarded by a specific date. The Panel may order a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Panel requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

''(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Panel requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the text of the order of the Panel must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

''(A) in which the plaintiff resides;

''(B) in which the principal operating office of the rail carrier is located; or

''(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

''(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

''§ 11505. Limitation on actions by and against rail carriers

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

''(b) A person must file a complaint with the Panel to recover damages under section 11504(b) of this title within 2 years after the claim accrues.

''(c) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation period under subsection (b) of this section is extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(d) A person must begin a civil action to enforce an order of the Panel against a rail carrier for the payment of money within one year after the date the order required the money to be paid.

''(e) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

''(1) payment of the rate for the transportation or service involved;

''(2) subsequent refund for overpayment of that rate; or

''(3) deduction made under section 3726 of title 31, whichever is later.

''(f) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

''§ 11506. Liability of rail carriers under receipts and bills of lading

''(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other rail carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Panel under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

''(1) the receiving rail carrier;

''(2) the delivering rail carrier; or

''(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

''(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

''(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

''(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

''(3) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may establish rates for transportation of property under which—

''(A) the liability of the rail carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier; or

''(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

''(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

''(2)(A) A civil action under this section may only be brought—

''(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

''(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

''(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

''(B) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

''(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

''(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

''CHAPTER 117—CIVIL AND CRIMINAL PENALTIES

''§ 11701. General civil penalties

''(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating an order of the Panel under this part is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

''(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Panel under section 10924 (a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

''(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10701 through 10706 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

''(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Panel under section 10923 or 10924(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

''(e)(1) A person required under subchapter III of chapter 109 of this title to make, prepare, preserve, or submit to the Panel a record concerning transportation subject to the jurisdiction of the Panel under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

''(2) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 10944(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

''(3) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Panel or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

''(4) A separate violation occurs for each day a violation under this subsection continues.

''(f) Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

''§ 11702. Interference with railroad car supply

''(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part intending to influence an action of that other person related to supply, distribution, or movement of cars or vehicles used in the transportation of property, or because of the action of that other person shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

''(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part that solicits, accepts, or receives anything of value—

''(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

''(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

''§ 11703. Record keeping and reporting violations

''A person required to make a report to the Panel, or make, prepare, or preserve a record, under subchapter III of chapter 109 of this title about transportation subject to the jurisdiction of the Panel under this part that knowingly and willfully—

''(1) makes a false entry in the report or record;

''(2) destroys, mutilates, changes, or by another means falsifies the record;

''(3) does not enter business related facts and transactions in the record;

''(4) makes, prepares, or preserves the record in violation of a regulation or order of the Panel; or

''(5) files a false report or record with the Panel,

shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

''§ 11704. Unlawful disclosure of information

''(a) A—

''(1) rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or an officer, agent, or employee of that rail carrier, or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

''(2) a person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

''(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10509 of this title, that may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee.

''(c) This part does not prevent a rail carrier or broker providing transportation subject to the jurisdiction of the Panel under this part from giving information—

''(1) in response to legal process issued under authority of a court of the United States or a State;

''(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

''(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

''(d) An employee of the Panel delegated to make an inspection or examination under section 10944 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Panel, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

''(e) A person that knowingly discloses confidential data made available to such person under section 10963 of this title by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall be fined not more than $50,000.

''§ 11705. Disobedience to subpoenas

''A person not obeying a subpoena or requirement of the Panel to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

''§ 11706. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of section 11122 of this title continues.

''§ 11707. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.''.

*(b) CONFORMING AMENDMENT.—The item relating to subtitle IV in the table of subtitles of title 49, United States Code, is amended by striking ''**Commerce**'' and inserting in lieu thereof ''**Transportation**''.*

SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT FORWARDER PROVISIONS.

Subtitle IV of title 49, United States Code, is further amended by adding at the end the following:

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

''CHAPTER 131—GENERAL PROVISIONS

''§ 13101. Transportation policy

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

''(1) in overseeing those modes—

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

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

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

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

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

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

''(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

''(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

''(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

''(C) meet the needs of shippers, receivers, passengers, and consumers;

''(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

''(E) allow the most productive use of equipment and energy resources;

''(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

''(G) provide and maintain service to small communities and small shippers and intrastate bus services;

''(H) provide and maintain commuter bus operations;

''(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

''(J) promote greater participation by minorities in the motor carrier system; and

''(K) promote intermodal transportation; and

''(3) in overseeing transportation by motor carrier of passengers—

''(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

''(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

''(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.

''(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

''§ 13102. Definitions

''In this part, the following definitions shall apply:

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

''(2) CARRIER.—The term 'carrier' means a motor carrier, a water carrier, and a freight forwarder.

''(3) CONTRACT CARRIAGE.—The term 'contract carriage' means—

''(A) for transportation provided before the effective date of this section, service provided pursuant to a permit issued under section 10923, as in effect on the day before the effective date of this section; and

''(B) for transportation provided on or after such date, service provided under an agreement entered into under section 14101(b).

''(4) CONTROL.—The term 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

''(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

''(B) any other means.

''(5) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

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

''(ii) that is owned or controlled by persons of a contiguous foreign country; and

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

''(6) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

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

''(ii) that is owned or controlled by persons of a contiguous foreign country; and

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

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

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

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

''(C) uses for any part of the transportation a carrier subject to jurisdiction under this part.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

''(8) HIGHWAY.—The term 'highway' means a road, highway, street, and way in a State.

''(9) HOUSEHOLD GOODS.—The term 'household goods', as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

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

''(B) arranged and paid for by another party.

''(10) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

''(11) MOTOR CARRIER.—The term 'motor carrier' means a person providing motor vehicle transportation for compensation.

''(12) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

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

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

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

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

''(14) NONCONTIGUOUS DOMESTIC TRADE.—The term 'noncontiguous domestic trade' means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

''(15) PANEL.—The term 'Panel' means the Transportation Adjudication Panel.

''(16) PERSON.—The term 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

''(17) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(18) STATE.—The term 'State' means the 50 States of the United States and the District of Columbia.

''(19) TRANSPORTATION.—The term 'transportation' includes—

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

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

''(20) UNITED STATES.—The term 'United States' means the States of the United States and the District of Columbia.

''(21) VESSEL.—The term 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

''(22) WATER CARRIER.—The term 'water carrier' means a person providing water transportation for compensation.

''§ 13103. Remedies as cumulative

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

''CHAPTER 133—ADMINISTRATIVE PROVISIONS

''§ 13301. Powers

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

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

''(c) SUBPOENA POWER.—

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

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

''(d) TESTIMONY OF WITNESSES.—

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

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

''(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a

district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

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

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

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

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

''(f) POWERS OF PANEL.—For those provisions of this part that are specified to be carried out by the Panel, the Panel shall have the same powers as the Secretary has under this section.

''§ 13302. Intervention

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

''§ 13303. Service of notice in proceedings

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

''(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

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

''§ 13304. Service of process in court proceedings

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

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

''CHAPTER 135—JURISDICTION

''SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

''SUBCHAPTER II—WATER CARRIER TRANSPORTATION

''SUBCHAPTER III—FREIGHT FORWARDER SERVICE

''SUBCHAPTER IV—AUTHORITY TO EXEMPT

''SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

''§ 13501. General jurisdiction

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

''(1) between a place in—

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

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

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

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

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

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

''§ 13502. Exempt transportation between Alaska and other States

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

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

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

''§ 13503. Exempt motor vehicle transportation in terminal areas

''(a) TRANSPORTATION BY CARRIERS.—

''(1) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

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

''(B) is provided by—

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

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

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

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

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

''(b) TRANSPORTATION BY AGENT.—

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

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

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

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

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

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

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

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

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

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

''§ 13505. Transportation furthering a primary business

''(a) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over the transportation of property by motor vehicle when—

''(1) the property is transported by a person engaged in a business other than transportation; and

''(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

''(b) CORPORATE FAMILIES.—

''(1) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

''(2) DEFINITION.—In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

"§ 13506. Miscellaneous motor carrier transportation exemptions

''(a) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over—

''(1) a motor vehicle transporting only school children and teachers to or from school;

''(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

''(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

''(4) a motor vehicle controlled and operated by a farmer and transporting—

''(A) the farmer's agricultural or horticultural commodities and products; or

''(B) supplies to the farm of the farmer;

''(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

''(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

''(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

''(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

''(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

''(6) transportation by motor vehicle of—

''(A) ordinary livestock;

''(B) agricultural or horticultural commodities (other than manufactured products thereof);

''(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

''(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

''(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

''(7) a motor vehicle used only to distribute newspapers;

''(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

''(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

''(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

''(9) the operation of a motor vehicle in a national park or national monument;

''(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

''(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

''(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

''(13) transportation of wood chips;

''(14) brokers for motor carriers of passengers, except as provided in section 13904(d)); or

''(15) transportation of broken, crushed, or powdered glass.

''(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Panel, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Panel has jurisdiction under this part over—

''(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

''(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

''(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

''(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

''(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

"§ 13507. Mixed loads of regulated and unregulated property

''A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

"§ 13508. Limited authority over cooperative associations

''(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Panel may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Panel, or an employee designated by the Secretary or the Panel, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

''(2) inspect and copy any record of such association or federation.

''(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Panel may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Panel containing answers to questions about transportation provided by such association or federation.

''(c) ENFORCEMENT.—The Secretary or the Panel may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Panel issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

''(d) REPORTING PENALTIES.—

''(1) IN GENERAL.—A person required to make a report to the Secretary or the Panel, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

''(A) does not make the report;

''(B) does not specifically, completely, and truthfully answer the question; or

''(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

''(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

''(A) the cooperative association or federation of cooperative associations has its principal office;

''(B) the violation occurred; or

''(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

''(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

''(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

''(1) willfully does not make that report;

''(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

''(3) willfully does not maintain that record in the form and manner prescribed;

''(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

''(5) knowingly and willfully files a false report or record under this section;

''(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

''(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

''SUBCHAPTER II—WATER CARRIER TRANSPORTATION

''§ 13521. General jurisdiction

''(a) GENERAL RULES.—The Secretary and the Panel have jurisdiction over transportation insofar as water carriers are concerned—

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

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

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

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

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

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

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

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

''(b) LIMITATION.—The Panel may not exempt a water carrier from the application of, or compliance with, sections 13701 and 13702 for transportation in noncontiguous domestic trade.

''(c) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories and possessions of the United States.

''SUBCHAPTER III—FREIGHT FORWARDER SERVICE

''§ 13531. General jurisdiction

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

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

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

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

''(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Panel has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

''SUBCHAPTER IV—AUTHORITY TO EXEMPT

''§ 13541. Authority to exempt transportation or services

''(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Panel, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Panel finds that the application of that provision in whole or in part—

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

''(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

''(3) is in the public interest.

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

''(c) PERIOD OF EXEMPTION.—The Secretary or Panel, as applicable, may specify the period of time during which an exemption granted under this section is effective.

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

''(e) LIMITATIONS.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or not terminated under section 13907(d)(2).

''CHAPTER 137—RATES AND THROUGH ROUTES

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

''(a) REASONABLENESS.—

''(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

''(A) a movement of household goods,

''(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

''(C) rates, rules, and classifications made collectively by motor carriers under agreement pursuant to section 13703,

must be reasonable.

''(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

''(b) PRESCRIPTION BY PANEL FOR VIOLATIONS.—When the Panel finds it necessary to stop or prevent a violation of subsection (a), the Panel shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

''(c) ZONE OF REASONABLENESS.—

''(1) IN GENERAL.—For purposes of this section, a rate or division of a carrier for service in noncontiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 10 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

''(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

''§ 13702. Tariff requirement for certain transportation

''(a) IN GENERAL.—A carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

''(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste; or

''(2) for movement of household goods;

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

''(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

''(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Panel tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Panel shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

''(2) CONTENTS.—The Panel may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

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

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

''(C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;

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

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

''(3) INLAND DIVISIONS.—A carrier providing transportation or service described in subsection (a)(1) under a joint rate for a through movement shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.

''(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

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

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

''(B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

''(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

''(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices

in a tariff. The tariff must be submitted to the Panel for inspection and be made available for inspection by shippers upon reasonable request.

''(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

''(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

''(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions of a tariff in agreements covering the transportation of household goods.

''(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Panel for resolution.

''(d) INVALIDATION.—The Panel may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Panel carrying out this section.

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

''(a) AGREEMENTS.—

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

''(A) through routes and joint rates;

''(B) rates for the transportation of household goods;

''(C) classifications;

''(D) mileage guides;

''(E) rules;

''(F) divisions;

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

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

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

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

''(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be precluded, from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

''(5) INVESTIGATIONS.—

''(A) REASONABLENESS.—The Panel may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

''(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Panel may investigate any action taken pursuant to an agreement approved under this section. If the Panel finds that the action is not in the public interest, the Panel may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

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

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

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

''(1) approving an agreement,

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

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

''(4) changing those conditions,

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

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

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

''(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

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

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

''(g) INDUSTRY STANDARD GUIDES.—

''(1) IN GENERAL.—

''(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

''(B) PARTICIPATION OF CARRIERS.—

''(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

''(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

''(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

''(A) uses an independent publication of mileage that is developed independently of any other publication of mileage developed by any other carrier and that can be examined by any interested person upon reasonable request; or

''(B) is a participant in a publication of mileages formulated under an agreement approved under this section.

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

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

''(a) IN GENERAL.—

''(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

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

''(b) RATES FOR GUARANTEED SERVICE.—

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

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

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

''(a) ESTABLISHMENT; REASONABLENESS.—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

''(b) PRESCRIBED BY PANEL.—When the Panel finds it necessary to enforce the requirements of this section, the Panel may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

''§ 13706. Liability for payment of rates

''(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but

not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

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

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

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

''§ 13707. Payment of rates

''(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

''(b) EXCEPTIONS.—

''(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

''(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

''§ 13708. Billing and collecting practices

''(a) DISCLOSURE.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

''(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

''(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

''§ 13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

''(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

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

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

''(B) with respect to the claim—

''(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Interstate Commerce Commission or the Panel, as required for the transportation service;

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

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

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

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

''(2) FORUM FOR RESOLUTION OF SHOWINGS.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Panel. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

''(3) EFFECT OF SATISFACTION OF CLAIMS UNDER DISPUTE RESOLUTION PROCEDURE.—Satisfaction of a claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119, as in effect on the day before the effective date of this section or chapter 149.

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

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

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

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

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

''(g) NOTIFICATION OF ELECTION.—

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

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

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

''(B) March 5, 1994.

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

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

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

''(B) March 5, 1994.

''(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

''(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

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

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

''(C) if the cargo involved in the claim is recyclable materials.

''(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§ 13710. Additional billing and collecting practices

''(a) MISCELLANEOUS PROVISIONS.—

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

''(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Panel shall determine whether such rates and provisions are reasonable or applicable based on the record before it.

''(3) BILLING DISPUTES.—

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

''(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Panel determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

''(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of this section and not required to be filed after that date is null and void beginning on that date.

''(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of this section was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Panel shall resolve the dispute.

"§ 13711. Alternative procedure for resolving undercharge disputes

''(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before the effective date of this section, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105 as in effect on the day before the effective date of this section, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before the effective date of this section, in accordance with chapter 107 as in effect on the date the transportation was provided by the carrier or freight forwarder applicable to such transportation service and (2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

''(b) JURISDICTION OF PANEL.—

''(1) DETERMINATION.—The Panel shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Panel determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

''(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Panel shall consider—

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

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

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

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

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

''(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Panel has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

''(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before the effective date of this section, to the requirements of sections 10761(a) and 10762, as in effect on the day before such effective date, as such sections relate to a filed tariff rate and other general tariff requirements.

''(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

''(f) DEFINITIONS.—In this section, the term ''negotiated rate'' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

''(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on the effective date of this section.

"§ 13711. Government traffic

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

"§ 13712. Food and grocery transportation

''(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

''(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"§ 13901. Requirement for registration

''A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

"§ 13902. Registration of motor carriers

''(a) MOTOR CARRIER GENERALLY.—

''(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

''(A) this part and the applicable regulations of the Secretary and the Panel;

''(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

''(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

''(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

''(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

''(4) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person

concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Panel, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

''(b) MOTOR CARRIERS OF PASSENGERS.—

''(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

''(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

''(i) the recipient meets the requirements of subsection (a)(1); and

''(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

''(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

''(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

''(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

''(3) INTRASTATE TRANSPORTATION.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

''(4) PREEMPTION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

''(5) TREATMENT.—Any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

''(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

''(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

''(8) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

''(i) any State,

''(ii) any municipality or other political subdivision of a State,

''(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

''(iv) any Indian tribe,

''(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

''(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on, or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

''(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

''(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

''(A) seek elimination of such practices through consultations; or

''(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

''(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

''(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

''(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

''(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on the day before the effective date of this section; or

''(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

''(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

''(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

''(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

''(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

''(d) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term 'motor carrier' includes foreign motor carriers and foreign motor private carriers.

''§ 13903. Registration of freight forwarders

''(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is willing and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Panel.

''(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.

''§ 13904. Registration of brokers

''(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is willing and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

''(b) LIMITATION.—The broker may provide transportation itself only if the broker also has registered to provide transportation as a carrier under this chapter.

''(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

''(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

"§ 13905. Effective periods of registration

"(a) PERSON HOLDING ACC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on the day before the effective date of this section, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

"(b) IN GENERAL.—Each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect, except as otherwise provided in this part.

"(c) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Panel, or a condition of its registration.

"(d) PROCEDURE.—Except on application of the registrant, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

"(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

"(2) the registrant willfully does not comply with the order for a period of 30 days.

"(e) EXPEDITED PROCEDURE.—

"(1) PROTECTION OF SAFETY.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

"(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.

"(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.

"§ 13906. Security of motor carriers, brokers, and freight forwarders

"(a) MOTOR CARRIER REQUIREMENTS.—

"(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

"(2) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

"(3) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

"(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

"(c) FREIGHT FORWARDER REQUIREMENTS.—

"(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

"(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

"(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

"(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the effective date of this section shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

"(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation.

"(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

"§ 13907. Household goods agents

"(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

"(c) ENFORCEMENT.—

"(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

"(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

"(A) rates for the transportation of household goods under the authority of the principal carrier;

''(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

''(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

''(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

''(2) PANEL REVIEW.—The Panel, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

''(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

''§ 13908. Registration and other reforms

''(a) REGULATIONS REPLACING CERTAIN PROGRAMS.—The Secretary, in cooperation with the States, and after notice and opportunity for public comment, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, on-line, Federal system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility. In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

''(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

''(1) Funding for State enforcement of motor carrier safety regulations.

''(2) Whether the existing single State registration system is duplicative and burdensome.

''(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).

''(4) The public safety.

''(5) The efficient delivery of transportation services.

''(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

''(c) FEE SYSTEM.—The Secretary may establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a). Fees collected under the fee system shall cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. Fees collected under this subsection may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected, and shall be available for expenditure until expended.

''(d) STATE REGISTRATION PROGRAMS.—If the Secretary determines that no State should require insurance filings or collect fees for such filings (including filings and fees authorized under section 14504), the Secretary may prevent any State or political subdivision thereof, or any political authority of 2 or more States, from imposing any insurance filing requirements or fees that are for the same purposes as filings or fees the Secretary requires under the new system under subsection (a).

''(e) DEADLINE FOR CONCLUSION; MODIFICATIONS.—Not later than 24 months after the effective date of this section, the Secretary—

''(1) shall conclude the rulemaking under this section;

''(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and

''(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.

''CHAPTER 141—OPERATIONS OF CARRIERS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''SUBCHAPTER I—GENERAL REQUIREMENTS

''§ 14101. Providing transportation and service

''(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

''(b) CONTRACTS WITH SHIPPERS.—

''(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(9)(A), to provide specified services under specified rates and conditions. If the shipper, in writing, expressly waives all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to this part and may not be subsequently challenged on the ground that it violates a provision of this part.

''(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

''§ 14102. Leased motor vehicles

''(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

''(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

''(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

''(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

''(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

''(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

''§ 14103. Loading and unloading motor vehicles

''(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

''(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

''§ 14104. Household goods carrier operations

''(a) GENERAL REGULATORY AUTHORITY.—

''(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

''(2) PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

''(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

''(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

''(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

''(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

''(iv) service requirements of the carriers;

''(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

''(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

''(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing

transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

''(b) ESTIMATES.—

''(1) AUTHORITY TO PROVIDE WITHOUT COMPENSATION.—Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

''(2) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

''(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

''SUBCHAPTER II—REPORTS AND RECORDS

''§ 14121. Definitions

''In this subchapter, the following definitions apply:

''(1) CARRIER AND BROKER.—The terms 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

''(2) ASSOCIATION.—The term 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

''§ 14122. Records: form; inspection; preservation

''(a) FORM OF RECORDS.—The Secretary or the Panel, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

''(b) RIGHT OF INSPECTION.—The Secretary or Panel, or an employee designated by the Secretary or Panel, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

''(2) inspect and copy any record of—

''(A) a carrier, broker, or association; and

''(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Panel, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

''(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Panel, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

''§ 14123. Financial reporting

''(a) IN GENERAL.—The Secretary shall require Class I motor carriers, and may require Class II motor carriers, to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

''(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

''(1) safety needs;

''(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

''(3) private sector, academic, and public use of information in the reports; and

''(4) the public interest.

''(c) EXEMPTION FROM PUBLIC RELEASE.—

''(1) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

''(2) PROCEDURE.—After a request under paragraph (1) and notice and opportunity for comment but no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

''(3) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this subsection, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

''(4) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

''(5) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under paragraph (1) while such request is pending.

''(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

''CHAPTER 143—FINANCE

''§ 14301. Security interests in certain motor vehicles

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

''(2) LIEN CREDITOR.—The term 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

''(3) SECURITY INTEREST.—The term 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

''(4) PERFECTION.—The term 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

''(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

''(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

''(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

''(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

''§ 14302. Pooling and division of transportation or earnings

''(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Panel under this section.

''(b) STANDARDS FOR APPROVAL.—The Panel may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Panel finds that a pooling or division of traffic, services, or earnings—

''(1) will be in the interest of better service to the public or of economy of operation; and

''(2) will not unreasonably restrain competition.

''(c) PROCEDURE.—

''(1) APPLICATION.—Any motor carrier of property may apply to the Panel for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Panel not less than 50 days before its effective date.

''(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Panel shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Panel determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

''(3) HEARING.—If the Panel determines either that the agreement or combination is of major

transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Panel shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Panel shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

''(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Panel approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the effective date of this section.

''(5) STREAMLINING AND SIMPLIFYING.—The Panel shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

''(d) CONDITIONS.—The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

''(e) INITIATION OF PROCEEDING.—The Panel may begin a proceeding under this section on its own initiative or on application.

''(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Panel under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

''(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

''§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

''(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Panel:

''(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

''(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

''(3) Acquisition of control of a carrier by any number of carriers.

''(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

''(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

''(b) STANDARD FOR APPROVAL.—The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel shall consider at least the following:

''(1) The effect of the proposed transaction on the adequacy of transportation to the public.

''(2) The total fixed charges that result from the proposed transaction.

''(3) The interest of carrier employees affected by the proposed transaction.

The Panel may impose conditions governing the transaction.

''(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Panel shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

''(d) COMMENTS.—Written comments about an application may be filed with the Panel within 45 days after the date on which notice of the application is published under subsection (c).

''(e) DEADLINES.—The Panel shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Panel shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Panel may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

''(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Panel under this section, or exempted by the Panel from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

''(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

''CHAPTER 145—FEDERAL-STATE RELATIONS

''§ 14501. Federal authority over intrastate transportation

''(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

''(b) FREIGHT FORWARDERS AND BROKERS.—

''(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

''(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

''(c) MOTOR CARRIERS OF PROPERTY.—

''(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

''(2) MATTERS NOT COVERED.—Paragraph (1)—

''(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

''(B) does not apply to the transportation of household goods; and

''(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

''(3) STATE STANDARD TRANSPORTATION PRACTICES.—

''(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

''(i) uniform cargo liability rules,

''(ii) uniform bills of lading or receipts for property being transported,

''(iii) uniform cargo credit rules, or

''(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

''(i) the law, regulation, or provision covers the same subject matter as, and compliance with

such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Panel under this part; and

''(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

''(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

''(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

''§ 14502. Tax discrimination against motor carrier transportation property

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) ASSESSMENT.—The term 'assessment' means valuation for a property tax levied by a taxing district.

''(2) ASSESSMENT JURISDICTION.—The term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

''(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term 'motor carrier transportation property' means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

''(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

''(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

''(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

''(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

''(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

''(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

''(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

''(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

''(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

''(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

''§ 14503. Withholding State and local income tax by certain carriers

''(a) SINGLE STATE TAX WITHHOLDING.—

''(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

''(2) EMPLOYEE DEFINED.—In this subsection, the term 'employee' has the meaning given such term in section 31132.

''(b) SPECIAL RULES.—

''(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

''(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

''(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

''(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

''(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

''(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

''§ 14504. Registration of motor carriers by a State

''(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

''(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

''(c) SINGLE STATE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

''(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

''(B) the State of registration shall fully comply with standards prescribed under this section; and

''(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

''(2) SPECIFIC REQUIREMENTS.—

''(A) EVIDENCE OF FEDERAL REGISTRATION; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier registered by the Secretary under this part—

''(i) to file and maintain evidence of such Federal registration;

''(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

''(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

''(iv) to file the name of a local agent for service of process.

''(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

''(i) shall require that the registration State issue a receipt, in a form prescribed under the standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

''(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

''(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

''(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that—

''(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;

''(II) minimizes the costs of complying with the registration system; and

''(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

''(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

''(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

''(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

''§ 14505. State tax

''A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

''(1) a passenger traveling in interstate commerce by motor carrier;

''(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

''(3) the sale of passenger transportation in interstate commerce by motor carrier; or

''(4) the gross receipts derived from such transportation.

''CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

''§ 14701. General authority

''(a) INVESTIGATIONS.—The Secretary or the Panel, as applicable, may begin an investigation under this part on the Secretary's or the Panel's own initiative or on complaint. If the Secretary or Panel, as applicable, finds that a carrier or broker is violating this part, the Secretary or Panel, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Panel, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

''(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Panel, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Panel, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

''(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Panel under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

''(d) LIMITATION.—The Secretary and the Panel only have authority under this section with respect to matters within their respective jurisdictions under this part.

''§ 14702. Enforcement by the regulatory authority

''(a) IN GENERAL.—The Secretary or the Panel, as applicable, may bring a civil action—

''(1) to enforce section 14103 of this title; or

''(2) to enforce this part, or a regulation or order of the Secretary or Panel, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

''(b) VENUE.—In a civil action under subsection (a)(2) of this section—

''(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

''(c) STANDING.—The Panel may bring or participate in any civil action involving motor carrier undercharges.

''§ 14703. Enforcement by the Attorney General

''The Attorney General may, and on request of either the Secretary or the Panel shall, bring court proceedings—

''(1) to enforce this part or a regulation or order of the Secretary or Panel or terms of registration under this part; and

''(2) to prosecute a person violating this part or a regulation or order of the Secretary or Panel or term of registration under this part.

''§ 14704. Rights and remedies of persons injured by carriers or brokers

(a) IN GENERAL.—

''(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Panel, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

''(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

''(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

''(c) ELECTION.—

''(1) COMPLAINT TO DOT OR PANEL; CIVIL ACTION.—A person may file a complaint with the Panel or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b)(1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

''(2) ORDER OF DOT OR PANEL.—

''(A) IN GENERAL.—When the Panel or Secretary, as applicable, makes an award under subsection (b) of this section, the Panel or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Panel or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

''(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Panel or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

''(d) PROCEDURE.—

''(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Panel or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Panel or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

''(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

''(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as a part of the costs of the action.

''§ 14705. Limitation on actions by and against carriers

''(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

''(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Panel or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

''(c) DAMAGES.—A person must file a complaint with the Panel or Secretary, as applicable, to recover damages under section 14704(b)(2) within 2 years after the claim accrues.

''(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

''(e) PAYMENT.—A person must begin a civil action to enforce an order of the Panel or Secretary against a carrier for the payment of money within 1 year after the date the order required the money to be paid.

''(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

''(1) payment of the rate for the transportation or service involved;

''(2) subsequent refund for overpayment of that rate; or

''(3) deduction made under section 3726 of title 31.

''(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§ 14706. Liability of carriers under receipts and bills of lading

''(a) GENERAL LIABILITY.—

''(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

''(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

''(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

''(c) SPECIAL RULES.—

''(1) LIMITATION OF LIABILITY.—A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property (A) is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper, or (B) is contained in a schedule of rules and rates maintained by the carrier and provided to the shipper upon request. The schedule shall clearly state its dates of applicability.

''(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

''(d) CIVIL ACTIONS.—

''(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

''(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

''(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

''(4) JUDICIAL DISTRICT DEFINED.—In this section, 'judicial district' means—

''(A) in the case of a United States district court, a judicial district of the United States; and

''(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

''(e) MINIMUM PERIOD FOR FILING CLAIMS.—

''(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

''(2) SPECIAL RULES.—For the purposes of this subsection—

''(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

''(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

''(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Panel to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

''(g) MODIFICATIONS AND REFORMS.—

''(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section.

''(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

''(A) the efficient delivery of transportation services;

''(B) international and intermodal harmony;

''(C) the public interest; and

''(D) the interest of carriers and shippers.

''(3) REPORT.—Not later than 18 months after the effective date of this section, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

"§ 14707. Private enforcement of registration requirement

''(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

''(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

''(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

"§ 14708. Dispute settlement program for household goods carriers

''(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers of household goods concerning damage or loss to the household goods transported.

''(b) ARBITRATION REQUIREMENTS.—

''(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

''(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable fees, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

''(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

''(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

''(5) LIMITATION ON FEES.—No fee of more than $25 may be charged a shipper for instituting an arbitration proceeding under this subsection. The arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding.

''(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for $1,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $1,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

''(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

''(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least

within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

''(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

''(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

''(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

''(2) the shipper prevails in such court action; and

''(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

''(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

''(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

''(1) after resolution of such dispute through arbitration under this section; or

''(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

''(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

''(B) a decision resolving such dispute is rendered.

''(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

''(g) REVIEW BY SECRETARY.—Not later than 36 months after the effective date of this section, the secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

''§ 14709. Tariff reconciliation rules for motor carriers of property

''Subject to review and approval by the Panel, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before the effective date of this section, sections 10761 and 10762, as in effect on the day before the effective date of this section. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

''CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.

''§ 14901. General civil penalties

''(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Panel, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

''(1) does not make the report;

''(2) does not specifically, completely, and truthfully answer the question;

''(3) does not make, prepare, or preserve the record in the form and manner prescribed;

''(4) does not comply with section 13901; or

''(5) does not comply with section 13902(c);

is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who is not registered under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

''(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

''(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

''(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Panel relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

''(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

''(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

''(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

''(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

''(1) the carrier or broker has its principal office;

''(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

''(3) the violation occurred; or

''(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

''§ 14902. Civil penalty for accepting rebates from carrier

''A person—

''(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

''(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

''§ 14903. Tariff violations

''(a) CRIMINAL PENALTY FOR UNDERCHARGING.—A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at less than the rate in effect under section 13702 shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

''(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

''(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

''§ 14904. Additional rate violations

''(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

''(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

''(b) UNDERCHARGING.—

''(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

''(2) OTHERS.—A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

''§ 14905. Penalties for violations of rules relating to loading and unloading motor vehicles

''(a) CIVIL PENALTIES.—Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

''(b) CRIMINAL PENALTIES.—Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

''§ 14906. Evasion of regulation of carriers and brokers

''A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

''§ 14907. Record keeping and reporting violations

''A person required to make a report to the Secretary or the Panel, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

''(1) willfully does not make that report;

''(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Panel, as applicable, requires the question to be answered;

''(3) willfully does not make, prepare, or preserve that record in the form and manner prescribed;

''(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

''(5) knowingly and willfully files a false report or record;

''(6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction; or

''(7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Panel;

shall be fined not more than $5,000.

''§ 14908. Unlawful disclosure of information

''(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

''(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

''(2) FINE; VENUE.—A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

''(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

''(1) in response to legal process issued under authority of a court of the United States or a State;

''(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

''(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

''§ 14909. Disobedience to subpoenas

''A person not obeying a subpoena or requirement of the Secretary or the Panel to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than 1 year, or both.

''§ 14910. General criminal penalty when specific penalty not provided

''When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

''§ 14911. Punishment of corporation for violations committed by certain individuals

''An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

''§ 14912. Weight-bumping in household goods transportation

''(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

''(b) PENALTY.—Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

''§ 14913. Conclusiveness of rates in certain prosecutions

''When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.''.

SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.

(a) MULTIPLE INSURERS.—Section 31138(c) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

(b) MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO CERTAIN MASS TRANSPORTATION SERVICE.—Section 31138(e) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following:

''(4) providing mass transportation service within a transit service area in other than urbanized areas under an agreement with a State or local government funded, in whole or in part, with a grant under section 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; provided that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.''.

(c) TRANSPORTERS OF PROPERTY.—Section 31139(e) of such title is amended by adding at the end thereof the following:

''(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.''.

(d) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31132(1) of such title is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting the following:

''(B) is designed or used to transport passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

''(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or''.

(e) SELF-INSURANCE RULES.—The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

(f) AUTOMOBILE TRANSPORTERS DEFINED.—The Secretary of Transportation shall issue a regulation amending the definition of automobile transporters under part 658 of title 23, Code of Federal Regulations, to mean any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles, race car transporters, or specialty trailers designed for the racing industry with a 10-foot 1-inch spread axle setting.

AMENDMENT OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAM JOHNSON of Texas: Page 207, line 21, before the semicolon insert ''in vehicles with a gross vehicle weight rating of at least 26,001 pounds''.

Page 208, line 20, strike ''or''.

Page 208, line 23, after the comma insert ''or''.

Page 208, after line 23, insert the following:

''(vi) consumer protection rules directly related to the transportation of household goods,''.

Mr. SAM JOHNSON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to conduct a colloquy with the chairman of the committee, the gentleman from Pennsylvania.

Mr. Chairman, in September of last year we passed by voice vote an expansive deregulation bill that had wide bipartisan support. The sponsor believed, as I do, that deregulating the trucking industry would be valuable, not only to the trucking industry, but to consumers. That has proven true. By deregulating trucking, we created a balanced playing field.

I believe that the gentleman from California [Mr. MINETA], who was a prime sponsor of that bill summed up the intent by saying we will have accomplished not just agency reduction, but also regulatory reduction.

Today, Mr. Chairman, this amendment wants to try to expand on the positive steps that were taken just one year ago by expanding the process and exempting small movers, those under 26,000 pounds, from burdensome regulation. They provide a unique service, I think, which the large carriers are unable to provide. They cater to families and individuals that do not require a large van line. They typically make moves within the same city and take only several hours to complete a move.

I think the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, would agree with me that deregulation is really important, and that while this does deregulate the States, it contains consumer protection rules related to transportation of household goods. I think he has indicated he would support those consumer protection rules.

What I would like to do is ask that you would consider this in any conference that might come up with the Senate.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, it is my understanding that while we have problems with the way this particular amendment is crafted, it would be my intent to work with the gentleman, so that as I understand it, he will withdraw the amendment at this point and we will work with him to see if we cannot craft one in conference. I would certainly make that commitment to the gentleman. That would be my intent.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. OBERSTAR. Reserving the right to object, Mr. Chairman, I heard the discussion. If I understood it, the chairman intends to work with the gentleman from Texas [Mr. SAM JOHNSON] to further refine his language and address his concerns?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

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Mr. SHUSTER. Mr. Chairman, as I have said, I will be happy to try to work with the gentleman so that we can consider it in conference.

Mr. OBERSTAR. Mr. Chairman, further reserving the right to object, the amendment offered by the gentleman from Texas would change a law that took effect only 10 months ago. It would jeopardize timely enactment of the legislation before us.

Mr. Chairman, we think on our side that it is an issue without a problem. We have had no testimony on the subject matter. So I would really appreciate if the gentleman would withdraw the amendment and both sides would work together to address the concerns of the gentleman.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. OBERSTAR. Mr. Chairman, I withdraw by reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. LATHAM

Mr. LATHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATHAM: Page 32, after line 6, insert the following new subsection:

''(f) The Panel shall implement by regulation administrative complaint remedies substantively equivalent to the provisions of section 10713 of this title, as in effect before the date of the enactment of the ICC Termination Act of 1995, with regard to contracts for the transportation of agricultural commodities. Such regulations shall be adopted no later than 90 days after the date of the enactment of the ICC Termination Act of 1995.

Mr. LATHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LATHAM. Mr. Chairman, I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee, for his dedication to working with Members from the agricultural districts to clarify language in the ICC Elimination Act of 1995.

The amendment I am proposing will put in place administrative complaint remedies substantially equivalent to the provisions in current law. This amendment will ensure that each railroad operates as a common carrier and fulfills its obligations to distribute cars its equitably among its customers.

Under current law, railroads must keep at least 60 percent of the cars available for regular services. This requirement has helped ensure adequate numbers of cars available to meet agricultural seasonal demands.

This amendment will enable the new Transportation Advisory Panel to maintain an assurance that sufficient cars and locomotives are made available to handle the demands of crops production cycles and market needs.

Mr. Chairman, I urge support of this amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding. We support the amendment of the gentleman from Iowa [Mr. LATHAM].

Mr. OBERSTAR. Mr. Chairman, if the gentleman will yield, we have looked at this issue, and although it has come up very suddenly, it is an issue of longstanding; it has long been a problem of grain shippers to get hopper cars and locomotives to serve their

area. We have seen that for many years, and there is provision in the existing ICC law that gives the Commission authority to order a carrier to provide rates and services, ''substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.''

Mr. Chairman, if I could inquire of the gentleman, the gentleman really wants to keep that language in place?

Mr. LATHAM. Mr. Chairman, if the gentleman will yield, in essence, yes, to provide for those protections for the shipper.

Mr. OBERSTAR. Mr. Chairman, we certainly support that objective, and we have no objection to the amendment of the gentleman from Iowa.

Mr. LATHAM. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I rise in support of the amendment and I would like to associate myself with the amendment offered by the gentleman from Iowa [Mr. LATHAM]. I certainly recognize, as he, that from time to time agricultural commodities cannot receive adequate shipping services, and 1995 turns out to be one of those times.

Mr. Chairman, we have piles of grain sitting on the ground, some of it being exposed to moisture, some of it now heating up, and this is going to cause loss for farmers and for elevators. What we need is greater shipping resources.

At the same time, I know that many elevators and farmers are troubled because they see rail rates increasing dramatically, and although they have not utilized the ICC on numerous occasions, they certainly do not want to lose whatever remedial enforcement power the Interstate Commerce Commission may have in this context. Therefore, I applaud the gentleman from Iowa for offering this amendment to continue the protections that exist in the Interstate Commerce Act for the benefit of agricultural shippers.

Mr. LATHAM. Mr. Chairman, if the gentleman will yield, I thank the gentleman, and I thank very much the gentleman from Pennsylvania [Mr. SHUSTER] for accepting this amendment, and I would urge the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. LATHAM].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WHITFIELD

Mr. WHITFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITFIELD: Page 37, in the table of sections for chapter 107, amend the item relating to section 10702 to read as follows:

''10702. Short line purchases by Class II and Class III rail carriers.

Page 38, line 3 and 4, strike ''rail carrier providing transportation subject to the jurisdiction of the Panel under this part'' and insert in lieu thereof ''person''.

Page 38, lines 8 through 11, amend paragraphs (3) and (4) to read as follows:

''(3) provide transportation over, or by means of, an extended or additional railroad line; or

''(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

Page 39, line 2, strike ''or section 10702''.

Page 39, line 20, through page 40, line 4, strike subsections (e) and (f).

Page 40, line 5, through page 43, line 7, amend section 10702 to read as follows:

''§ 10702. Short line purchases by Class II and Class III rail carriers

''(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part may acquire or operate an extended or additional rail line under this section only if the Panel issues a certificate authorizing such activity under subsection (c).

''(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

''(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

''(d) The Panel shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby to the same extent as an arrangement established pursuant to section 11126(b) of this title. The Panel shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section

''(e) For purposes of this section, the terms 'Class II rail carrier' and 'Class III rail carrier' have the meaning given those terms by the Panel.

Page 46, line 2, insert ''(a)'' after ''under sections 11126''.

Page 68, Line 18, strike ''(a)''.

Page 69, lines 7 through 11, strike subsection (b).

Page 74, after line 22, insert the following new subsection:

''(e) No transaction described in section 11126(b) may have the effect of avoiding a collective bargaining agreement or shifting work from a rail carrier with a collective bargaining agreement to a rail carrier without a collective bargaining agreement.

Page 74, line 23, strike ''(e)'' and insert in lieu thereof ''(f)''.

Page 79, line 12, strike ''When'' and insert in lieu thereof ''(a) Except as otherwise provided in this section, when''.

Page 80, after line 3, insert the following new subsections:

''(b) When approval is sought under sections 11124 and 11125 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, except that the arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Panel. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

''(c) When approval is sought under sections 11124 and 11125 for a transaction involving only Class III rail carriers, this section shall not apply.

''(d) For purposes of this section, the terms 'Class II rail carrier' and 'Class III rail carrier' have the meaning given those terms by the Panel.

Mr. WHITFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WHITFIELD. Mr. Chairman, first of all, I would like to take this opportunity to congratulate the Members of the committee for the hard work that they did on this very complicated piece of legislation. I think that all of us agree that the ICC has outlived its usefulness and that the transportation industry will be much better with the sunsetting of the ICC and the acquisition of the authority to regulate the remaining portions of regulation over at the Department of Transportation.

Mr. Chairman, as my colleagues may know, there are three classes of railroads in the United States today. Class 1 carriers have operating revenues in excess of $250 million. Class 2 carriers have operating revenues between $20 million and $250 million, and class 3 carriers have operating revenues of less than $20 million a year.

The amendment that I am offering provides certainty regarding labor protection associated with the sale or merger of short-line railroads. It will benefit railway labor and short-line operators.

Mr. Chairman, I would like to point out that this amendment does not in any way affect labor protection in class 1 railroads. I would also like to point out that it is not our intention, and we made this very clear with legislative counsel, that we would exempt all railway labor protection in class 3 carriers. However, we do keep labor protection and we specify specifically what it should be for class 2 carriers.

In addition to that, if a railway carrier would like to establish a nonrailway subsidiary and acquire a short-line railroad, they are exempt from this bill and they go to the ICC for imposition of labor protection, as is the existing law. Mr. Chairman, as my colleagues know, the ICC has the authority today on short-line acquisitions and mergers to impose up to 6 years labor protection.

So my amendment is a very simple amendment that provides certainty. For example, if a class 3 railway acquires a line from any carrier or merges with another class 3 carrier, there is no labor protection. That is the same as is in the Chairman's bill.

If a class 2 railway acquires a line from a class 1 or another class 2, labor protection will be limited to 1 year severance pay. Under existing law, the ICC has the authority to require 6 years protection. If a class 2 railway merges with a class 3 railway, labor protection will be limited to 1 year severance.

Finally, in my amendment, a class 2 railroad and only a class 2 railroad would be prohibited from using a merger between a union and a nonunion railroad to avoid a collective bargaining agreement.

Mr. Chairman, I think that labor has come very far in supporting this amendment, because under existing law, they have the opportunity to get 6 years protection. In many instances today, and in the last few years, as we have had a lot of acquisitions of short lines, railway labor has received zero benefit.

At the same time, many class 2 carriers, and I know the association of class 2 carriers, are opposed to this amendment, but many class 2 carriers like the certainty of 1-year severance that is clear to them without any doubt.

As as I stated, this amendment removes uncertainty regarding labor protection in the case of railway acquisitions and mergers. It is a fair and equitable solution for short-line operations and railroad employees, and I would like to stress once more, it does not affect labor protection for class 1 railroads and it exempts, it is our intent to exempt, labor protection for class 3 railways

Mr. Chairman, I urge support of the amendment.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, I appreciate the gentleman yielding, and I have a question.

If I wanted to come from a very hard labor standpoint, would I not see this as being some concessions from, particularly from what existing law is?

I look for instance, at class 3, which are your smallest railroads, those under $20 million of operating revenue, and I note that under existing law, if there is a merger, they would have 6 years; am I correct? Under the gentleman's amendment, they have what?

Mr. WHITFIELD. Mr. Chairman, reclaiming my time, under my amendment they have 1 year, you are right, if it is a carrier by a class 3. If it is a carrier acquisition, a class 3 is mandatory for 6 years. They can form a nonrail subsidiary and then the ICC has the option of imposing whatever labor protection they want up to 6 years, but this is a concession on the part of labor.

Mr. WISE. Mr. Chairman, if the gentleman will continue to yield, what about class 3s, because class 3s, it was my understanding, have no labor protection at all.

Mr. WHITFIELD. Mr. Chairman, if I could respond to the gentleman from West Virginia, in the bill, they have no labor protection at all.

Mr. WISE. So with the gentleman's amendment, there is some provisions where under existing law there is labor protection; under your amendment, there is not. So I would say that in some cases, labor has made a concession.

Mr. WHITFIELD. Mr. Chairman, reclaiming my time, I think they certainly have. I think it is a balanced approach to this issue, and I think the gentleman is correct.

Mr. WISE. Knowing the gentleman's experience in the rail industry and the time he spent in it, we appreciate very much, I do, the gentleman offering this amendment, which seems to be a good, commonsense compromise.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I would say to my colleagues, if we want to see wholesale abandonments, particularly in rural America of small railroad lines, this is the amendment, if it passes, which will cause that to happen. Indeed, while I am sure the gentleman from Kentucky [Mr. WHITFIELD] does not mean to create uncertainty; in fact, he said this amendment of his would remove uncertainty, the fact is it will create extraordinary uncertainty, and I will attempt to prove that as I continue in this opposition.

First of all, Mr. Chairman, this amendment requires mandatory 1-year severance on Class 2s, which could be as small as a railroad with revenue of only $21 million a year.

Second, this amendment gives the panel, the new adjudicatory panel, the authority to impose optional labor protection on Class 2 mergers of line sales under the guise of public interest. This means that the panel could impose 6 years if it chose to do so. So we have no guarantee here that it only would be a 1-year labor protection.

Now, if this is not bad enough, the amendment will allow the panel to impose optional labor protection on Class 3 line sales, again, under the guise of public interest.

Mr. Chairman, let me share with my colleagues now what the real neutron bomb is in the amendment, something that is silent, but deadly.

This amendment, and I doubt that the gentleman from Kentucky really intends this to be the case, but this amendment wipes out the provisions in existing law which makes the panel the exclusive Federal authority of proving the merger. Beyond that, it wipes out the provisions in existing law that insulate the merger from State laws, so State law could be interposed.

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Further, this amendment wipes out the provisions in existing law which insulate the merger from Federal antitrust laws. Fourth, this amendment wipes out the provisions in existing law which give the panel the authority to exempt the merger from any Federal, State, or local law necessary to carry out the transaction. In a nutshell, a merger or a line sale could never be carried out under this amendment.

If Members want to see wholesale abandonments across America with the smaller railroad lines, if we pass this amendment, that is what we are going to see. That is the reason why we so vigorously oppose this amendment.

In closing, I again emphasize, we do not touch labor protection for class I, for the big railroads. We leave that in place. But do not impose upon these small railroads this kind of labor protection, because if Members do, we will simply be inviting them to abandon their lines rather than swallow these extraordinary costs.

Mr. LIPINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my very, very strong support for the amendment offered by the gentleman from Kentucky. This amendment is a very reasonable compromise—in fact, as far as I am concerned, it is probably far too reasonable—to the contentious issues surrounding labor protection for rail employees.

As reported by the Committee on Transportation and Infrastructure, H.R. 2539 contains a provision which wipes out statutory safeguards for rail employees who are affected by mergers, acquisitions, and other transactions. The provision applies to employees of class 2 railroads, that is, railroads with annual revenues up to $250 million. I repeat that. These are class 2 railroads that have annual revenues up to $250 million.

Instead of completely wiping out the labor protection currently afforded these employees, the Whitfield amendment provides 1 year of severance for those with years of employment on midsize railroads. This 1 year of severance is a dramatic reduction from the current 6-year requirement.

Mr. Chairman, many times in the past I have stood in this well and advocated maintaining or increasing the good benefits provided for union members in this country. I am not doing that today. Instead, I propose that we slash the severance benefits given to class 2 railroad employees from 6 years to 1 year. I know that is a big cut, but I am willing to support it in order to pass this bill and to protect the American working man and woman in class 2 railroads.

After passage of this amendment, this legislation will provide 1 year of severance for class 2 railroads and essentially eliminate severance for class 3 carriers, those with annual revenues less than $20 million. That is because the short line and the regional railroads do not have the same financial resources that the big class 2 carriers do. But those who oppose this amendment will say that even the limited benefits provided in this amendment are too much. They will say that class 2 railroads simply cannot afford them.

Let me tell Members about one class 2 railroad that runs through my congressional district, the Wisconsin Central Railroad, a class 2 railroad that made BusinessWeek's list of 1,000 largest companies in the United States. Wisconsin Central's stock value is $800 million. That is higher than J.B. Hunt. I can tell you, Wisconsin Central can afford 1 year of severance for its employees.

The Chicago Tribune recently reported that the middle-class Americans are having a tough time getting by, that their money does not go as far and they are facing layoffs, they are facing cutbacks in their benefits and skyrocketing college tuition for their children. These are the same people this bill has targeted, pulling the rug out from under their feet.

I am not suggesting the status quo. I am not advocating 6 years of labor protection. I stand in support of the gentleman's amendment because it is very, very, very reasonable.

I expect this amendment to pass today. If it does not, though, I expect H.R. 2539 to be defeated. Pass the amendment and then pass the bill. It is the right thing to do for all Americans.

Ms. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. The railroad industry is the only one in the United States singled out for the original unfunded mandate, labor protection. The word ''protection'' here is a euphemism, not unlike its use in Chicago during prohibition. The protection here is a statutory form of extortion, the writing into Federal law of a mandatory wage scheme with no Federal funds to offset the costs inflicted by the law.

In response to some of the prior speeches, let us be clear. There is nothing in the change in this law that denies labor and management in negotiating a severance package just like every other business has to in these United States.

It is bad enough that such policy has become enshrined in laws affecting large railroads but it is truly outrageous to impose these debilitating costs on the small railroads who are the salvation of rail service in our small towns and rural communities. How many Members are willing to face their constituents and say, ''I killed the possibility of continued rail service in your community because rail labor demanded that I continue a completely unjustified benefit. By doing so, I prevented the rescue of rail lines up for abandonment in my district.''

That is exactly what it is at stake in this amendment. The committee-reported bill establishes a clear, simple set of ground rules for all line sales and merger transactions involving smaller railroads. This amendment would eliminate the safe harbor for the so-called class 2's by requiring a mandatory severance payment of 1 year. In addition, it would allow for unlimited labor protection on class 2 and 3 line sales to be imposed at the discretion of the Transportation Adjudicatory Panel. If class 2 and 3 carriers are subjected to costs imposed by the Whitfield amendment, thousands of miles of rail lines are likely to be abandoned. Is this what our small towns and rural communities want?

One major problem with the Whitfield amendment is the unlimited discretionary labor protection on class 2 and 3 line sales, which is in addition to the mandatory requirement of 1-year severance. Any time you confer this kind of optional or discretionary authority on an agency, you are guaranteeing protracted litigation at the agency and probably in court for every transaction.

Let me give one example of why we are so concerned. In 1993, the holdover Bush ICC approved a purchase of a 3.7-mile line by the Bradford Industrial Railroad with no labor protection. This new company has total annual revenues of $250,000. Two years later, the Clinton ICC revoked the exemption decision approving the sale and ordering a full 6-year labor protection, which the Transportation Adjudicatory Panel could still do. This labor protection alone will cost this company at least $300,000, more than the company's entire annual revenues.

Another thing the proponents of this amendment do not tell is that they have cleverly included in it a complete disruption of the existing law concerning the process of implementing a merger once it has been approved by the agency. The current law says that other law gives way to the extent necessary to carry out the transaction. This amendment eliminates this standard, including provisions that exempt rail mergers from antitrust laws, and instead gives labor a virtual veto power over post-merger matters, such as work reassignments. This is very, very dangerous. This amendment also allows for the extension of this veto power to line sales.

Mr. Chairman, it is no secret that many more miles will be abandoned in the next several years as the industry continues to restructure through merger and otherwise. If Members want to assure that the maximum number of these lines are abandoned forever and the maximum number of businesses and communities lose their rail service entirely, then vote for this amendment. But if Members want to strengthen our rail system and keep as much service to as many communities as possible, then I strongly urge a ''no'' vote.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, welcome to the world of rail labor, because there are a lot of different situations here. You might think from the preceding speaker that we are talking about labor situations that we are used to in the private sector where, for instance, you have a company that negotiates a collective-bargaining agreement with its union, the machinists in a chemical company, for instance, and the regular labor that most of us are familiar with. That is not what rail labor is about.

What the gentlewoman has just talked about might be fine in the private sector, but there has been an accord reached over many, many years in which rail labor gave up certain rights, such as being able to walk off the job, such as being able to call a strike without going through a long, arduous process, and the rail companies also gave up certain things.

The interesting thing is, it is the rail companies that have asked to be considered as a unique industry. It is the short line railroads and the class 1's that ask to be treated in a different way, and so that is the reason you have this delicate balance.

In the private sector, if you have a collective bargaining agreement, you can have it enforced by the courts. In the rail industry, if you have a collective bargaining agreement, you can have it reversed or overturned by the ICC. And so these are the issues that are at stake.

The amendment of the gentleman from Kentucky goes a long way, I happen to think, a long way toward changing existing law and indeed in some cases undoing existing labor protection. We all understand it is a new day, we all understand that we have to make compromises, but I think people ought to understand that this is not a regular collective bargaining situation.

I would like to address some of the other points that have been made. The specter has been raised of wholesale abandonments. Mr. Chairman, there is no one that worries more about abandonments, living in a rural area, than I do, and we are dealing with a tough one right now.

But my concern is that without this kind of legislation, we are going to likely see more of that. Incidentally, nobody ever talks about abandoning the working people that made that railroad run for many, many years, abandoning the community that helped make that railroad thrive for many years.

But let me give some examples of how the Whitfield amendment makes the situation far better, particularly, than current law. The Whitfield amendment, for instance, if a midsize railroad, a class 2, has a line sale, buys from the class 1, the large railroad, the largest, then all it gets is 1 year, 1-year labor protection for those workers. Presently it can be up to 6 years.

If a class 3, the smallest railroad, those under $20 million in revenues, if they acquire from each other or buy from each other, there is no protection, no labor protection whatsoever. If a class 2, the midsize railroad, merges with a small railroad, a class 3, they get 1 year. That is a change from existing law, 6 years.

If a nonrail carrier, a railroad sets up a nonrail subsidiary or a nonrail carrier comes in, there is no labor protection in that situation. And if a class 3, a small railroad, acquires a piece of a class 1, no labor protection. All of this is a change from the existing law, when in most of these cases there could be up to 6 years of labor protection. So there is a significant retrenchment.

I am also interested because of the language that some are concerned about, that would permit the ICC to look at situations dealing with the public interest. Well, I understand the concerns that were raised, except as I read the existing bill, the chairman's mark, that language is in there as well. ''In the public interest'' is in both versions, in the Whitfield amendment and in the existing legislation before us.

Finally, should the ICC not be able to look at what is in the public interest? That has always, it seemed to me, been a fairly important criterion in here.

This is obviously a very complex subject, the situation dealing with class 1, class 2, and class 3, but in quickly rehashing, let me just run down.

Class 1, those are your biggest railroads, over $250 million of operating revenue. Oh, that we all could be on the board of directors of one of these. They maintain the same labor protection. They do not have a dog in this fight to speak of. That is why you have not been besieged, I do not think, by them opposing this amendment, because they are covered regardless.

Class 2's, those are $20 million to $250 million of operating revenue. They have their labor protection provisions cut back significantly.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has expired.

(By unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. WISE. Mr. Chairman, only in the case of a class 2 merging with a class 2 can there be up to 6 years. In most cases it drops back to 1 year.

A class 3 that merges or acquires line from another class 3, two small railroads, those under $20 million of operating revenue, they lose their labor protection. No discretion. They lose it.

□ 1715

So for these reasons the amendment offered by the gentleman from Kentucky significantly does change the labor law, does not endanger abandonments, abandonment situations; I think, in fact, only facilitates them. It certainly improves existing law and also provides some measure of concern for workers, and I might say preserves some of this delicate balance.

I will get back to the point I made on the rule. If you want to do away with the collective bargaining procedures, that is fine. Then let people be truly in the free market. But what that means is no presidential finding boards, no cooling-off periods, none of that. You give people the same rights they have got in the private sector.

Let me just tell a quick story, Mr. Chairman. A few years ago, if you remember, rail labor was trying to go out on strike, and I went to a Labor Day rally, and one side I saw a group of blue shirts coming from an aluminum mill. They were out. They wanted the Government to go to work to put them back to work. On the other side came the rail labor people who wanted to go out and wanted the Government to stop imposing constraints upon them.

So, what we have here is we have two segments of labor treated differently, and we have to remember that very delicate balance that has been reached.

I would urge my colleagues to support the Whitfield amendment.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is not about labor protection. It is not about worker protection. It is not about job protection. It is about killing jobs.

Let me recite some of the experience we have had in the State of Michigan. Michigan is in a unique situation because it is an industrial State but it is not on the main line between other major industrial areas. It is, in a sense, an offshoot going up in a peninsula. We have a number of lines that were in financial difficulty, and it was only through the good graces of the ICC, in providing that labor protection as proposed in this amendment need not be applied, that these lines were able to sell off the unprofitable sections, and these small lines have proved to be marginally profitable over the years.

Unfortunately, under the current administration, the ICC is no longer giving those waivers against the labor protection, and I believe it is very important to remove this amendment from the floor and defeat it, simply because if this amendment is adopted, those small lines such as we have in Michigan will not be purchased or formed but rather the jobs will be lost because the lines will be closed.

Furthermore, the jobs of the railroad workers are not the only ones lost, but there are a number of companies that are dependent upon rail transportation, and if the railroads close, these companies are likely to close because of increased costs of transportation, using other forms of transportation.

I think we have to address the situation directly, get rid of this unfunded mandate which is being imposed on them.

Why in the world should Federal law govern labor practices—and for a company such as this—whereas we do not do it for 120 other companies which are larger than many of these railroads and who have successfully operated mergers, acquisitions, and in fact have participated fully in the expansion of the economy for the past few years?

I think it is time to get the Federal Government out of the business of insuring these long-term labor protection practices and make the railroads meet the competition of the marketplace.

Now, lest I be considered heartless for proposing this, let me tell you that there are many success stories in Michigan, but not just in Michigan. Here I have an article which appeared in the St. Albans Messenger, Vermont's oldest evening newspaper, where the workers tell the story of a small railroad which was going bankrupt but was acquired by a new firm, and they were able to streamline the operations and, through good participation between workers and management, it finally turned a profit after many, many years, and it looks as if the railroad is going to survive now.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Apropos to that point, since the Reagan-Bush ICC began exempting the small railroads from the mandatory labor protection, over 300 new small railroads have been formed, preserving 30,000 miles of track and saving 10,000 jobs that otherwise would have been lost to abandonment.

Mr. EHLERS. I thank the gentleman for making that point so eloquently. That is precisely the point that should be raised here, and that is why we should defeat this amendment. If we do not, we will end the acquisition and expansion of these lines. We will end the addition of jobs. We will see more lines closing marginal sections, and we will see more jobs lost both at the railroads and at the factories which use these railroads.

I urge defeat of this amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Earlier I heard some confusing statements from the other side talking about the Clinton ICC. You know, two of the three current sitting commissioners are Reagan-Bush appointees. They talked about the reversal of this decision by the Clinton ICC. Would that it were. Would that there were five members, would that, you know, five members sitting, that a majority had been appointed by President Clinton and confirmed by the Senate. But that is not the case.

So this precedent which was talked about earlier is not the result of the current administration reversing the field here.

But what I rise to do is speak in support of the Whitfield amendment. There is a question of equity here now with the recent Burlington Northern-Santa Fe merger. We have the top seven executives at Burlington Northern getting golden parachutes worth $35 million.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield on the point be made about ICC membership?

Mr. DEFAZIO. If I could at the end of my remarks.

Mr. SHUSTER. Surely the gentleman would not want to misstate what he previously reported. I will be happy to ask for additional time for the gentleman if I simply might.

Mr. DEFAZIO. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I simply want to point out the three commissioners, two of them were appointed by Clinton and one was a holdover. So the majority of the ICC are in fact Clinton appointees.

Mr. DEFAZIO. I got my information on this side. It was the reverse of that. Perhaps we can straighten that out later. I thank the gentleman.

The ranking member of the committee tells me that one of the appointees was a Republican, but was a Clinton appointee. So I stand partially corrected.

The point here is there is an issue of equity with the recent Santa Fe-Burlington Northern merger. The top seven executives of Burlington Northern got golden parachutes worth $35 million. That is an average of $5 million each. There were a few thousand employees, line employees, who worked for the same railroad for a lifetime. They got nothing. They did not even get a year's severance.

So there is a question of equity. This is an industry that enjoys an unusual degree of Federal regulation, a degree which actually deprives the collective bargaining rights of thousands of Americans who work for rail. They are denied the right to use the one most effective tool they have to get better wages and working conditions and contracts, including provisions in the contracts for severance. That is the right to go out and stay out on strike.

So if that law is to remain, then we must provide some balance and some equity, and the Whitfield amendment, despite all of what has been said on the floor here, is very modest. With the Whitfield amendment, if a small railroad purchases a line, lays off employees, get nothing, does not change anything. I think it should go further, and we should do something for them. But it does provide a year's severance when a midsized railroad purchases a rail line or merges with a smaller railroad, not a $35 million golden parachute, not $5 million each like the executives at Burlington Northern, but 1 year's severance for someone who has dedicated their life to a company and been a productive employee. I do not think that is too much to ask for line workers.

The bill preserves the Interstate Commerce Commission under a new name at the Department of Transportation. It preserves a number of the essential functions of the ICC. It is essentially a status quo bill. It is a modest solution. It really is.

This agency has the unique authority to break collective bargaining agreements. Balance is restored only by telling the agency that at least when midsized railroads are involved, they have to provide some sort of balance and equity for the restrictions that have been placed on those employees over the years, and that is one of severance for the employees who lose their jobs.

I would argue strongly that the Whitfield amendment is modest. It is an improvement to the bill. I personally would go much further. But it is a modest compromise that is the bare minimum needed to make this a bill acceptable, I believe, to a majority of the Members of this House.

Mr. CAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment. In the 1970's and early 1980's, my State of Michigan was hard hit by rail line abandonment in our rural areas. This was particularly hard on our grain shippers who depend on competitively priced rail service to sell their product.

Fortunately, the ICC of the 1980's understood that if they could get rid of the archaic Federal mandate known as labor protection, that these light density lines could be sold to new owners instead of abandoned. Substantial pieces of rail line were saved in Michigan as a result of that policy known as the 10901 exemption process. The exemption process recognized it was better to preserve the service and save as many jobs as possible by forming a new, lower-cost operator than to lose everything to abandonment.

With Conrail's announcement it is going to shed another 4,000 miles of marginal line and with restructuring taking place with the Grand Trunk Railroad, Michigan and much of the Midwest is going to be facing another round of abandonment or sales.

I ask the Members to keep two facts in mind: First, the 1995 ICC favors the imposition of mandated labor protection payments. Twice in the last year they have used their discretion under the 10901 exemption process to impose labor protection, an absolute reversal of the previous ICC's protection.

Second, the Whitfield amendment undercuts the current statute in a way that makes it statutorily easier to impose labor protection in 10901 cases and to litigate if labor protection is not opposed.

The combination of an ICC that does not fully appreciate the value of the exemption and a new statute that offers the opportunity for new legal challenge to the exemption is a lethal combination.

I believe the labor protection provisions in H.R. 2539 will preserve railroad lines, will preserve service to rural shippers and will preserve jobs.

I encourage my colleague to oppose the Whitfield amendment, which would substantially weaken those provisions.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, here we go again, another attack against working people.

Last time, they tried a sneak attack to take away the collective-bargaining rights of our Nation's transit workers. This time, it's to eliminate job protections for railroad workers.

In its current form, the bill destroys the longstanding rights of workers of middle size or small railroads that are merged or sold.

Supporters claim that the only way to ensure the success of railroad deals involving small rail lines is to eliminate employee protections. I disagree.

This bill should not be used to gut major labor protections agreed to by labor, management, and the Government more than 50 years ago.

That's why I support the Whitfield amendment, supported by rail workers, which addresses the concerns of the rail industry by exempting short line rail deals from any worker protection obligations.

At the same time, it protects rail workers' collective-bargaining rights when middle- or large-size rail carriers are sold or merged and ensures that employees' interests are addressed before such transactions are completed.

Just as this House voted to preserve section 13(c) for mass transit workers, I urge my colleagues to vote to preserve the employee protections for the thousands of hard-working railroad employees nationwide.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the brave and courageous gentleman from Kentucky [Mr. WHITFIELD].

It is a fact that whenever Congress has taken action to deregulate a transportation mode—be it aviation, rail, motor carrier or intercity bus—we have incorporated provisions aimed at mitigating the impact of deregulation on transportation workers.

For it is also a fact that transportation workers are the innocent victims of deregulation, with many thousands having lost their jobs since the late 1970's when Congress first acted to deregulate the transportation industry.

Today, we have before us a bill that among other items would further deregulate the railroad industry. It would make sense, then, for this legislation to maintain existing rail employee protections. But it does not.

This legislation puts in jeopardy the jobs of those workers who are employed by what are known as class 2 and 3 railroads. The short lines, the smaller railroads, of this country.

And it does so for no particularly good reason.

The Whitfield amendment is a compromise. The smallest of railroads, the class 3's, would no longer be subject to existing law labor protections.

But the class 2's, many of them which are not especially that small, would be subject to modified labor protections.

Not the rarely used 6 years of labor protections that opponents of labor often mention. And rarely invoked it is.

But rather, a dramatically reduced 1 year of severance pay, when the employee is eligible, in the event he or she loses their job as a result of a merger or other transaction of that nature.

Let us not turn our backs on the working men and women of the rail industry. Let not greed take precedence over human decency.

I urge the adoption of the Whitfield amendment.

□ 1730

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Kentucky. This amendment is not perfect, in my opinion, but it does maintain some basic rights for railroad workers. Without this amendment, the bill would allow for collective-bargaining agreements to be abrogated at the whim of the newly created Federal panel that will replace the ICC functions, without the current balancing provision that provides labor protections for workers involved in merger situations. The amendment will maintain some of these labor protections. The amendment will leave railroad workers with some sense of security by ensuring workers terminated as a result of mergers of a year of severance pay.

This is a reasonable provision, although obviously much less of a protection than the requirement in current law of 6 years severance pay. Many of the people who work on these railroads have done so for decades and have sons and daughters who have followed in their footsteps. These are working people just trying to stay above water. They are the kinds of people who are the backbone of our economy and the kinds of people that have made the United States the great country it is today.

Without this amendment, we are telling these men and women that we do not care if their jobs are swept away by a merger, so be it. I believe, Mr. Chairman, that we owe this small piece of security to the American worker, and I urge my colleagues to support the amendment of the gentleman from Kentucky.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Kentucky. My colleagues, you hear that whistle blowing? She is coming down the track, the Highball Express, with green lights flashing all the way to the horizon.

We know what that train is carrying. We have seen it go by a time or two before. It is carrying abandonments, and restructuring, and leveraged buyouts. It is carrying mergers and takeovers. And my colleagues, the supporters of this bill, who are opposing this amendment, want to keep those green lights flashing, so that what the American people have come to believe is financial shenanigans and golden parachutes can continue to happen, and happen at the expense of workers in this Nation.

We have to protect agreements that were arrived at between management and the workers at the bargaining table. Normally, under current law, if a contract is broken, the ICC assures that employees, the workers, will have some protection because the ICC can require the railroad to protect the employees. This bill allows a contract to be broken, no protection from the employees.

What does the gentleman from Kentucky's amendment do? It flashes a yellow light. It throws up a caution signal. It says to that speeding Highball, golden parachute, Cannonball Express, ''Slow down. Let's slow down and be cautious long enough to provide some small, very small, less than today, some small protections from the workers when they bargain successfully for those protections with management.''

There is no one in this Chamber that does not understand why that whistle is blowing. We all understand that the leveraged buyouts and the mergers are going to keep coming in this country. We should not let that train run right over its workers. Let us slow it down. Let us try to protect the railroad labor people in this country, and at least provide for them a portion of the agreement that they bargained collectively with the railroad managers.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding. A few moments ago the gentleman from Michigan mentioned St. Albans, VT and the takeover there. I know a little bit about that because I was intimately involved in that entire struggle.

The gentleman neglects to tell us how many workers, many of whom were employed by that company for decades, were laid off and lost their jobs. The gentleman neglects to tell us what the wages are of the new workers who came into that job as compared to the other workers. The gentleman neglects to say that to the degree we got a halfway decent severance package for those workers who were laid off, it is because we fought and the union fought over a period of a year and rallied community support for decency.

What this whole discussion is about is a phenomenon taking place all over this country called the race to the bottom. How do we pay workers lower and lower wages to make them competitive with other low wage workers? How do American workers compete with Mexican workers and Chinese workers?

The problem today is not that railroad workers have too strong worker protection. The problem is that other workers have too weak worker protection. Let us not lower the strong benefits that workers in the railroads have now, but let us increase the benefits that other workers have.

Mr. WILLIAMS. Mr. Chairman, reclaiming my time, I thank the gentleman from Vermont, and I urge my colleagues to listen to his words, the race for the bottom. The decreasing of the standard of living of American workers is a new phenomenon in this country, and it is wrong.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment. Mr. Chairman, this year there are 132,000 miles of railroad in America, 132,000 miles. Last year there were 137,000 miles. We lost 5,000 miles of railroad.

You have to go back to get to 135,000 miles of railroad, what we have now, you have to go back to 1885. That was the last year we had 135,000 miles. So we have got the same mileage that we had in 1885. We have come 110 years, and we are back to the same number of railroad miles.

Mr. Chairman, I would hope that those of us in this Congress could agree that if there is not a railroad, there are no railroad jobs; and the ultimate way to protect a railroad job is to protect these rails.

I can remember when they pulled the rails out of the back of the farm that my cousin lived on, and he asked my grandfather, who was a locomotive engineer, ''When are they going to put the rails back?'' And my grandfather, who worked 58 years for the Southern Railroad said ''Son, when they pull the rails up, they don't put them back.'' And he was right. Those rails are still up. They still are not back down.

Now, just to give you some statistics or facts, in 1960 we had 220,000 miles of railroad, trains running on those tracks and workers working on those railroads; 1970, it dropped to 208,000; 1980, 178,000; 1990, we lost another 382,000, almost 20 percent of our rails in 10 years, 146,000; 1995, we have hit 133,000 miles. And presently railroads want to abandon another 15,000 miles.

Eighty percent of that rail, the high bid will be class 2 railroads, the railroads that we want to saddle with this additional expense. If we want, just to show in one State what has happened, Pennsylvania, 1950, the chairman's home State, almost 10,000 miles of rails; 1978, 8,000; 1980, 7,000; by 1990, in 10 years, they lost half their rails.

But let me tell you what did happen in the last 2 years. Let me tell you some good news. We had eight States this last year, eight States, that actually put new rail, that increased their rail mileage. Do you know how they did that? They did that because class 2 railroads bought track that was going to be abandoned.

Let me say this to those who are advocating for unions. This amendment is bad for the unions, because if you look at those railroads who have taken

over those tracks, and in Mississippi alone, 700 miles of new class 1, the class 1 came in and bought a union carrier, it went from a class 1 to a class 2, and the class 2 bought it without any labor protection, without having to pay any labor protection.

Now it has gone back to the Kansas City Southern, and union members are running trains over those tracks every day.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Apropos to that point, Mr. Chairman, when these transactions have occurred, the average pay after the small railroad survives and takes it over is 75 percent of the class 1, which is, therefore, average pay, $34,500 a year. Not bad. Further, the average percentage of former employees picked up by the new operator is 85 percent.

So do we want to save 85 percent of the jobs? Do you want to have a $35,000-a-year job? Defeat the Whitfield amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, there are eight States which have added class 1 railroad track this year, which was class 2. Class 2 has bought it as opposed to abandoning it. These include Alabama, Florida, and Kentucky.

Mr. Chairman, I would like more time to pursue this, to show some other reasons why I think this is going to boomerang on the unions. The unions, the last railroads that they have organized, have been class 2 railroads.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Whitfield amendment. I have heard much of the debate and I know that change is on the horizon, and I am not opposed to change. But I think that as we make the change, we ought to consider that we are manipulating the lives of people. This is all about people who have worked. This is all about protecting those persons who have not sat around and waited for us to give them something, but people who have been on jobs, people who are losing their proetction within the jobs. We understand change.

The Whitfield amendment eliminates labor protection for all class 3 railroad labor transactions, whether it is purchasing another short line, or merging several class 3 railroads.

The new ICC may not provide for labor protection. The amendment eliminates 6 years of labor protection when class 2 railroad purchases a short line or merges with a small railroad. Employees who lose their jobs get a 1 year severance, if they have the seniority to earn it.

The amendment does not affect H.R. 2539 with respect to large class 1 railroads.

Unfortunately, H.R. 2539 is about much more than the sale of short lines and the imposition of labor protection. It would allow a Federal agency to break privately negotiated collective bargaining agreements when two railroads merge, railroads with up to $250 million of annual revenue. In return, the employees would have no protection of any kind.

No Federal agency has this extraordinary power. The amendment would counterbalance the power of the Federal agency to break collective bargaining agreements with the requirement that employees be treated fairly with up to one year severance pay.

It is simply unfair to allow a Federal agency the authority to break private collective bargaining agreements without any protections for the workers, the people who have kept it going. The Whitfield amendment prohibits the new ICC from using its power over small railroad mergers to shift work from a union to a nonunion railroad. The Whitfield amendment is a sensible compromise. It is about protecting people, people, working people.

Mr. Chairman, I would ask all of us to support the workers.

□ 1745

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to Mr. WHITFIELD's amendment to H.R. 2539, the ICC Termination Act of 1995.

Every so often people inform me of a law which shocks one's conscience and you say to yourself, that cannot be true. Well, today there is a law on the books called labor protection which requires employers to pay up to 6 years of income and benefits to employees who are adversely affected by a railroad transaction. When I heard this, I was amazed. So I had to repeat it to myself, Federal law mandates employers to pay up to 6 years of wages and benefits to an adversely affected employer no matter what their status is.

In the 1980's the ICC understood that this archaic mandate was the thorn in the side of small railroad owners who wanted to buy light density lines—they could just not afford paying these wages on top of buying the lines.

Fortunately, under a policy know as 10901 exemption, there was a realization that it was better to preserve the service of railroads and save jobs than facing line abandonment. In many ways, and I know the gentleman from Pennsylvania [Mr. SHUSTER] alluded to this, it saved 30,000 miles of track and created 10,000 jobs. In effect, it spawned a great deal of new business, small business, and jobs were retained at high levels. This has also been confirmed by the chairman.

However, in 1995 the ICC twice has imposed labor protection. This is a complete reversal of previous ICC's position.

Mr. Chairman, it is not the place of Government to mandate labor protection. Let us leave that to the unions and management. Unfortunately, the Whitfield amendment keeps the Government's hand in railroad transactions.

I would like to also add that in my home State of Michigan, Conrail announced that it is looking to sell approximately 2,500 miles of light rail. I want to see these lines in use—not abandoned. So I ask my colleagues to vote against the Whitfield amendment and support H.R. 2539 in its original form.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several years ago the gentleman from Ohio, JOHN KASICH, and I got together to try to determine how we might deal with some of the budgetary problems that this country faces, and we thought that maybe because the two of us strongly advocated and supported the balanced budget amendment that we had some responsibility of actually trying to find ways of actually cutting back and making significant changes in our Federal spending.

At that time I asked the gentleman to come to a meeting and he came with a list of the cuts that he was in favor of and I came with a list of cuts that I was in favor of. I found that everything I wanted to cut, he wanted to spend more on; and everything he wanted to cut, I wanted to spend more on, excepting one thing. And the one thing we both could agree on was the ICC.

Mr. Chairman, here is an agency whose mission has to do with regulating the trucking industry, regulating the bussing industry, regulating the railroad industry, and all three of which this Congress has chosen to deregulate. So we have a regulatory agency that is set up gaining millions and millions of dollars worth of Federal support regulating industries that no longer need regulation. It seemed patently ridiculous. And the two of us got together and put in some legislation to call for the ending of the ICC.

I am proud to see finally this legislation is now receiving support on both sides of the aisle. I think this is a very positive development. The reason why I am here to speak on behalf of this Whitfield amendment is because, once again, we see the Republicans go a bridge too far. In what could be, in fact, good bipartisan spirit and support for ending a Federal agency that no longer serves a useful purpose, they, instead, come up with a mean-spirited way of hurting working people.

Mr. Chairman, people that cite 6-year provisions, in terms of the kind of protections, ought to first and foremost recognize that the workers' unions that agree to having their future bound up by a government regulatory agency do so by giving up their right to strike, the most fundamental right of any union in this country. Second, the bill itself calls for the elimination of all the protections for our unions that work in the railroad industry.

Mr. Chairman, what the Whitfield amendment does is simply provide

some base level protections for the working people. Now, what will happen once we see all the mergers and acquisitions we have seen recently in the railroad industry? What will happen is a lot of shareholders and stockholders and owners of these unions and the management of these unions are going to stand to make millions and millions of dollars and, at the same time, they will do so, in many cases, by laying off the working people that work for those unions.

This bill—and the Whitfield amendment, if it passes—contains some reasonable protections for the working people, while recognizing that, in fact, we do have to make some changes in our railroad industry. But let us not be mean-spirited about it. Let us not take what is good bipartisan legislation in the elimination of the ICC and try somehow to find a needle to stick into working people whose blood and sweat and tears built up the railroads of this country and whose railroads built up America.

Let us, in fact, Mr. Chairman, come up with a way to compromise this and to make this legislation that can work, that can make this legislation be signed by the President of the United States, make this legislation have the kind of broad-spirited support that lead the gentleman from Ohio, JOHN KASICH, and I toward offering legislation that ended the ICC as we know it today to begin with. That is where we should go.

That is what the challenge is. It is not to find some way of taking broad-based support for legislation and using it as a way to once again tweak the unions, tweak the working people, and line the pockets of the wealthiest and most powerful people in this country.

Mr. Chairman, let us support the Whitfield amendment. Let us support ending the ICC as we know it today, and let us have one bill pass this House this week that the President of the United States can sign.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the good-faith effort by the gentleman from Kentucky [Mr. WHITFIELD], who is offering his amendment; but I think what we see here is a very fundamental difference in philosophy.

What is the government's role in the private sector and in the economy? In our judgment, I guess we could say the government's role is to create an environment that is conductive for economic productivity in the private sector. It is not to unduly or unfairly interfere in that particular area but to create an environment where jobs can prosper.

Mr. Chairman, this is not a race to the bottom of the ladder. If we look at a free market economy we need to do whatever we can to make a free market thrive.

What does a thriving free market do? It encourages hard work. It encourages enthusiasm. It encourages the initiative of individuals to have a sense of curiosity, to go out and create jobs. It encourages a free market economy and encourages cooperation. It encourages cooperation between the workers and management.

In this particular bill, we are creating an environment that will create jobs. We are creating an environment that will preserve jobs. We are encouraging collective bargaining.

We are not doing away with collective bargaining. We want laborers' rights to continue in collective bargaining. I have heard through phone calls into my office that we are eliminating retirement for Class I railroads. We are not, but I have heard that kind of discussion.

Mr. Chairman, in my geographic area of the mid-Atlantic States in Maryland, our area is conductive for small rail lines. Many industries moved to the State of Maryland, especially to the eastern shore, because there are small railroads there that can take their produce to the Port of Baltimore or bring it from the Port of Baltimore to other areas of Maryland.

In my area of Maryland, small rail lines bring grain products to another area of our agricultural region to farmers that grow livestock. So small rail lines are the life's blood of our particular region.

This is or should be a bipartisan effort, and we should have support from both sides of the aisle. There are environmental regulations that are still intact. There are safety regulations that are still intact. People can continue to bargain in a cooperative, collective fashion.

Mr. Chairman, how do we ensure protection for workers? We ensure that there are jobs for those workers.

I again rise reluctantly to oppose the gentleman's amendment, and I encourage my colleagues to vote down this amendment and vote for the bill.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I support the Whitfield amendment; and I will, with the Whitfield amendment, support the bill.

I think we are getting to a point down here, though, where we are looking for some trophies. I look at the railroads, for example. There are not too many trains crossing under the Central Street Bridge. I look at the jobs situation in the country, and even Fruit of the Loom just left: 3,200 jobs went to Mexico. We will not even be making underwear around here.

Mr. Chairman, when we look at basic workers' rights, I look at some of these issues. We even talk about workers' right to strike, and we are afraid to death about workers that go on strike in America. The truth of the matter is that when we take away the right to strike, we take away the rights of workers. There is a fine line in between here, folks.

Under the ICC, we have a 6-year severance remuneration. In this bill, we get a 60-day notice. The Whitfield amendment says we will give a 1-year severance pay. That seems like some basic fairness. We have already gone though so many workers in this industry. And some of the deregulation, I might say, has produced some cannibalism in America that has produced an awful lot of bankruptcy, that has produced an awful lot of individual debt, that has produced an awful lot of national debt.

Mr. Chairman, I would hope Members would look at the Whitfield amendment. There has been a lot of philosophy and ideology discussed. Look at it as a basic fairness issue. I believe the Whitfield amendment makes sense.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Kentucky [Mr. WHITFIELD].

I want to first commend Chairman SHUSTER, the ranking member, Mr. OBERSTAR, the gentlewoman from New York, Ms. MOLINARI, and my two colleagues BILL LIPINSKI and BOB WISE. They have all worked hard to craft a bill that is fair, that reduces unnecessary regulation, and one that ensures an orderly transfer of responsibility to a special DOT panel. They have put together a solid bill. But the bill does have one shortcoming. In its current form the bill is highly unfair to railroad employees who lose their jobs in mergers. The bill eliminates provisions in existing law providing severance pay for employees of class 2 and 3 railroads.

What is worse, the bill gives the ICC's successor the right to terminate severance pay agreements reached through the collective bargaining process—agreements made in good faith between a rail company and its employees.

The Whitfield amendment restores fairness to rail employees and protects the integrity of the collective bargaining process. Significantly, the Whitfield amendment would eliminate mandatory severance pay for small transactions in instances where mandatory severance pay would discourage a purchaser from acquiring a struggling small rail carrier.

The Whitfield amendment is a sensible and fair compromise, it encourages short-line rail service while protecting collective bargaining rights of employees. The amendment eliminates federally-mandated labor protection for all transactions involving small—class 3—railroads.

For mid-size, or class 2, railroad transactions, labor protection is reduced from the current mandatory 6-year severance payment to a more reasonable 1-year severance payment.

Class 2 railroads have annual revenues of up to $250 million annually, and transactions involving such rail lines can impact a significant number of rail workers. It is only fair and just that long-time employees of class 2 railroads receive a modest severance package.

Under H.R. 2539, labor protection for class 2 employees is doubly important because the bill gives the Federal Government the authority to break a collective bargaining agreement and eliminate any labor protections it might have contained.

I think all of us agree that completing the deregulation process in the transportation industry is long overdue. On balance, this is a good bill.

But the bill unnecessarily and unfairly destroys the collective bargaining rights of rail employees.

The Whitfield amendment restores some balance and fairness to the bill. I urge all my colleagues to support the amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this will conclude debate, certainly for our side, and I understand in consultation with the chairman it will conclude the other side as well.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the distinguished whip has appeared on the floor, and I understand he will seek recognition. But, as far as I know, that will be our final speaker.

Mr. OBERSTAR. Mr. Chairman, the debate has been a constructive one; a positive one. There are some sort of misunderstandings, misstatements, perhaps. There was an allusion some time ago, and I do not recall who it was that said that, that there had been 10,000 new jobs created over the last 10 years in the short lines, but that statement conveniently left out the reality that 265,000 jobs have been terminated since the Staggers Act, and most of them did not get labor protection.

We are just talking about a matter of fairness and decency as we move this last step in the economic deregulation of the rail industry.

□ 1800

The Whitfield amendment before us today is a compromise. It is not the compromise I would have liked. It is not the protection for labor that I would have liked, but I am willing to accept it. It is a modicum, the very basic and the least we could do, of fair treatment of employees with legitimate concerns of their own against the legitimate financial concerns of the medium- and smaller-sized carriers.

Mr. Chairman, rail labor has given up a great deal in this legislative package that we have. If we are to stay with current law, there is labor protection for all railroad mergers, for all line sales to carriers. The Whitfield amendment continues labor protection only for the largest-sized railroads, class 1 railroads, that have annual revenues of $250 million and more. For all the others, the amendment we are considering now would eliminate or would significantly modify labor protection. Under this amendment, no labor protection would be provided for the smallest or the class 3 railroads.

The Whitfield amendment affects the medium-sized railroads, those with revenues up to $250 million a year—and some of those are very big carriers, as my colleague the gentleman from Illinois has rightly pointed out. One of them has a stock value of over $800 million. That is not small. That is no small potatoes where I come from. It is only fair to employees in that class that they should have at least a year. They give up 5 years of potential labor protection to get a maximum of 1 year.

Mr. Chairman, I want to remind my colleagues that this is not a gift. They do not get a full year's pay and sit on their can and do nothing. If they take another job, they get the wages from that job deducted from their pay from the railroad. They are on call. They can be called back to work at any time. This is not a big deal, giveaway, labor protective provision.

The bill would allow the ICC successor agency to abrogate labor protection in collective bargaining agreements. No other agency of Government has that power. None other.

Mr. Chairman, to those who object to any kind of labor protective provisions for the railroad workers, I say fine. Then let us throw the whole thing out and treat rail labor as we do industrial unions, as we do the industrial workplace. Let them collectively bargain. Let them strike. Let them shut down the rails of this country if they want to, if they have to, if they are pushed to the wall and they have to.

But because the railroads have been so vital to America's economy, they have been treated differently than the building trades, than the industrial unions who represent workers in the industrial marketplace of this country—the International Association of Machinists, the UAW, the rubberworkers, and the steelworkers.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, we are talking about a very controlled workplace: Railroads. Rail labor.

They give up the freedom that others have in order that an agency of the Federal Government mediate between their employer and themselves.

Mr. Chairman, I grew up believing that a union contract was a bond with your employer. That is what I learned from my father. That is what I learned at our dinner table at home in Chisholm, MN, in the heart of the iron ore mining country.

Railroading is different. It is a whole different set of public policy interests that come before a labor and management contract; that come before the interests of the railroad company.

In deregulation, we have passed away a lot of those protections. One small modicum of protection ought to remain. If in the next round of mergers and acquisitions and downsizing of this industry workers lose their jobs in those smaller railroads, they ought to have the decency of protection, having given their lifetime of work, that they are treated fairly and decently with labor protective provisions.

Mr. Chairman, that is what this amendment will do. If we cannot do that, then we ought not to pass this bill. We ought not to hang labor on this cross.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment for many reasons. I just ask the Members to listen, because labor issues sometimes can be very, very complicated and in some other cases can be misrepresented. But, they all have effects on the ability for railroads to run effectively and efficiently and provide jobs for railroad workers.

That is what we are talking about here, to provide more jobs for more workers. If we put these kinds of labor protection measures on this bill, we are going to cost people their jobs, because there will be some railroad lines abandoned because they cannot afford these kinds of labor protections.

Our Members particularly need to understand that this is not an easy labor vote; that they can just throw labor. This is a very interesting application to an age-old problem that we, as part of the new revolution, are trying to throw off so that we can have an economy that runs efficiently and provides the most number of jobs and not just single out one group of people and protect one group of people.

Mr. Chairman, these kinds of labor protections are more. Members talk about fairness to the workers. This is more fairness than any other union workers in any other kind of union get to enjoy. When we are talking about 6 years of full wages and benefits that have been removed by bringing this bill to the floor, and now the gentleman from Kentucky [Mr. WHITFIELD] is trying to offer an amendment to this bill that preserves that mandate in whole or in part, depending on the size of the transaction, we are talking about restoring a labor protection that goes way beyond even the most wide definition of common sense; way beyond what is normal in labor protection for other unions and other kinds of contracts.

Let me just address one of perhaps the most egregious misrepresentations being made by some of the proponents of the Whitfield amendment. That is that the bill somehow abrogates collective bargaining agreements. In fact, the bill retains exactly the same standard that has been the merger statute for decades: That agency approval of a merger displaces any other laws to the extent necessary to implement the merger.

Mr. Chairman, this does not abrogate contracts, but the Whitfield amendment does alter this law. It gives labor the power to halt the implementation of approved mergers involving the smaller railroads. This amendment forbids, forbids work reassignments and shift of work from a union workforce. This directly contravenes existing law. So, the Whitfield amendment goes way beyond what existing law is.

Mr. Chairman, I just think if we are going to develop an economy that is efficient and moves efficiently and creates jobs, we cannot afford to pass the Whitfield amendment. This bill eliminates one of the oldest and most costly mandates in the books today. And because these railroads cannot afford to operate under this provision, they simply will go out of business, and both consumers who need rail service and labor will lose.

Since the Reagan-Bush exemption policy was put into place, over 330 new railroads have purchased 30,000 miles of line that was headed for abandonment. Those lines today employ 10,000 people that were headed for unemployment. This amendment would result in the abandonment of most light-density railroad lines in rural America and everybody loses.

Mr. Chairman, this is a very, very important amendment that affects this bill, and I hope my colleagues, particularly on this side of the aisle, will think very seriously before they would vote for this amendment. I urge that they vote against the Whitfield amendment and vote for the bill.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, I support the Whitfield amendment, and urge others to do the same.

Mr. Chairman, I support the Whitfield amendment, which protects railroad workers when their railroads merge or sell.

For years, the Interstate Commerce Commission [ICC] has reviewed and approved mergers and acquisitions. As part of its role, the ICC has had extraordinary authority: it has been able to change collective bargaining agreements to help transactions happen when it finds them in the public interest.

In connection with this power, Congress gave the ICC discretion to require 6-year severance payments to rail workers displaced by mergers or acquisitions. This is a power rarely used, but it has had an indirect effect: It has been a disincentive to radical changes and an incentive to railroad lines, especially in rural areas.

The bill before the committee would transfer the ICC's power to amend collective bargaining agreements to the newly created Transportation Adjudication Panel, but it would not transfer the associated authority to grant labor protection to workers on Class 2 and Class 3 railroads.

The supporters of this bill argue that this change is necessary to allow medium and small railroads to survive in a competitive environment; and insofar as the smaller, class 3 railroads are concerned, the Whitfield amendment agrees. But for the larger, class 2 railroads, the Whitfield amendment would grant the adjudication panel the discretion to grant 1 year's severance pay to workers displaced by rail mergers or line acquisitions, in lieu of 6 years, which the law now provides.

Trading from 6 years down to 1 year's severance pay strikes me as more than fair for class 2 carriers. This is a good deal for carriers and compromise rail workers have agreed to accept. I urge adoption of the Whitfield amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. WHITFIELD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 184, not voting 7, as follows:

[Roll No. 792]

AYES—241

Abercrombie	Frisa	Mfume
Ackerman	Frost	Miller (CA)
Andrews	Furse	Minge
Baesler	Gejdenson	Moakley
Baldacci	Gephardt	Mollohan
Barcia	Geren	Moran
Barrett (WI)	Gibbons	Murtha
Becerra	Gillmor	Nadler
Beilenson	Gilman	Neal
Bentsen	Gonzalez	Neumann
Berman	Gordon	Ney
Bevill	Green	Oberstar
Bilirakis	Gutierrez	Obey
Bishop	Hall (OH)	Olver
Blute	Hall (TX)	Ortiz
Bonior	Hamilton	Orton
Borski	Harman	Owens
Boucher	Hastings (FL)	Pallone
Brewster	Hayes	Pastor
Browder	Hefner	Payne (NJ)
Brown (CA)	Hilliard	Payne (VA)
Brown (FL)	Hinchey	Pelosi
Brown (OH)	Hoke	Peterson (FL)
Brownback	Holden	Peterson (MN)
Bryant (TX)	Horn	Pickett
Bunn	Houghton	Pomeroy
Burr	Hoyer	Poshard
Cardin	Jackson-Lee	Quillen
Chapman	Jacobs	Quinn
Clay	Jefferson	Rahall
Clayton	Johnson (CT)	Rangel
Clement	Johnson (SD)	Reed
Clyburn	Johnson, E. B.	Regula
Coleman	Johnston	Richardson
Collins (IL)	Kanjorski	Rivers
Collins (MI)	Kaptur	Roemer
Condit	Kelly	Rogers
Conyers	Kennedy (MA)	Ros-Lehtinen
Costello	Kennedy (RI)	Rose
Coyne	Kennelly	Roybal-Allard
Cramer	Kildee	Rush
Cremeans	King	Sabo
Danner	Kleczka	Sanders
de la Garza	Klink	Sawyer
DeFazio	LaFalce	Schiff
DeLauro	Lantos	Schroeder
Dellums	LaTourette	Schumer
Deutsch	Lazio	Scott
Diaz-Balart	Leach	Serrano
Dicks	Levin	Sisisky
Dingell	Lewis (GA)	Skaggs
Dixon	Lincoln	Skelton
Doggett	Lipinski	Slaughter
Dooley	Lofgren	Smith (NJ)
Doyle	Lowey	Smith (WA)
Duncan	Luther	Solomon
Durbin	Maloney	Spratt
Edwards	Manton	Stark
Engel	Markey	Stenholm
English	Martinez	Stockman
Eshoo	Martini	Stokes
Evans	Mascara	Studds
Everett	Matsui	Stupak
Farr	McCarthy	Tanner
Fattah	McDade	Taylor (NC)
Fazio	McDermott	Tejeda
Fields (TX)	McHale	Thompson
Filner	McHugh	Thornton
Flanagan	McKinney	Thurman
Foglietta	McNulty	Torkildsen
Forbes	Meehan	Torres
Ford	Meek	Torricelli
Frank (MA)	Menendez	Towns
Franks (NJ)	Metcalf	Traficant
Velazquez	Watt (NC)	Wise
Vento	Waxman	Woolsey
Visclosky	Weldon (PA)	Wyden
Walsh	Weller	Wynn
Wamp	Whitfield	Young (AK)
Ward	Williams	
Waters	Wilson	

NOES—184

Allard	Frelinghuysen	Morella
Archer	Funderburk	Myers
Armey	Gallegly	Myrick
Bachus	Ganske	Nethercutt
Baker (CA)	Gekas	Norwood
Baker (LA)	Gilchrest	Nussle
Ballenger	Goodlatte	Oxley
Barr	Goodling	Packard
Barrett (NE)	Goss	Parker
Bartlett	Graham	Paxon
Barton	Greenwood	Petri
Bass	Gunderson	Pombo
Bateman	Gutknecht	Porter
Bereuter	Hancock	Portman
Bilbray	Hansen	Pryce
Bliley	Hastert	Radanovich
Boehlert	Hastings (WA)	Ramstad
Boehner	Hayworth	Riggs
Bonilla	Hefley	Roberts
Bono	Heineman	Rohrabacher
Bryant (TN)	Herger	Roth
Bunning	Hilleary	Roukema
Burton	Hobson	Royce
Buyer	Hoekstra	Salmon
Calvert	Hostettler	Sanford
Camp	Hunter	Saxton
Canady	Hutchinson	Scarborough
Castle	Hyde	Schaefer
Chabot	Inglis	Seastrand
Chambliss	Istook	Sensenbrenner
Chenoweth	Johnson, Sam	Shadegg
Christensen	Jones	Shaw
Chrysler	Kasich	Shays
Clinger	Kim	Shuster
Coble	Kingston	Skeen
Coburn	Klug	Smith (MI)
Collins (GA)	Knollenberg	Smith (TX)
Combest	Kolbe	Souder
Cooley	LaHood	Spence
Cox	Largent	Stearns
Crane	Latham	Stump
Crapo	Laughlin	Talent
Cubin	Lewis (CA)	Tate
Cunningham	Lewis (KY)	Tauzin
Davis	Lightfoot	Taylor (MS)
Deal	Linder	Thomas
DeLay	Livingston	Thornberry
Dickey	LoBiondo	Tiahrt
Doolittle	Longley	Upton
Dornan	Lucas	Vucanovich
Dreier	Manzullo	Waldholtz
Dunn	McCollum	Walker
Ehlers	McCrery	Watts (OK)
Ehrlich	McInnis	Weldon (FL)
Emerson	McIntosh	White
Ensign	McKeon	Wicker
Ewing	Meyers	Wolf
Fawell	Mica	Young (FL)
Foley	Miller (FL)	Zeliff
Fowler	Molinari	Zimmer
Fox	Montgomery	
Franks (CT)	Moorhead	

NOT VOTING—7

Callahan	Mink	Yates
Fields (LA)	Tucker	
Flake	Volkmer	

□ 1830

Mr. BEREUTER and Mr. SMITH of Michigan changed their vote from ''aye'' to ''no.''

Messrs. HAYES, WAMP, CONYERS, and STENHOLM changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 256, after line 17, insert the following new section:

SEC. 105. CREDITABILITY OF ANNUAL LEAVE FOR PURPOSES OF MEETING MINIMUM ELIGIBILITY REQUIREMENTS FOR AN IMMEDIATE ANNUITY.

(a) IN GENERAL.—An employee of the Interstate Commerce Commission who is separated from Government service pursuant to the abolition of that agency under section 101 shall, upon appropriate written application, be given credit, for purposes of determining eligibility for and computing the amount of any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, for accrued annual leave standing to such employee's credit at the time of separation.

(b) LIMITATION AND OTHER CONDITIONS.—Any regulations necessary to carry out this section shall be prescribed by the Office of Personnel Management. Such regulations shall include provisions—

(1) defining the types of leave for which credit may be given under this section (such definition to be similar to the corresponding provisions of the regulations under section 351.608(c)(2) of title 5 of the Code of Federal Regulations, as in effect on the date of the enactment of this Act);

(2) limiting the amount of accrued annual leave which may be used for the purposes specified in subsection (a) to the minimum period of time necessary in order to permit such employee to attain first eligibility for an immediate annuity under section 8336, 8412, or 8414 of title 5, United States Code (in a manner similar to the corresponding provisions of the regulations referred to in paragraph (1));

(3) under which contributions (or arrangements for the making of contributions) shall be made so that—

(A) employee contributions for any period of leave for which retirement credit may be obtained under this section shall be made by the employee; and

(B) Government contributions with respect to such period shall similarly be made by the Interstate Commerce Commission or other appropriate officer or entity (out of appropriations otherwise available for such contributions); and

(4) under which subsection (a) shall not apply with respect to an employee who declines a reasonable offer of employment in another position in the Department of Transportation made under this Act or any amendment made by this Act.

(c) EXTINGUISHMENT OF ELIGIBILITY FOR LUMP-SUM PAYMENT.—A lump-sum payment under section 5551 of title 5, United States Code, shall not be payable with respect to any leave for which retirement credit is obtained under this section.

Mr. DAVIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(Mr. DAVIS asked and was given permission to revise and extend his remarks.)

Mr. DAVIS. Mr. Chairman, I rise in support of my short and noncontroversial amendment. This amendment simply makes a technical addition to the bill to allow a handful of ICC employees who are being separated from Federal service as a result of this bill to apply their unused annual leave for purposes of qualifying for a Federal annuity. This amendment is limited to apply only to Federal workers who are on the verge of becoming eligible for an annuity, but who are losing their jobs as a result of this bill before qualifying for a pension.

Mr. Chairman, several constituents have described a predicament that no Member of this body would want to allow to go unresolved. Imagine working for 24 years and 11 months only to be told that you are terminated for no fault of your own and that you may not use the 5 weeks of annual leave that you have accumulated in order to reach the 25 year eligibility threshold for an annuity free of the penalties that we have in place to discourage early retirement.

This amendment will only apply to the handful of employees who are: First, not being offered employment elsewhere in the Federal Government; second, who are within several days or weeks of becoming eligible for an immediate annuity; and third, who have accrued enough annual leave, in accordance with OPM regulations, to reach the date on which an immediate annuity would be owed. Mr. Chairman, approximately 400 Federal workers are employed at the ICC. Approximately 180 workers will remain in the Federal work force carrying out the functions that will continue under this bill. Of the 220 workers who may be losing their jobs, a few are on the verge of qualifying for an immediate retirement annuity. Most of these workers are enrolled in the Civil Service Retirement System [CSRS] which means that they do not receive Social Security benefits for the years of service they have performed.

The Davis amendment simply says to those veteran ICC workers who have reached the proverbial 26 mile marker in the Federal career marathon, that we will allow them to complete the last two-tenths of a mile in order to end their Federal career with dignity and adequate financial security. I urge my colleagues to unanimously support this good-government amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I have examined the gentleman's amendment, and we accept it on this side.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, we are prepared to accept the gentleman's amendment on this side, too.

Mr. DAVIS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DAVIS].

The amendment was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word to urge all of my colleagues to vote in favor of final passage because it is absolutely imperative that this legislation be passed.

We would not have this bill before the House today without an extraordinary effort over several months by a number of staff members.

Eliminating an agency and revising the entire Interstate Commece Act turned out to be a very complicated proposition.

In particular, I would like to thank Glenn Scammel, Roger Nober, Alice Davis, and Debbie Gebhard of the majority staff and Trinita Brown and Rosalyn Millman of the minority staff.

Special thanks go to Henri Rush, general counsel of the ICC, and Ellen Hanson of the ICC for the many hours they devoted to this bill, and to Tim Brown and David Mendelsohn of the Legislative Counsel's Office for their assistance in drafting the bill.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I join my colleague, chairman of our committee, in urging all Members on both sides of the aisle to support this bipartisan legislation.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—TRANSPORTATION ADJUDICATION PANEL

SEC. 201. TITLE 49 AMENDMENT.

(a) AMENDMENT.—Subtitle I of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 7—TRANSPORTATION ADJUDICATION PANEL

''SUBCHAPTER I—ESTABLISHMENT

"§ 701. Establishment of Panel

''(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Transportation Adjudication Panel.

''(b) MEMBERSHIP.—(1) The Panel shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

''(2) At any given time, at least 2 members of the Panel shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience in the private sector.

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

''(4) On the effective date of this section, the members of the Interstate Commerce Commission then serving unexpired terms shall become members of the Panel, to serve for a period of time

equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

''(5) No individual may serve as a member of the Panel for more than 2 terms. In the case of an individual who becomes a member of the Panel pursuant to paragraph (4), or an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

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

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

''(c) DIRECTOR.—(1) There shall be at the head of the Panel a Director, who shall be designated by the President from among the members of the Panel. The Director shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

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

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

''(B) appoint the heads of offices with the approval of the Panel;

''(C) distribute Panel responsibilities among officers and employees and offices of the Panel;

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

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

''§ 702. Functions

''Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Panel shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

''§ 703. Administrative provisions

''(a) EXECUTIVE REORGANIZATION.—Chapter 9 of title 5, United States Code, shall apply to the Panel in the same manner as it does to an independent regulatory agency.

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

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

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

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

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

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

''(2) an assessment of the budgetary needs of the Panel.

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

''§ 704. Annual report

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

''§ 705. Authorization of appropriations

''There are authorized to be appropriated to the Secretary of Transportation for the activities of the Panel—

''(1) $8,421,000 for fiscal year 1996;

''(2) $12,000,000 for fiscal year 1997; and

''(3) $12,000,000 for fiscal year 1998.

''§ 706. Reporting official action

''(a) The Panel shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Panel and, if damages are awarded, the findings of fact supporting the award. The Panel may have its reports published for public use. A published report of the Panel is competent evidence of its contents.

''(b)(1) When action of the Panel in a matter related to a rail carrier is taken by the Panel, an individual member of the Panel, or another individual or group of individuals designated to take official action for the Panel, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

''(A) the official designation of the individual or group taking the action;

''(B) the name of each individual taking, or participating in taking, the action; and

''(C) the vote or position of each participating individual.

''(2) If an individual member of a group taking an official action referred to in paragraph (1) of this subsection does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

''SUBCHAPTER II—ADMINISTRATIVE

''§ 721. Powers

''(a) The Panel shall carry out this chapter and subtitle IV. Enumeration of a power of the Panel in this chapter or subtitle IV does not exclude another power the Panel may have in carrying out this chapter or subtitle IV. The Panel may prescribe regulations in carrying out this chapter and subtitle IV.

''(b) The Panel may—

''(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and services subject to subtitle IV;

''(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker;

''(3) obtain from those carriers, brokers, and persons information the Panel decides is necessary to carry out subtitle IV; and

''(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

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

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

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

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

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

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

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

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

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

''§ 722. Panel action

''(a) Unless otherwise provided in subtitle IV, the Panel may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

''(b) An action of the Panel remains in effect under its own terms or until superseded. The Panel may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Panel. A court of competent jurisdiction may suspend or set aside any such action.

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

''(1) reopen a proceeding;

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

''(3) change an action of the Panel.

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

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

''§ 723. Service of notice in Panel proceedings

''(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Panel may be made.

''(b) A designation under subsection (a) of this section shall be in writing and filed with the Panel.

''(c) Except as otherwise provided, notices of the Panel shall be served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Panel shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

''(d) In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has not designated an agent under this section, service of notice of the Panel on an attorney in fact for the carrier constitutes service of notice on the carrier.

''§ 724. Service of process in court proceedings

''(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

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

''§ 725. Administrative support

''The Secretary of Transportation shall provide appropriate administrative support for the Panel.

''§ 726. Definitions

''All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.''.

(b) TABLE OF CHAPTERS AMENDMENT.—The table of chapters of subtitle I of title 49, United States Code, is amended by adding at the end the following new item:

''7. TRANSPORTATION ADJUDICATION PANEL ..... 701''.

SEC. 202. REORGANIZATION.

The Director of the Transportation Adjudication Panel (in this Act referred to as the ''Panel'') may allocate or reallocate any function of the Panel, consistent with this title and subchapter I of chapter 7, as amended by section 201 of this title, among the members or employees of the Panel, and may establish, consolidate, alter, or discontinue in the Panel any organizational entities that were entities of the Interstate Commerce Commission, as the Director considers necessary or appropriate.

SEC. 203. TRANSFER OF ASSETS.

Except as otherwise provided in this Act and the amendments made by this Act, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to the Panel or the Secretary by this Act shall be available to the Panel or the Secretary at such time and to such extent as the President directs for use in connection with the functions transferred.

SEC. 204. SAVING PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Panel, any other authorized official, a court of competent jurisdiction, or operation of law. The Panel shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

(b) PROCEEDINGS.—(1) Except as provided in paragraph (2), the Panel shall assume responsibility for the continuation of all proceedings pending before the Interstate Commerce Commission, and shall complete such proceedings in accordance with law and regulations as in effect before the date of the enactment of this Act.

(2) In the case of a proceeding under a provision of law repealed, and not reenacted, by this Act, such proceeding shall be terminated.

(c) SUITS.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act, except that the Panel shall assume the position of the Interstate Commerce Commission, and, except as provided in paragraph (2), in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) If the court in a suit described in paragraph (1) remands a case to the Panel, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(d) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Panel may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

SEC. 205. REFERENCES.

Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Panel or a member or employee of the Panel, as appropriate.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—CONFORMING AMENDMENTS

Subtitle A—Amendments to United States Code

SEC. 301. TITLE 5 AMENDMENTS.

(a) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking ''Chairman, Interstate Commerce Commission.'' and inserting in lieu thereof ''Director, Transportation Adjudication Panel.''.

(b) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Members, Interstate Commerce Commission.'' and inserting in lieu thereof ''Members, Transportation Adjudication Panel.''.

SEC. 302. TITLE 11 AMENDMENTS.

Subchapter IV of chapter 11 of title 11, United States Code, is amended—

(1) by amending section 1162 to read as follows:

''§ 1162. Definition

''In this subchapter, 'Panel' means the 'Transportation Adjudication Panel'.''; and

(2) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 303. TITLE 18 AMENDMENT.

Section 6001(1) of title 18, United States Code, is amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 304. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.

(a) SECTION 3231.—Section 3231 of the Internal Revenue Code of 1986 is amended—

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

(2) by striking ''an express carrier, sleeping car carrier, or'' in subsection (g) and inserting in lieu thereof ''a''.

(b) SECTION 7701.—Section 7701 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (33)(B), by striking ''Federal Power Commission'' and inserting in lieu thereof ''Federal Energy Regulatory Commission'';

(2) in paragraph (33)(C)(i), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel'';

(3) in paragraph (33)(C)(ii), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Federal Energy Regulatory Commission'';

(4) in paragraph (33)(F), by striking ''Interstate Commerce Commission under subchapter III of chapter 105'' and inserting in lieu thereof ''Transportation Adjudication Panel under subchapter II of chapter 135'';

(5) in paragraph (33)(G), by striking ''subchapter I of chapter 105'' and inserting in lieu thereof ''part A of subtitle IV''; and

(6) in paragraph (33)(H), by striking ''subchapter I of chapter 105'' and inserting in lieu thereof ''part A of subtitle IV''.

SEC. 305. TITLE 28 AMENDMENTS.

(a) CHAPTER 157 AMENDMENTS.—(1) Chapter 157 of title 28, United States Code, is amended—

(A) by striking ''***INTERSTATE COMMERCE COMMISSION***'' in the chapter heading and inserting in lieu thereof ''***TRANSPORTATION ADJUDICATION PANEL***'';

(B) by striking ''***Commission's***'' in the section heading of section 2321 and inserting in lieu thereof ''***Panel's***'';

(C) by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(D) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

(2)(A) The item relating to chapter 157 in the table of chapters of title 28, United States Code, is amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

(B) The item relating to section 2321 in the table of sections of chapter 157 of title 28, United States Code, is amended by striking ''Commission's'' and inserting in lieu thereof ''Panel's''.

(b) CHAPTER 158 AMENDMENTS.—Chapter 158 of title 28, United States Code, is amended—

(1) by striking ''the Interstate Commerce Commission,'' in section 2341(3)(A);

(2) by striking ''and'' at the end of section 2341(3)(C);

(3) by striking the period at the end of section 2341(3)(D) and inserting in lieu thereof ''; and'';

(4) by inserting at the end of section 2341(3) the following new subparagraph:

''(E) the Panel, when the order was entered by the Transportation Adjudication Panel.''; and

(5) in section 2342, by—

(A) inserting ''or pursuant to part B of subtitle IV of title 49, United States Code'' before the semicolon at the end of paragraph (3)(A); and

(B) striking paragraph (5) and inserting the following:

''(5) all rules, regulations, or final orders of the Transportation Adjudication Panel made reviewable by section 2321 of this title; and''.

SEC. 306. TITLE 39 AMENDMENTS.

Title 39, United States Code, is amended—

(1) in section 5005(a)(4) by striking ''5201(7)'' and inserting ''5201(6)'';

(2) in section 5005(b)(3), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(3) in chapter 52—

(A) by amending paragraph (1) of section 5201 to read as follows:

''(1) 'Panel' means the Transportation Adjudication Panel;'';

(B) in section 5201(2) by striking ''a motor common carrier, or express carrier'' and inserting ''or a motor carrier'';

(C) in section 5201(4)—

(i) by striking ''common''; and

(ii) by striking ''permit'' and inserting ''registration'';

(D) in section 5201(5)—

(i) by striking ''common'' each place it appears;

(ii) by striking ''10102(14)'' and inserting ''13102(11)''; and

(iii) by striking ''certificate of public convenience and necessity'' and inserting ''registration'';

(E) by striking paragraph (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(G) in section 5201(6), as so redesignated, by striking ''certificate of public convenience and necessity'' and inserting ''certificate or registration'';

(C) by striking subsection (f) of section 5203, and redesignating subsection (g) of such section as subsection (f);

(D) in subsection (f) of section 5203, as so redesignated by subparagraph (H) of this paragraph—

(i) by striking ''Commission'' and inserting ''Panel''; and

(ii) by striking ''motor common carrier'' each place it appears and inserting ''motor carrier'';

*(E) by striking ''**Interstate Commerce Commission**'' in the section heading of section 5207 and inserting in lieu thereof ''**Transportation Adjudication Panel**'';*

(F) by striking ''Commission's'' in sections 5208(a) and 5215(a) and inserting in lieu thereof ''Panel's'';

(G) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''; and

(H) in the item relating to section 5207 in the table of sections, by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(M) in section 5215(a) by striking ''motor common carrier'' and inserting ''motor carrier''.

SEC. 307. TITLE 49 AMENDMENTS.

Title 49, United States Code, is amended—

(1) in section 22106(e)(1) by striking ''an application for abandonment of'' and inserting in lieu thereof ''a notice of intent to abandon''; and

(2) by repealing subsection (d) of section 24705.

Subtitle B—Other Amendments

SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENT.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended—

(1) by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel'';

(2) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''; and

(3) by striking ''Commission's'' in subsection (b) and inserting in lieu thereof ''Panel's''.

SEC. 312. ANIMAL WELFARE ACT AMENDMENT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS.

Section 401 of the Federal Election Campaign Act of 1971 is amended—

(1) by striking ''Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act'' and inserting in lieu thereof ''Transportation Adjudication Panel shall each maintain''; and

(2) by inserting ''or Panel'' after ''or such Commission''.

SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 621(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.

Section 704(a)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMENDMENT.

Section 814(b)(4) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)(4)) is amended by striking ''Interstate Commerce Commission with respect to any common carrier subject to those Acts'' and inserting in lieu thereof ''Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel''.

SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

The National Trails System Act is amended—

(1) in section 8(d)—

(A) by striking ''Chairman of the Interstate Commerce Commission'' and inserting in lieu thereof ''Director of the Transportation Adjudication Panel''; and

(B) by striking ''Commission'' and inserting in lieu thereof ''Panel''; and

(2) in section 9(b), by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 318. CLAYTON ACT AMENDMENTS.

The Clayton Act is amended—

(1) in section 7 (15 U.S.C. 18)—

(A) by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(B) by inserting '', Panel,'' after ''vesting such power in such Commission'';

(2) in section 11(a) (15 U.S.C. 21(a)), by striking ''Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended'' and inserting in lieu thereof ''Transportation Adjudication Panel where applicable to common carriers subject to subtitle IV of title 49, United States Code''; and

(3) in section 16 (15 U.S.C. 22), by striking ''in equity for injunctive relief'' and all that follows through ''Interstate Commerce Commission'' and inserting in lieu thereof ''for injunctive relief against any common carrier subject to the jurisdiction of the Transportation Adjudication Panel under subtitle IV of title 49, United States Code''.

SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''the Interstate Commerce Commission,''.

SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.

Subsections (a) and (d) of section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are amended by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''.

SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS

The Merchant Marine Act, 1920, is amended—

(1) in section 8 (46 U.S.C. App. 867)—

(A) by striking ''Interstate Commerce Commission'' both places it appears and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(B) by striking ''commission'' and inserting in lieu thereof ''Panel''; and

(2) in section 28 (46 U.S.C. App. 884)—

(A) by striking ''Interstate Commerce Commission'' and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(B) by striking ''commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 322. RAILWAY LABOR ACT AMENDMENTS.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended—

(1) by striking ''express company, sleeping-car company, carrier by railroad, subject to the Interstate Commerce Act'' in the first paragraph and inserting in lieu thereof ''railroad subject to the jurisdiction of the Transportation Adjudication Panel'';

(2) by striking ''Interstate Commerce Commission'' each place it appears in the first and fifth paragraphs and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(3) by striking ''Commission'' each place it appears in the fifth paragraph and inserting in lieu thereof ''Panel''.

SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMENDMENTS.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended—

(1) by amending subsection (a)(1)(i) to read as follows:

''(i) any carrier by railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code;'';

(2) by striking ''Interstate Commerce Commission is hereby authorized and directed upon request of the Board'' in subsection (a)(2)(ii) and inserting in lieu thereof ''Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board''; and

(3) by inserting ''the Transportation Adjudication Panel,'' after ''the Interstate Commerce Commission,'' in subsection (o).

SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENTS.

The Railroad Unemployment Insurance Act is amended—

(1) by striking ''Interstate Commerce Commission is hereby authorized and directed upon request of the Board'' in section 1(a) (45 U.S.C.

351(a)) and inserting in lieu thereof ''Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board'';

(2) by amending paragraph (b) of such section 1 to read as follows:

''(b) The term 'carrier' means a railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code.'';

and

(3) by striking ''Interstate Commerce Commission, adjusted, as determined by the Board'' in section 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in lieu thereof ''Transportation Adjudication Panel, adjusted, as determined by the Railroad Retirement Board''.

SEC. 325. EMERGENCY RAIL SERVICES ACT OF 1970 AMENDMENTS.

The Emergency Rail Services Act of 1970 is amended—

(1) by amending paragraph (2) of section 2 (45 U.S.C. 661(2)) to read as follows:

''(2) 'Panel' means the Transportation Adjudication Panel.'';

(2) by striking ''Interstate Commerce Commission'' in section 6(a) (45 U.S.C. 665(a)) and inserting in lieu thereof ''Panel''; and

(3) by striking ''Commission'' each place it appears and inserting in lieu thereof ''Panel''.

SEC. 326. ALASKA RAILROAD TRANSFER ACT OF 1982 AMENDMENTS.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended—

(1) by striking ''Interstate Commerce Commission'' each place it appears and inserting in lieu thereof ''Transportation Adjudication Panel''; and

(2) by striking ''Commission'' in subsection (b) and inserting in lieu thereof ''Panel''.

SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.

The Regional Rail Reorganization Act of 1973 is amended—

(1) in section 304(d)(3) (45 U.S.C. 744(d)(3))—

(A) by striking ''this title,'' and all that follows through ''(A) shall take'' and inserting in lieu thereof ''this title, the Commission shall take''; and

(B) by striking ''this subsection; and'' and all that follows through ''205(d)(6) of this Act'' and inserting in lieu thereof ''this subsection''; and

(2) in section 707 (45 U.S.C. 797f)—

(A) by inserting ''(a)'' at the beginning of the text; and

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

''(b) Notwithstanding any other provision of this Act or any agreement or arrangement in effect as of the date of the enactment of this subsection, the Corporation may not sell or transfer ownership or management, in whole or in part, of any facility acquired by the Corporation under this Act that is used for the repair, rehabilitation, or maintenance of cars or locomotives, without first obtaining the expess consent of the authorized representatives of the employees at such facility covered by collective bargaining agreements. Any transaction undertaken in violation of this subsection or subsection (c) shall be considered in violation of section 6 of the Railway Labor Act, and shall be actionable as such.

''(c) Notwithstanding any other provision of this Act or any agreement or arrangement in effect as of the date of the enactment of this subsection, any transfer by the Corporation of ownership, in whole or in part, other than for scrappage, of a car or locomotive that was repaired, rehabilitated, or maintained, before the date of the enactment of this subsection, at a facility acquired by the Corporation under this Act, without first obtaining the express consent of the authorized representatives of the employees at the Corporation's principal maintenance facility covered by collective bargaining agreements, is prohibited.''.

SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENT.

Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is repealed.

SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS.

The Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in section 104(a) (45 U.S.C. 1003(a)) by striking ''section 11125 of title 49, United States Code, or''; and

(2) by repealing section 120 (45 U.S.C. 1015).

SEC. 330. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AMENDMENTS.

The Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) in section 505(a)(3) (45 U.S.C. 825(a)(3))—

(A) by striking ''A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code)'' and inserting in lieu thereof ''(A) A financially responsible person''; and

(B) by inserting at the end the following new subparagraph:

''(B) For purposes of this paragraph, the term 'financially responsible person' means a person who (i) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (ii) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or class II rail carrier.'';

(2) in section 509(b) (45 U.S.C. 829(b)) by striking paragraph (2); and

(3) in section 510 (45 U.S.C. 830) by striking ''the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor''.

SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.

Section 7(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)) is amended by striking ''where published tariff rates are in effect''.

SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION AMENDMENT.

Section 115 of the Joint Resolution entitled ''Joint Resolution making further continuing appropriations for the fiscal year 1982, and for other purposes'' (Public Law 97–92; 95 Stat. 1196) is repealed.

SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking ''part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of'' in paragraph (2)(C) and inserting ''part B of''; and

(2) striking ''common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of'' in paragraph (3) and inserting ''carriers of passengers under part B of''.

SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305) is amended by striking all after ''subsection (c)'' and inserting ''shall not take effect as long as section 14501(b)(2) of title 49, United States Code, applies to that State.''.

SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 App. U.S.C. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 336. DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT, 1982 AMENDMENT.

Section 402 of the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97–102; 95 Stat. 1465) is repealed.

The CHAIRMAN. Are there any amendments to title III?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

(Mr. SHUSTER asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. KINGSTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, pursuant to House Resolution 259, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 8, not voting 7, as follows:

[Roll No. 793]

AYES—417

Abercrombie	DeLauro	Hostettler
Ackerman	DeLay	Houghton
Allard	Dellums	Hoyer
Andrews	Deutsch	Hunter
Archer	Diaz-Balart	Hutchinson
Armey	Dickey	Hyde
Bachus	Dicks	Inglis
Baesler	Dingell	Istook
Baker (CA)	Dixon	Jackson-Lee
Baker (LA)	Doggett	Jacobs
Baldacci	Dooley	Jefferson
Ballenger	Doolittle	Johnson (CT)
Barcia	Dornan	Johnson (SD)
Barr	Doyle	Johnson, E.B.
Barrett (NE)	Dreier	Johnson, Sam
Barrett (WI)	Duncan	Johnston
Bartlett	Dunn	Jones
Barton	Durbin	Kanjorski
Bass	Edwards	Kaptur
Bateman	Ehlers	Kasich
Becerra	Ehrlich	Kelly
Beilenson	Emerson	Kennedy (MA)
Bentsen	English	Kennedy (RI)
Bereuter	Ensign	Kennelly
Berman	Eshoo	Kildee
Bevill	Evans	Kim
Bilbray	Everett	King
Bilirakis	Ewing	Kingston
Bishop	Farr	Kleczka
Bliley	Fattah	Klink
Blute	Fawell	Klug
Boehlert	Fazio	Knollenberg
Boehner	Fields (TX)	Kolbe
Bonilla	Flake	LaFalce
Bonior	Flanagan	LaHood
Bono	Foglietta	Lantos
Borski	Foley	Largent
Boucher	Forbes	Latham
Brewster	Ford	LaTourette
Browder	Fowler	Laughlin
Brown (CA)	Fox	Lazio
Brown (FL)	Frank (MA)	Leach
Brown (OH)	Franks (CT)	Levin
Brownback	Franks (NJ)	Lewis (CA)
Bryant (TN)	Frelinghuysen	Lewis (GA)
Bryant (TX)	Frisa	Lewis (KY)
Bunn	Frost	Lightfoot
Bunning	Funderburk	Lincoln
Burr	Furse	Linder
Burton	Gallegly	Lipinski
Buyer	Ganske	Livingston
Callahan	Gejdenson	LoBiondo
Calvert	Gekas	Lofgren
Camp	Gephardt	Longley
Canady	Geren	Lowey
Cardin	Gibbons	Lucas
Castle	Gilchrest	Luther
Chabot	Gillmor	Maloney
Chambliss	Gilman	Manton
Chapman	Gonzalez	Manzullo
Chenoweth	Goodlatte	Markey
Christensen	Goodling	Martinez
Chrysler	Gordon	Martini
Clay	Goss	Mascara
Clayton	Graham	Matsui
Clement	Greenwood	McCarthy
Clinger	Gutierrez	McCollum
Clyburn	Gutknecht	McCrery
Coble	Hall (OH)	McDade
Coburn	Hall (TX)	McDermott
Coleman	Hamilton	McHale
Collins (GA)	Hancock	McHugh
Collins (IL)	Hansen	McInnis
Collins (MI)	Harman	McIntosh
Combest	Hastert	McKeon
Condit	Hastings (FL)	McKinney
Cooley	Hastings (WA)	McNulty
Costello	Hayes	Meehan
Cox	Hayworth	Meek
Coyne	Hefley	Menendez
Cramer	Hefner	Metcalf
Crane	Heineman	Meyers
Crapo	Herger	Mfume
Cremeans	Hilleary	Mica
Cubin	Hilliard	Miller (CA)
Cunningham	Hinchey	Miller (FL)
Danner	Hobson	Minge
Davis	Hoekstra	Moakley
de la Garza	Hoke	Molinari
Deal	Holden	Mollohan
DeFazio	Horn	Montgomery
Moorhead	Rogers	Stupak
Morella	Rohrabacher	Talent
Murtha	Ros-Lehtinen	Tanner
Myers	Rose	Tate
Myrick	Roth	Tauzin
Neal	Roukema	Taylor (MS)
Nethercutt	Roybal-Allard	Taylor (NC)
Neumann	Royce	Tejeda
Ney	Rush	Thomas
Norwood	Sabo	Thompson
Nussle	Salmon	Thornberry
Oberstar	Sanders	Thornton
Obey	Sanford	Thurman
Olver	Sawyer	Tiahrt
Ortiz	Saxton	Torkildsen
Orton	Scarborough	Torres
Owens	Schaefer	Torricelli
Oxley	Schiff	Towns
Packard	Schroeder	Traficant
Pallone	Schumer	Upton
Parker	Scott	Velazquez
Pastor	Seastrand	Vento
Paxon	Sensenbrenner	Visclosky
Payne (NJ)	Serrano	Vucanovich
Payne (VA)	Shadegg	Waldholtz
Pelosi	Shaw	Walker
Peterson (FL)	Shays	Walsh
Peterson (MN)	Shuster	Wamp
Petri	Sisisky	Ward
Pickett	Skaggs	Waters
Pombo	Skeen	Watt (NC)
Porter	Skelton	Watts (OK)
Portman	Slaughter	Waxman
Poshard	Smith (MI)	Weldon (FL)
Pryce	Smith (NJ)	Weldon (PA)
Quillen	Smith (TX)	Weller
Quinn	Smith (WA)	White
Radanovich	Solomon	Whitfield
Rahall	Souder	Wicker
Ramstad	Spence	Wilson
Rangel	Spratt	Wise
Reed	Stark	Wolf
Regula	Stearns	Woolsey
Richardson	Stenholm	Wyden
Riggs	Stockman	Young (AK)
Rivers	Stokes	Young (FL)
Roberts	Studds	Zeliff
Roemer	Stump	Zimmer

NOES—8

Engel	Moran	Williams
Filner	Nadler	Wynn
Green	Pomeroy	

NOT VOTING—7

Conyers	Mink	Yates
Fields (LA)	Tucker	
Gunderson	Volkmer	

☐ 1851

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. MOLINARI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentlewoman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Ms. ROYBAL-ALLARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

PROPOSED MOTION TO DENY MONEY FOR GROUND TROOPS TO BOSNIA

(Mr. METCALF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. METCALF. Mr. Speaker, I have a motion at the desk which I will not bring before the House this evening. My motion, had it passed, would have denied money to send ground troops to Bosnia without the President coming and essentially getting a complete accord with the House before he did that.

I have withdrawn this motion, Mr. Speaker, and I will not act on this motion because I have been assured that the Committee on Rules will, on Thursday night, bring up a rule on the Hefley bill. The Hefley bill does the same thing in a different way. I am very supportive of that route also.

I just want to say, Mr. Speaker, that I think before we allow money to be spent to send ground troops to Bosnia, we must get a complete explanation of what is the plan, what are the vital United States interests involved, what is the exit strategy. All these things are absolutely essential, and the Hefley bill will do this that.

Mr. Speaker, at this time I will not bring up the motion, and we will have a vote on this before we go home for Thanksgiving, in my view.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I thought I would take a minute to advise our Members that we expect no more votes this evening. The House will reconvene tomorrow morning at 10.

We should expect tomorrow morning that we will be able to deal with some possible appropriations conference reports, the foreign operations conference report, the Interior conference report, the Treasury-Postal conference report. All of these are subject to a rule.

Then, of course, it is also possible, Mr. Speaker, and I have no definitive information, but Members should be aware it is also possible that there could be some action on a continuing resolution. Those, basically, are the comments I would like to make.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would ask the gentleman if he expects the reconciliation conference to be voted on in the House on Friday.

Mr. ARMEY. I thank the gentleman for his inquiry.

My best guess at this time is that we would expect to vote on the reconciliation conference report on Friday, the Balanced Budget Act on Friday, and we