

In the Senate of the United States,

November 28, 1995.

Resolved, That the bill from the House of Representatives (H.R. 2539) entitled “An Act 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”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Interstate Commerce*
3 *Commission Sunset Act of 1995”.*

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

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

1 SEC. 3. TABLE OF SECTIONS.

2 *The table of sections for this Act is as follows:*

- Sec. 1. Short title.*
Sec. 2. Amendment of title 49.
Sec. 3. Table of sections.

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

SUBTITLE A—TERMINATIONS

- Sec. 101. Agency terminations.*
Sec. 102. Savings provisions.
Sec. 103. References to the ICC in other laws.
Sec. 104. Transfer of functions.
Sec. 105. References to the FMC in other laws.

SUBTITLE B—REPEAL OF OBSOLETE, ETC., PROVISIONS

- Sec. 121. Repeal of provisions.*
Sec. 122. Coverage of certain entities under other, unrelated Acts not affected.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

SUBTITLE A—ORGANIZATION

- Sec. 201. Amendment to subchapter I.*
Sec. 202. Administrative support.
Sec. 203. Reorganization.
Sec. 204. Transition plan for Federal Maritime Commission functions.

SUBTITLE B—ADMINISTRATIVE

- Sec. 211. Powers.*
Sec. 212. Commission action.
Sec. 213. Service of notice in Commission proceedings.
Sec. 214. Service of process in court proceedings.
Sec. 215. Study on the authority to collect charges.
Sec. 216. Federal Highway Administration rulemaking.
Sec. 217. Transport vehicles for off-road, competition vehicles.
Sec. 218. Destruction of motor vehicles or motor vehicle facilities; wrecking trains.

TITLE III—RAIL AND PIPELINE TRANSPORTATION

- Sec. 301. General changes in references to Commission, etc.*
Sec. 302. Rail transportation policy.
Sec. 303. Definitions.
Sec. 304. General jurisdiction.
Sec. 305. Railroad and water transportation connections and rates.
Sec. 306. Authority to exempt rail carrier and motor carrier transportation.
Sec. 307. Standards for rates, classifications, etc.
Sec. 308. Standards for rates for rail carriers.
Sec. 309. Authority for carriers to establish rates, classifications, etc.
Sec. 310. Authority for carriers to establish through routes.
Sec. 311. Authority and criteria for prescribed rates, classifications, etc.

- Sec. 312. Authority for prescribed through routes, joint classifications, etc.*
- Sec. 313. Antitrust exemption for rate agreements.*
- Sec. 314. Investigation and suspension of new rail rates, etc.*
- Sec. 315. Zone of rail carrier rate flexibility.*
- Sec. 316. Investigation and suspension of new pipeline carrier rates, etc.*
- Sec. 317. Determination of market dominance.*
- Sec. 318. Contracts.*
- Sec. 319. Government traffic.*
- Sec. 320. Rates and liability based on value.*
- Sec. 321. Prohibitions against discrimination by common carriers.*
- Sec. 322. Facilities for interchange of traffic.*
- Sec. 323. Liability for payment of rates.*
- Sec. 324. Continuous carriage of freight.*
- Sec. 325. Transportation services or facilities furnished by shipper.*
- Sec. 326. Demurrage charges.*
- Sec. 327. Transportation prohibited without tariff.*
- Sec. 328. General elimination of tariff filing requirements.*
- Sec. 329. Designation of certain routes.*
- Sec. 330. Authorizing construction and operation of railroad lines.*
- Sec. 331. Authorizing action to provide facilities.*
- Sec. 332. Authorizing abandonment and discontinuance.*
- Sec. 333. Filing and procedure for applications to abandon or discontinue.*
- Sec. 334. Exceptions.*
- Sec. 335. Railroad development.*
- Sec. 336. Providing transportation, service, and rates.*
- Sec. 337. Use of terminal facilities.*
- Sec. 338. Switch connections and tracks.*
- Sec. 339. Criteria.*
- Sec. 340. Rerouting traffic on failure of rail carrier to serve public.*
- Sec. 341. Directed rail transportation.*
- Sec. 342. War emergencies; embargoes.*
- Sec. 343. Definitions for subchapter III.*
- Sec. 344. Depreciation charges.*
- Sec. 345. Records, etc.*
- Sec. 346. Reports by carriers, lessors, and associations.*
- Sec. 347. Accounting and cost reporting.*
- Sec. 348. Securities, obligations, and liabilities.*
- Sec. 349. Equipment trusts.*
- Sec. 350. Restrictions on officers and directors.*
- Sec. 351. Limitation on pooling and division of transportation or earnings.*
- Sec. 352. Consolidation, merger, and acquisition of control.*
- Sec. 353. General procedure and conditions of approval for consolidation, etc.*
- Sec. 354. Rail carrier procedure for consolidation, etc.*
- Sec. 355. Employee protective arrangements.*
- Sec. 356. Authority over noncarrier acquirers.*
- Sec. 357. Authority over intrastate transportation.*
- Sec. 358. Tax discrimination against rail transportation property.*
- Sec. 359. Withholding State and local income tax by certain carriers.*
- Sec. 360. General authority for enforcement, investigations, etc.*
- Sec. 361. Enforcement.*
- Sec. 362. Attorney General enforcement.*
- Sec. 363. Rights and remedies.*
- Sec. 364. Limitation on actions.*
- Sec. 365. Liability of common carriers under receipts and bills of lading.*

- Sec. 366. Liability when property is delivered in violation of routing instructions.*
- Sec. 367. General civil penalties.*
- Sec. 368. Civil penalty for accepting rebates from common carrier.*
- Sec. 369. Rate, discrimination, and tariff violations.*
- Sec. 370. Additional rate and discrimination violations.*
- Sec. 371. Interference with railroad car supply.*
- Sec. 372. Record keeping and reporting violations.*
- Sec. 373. Unlawful disclosure of information.*
- Sec. 374. Consolidation, merger, and acquisition of control.*
- Sec. 375. General criminal penalty.*
- Sec. 376. Financial assistance for State projects.*
- Sec. 377. Status of AMTRAK and applicable laws.*
- Sec. 378. Rail-shipper Transportation Advisory Council.*

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

SUBTITLE A—ADDITION OF PART B

- Sec. 401. Enactment of part B of subtitle IV, title 49, United States Code.*

SUBTITLE B—MOTOR CARRIER REGISTRATION AND INSURANCE REQUIREMENTS

- Sec. 451. Amendment of section 31102.*
- Sec. 452. Amendment of section 31138.*
- Sec. 453. Self-insurance rules.*
- Sec. 454. Safety fitness of owners and operators.*

TITLE V—AMENDMENTS TO OTHER LAWS

- Sec. 501. Federal Election Campaign Act of 1971.*
- Sec. 502. Agricultural Adjustment Act of 1938.*
- Sec. 503. Agricultural Marketing Act of 1946.*
- Sec. 504. Animal Welfare Act.*
- Sec. 505. Title 11, United States Code.*
- Sec. 506. Clayton Act.*
- Sec. 507. Consumer Credit Protection Act.*
- Sec. 508. National Trails System Act.*
- Sec. 509. Title 18, United States Code.*
- Sec. 510. Internal Revenue Code of 1986.*
- Sec. 511. Title 28, United States Code.*
- Sec. 512. Migrant and Seasonal Agricultural Worker Protection Act.*
- Sec. 513. Title 39, United States Code.*
- Sec. 514. Energy Policy Act of 1992.*
- Sec. 515. Railway Labor Act.*
- Sec. 516. Railroad Retirement Act of 1974.*
- Sec. 517. Railroad Unemployment Insurance Act.*
- Sec. 518. Emergency Rail Services Act of 1970.*
- Sec. 519. Regional Rail Reorganization Act of 1973.*
- Sec. 520. Railroad Revitalization and Regulatory Reform Act of 1976.*
- Sec. 521. Alaska Railroad Transfer Act of 1982.*
- Sec. 522. Merchant Marine Act, 1920.*
- Sec. 523. Service Contract Act of 1965.*
- Sec. 524. Federal Aviation Administration Authorization Act of 1994.*
- Sec. 525. Fiber drum packaging.*
- Sec. 526. Termination of certain maritime authority.*

Sec. 527. Certain commercial space launch activities.

Sec. 528. Use of highway funds for Amtrak-related projects and activities.

Sec. 529. Violation of grade-crossing laws and regulations.

TITLE VI—AUTHORIZATION

Sec. 601. Authorization of appropriations.

TITLE VII—MISCELLANEOUS PROVISION

Sec. 701. Pay of Members of Congress and the President during Government shut-downs.

TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective Date.

1 **TITLE I—TERMINATION OF THE**
 2 **INTERSTATE COMMERCE**
 3 **COMMISSION AND FEDERAL**
 4 **MARITIME COMMISSION; RE-**
 5 **PEAL OF OBSOLETE AND UN-**
 6 **NECESSARY PROVISIONS OF**
 7 **LAW**

8 **Subtitle A—Terminations**

9 **SEC. 101. AGENCY TERMINATIONS.**

10 (a) *INTERSTATE COMMERCE COMMISSION.*—Upon the
 11 transfer of functions under this Act to the Intermodal Sur-
 12 face Transportation Board and to the Secretary of Trans-
 13 portation, the Interstate Commerce Commission shall ter-
 14 minate.

15 (b) *FEDERAL MARITIME COMMISSION.*—Effective Jan-
 16 uary 1, 1997, the Federal Maritime Commission shall ter-
 17 minate.

1 **SEC. 102. SAVINGS PROVISIONS.**

2 (a) *IN GENERAL.*—All orders, determinations, rules,
3 regulations, licenses, and privileges which are in effect at
4 the time this Act takes effect, shall continue in effect accord-
5 ing to their terms, insofar as they involve regulatory func-
6 tions to be retained by this Act, until modified, terminated,
7 superseded, set aside, or revoked in accordance with law by
8 the Transportation Board (to the extent they involve the
9 functions transferred to the Intermodal Surface Transpor-
10 tation Board under this Act) or by the Secretary (to the
11 extent they involve functions transferred to the Secretary
12 under this Act), or by a court of competent jurisdiction,
13 or by operation of law.

14 (b) *PROCEEDINGS; APPLICATIONS.*—

15 (1) *The provisions of this Act shall not affect*
16 *any proceedings or any application for any license*
17 *pending before the Interstate Commerce Commission*
18 *at the time this Act takes effect, insofar as those func-*
19 *tions are retained and transferred by this Act; but*
20 *such proceedings and applications, to the extent that*
21 *they relate to functions so transferred, shall be contin-*
22 *ued. Orders shall be issued in such proceedings, ap-*
23 *peals shall be taken therefrom, and payments shall be*
24 *made pursuant to such orders, as if this Act had not*
25 *been enacted; and orders issued in any such proceed-*
26 *ings shall continue in effect until modified, termi-*

1 *nated, superseded, or revoked by a duly authorized of-*
2 *ficial, by a court of competent jurisdiction, or by op-*
3 *eration of law. Nothing in this subsection shall be*
4 *deemed to prohibit the discontinuance or modification*
5 *of any such proceeding under the same terms and*
6 *conditions and to the same extent that such proceed-*
7 *ing could have been discontinued or modified if this*
8 *Act had not been enacted.*

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

13 *(c) ACTIONS IN LAW COMMENCED BEFORE ENACT-*
14 *MENT.—Except as provided in subsection (e)—*

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

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

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

1 *against the Interstate Commerce Commission, or by or*
2 *against any officer thereof in his official capacity, shall*
3 *abate by reason of enactment of this Act.*

4 (e) *SUBSTITUTION OF TRANSPORTATION BOARD AS*
5 *PARTY.—Any suit by or against the Interstate Commerce*
6 *Commission begun before enactment of this Act shall be con-*
7 *tinued, insofar as it involves a function retained and trans-*
8 *ferred under this Act, with the Transportation Board (to*
9 *the extent the suit involves functions transferred to the*
10 *Transportation Board under this Act) or the Secretary (to*
11 *the extent the suit involves functions transferred to the Sec-*
12 *retary under this Act) substituted for the Commission.*

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

14 (a) *FUNCTIONS.—With respect to any functions trans-*
15 *ferred by this Act and exercised after the effective date of*
16 *the Interstate Commerce Commission Sunset Act of 1995,*
17 *reference in any other Federal law to the Interstate Com-*
18 *merce Commission shall be deemed to refer to—*

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

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

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

6 **SEC. 104. TRANSFER OF FUNCTIONS.**

7 (a) *TO TRANSPORTATION BOARD.*—Except as other-
8 wise provided in this Act and the amendments made by
9 this Act, those personnel, property, and records employed,
10 used, held, available, or to be made available in connection
11 with a function transferred to the Transportation Board
12 by this Act shall be transferred to the Transportation Board
13 for use in connection with the functions transferred, and
14 unexpended balances of appropriations, allocations, and
15 other funds of the Interstate Commerce Commission shall
16 also be transferred to the Transportation Board.

17 (b) *TO SECRETARY.*—Except as otherwise provided in
18 this Act and the amendments made by this Act, those per-
19 sonnel, property, and records employed, used, held, avail-
20 able, or to be made available in connection with a function
21 transferred to the Secretary by this Act shall be transferred
22 to the Secretary for use in connection with the functions
23 transferred.

24 (c) *SEPARATED EMPLOYEES.*—Notwithstanding all
25 other laws and regulations, the Department of Transpor-

1 *tation shall place all Interstate Commerce Commission em-*
2 *ployees separated from the Commission as a result of this*
3 *Act on the DOT reemployment priority list (competitive*
4 *service) or the priority employment list (excepted service).*

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

6 *Effective January 1, 1997, reference in any other Fed-*
7 *eral law to the Federal Maritime Commission shall be*
8 *deemed to refer to the Transportation Board.*

9 ***Subtitle B—Repeal of Obsolete, Etc.,***
10 ***Provisions***

11 **SEC. 121. REPEAL OF PROVISIONS.**

12 *The following provisions are repealed:*

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

16 *(2) Section 10322 (relating to Commission ac-*
17 *tion and appellate procedure in nonrail proceedings)*
18 *and the item relating thereto in the table of sections*
19 *of chapter 103 are repealed.*

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

24 *(4) Section 10327 (relating to Commission ac-*
25 *tion and appellate procedure in rail carrier proced-*

1 *ings) and the item relating thereto in the table of sec-*
2 *tions of chapter 103 are repealed.*

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

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

9 *(7)(A) Subchapter IV of chapter 103 (relating to*
10 *Rail Services Planning Office) and the items relating*
11 *thereto in the table of sections of such chapter are re-*
12 *pealed.*

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

15 *“(b) OFFER REQUIREMENTS.—A commuter authority*
16 *making an offer under subsection (a)(2) of this section shall*
17 *show that it has obtained access to all rail property nec-*
18 *essary to provide the additional commuter rail passenger*
19 *transportation.”.*

20 *(8) Subchapter V of chapter 103 (relating to Of-*
21 *fice of Rail Public Counsel) and the items relating*
22 *thereto in the table of sections of such chapter are re-*
23 *pealed.*

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

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

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

11 (12) *Section 10705a (relating to joint rate sur-*
12 *charges and cancellations) and the item relating*
13 *thereto in the table of sections of chapter 107 are re-*
14 *pealed.*

15 (13) *Section 10710 (relating to elimination of*
16 *discrimination against recyclable materials) and the*
17 *item relating thereto in the table of sections of chapter*
18 *107 are repealed.*

19 (14) *Section 10711 (relating to effect of certain*
20 *sections on rail rates and practices) and the item re-*
21 *lating thereto in the table of sections of chapter 107*
22 *are repealed.*

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

1 (16) *Subchapter II (relating to special cir-*
2 *cumstances) of chapter 107 (except for sections 10721*
3 *and 10730) and the items relating thereto in the table*
4 *of sections of chapter 107 (except for the subchapter*
5 *caption and the items relating to sections 10721 and*
6 *10730) are repealed.*

7 (17) *Section 10743 (relating to payment of*
8 *rates) and the item relating thereto in the table of sec-*
9 *tions of chapter 107 are repealed.*

10 (18) *Section 10746 (relating to transportation of*
11 *commodities manufactured or produced by a rail car-*
12 *rier) and the item relating thereto in the table of sec-*
13 *tions of chapter 107 are repealed.*

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

17 (20) *Section 10749 (relating to exchange of serv-*
18 *ices and limitation on use of common carriers by*
19 *household goods freight forwarders) and the item re-*
20 *lating thereto in the table of sections of chapter 107*
21 *are repealed.*

22 (21) *Section 10751 (relating to business enter-*
23 *tainment expenses) and the item relating thereto in*
24 *the table of sections of chapter 107 are repealed.*

1 (22) *Section 10764 (relating to arrangements be-*
2 *tween carriers) and the item relating thereto in the*
3 *table of sections of chapter 107 are repealed.*

4 (23) *Section 10765 (relating to water transpor-*
5 *tation under arrangements with certain other car-*
6 *riers) and the item relating thereto in the table of sec-*
7 *tions of chapter 107 are repealed.*

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

11 (25) *Section 10767 (relating to billing and col-*
12 *lecting practices) and the item relating thereto in the*
13 *table of sections of chapter 107 are repealed.*

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

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

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

23 (28) *Section 10909 (relating to discontinuing or*
24 *changing train or ferry transportation in one State)*

1 *and the item relating thereto in the table of sections*
2 *of chapter 109 are repealed.*

3 *(29) Subchapter II (relating to other carriers*
4 *and motor carrier brokers) of chapter 109 and the*
5 *items relating thereto in the table of sections of chap-*
6 *ter 109 are repealed.*

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

10 *(31) Section 11105 (relating to protective serv-*
11 *ices) and the item relating thereto in the table of sec-*
12 *tions of chapter 111 are repealed.*

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

16 *(33) Section 11107 (relating to leased motor ve-*
17 *hicles) and the item relating thereto in the table of*
18 *sections of chapter 111 are repealed.*

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

23 *(35) Section 11109 (relating to loading and un-*
24 *loading motor vehicles) and the item relating thereto*
25 *in the table of sections of chapter 111 are repealed.*

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

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

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

10 (39) *Section 11127 (relating to service of house-*
11 *hold freight forwarders) and the item relating thereto*
12 *in the table of sections of chapter 111 are repealed.*

13 (40) *Section 11142 (relating to uniform account-*
14 *ing system for motor carriers) and the item relating*
15 *thereto in the table of sections of chapter 111 are re-*
16 *pealed.*

17 (41) *Section 11161 (relating to railroad account-*
18 *ing principles board) and the item relating thereto in*
19 *the table of sections of chapter 111 are repealed.*

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

23 (43) *Section 11163 (relating to implementation*
24 *of cost accounting principles) and the item relating*

1 *thereto in the table of sections of chapter 111 are re-*
2 *pealed.*

3 *(44) Section 11164 (relating to certification of*
4 *rail carrier cost accounting systems) and the item re-*
5 *lating thereto in the table of sections of chapter 111*
6 *are repealed.*

7 *(45) Section 11167 (relating to report) and the*
8 *item relating thereto in the table of sections of chapter*
9 *111 are repealed.*

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

13 *(47) Section 11304 (relating to security interest*
14 *in certain motor vehicles) and the item relating there-*
15 *to in the table of sections of chapter 113 are repealed.*

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

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

24 *(50) Section 11345a (relating to motor carrier*
25 *procedures for consolidation, merger, and acquisition*

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

3 (51) Section 11346 (relating to expedited rail
4 carrier procedures for consolidation, merger, and ac-
5 quisition of control) and the item relating thereto in
6 the table of sections of chapter 113 are repealed.

7 (52) Section 11349 (relating to temporary oper-
8 ating approval for transactions involving motor and
9 water carriers) and the item relating thereto in the
10 table of sections of chapter 113 are repealed.

11 (53) Section 11350 (relating to responsibility of
12 the Secretary of Transportation in certain trans-
13 actions) and the item relating thereto in the table of
14 sections of chapter 113 are repealed.

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

18 (55) Section 11502 (relating to conferences and
19 joint hearings with State authorities) and the item re-
20 lating thereto in the table of sections of chapter 115
21 are repealed.

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

1 (57) *Section 11505 (relating to State action to*
2 *enjoin carriers from certain actions) and the item re-*
3 *lating thereto in the table of sections of chapter 115*
4 *are repealed.*

5 (58) *Section 11506 (relating to registration of*
6 *motor carriers by a State) and the item relating*
7 *thereto in the table of sections of chapter 115 are re-*
8 *pealed.*

9 (59) *Section 11507 (relating to prison-made*
10 *property governed by State law) and the item relating*
11 *thereto in the table of sections of chapter 115 are re-*
12 *pealed.*

13 (60) *Section 11704 (relating to action by a pri-*
14 *vate person to enjoin abandonment of service) and the*
15 *item relating thereto in the table of sections of chapter*
16 *117 are repealed.*

17 (61) *Section 11708 (relating to private enforce-*
18 *ment) and the item relating thereto in the table of sec-*
19 *tions of chapter 117 are repealed.*

20 (62) *Section 11709 (relating to liability for issu-*
21 *ance of securities by certain carriers) and the item re-*
22 *lating thereto in the table of sections of chapter 117*
23 *are repealed.*

24 (63) *Section 11711 (relating to dispute settle-*
25 *ment program for household goods carriers) and the*

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

3 (64) *Section 11712 (relating to tariff reconcili-*
4 *ation rules for motor common carriers of property)*
5 *and the item relating thereto in the table of sections*
6 *of chapter 117 are repealed.*

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

11 (66) *Section 11905 (relating to transportation of*
12 *passengers without charge) and the item relating*
13 *thereto in the table of sections of chapter 119 are re-*
14 *pealed.*

15 (67) *Section 11906 (relating to evasion of regula-*
16 *tion of motor carriers and brokers) and the item re-*
17 *lating thereto in the table of sections of chapter 119*
18 *are repealed.*

19 (68) *Section 11908 (relating to abandonment of*
20 *service by household goods freight forwarders) and the*
21 *item relating thereto in the table of sections of chapter*
22 *119 are repealed.*

23 (69) *Section 11911 (relating to issuance of secu-*
24 *rities, etc.) and the item relating thereto in the table*
25 *of sections of chapter 119 are repealed.*

1 “SUBCHAPTER I—ESTABLISHMENT

2 **“§ 10301. Establishment of Transportation Board**

3 “(a) *ESTABLISHMENT.*—*There is hereby established*
4 *within the Department of Transportation the Intermodal*
5 *Surface Transportation Board.*

6 “(b) *MEMBERSHIP.*—(1) *Members of the Transpor-*
7 *tation Board shall be appointed by the President, by and*
8 *with the advice and consent of the Senate. The Transpor-*
9 *tation Board shall consist of 3 members until January 1,*
10 *1997, not more than 2 of whom shall be members of the*
11 *same political party. Beginning on January 1, 1997, the*
12 *Transportation Board shall consist of 5 members, no more*
13 *than 3 of whom shall be members of the same political*
14 *party.*

15 “(2) *At any given time, at least 2 members of the*
16 *Transportation Board shall be individuals with profes-*
17 *sional standing and demonstrated knowledge in the fields*
18 *of rail or motor transportation or transportation regulation*
19 *or agriculture, and at least 1 member shall be an individual*
20 *with professional or business experience in the private sec-*
21 *tor. Effective January 1, 1997, at least 2 members shall*
22 *be individuals with professional standing and demonstrated*
23 *knowledge in the fields of maritime transportation or its*
24 *regulation.*

1 “(3) *The term of each member of the Transportation*
2 *Board shall be 5 years and shall begin when the term of*
3 *the predecessor of that member ends. An individual ap-*
4 *pointed to fill a vacancy occurring before the expiration of*
5 *the term for which the predecessor of that individual was*
6 *appointed, shall be appointed for the remainder of that*
7 *term. When the term of office of a member ends, the member*
8 *may continue to serve until a successor is appointed and*
9 *qualified, but for a period not to exceed 1 year. The Presi-*
10 *dent may remove a member for neglect of duty or malfea-*
11 *sance in office.*

12 “(4)(A) *On the effective date of this section, the mem-*
13 *bers of the Interstate Commerce Commission shall become*
14 *members of the Transportation Board, to serve for a period*
15 *of time equal to the remainder of the term for which they*
16 *were originally appointed to the Interstate Commerce Com-*
17 *mission.*

18 “(B) *Effective January 1, 1997, two Federal Maritime*
19 *Commission commissioners shall become members of the*
20 *Board to serve terms expiring December 31, 1997, and De-*
21 *cember 31, 2000. The two members shall be selected in order*
22 *of the expiration date of their Commission term, beginning*
23 *with the term having the latest expiration date; provided,*
24 *however, that the two members added under this subsection*
25 *may not be from the same political party. The longer Board*

1 term shall be filled by the member having the later Federal
2 Maritime Commission term expiration date. Effective Jan-
3 uary 1, 1997, the rights of any Federal Maritime Commis-
4 sion commissioner other than those designated under this
5 paragraph to remain in office is terminated.

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

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

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

23 “(c) CHAIRMAN.—(1) There shall be at the head of the
24 Transportation Board a Chairman, who shall be designated
25 by the President from among the members of the Transpor-

1 *tation Board. The Transportation Board shall be adminis-*
2 *tered under the supervision and direction of the Chairman.*
3 *The Chairman shall receive compensation at the rate pre-*
4 *scribed for level III of the Executive Schedule under section*
5 *5314 of title 5.*

6 “(2) *Subject to the general policies, decisions, findings,*
7 *and determinations of the Transportation Board the Chair-*
8 *man shall be responsible for administering the Transpor-*
9 *tation Board. The Chairman may delegate the powers*
10 *granted under this paragraph to an officer, employee, or*
11 *office of the Transportation Board. The Chairman shall—*

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

19 “(B) *appoint the heads of major offices with the*
20 *approval of the Transportation Board;*

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

24 “(D) *prepare requests for appropriations for the*
25 *Transportation Board and submit those requests to*

1 *the President and Congress with the prior approval*
2 *of the Transportation Board; and*

3 “(E) *supervise the expenditure of funds allocated*
4 *by the Transportation Board for major programs and*
5 *purposes.*

6 **“§ 10302. Functions**

7 “(a) *INTERSTATE COMMERCE COMMISSION FUNC-*
8 *TIONS.—Except as otherwise provided in the Interstate*
9 *Commerce Commission Sunset Act of 1995, or the amend-*
10 *ments made thereby, the Transportation Board shall per-*
11 *form all functions that, immediately before the effective date*
12 *of such Act, were functions of the Interstate Commerce Com-*
13 *mission or were performed by any officer or employee of*
14 *the Interstate Commerce Commission in the capacity as*
15 *such officer or employee.*

16 “(b) *FEDERAL MARITIME COMMISSION FUNCTIONS.—*
17 *On January 1, 1997, the Transportation Board shall per-*
18 *form all functions that, on that date, were functions of the*
19 *Federal Maritime Commission or were performed by any*
20 *officer or employee of the Federal Maritime Commission in*
21 *the capacity as such officer or employee.*

22 **“§ 10303. Administrative provisions**

23 “(a) *EXECUTIVE REORGANIZATION.—For purposes of*
24 *chapter 9 of title 5, United States Code, the Transportation*
25 *Board shall be deemed to be an independent regulatory*

1 *agency and an establishment of the United States Govern-*
2 *ment.*

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

6 “(c) *INDEPENDENCE.*—*In the performance of their*
7 *functions, the members, employees, and other personnel of*
8 *the Transportation Board shall not be responsible to or sub-*
9 *ject to the supervision or direction of any officer, employee,*
10 *or agent of any other part of the Department of Transpor-*
11 *tation.*

12 “(d) *REPRESENTATION BY ATTORNEYS.*—*Attorneys*
13 *designated by the Chairman of the Transportation Board*
14 *may appear for, and represent the Transportation Board*
15 *in, any civil action brought in connection with any func-*
16 *tion carried out by the Transportation Board pursuant to*
17 *this subtitle or as otherwise authorized by law.*

18 “(e) *ADMISSION TO PRACTICE.*—*Subject to section 500*
19 *of title 5, the Transportation Board may regulate the ad-*
20 *mission of individuals to practice before it and may impose*
21 *a reasonable admission fee.*

22 “(f) *BUDGET REQUESTS.*—*In each annual request for*
23 *appropriations by the President, the Secretary of Transpor-*
24 *tation shall identify the portion thereof intended for the*

1 *support of the Transportation Board and include a state-*
2 *ment by the Transportation Board—*

3 “(1) *showing the amount requested by the Trans-*
4 *portation Board in its budgetary presentation to the*
5 *Secretary and the Office of Management and Budget;*
6 *and*

7 “(2) *an assessment of the budgetary needs of the*
8 *Transportation Board.*

9 “(g) *DIRECT TRANSMITTAL TO CONGRESS.—The*
10 *Transportation Board shall transmit to Congress copies of*
11 *budget estimates, requests, and information (including per-*
12 *sonnel needs), legislative recommendations, prepared testi-*
13 *mony for congressional hearings, and comments on legisla-*
14 *tion at the same time they are sent to the Secretary of*
15 *Transportation. An officer of an agency may not impose*
16 *conditions on or impair communications by the Transpor-*
17 *tation Board with Congress, or a committee or member of*
18 *Congress, about the information.*

19 **“§ 10304. Annual report**

20 “*The Transportation Board shall annually transmit*
21 *to the Congress a report on its activities.*”.

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

“SUBCHAPTER I—ESTABLISHMENT

“Sec.

“10301. *Establishment of Transportation Board.*

“10302. *Functions.*

“10303. *Administrative provisions.*

“10304. *Annual report.*”.

1 **SEC. 202. ADMINISTRATIVE SUPPORT.**

2 *The Secretary of Transportation shall provide admin-*
3 *istrative support for the Transportation Board.*

4 **SEC. 203. REORGANIZATION.**

5 *The Chairman of the Transportation Board may allo-*
6 *cate or reallocate any function of the Transportation Board,*
7 *consistent with this title and subchapter I of chapter 103,*
8 *as amended by section 201 of this title, among the members*
9 *or employees of the Transportation Board, and may estab-*
10 *lish, consolidate, alter, or discontinue in the Transportation*
11 *Board any organizational entities that were entities of the*
12 *Interstate Commerce Commission or the Federal Maritime*
13 *Commission, as the Chairman considers necessary or ap-*
14 *propriate.*

15 **SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COM-**
16 **MISSION FUNCTIONS.**

17 *The Chairman of the Intermodal Surface Transpor-*
18 *tation Board and the Chairman of the Federal Maritime*
19 *Commission shall meet within 90 days of enactment of this*
20 *Act to develop a plan for the orderly transition of the func-*
21 *tions of the Federal Maritime Commission to the Transpor-*
22 *tation Board, including appropriate funding levels for the*

1 *operations associated with the functions of the Federal Mar-*
2 *itime Commission transferred to the Transportation Board,*
3 *and shall submit such a plan to the Director of the Office*
4 *of Management and Budget and to the Senate Committee*
5 *on Commerce, Science, and Transportation and the House*
6 *of Representatives Committee on Transportation and Infra-*
7 *structure not later than 6 months after the enactment of*
8 *this Act.*

9 ***Subtitle B—Administrative***

10 ***SEC. 211. POWERS.***

11 *Section 10321 is amended—*

12 *(1) by striking “Interstate Commerce Commis-*
13 *sion” in subsection (a) and inserting in lieu thereof*
14 *“Transportation Board”;*

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

17 *“(b) The Transportation Board may obtain from car-*
18 *riers providing transportation and service subject to this*
19 *part, and from persons controlling, controlled by, or under*
20 *common control with those carriers to the extent that the*
21 *business of that person is related to the management of the*
22 *business of those carriers, information the Transportation*
23 *Board decides is necessary to carry out this part.”;*

24 *(3) in subsection (c)(1), by striking “Commis-*
25 *sion, an individual Commissioner, an employee*

1 board, and an employee delegated to act under section
2 10305 of this title” and inserting in lieu thereof
3 “Transportation Board”;

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

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

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

10 **SEC. 212. COMMISSION ACTION.**

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

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

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

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

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

22 (5) by adding at the end the following new sub-
23 sections:

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

4 “(1) *reopen a proceeding;*

5 “(2) *grant rehearing, reargument, or reconsider-*
 6 *ation of an action of the Transportation Board; or*

7 “(3) *change an action of the Transportation*
 8 *Board.*

9 *An interested party may petition to reopen and reconsider*
 10 *an action of the Transportation Board under this sub-*
 11 *section under regulations of the Transportation Board.*

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

17 (b) *CONFORMING AMENDMENT.—The item relating to*
 18 *section 10324 in the table of sections of chapter 103 is*
 19 *amended by striking “Commission” and inserting in lieu*
 20 *thereof “Transportation Board”.*

21 **SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEED-**
 22 **INGS.**

23 (a) *AMENDMENTS.—Section 10329 is amended—*

24 (1) *by striking “**Commission**” in the section*
 25 *heading;*

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

4 (3) *striking “(1)” in subsection (a) and by strik-*
5 *ing paragraph (2) of subsection (a);*

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

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

8 (6) *striking “(1) in subsection (c) and by strik-*
9 *ing paragraphs (2) and (3);*

10 (7) *striking “notices of the Commission shall be*
11 *served as follows: (1) A” in subsection (c) and insert-*
12 *ing “a”;*

13 (8) *by striking “, express, sleeping car,” in sub-*
14 *section (c)(1);*

15 (9) *by striking “Secretary of the” in subsection*
16 *(c);*

17 (10) *in subsection (d)—*

18 (A) *by striking “, express, sleeping car,”;*

19 *and*

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

21 (11) *by striking subsection (e); and*

22 (12) *by striking “Commission” each place it ap-*
23 *pears and inserting in lieu thereof “Transportation*
24 *Board”.*

1 (b) *CONFORMING AMENDMENT.*—*The item relating to*
2 *section 10329 in the table of sections of chapter 103 is*
3 *amended by striking “Commission”.*

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

5 *Section 10330 is amended—*

6 (1) *by striking “Interstate Commerce Commis-*
7 *sion” in subsection (a) and inserting in lieu thereof*
8 *“Transportation Board”;*

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

11 (3) *by striking “Secretary of the Commission” in*
12 *subsection (a) and inserting in lieu thereof “Trans-*
13 *portation Board”;*

14 (4) *by striking subsection (b); and*

15 (5) *by redesignating subsection (c) as subsection*
16 *(b).*

17 ***SEC. 215. STUDY ON THE AUTHORITY TO COLLECT***
18 ***CHARGES.***

19 *In addition to other user fees that the Transportation*
20 *Board may impose, the Transportation Board shall com-*
21 *plete, within 6 months after the date of enactment of this*
22 *Act, a study on the authority necessary to assess and collect*
23 *fees and annual charges in any fiscal year in amounts*
24 *equal to all of the costs incurred by the Transportation*
25 *Board in that fiscal year.*

1 **SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULE-**
2 **MAKING.**

3 (a) *ADVANCE NOTICE.*—*The Federal Highway Admin-*
4 *istration shall issue an advance notice of proposed rule-*
5 *making dealing with a variety of fatigue-related issues (in-*
6 *cluding 8 hours of continuous sleep after 10 hours of driv-*
7 *ing, loading and unloading operations, automated and*
8 *tamper-proof recording devices, rest and recovery cycles, fa-*
9 *tigue and stress in longer combination vehicles, fitness for*
10 *duty, and other appropriate regulatory and enforcement*
11 *countermeasures for reducing fatigue-related incidents and*
12 *increasing driver alertness) not later than March 1, 1996.*

13 (b) *RULEMAKING.*—*The Federal Highway Administra-*
14 *tion shall issue a notice of proposed rulemaking dealing*
15 *with such issues within one year after the advance notice*
16 *described in subsection (a) is published, and shall issue a*
17 *final rule dealing with those issues within 2 years after that*
18 *date.*

19 **SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETI-**
20 **TION VEHICLES.**

21 *Section 31111(b)(1) is amended—*

22 (1) *by striking “or” at the end of subparagraph*
23 *(C);*

24 (2) *by striking the period at the end of subpara-*
25 *graph (D) and inserting a semicolon and “or”; and*

26 (3) *by adding at the end thereof the following:*

1 “(E) imposes a limitation of less than 46 feet on
2 the distance from the kingpin to the center of the rear
3 axle on trailers used exclusively or primarily in con-
4 nection with motorsports competition events.”.

5 **SEC. 218. DESTRUCTION OF MOTOR VEHICLES OR MOTOR**
6 **VEHICLE FACILITIES; WRECKING TRAINS.**

7 (a) *DESTRUCTION OF MOTOR VEHICLES OR MOTOR*
8 *VEHICLE FACILITIES.*—Section 33 of title 18, United States
9 Code, is amended by adding at the end the following new
10 *undesignated paragraph:*

11 “Whoever is convicted of a crime under this section
12 *involving a motor vehicle that, at the time the crime oc-*
13 *curred, carried high-level radioactive waste (as that term*
14 *is defined in section 2(12) of the Nuclear Waste Policy Act*
15 *of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as*
16 *that term is defined in section 2(23) of the Nuclear Waste*
17 *Policy Act of 1982 (42 U.S.C. 10101(23)), shall be impris-*
18 *oned for not less than 30 years.”.*

19 (b) *WRECKING TRAINS.*—Section 1992 of title 18,
20 *United States Code, is amended—*

21 (1) *by inserting after the fourth undesignated*
22 *paragraph the following:*

23 “Whoever is convicted of any such crime that involved
24 *a train that, at the time the crime occurred, carried high-*
25 *level radioactive waste (as that term is defined in section*

1 *2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C.*
 2 *10101(12)), or spent nuclear fuel (as that term is defined*
 3 *in section 2(23) of the Nuclear Waste Policy Act of 1982*
 4 *(42 U.S.C. 10101(23)), shall be imprisoned for not less than*
 5 *30 years.”.*

6 ***TITLE III—RAIL AND PIPELINE***
 7 ***TRANSPORTATION***

8 ***SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMIS-***
 9 ***SION, ETC.***

10 *Subtitle IV is amended—*

11 *(1) by striking “Interstate Commerce Commis-*
 12 *sion” each place it appears (including chapter and*
 13 *section headings) and inserting “Intermodal Surface*
 14 *Transportation Board”;*

15 *(2) by striking “Commission” each place it ap-*
 16 *pears in reference to the Interstate Commerce Com-*
 17 *mission (including chapter and section headings) and*
 18 *inserting “Transportation Board”;*

19 *(3) by striking “Commissioner” each place it ap-*
 20 *pears in reference to a member of the Interstate Com-*
 21 *merce Commission (including chapter and section*
 22 *headings) and inserting “Transportation Board mem-*
 23 *ber”;*

24 *(4) by striking “Commissioners” each place it*
 25 *appears in reference to members of the Interstate*

1 Commerce Commission (including chapter and section
2 headings) and inserting “Transportation Board mem-
3 bers”;

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

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

9 (7) by inserting before section 10101 the follow-
10 ing:

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

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

11 “PART A—RAIL AND PIPELINE CARRIERS”.

12 **SEC. 302. RAIL TRANSPORTATION POLICY.**

13 Section 10101a is amended by—

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

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

18 (3) adding at the end the following:

1 “(16) to provide for the expeditious handling
2 and resolution of all proceedings required or per-
3 mitted to be brought under the provisions of this sub-
4 title.”.

5 **SEC. 303. DEFINITIONS.**

6 Section 10102 is amended by—

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

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

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

13 “(2) ‘common carrier’ means a pipeline carrier
14 and a rail carrier;”;

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

17 (5) striking “, fare,” in paragraph (8) (as red-
18 esignated);

19 (6) striking “of passengers or property, or both,”
20 in paragraph (10)(A) (as redesignated) and inserting
21 “of property,”; and

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

24 **SEC. 304. GENERAL JURISDICTION.**

25 Section 10501 is amended by—

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

3 (2) inserting “of property” after “transportation” in subsection (a);

5 (3) striking “express carrier, sleeping car carrier,” in subsection (a)(1);

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

8 (5) by striking “or” at the end of subsection
9 (b)(1);

10 (6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and “or”;

12 (7) by adding at the end of subsection (b) the following:
13

14 “(3) transportation by a commuter authority, as
15 defined in section 24102 of this title, except for sections 11103, 11104, and 11503.”;

17 (8) striking “subchapter” in subsection (c) and
18 inserting “chapter” and by striking “(1) the transportation is deemed to be subject to the jurisdiction
19 of the Commission pursuant to section 11501(b)(4)(B)
20 of this title, or (2)” in subsection (c); and

22 (9) striking “(b)” after “section 11501” in subsection (d).
23

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

3 *Section 10503 is amended by—*

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

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

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

10 *Section 10505 is amended by—*

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

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

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

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

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

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

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

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

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

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

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

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

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

17 *Section 10701 is amended by—*

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

19 (2) *striking “subchapter I or III of chapter 105”*
20 *in subsection (b) as so redesignated and inserting*
21 *“chapter 105”;*

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

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

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

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

5 *Section 10701a is amended by—*

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

7 (2) *striking “lesser of the percentages described*
8 *in clauses (i) and (ii) of section 10707a(e)(2)(A) of*
9 *this title” in subparagraphs (2)(A)(i) and (2)(B)(i) of*
10 *subsection (b), and inserting “percentage described in*
11 *section 10707a(d)(1)”;* and

12 (3) *adding at the end of subsection (b) the follow-*
13 *ing:*

14 “(4)(A) *Within 1 year after the date of enact-*
15 *ment of the Interstate Commerce Commission Sunset*
16 *Act of 1995, the Transportation Board shall complete*
17 *the Interstate Commerce Commission non-coal rate*
18 *guidelines proceeding pending on the date of enact-*
19 *ment of the Interstate Commerce Commission Sunset*
20 *Act of 1995 to establish a simplified and expedited*
21 *method for determining the reasonableness of chal-*
22 *lenged rail rates in those cases in which a full stand-*
23 *alone cost presentation is too costly given the value of*
24 *the case.*

1 “(B) Within 6 months after that date of enact-
2 ment, the Transportation Board shall establish proce-
3 dures to ensure expeditious handling of challenges to
4 the reasonableness of railroad rates. The procedures
5 shall include appropriate measures for avoiding delay
6 in the discovery and evidentiary phases of such pro-
7 ceedings and for ensuring prompt disposition of mo-
8 tions and interlocutory administrative appeals.

9 “(C) In a proceeding to challenge the reasonable-
10 ness of a railroad rate, other than a proceeding aris-
11 ing under section 10707 of this title, the Transpor-
12 tation Board shall make its determination as to the
13 reasonableness of the challenged rate—

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

17 “(ii) within 3 months after the close of the
18 administrative record if the determination is
19 based upon the methodology adopted by the
20 Board pursuant to paragraph (4)(A).”.

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

23 Section 10702 is amended by—

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

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

5 **SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH**
6 **THROUGH ROUTES.**

7 Section 10703 is amended by—

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

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

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

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

18 Section 10704 is amended by—

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

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

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

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

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

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

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

8 (8) striking “on its own initiative or” in sub-
9 section (b) as redesignated; and

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

12 **SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES,**

13 **JOINT CLASSIFICATIONS, ETC.**

14 Section 10705 is amended by—

15 (1) striking “subchapter I, II (except a motor
16 common carrier of property), or III of”, and “(in-
17 cluding maximum or minimum rates or both)” in
18 paragraph (1) of subsection (a);

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

20 (3) striking subsections (b) and (h) and redesi-
21 gnating subsections (c) through (g) as subsections (b)
22 through (f);

23 (4) striking “or (b)” and “, water carrier, or
24 motor common carrier of property” in subsection (b),
25 as redesignated;

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

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

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

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

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

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

17 Section 10706 is amended by—

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

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

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

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

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

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

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

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

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

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

19 Section 10707 is amended by—

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

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

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

7 *(3) striking “or section 10761” in subsection*
8 *(d)(3), as redesignated; and*

9 *(4) striking “the Commission shall, by rule, es-*
10 *tablish standards and procedures permitting a rail*
11 *carrier to ” in subsection (d)(3), as redesignated, and*
12 *inserting “a rail carrier may”.*

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

14 *Section 10707a is amended by—*

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

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

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

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

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

4 (6) striking subsections (c), (d) and (e), redesignig-
5 nating subsections (f), (g), and (h) as subsections (d),
6 (e), and (f), and inserting after subsection (b) the fol-
7 lowing:

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

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

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

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

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

23 “(d)(1) A finding by the Board that a rate increase
24 exceeds the increase authorized under this section does not
25 establish a presumption that (A) the rail carrier proposing

1 *such rate increase has or does not have market dominance*
2 *over the transportation to which the rate applies, or (B)*
3 *the proposed rate exceeds or does not exceed a reasonable*
4 *maximum.*

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

14 “(B) *In determining whether to investigate or not to*
15 *investigate any proposed rate increase that results in a rev-*
16 *enue-variable cost percentage for the transportation to*
17 *which the rate applies that is equal to or greater than the*
18 *percentage described in subparagraph (A) of this paragraph*
19 *(without regard to whether such rate increase is authorized*
20 *under this section), the Transportation Board shall set forth*
21 *its reasons therefor, giving due consideration to the follow-*
22 *ing factors:*

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

1 *affecting a rate is proposed by a pipeline carrier subject*
2 *to the Transportation Board’s jurisdiction under chapter*
3 *105 of this part.”;*

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

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

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

9 *Section 10709 is amended by—*

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

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

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

20 *“(d) DETERMINATIONS OF RATE CHALLENGES.—*

21 *“(1) 180 PERCENT SAFE HARBOR.—In making a*
22 *determination under this section, the Transportation*
23 *Board shall find that the rail carrier establishing the*
24 *challenged rate does not have market dominance over*
25 *the transportation to which the rate applies if such*

1 *rail carrier proves that the rate charged results in a*
2 *revenue-variable cost percentage for such transpor-*
3 *tation that is less than 180 percent.*

4 “(2) *METHODOLOGY.*—*For purposes of determin-*
5 *ing the revenue-variable cost percentage for a particu-*
6 *lar transportation, variable costs shall be determined*
7 *by using the carrier’s costs, calculated using the Uni-*
8 *form Railroad Costing System (or an alternative cost*
9 *finding methodology adopted by the Transportation*
10 *Board in lieu thereof), with use of the current cost of*
11 *capital for calculating the return on investment, and*
12 *indexed quarterly to account for current wage and*
13 *price levels in the region in which the carrier oper-*
14 *ates.*

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

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

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

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

5 “(B) the proposed rate exceeds or does not
6 exceed a reasonable maximum.”.

7 **SEC. 318. CONTRACTS.**

8 Section 10713 is amended by—

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

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

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

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

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

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

9 (6) strike “only” in (d)(2)(A)(i);

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

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

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

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

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

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

4 **SEC. 319. GOVERNMENT TRAFFIC.**

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

6 *“A carrier providing transportation or service for the
7 United States Government may transport property or indi-
8 viduals for the United States Government without charge
9 or at a rate reduced from the applicable commercial rate.
10 Section 3709 of the Revised Statutes (41 U.S.C. 5) does not
11 apply when transportation for the United States Govern-
12 ment can be obtained from a carrier lawfully operating in
13 the area where the transportation would be provided.”.*

14 **SEC. 320. RATES AND LIABILITY BASED ON VALUE.**

15 *Section 10730 is amended by—*

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

17 (2) striking “(c)”;

18 (3) striking “rail carrier” and inserting “car-
19 rier”; and

20 (4) striking “subchapter I of”.

21 **SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY**
22 **COMMON CARRIERS.**

23 *Section 10741 is amended by—*

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

1 (2) *striking subsection (c) and inserting the fol-*
 2 *lowing:*

3 “(c) *A carrier providing transportation subject to the*
 4 *jurisdiction of the Transportation Board under chapter 105*
 5 *of this title may not subject a freight forwarder providing*
 6 *service subject to jurisdiction under part B of this subtitle*
 7 *to unreasonable discrimination whether or not the freight*
 8 *forwarder is controlled by that carrier.”;*

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

10 (4) *striking subsection (f)(1) and inserting the*
 11 *following: “(1) contracts under section 10713 of this*
 12 *title;”;*

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

16 (6) *striking “paragraphs (2), (3), and (4)” in*
 17 *subsection (f) and inserting “paragraph (2)”.*

18 **SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.**

19 *Section 10742 is amended by—*

20 (1) *striking “subchapter I or III of” and “pas-*
 21 *sengers and”; and*

22 (2) *striking “either of those subchapters.” and*
 23 *inserting “Part A or B of this subtitle.”.*

24 **SEC. 323. LIABILITY FOR PAYMENT OF RATES.**

25 *Section 10744 is amended by—*

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

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

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

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

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

11 **SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.**

12 Section 10745 is amended by striking “subchapter I
13 of”.

14 **SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FUR-**
15 **NISHED BY SHIPPER.**

16 Section 10747 is amended by—

17 (1) striking the first and second sentences and
18 inserting the following: “A carrier providing trans-
19 portation or service subject to the jurisdiction of the
20 Intermodal Surface Transportation Board under
21 chapter 105 of this title may establish a charge or al-
22 lowance for transportation or service for property
23 when the owner of the property, directly or indirectly,
24 furnishes a service related to or an instrumentality
25 used in the transportation or service. The Transpor-

1 *a privilege, allowing the use of a facility that affects the*
2 *value of that transportation, or another device.”.*

3 **SEC. 328. GENERAL ELIMINATION OF TARIFF FILING RE-**
4 **QUIREMENTS.**

5 *Section 10762 is amended to read as follows:*

6 **“§ 10762. General elimination of tariff filing require-**
7 **ments**

8 *“(a) Except as provided in section 10713 of this title,*
9 *a carrier providing transportation of agricultural products*
10 *including grain as defined in section 3 of the United States*
11 *Grain Standards Act (7 U.S.C. 75) and products thereof,*
12 *and fertilizer and components thereof, subject to the juris-*
13 *diction of the Intermodal Surface Transportation Board*
14 *under chapter 105 of this title shall publish, keep open and*
15 *retain for public inspection, and immediately furnish to an*
16 *entity requesting the same, tariffs containing its rates for*
17 *the transportation of such commodities and its classifica-*
18 *tions, rules, and practices related to such rates. Tariffs are*
19 *not required for any other commodity.*

20 *“(b)(1) Within 180 days after the enactment of the*
21 *Interstate Commerce Commission Sunset Act of 1995, the*
22 *Intermodal Surface Transportation Board shall prescribe*
23 *the form and manner of publishing, keeping open, furnish-*
24 *ing to the public, and retaining for public inspection tariffs*
25 *under this section. The Transportation Board may pre-*

1 *scribe specific charges to be identified in a tariff required*
2 *under this section to be published, kept open, furnished to*
3 *the public, or retained for public inspection, but those tar-*
4 *iffs must identify plainly—*

5 “(A) *the places between which property will be*
6 *transported;*

7 “(B) *privileges given and facilities allowed; and*

8 “(C) *any rules that change, affect, or determine*
9 *any part of the published rate.*

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

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

18 “(2) *A notice published under this subsection shall*
19 *plainly identify the proposed change or new or reduced rate*
20 *and indicate its proposed effective date. A proposed rate*
21 *change resulting in an increased rate or a new rate shall*
22 *not become effective for 20 days after the notice is published*
23 *and a proposed rate change resulting in a reduced rate shall*
24 *not become effective for 1 day after the notice is published,*
25 *except that a contract authorized under section 10713 of*

1 *this title shall become effective in accordance with the provi-*
 2 *sions of such section.*

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

8 “(e) *Acting in response to a complaint or on its own*
 9 *motion, the Transportation Board may reject a tariff pub-*
 10 *lished under this section if that tariff violates this section*
 11 *or a regulation of the Transportation Board carrying out*
 12 *this section.*”.

13 **SEC. 329. DESIGNATION OF CERTAIN ROUTES.**

14 *Section 10763 is amended by striking “subchapter I*
 15 *of” in subsection (a)(1).*

16 **SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION**
 17 **OF RAILROAD LINES.**

18 *Section 10901 is amended by—*

19 (1) *striking “subchapter I of” in subsection (a);*
 20 *and*

21 (2) *adding at the end the following new sub-*
 22 *section:*

23 “(f) **SPECIAL RULE FOR NON-CLASS I TRANS-**
 24 **ACTIONS.**—*For all transactions involving Class II freight*
 25 *rail carriers, Class III freight rail carriers and non-car-*

1 riers, that are not owned or controlled by a Class I rail
 2 carrier and that are not a commuter, switching or terminal
 3 railroad, which propose to acquire, construct, operate, or
 4 provide transportation over a railroad line pursuant to this
 5 section, the Transportation Board may, consistent with the
 6 public interest, require an arrangement for the protection
 7 of the interest of railroad employees who are adversely af-
 8 fected by the transaction not to exceed one year's salary per
 9 adversely affected employee and protection no less than re-
 10 quired by sections 2 through 5 of the Worker Adjustment
 11 and Retraining Act, unless the adversely affected employees
 12 or their representatives and the parties to the transaction
 13 agree otherwise.”.

14 **SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.**

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

17 **SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINU-**
 18 **ANCE.**

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

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

23 Section 10904 is amended by—

- 24 (1) striking “subchapter I of” in subsection
 25 (a)(2);

- 1 (2) *striking subsection (d)(2);*
2 (3) *striking “(1)” in subsection (d); and*
3 (4) *striking “the application was approved by*
4 *the Secretary of Transportation as part of a plan or*
5 *proposal under section 333(a)–(d) of this title, or” in*
6 *subsection (e)(3).*

7 **SEC. 334. EXCEPTIONS.**

8 *Section 10907 is amended by striking “subchapter I*
9 *of” in subsection (a).*

10 **SEC. 335. RAILROAD DEVELOPMENT.**

11 *Section 10910 is amended by—*

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

14 (2) *“(2) ‘railroad line’ means any line of railroad.”;*

15 (2) *striking “the effective date of the Staggers*
16 *Rail Act of 1980” in subsection (g)(2), and inserting*
17 *“October 1, 1980,”; and*

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

20 (3) *“(k) The Transportation Board shall maintain such*
21 *regulations and procedures as may be necessary to carry*
22 *out the provisions of this section.”.*

23 **SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND**
24 **RATES.**

25 *Section 11101 is amended to read as follows:*

1 **“§ 11101. Providing transportation, service, and rates**

2 “(a) A carrier providing transportation or service sub-
3 ject to the jurisdiction of the Intermodal Surface Transpor-
4 tation Board under chapter 105 of this title shall provide
5 the transportation or service on reasonable request.

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

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

23 “(d) A rail carrier may not increase any common car-
24 rier rates, or change any common carrier service terms, pro-
25 vided pursuant to subsection (b) unless at least 20 days’
26 written or electronic notice is first provided to the person

1 *that, within the previous 12 months, made a written or elec-*
2 *tronic request for the issue rate or service. Any such in-*
3 *creases or changes shall be subject to provisions of this sub-*
4 *title.”.*

5 **SEC. 337. USE OF TERMINAL FACILITIES.**

6 *Section 11103 is amended by striking “subchapter I*
7 *of” in subsection (a).*

8 **SEC. 338. SWITCH CONNECTIONS AND TRACKS.**

9 *Section 11104 is amended by striking “subchapter I*
10 *of” in subsection (a).*

11 **SEC. 339. CRITERIA.**

12 *Section 11121 is amended by—*

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

15 *(2) striking subsection (a)(2) and inserting the*
16 *following:*

17 *“(2) The Transportation Board may require a*
18 *rail carrier to file its car service rules with the Trans-*
19 *portation Board.”;*

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

21 *(4) adding at the end the following:*

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

1 **SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CAR-**
 2 **RIER TO SERVE PUBLIC.**

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

5 **SEC. 341. DIRECTED RAIL TRANSPORTATION.**

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

8 **SEC. 342. WAR EMERGENCIES; EMBARGOES.**

9 *Section 11128 is amended by—*

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

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

14 **SEC. 343. DEFINITIONS FOR SUBCHAPTER III.**

15 *Section 11141 is amended to read as follows:*

16 **“§ 11141. Definitions**

17 *“In this subchapter—*

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

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

25 (3) *‘association’ means an organization main-*
 26 *tained by or in the interest of a group of carriers pro-*

- 1 (1) striking “brokers,” in subsection (a)(1);
2 (2) striking “or express,” in subsection (a)(2);
3 (3) striking “broker,” in the first sentence of sub-
4 section (b)(1);
5 (4) striking the second sentence of subsection
6 (b)(1); and
7 (5) striking subsection (c).

8 **SEC. 347. ACCOUNTING AND COST REPORTING.**

9 Section 11166 is amended by—

- 10 (1) striking “subchapter I of” in the first sen-
11 tence of subsection (a);
12 (2) striking the third sentence of subsection (a);
13 and
14 (3) striking “the cost accounting principles es-
15 tablished by the Transportation Board or under gen-
16 erally accepted accounting principles or the require-
17 ments of the Securities and Exchange Commission”
18 in subsection (b) and inserting “the appropriate cost
19 accounting principles”.

20 **SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.**

21 Section 11301(a)(1) is amended by—

- 22 (1) striking “or sleeping car”; and
23 (2) striking “subchapter I of”.

1 **SEC. 349. EQUIPMENT TRUSTS.**

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

4 *“(c) The Transportation Board shall collect, maintain*
5 *and keep open for public inspection a railway equipment*
6 *register consistent with the manner and format maintained*
7 *at the time of enactment of the Interstate Commerce Com-*
8 *mission Sunset Act of 1995.*

9 *“(d) A mortgage, lease, equipment trust agreement,*
10 *conditional sales agreement, or other instrument evidencing*
11 *the mortgage, lease, conditional sale, or bailment of or secu-*
12 *rity interest in railroad cars, locomotives, or other rolling*
13 *stock, or accessories used on such railroad cars, locomotives,*
14 *or other rolling stock (including superstructures and racks),*
15 *or any assignment thereof, which—*

16 *“(1) is duly constituted under the laws of a*
17 *country other than the United States; and*

18 *“(2) relates to property that bears the reporting*
19 *marks and identification numbers of any person dom-*
20 *iciled in or corporation organized under the laws of*
21 *such country,*

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

24 *“(e) Interests with respect to which documents are filed*
25 *or recognized under this section are deemed perfected in all*
26 *jurisdictions, and shall be governed by applicable State or*

1 *foreign law in all matters not specifically governed by this*
2 *section.”.*

3 **SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.**

4 *Section 11322 is amended by—*

5 *(1) redesignating subsections (a) and (b) as sub-*
6 *sections (b) and (c), respectively;*

7 *(2) inserting before subsection (b), as redesign-*
8 *ated, the following:*

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

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

19 *(4) striking “subsection (a)” and inserting “sub-*
20 *section (b)” in subsection (c), as redesignated.*

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

23 *Section 11342 is amended by—*

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

1 (2) striking “Except as provided in subsection
2 (b) for agreements or combinations between or among
3 motor common carriers of property, the” in the sec-
4 ond sentence of subsection (a) and inserting “The”;
5 and

6 (3) striking subsections (b) and (d) and redesignig-
7 nating subsections (c) and (e) as subsections (b) and
8 (c), respectively.

9 **SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF**
10 **CONTROL.**

11 Section 11343 is amended by—

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

14 (2) striking “subchapter I (except a pipeline car-
15 rier), II, or III of” in subsection (a);

16 (3) striking paragraph (1) of subsection (d) and
17 striking “(2)” in paragraph (2); and

18 (4) striking subsection (e).

19 **SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF AP-**
20 **PROVAL FOR CONSOLIDATION, ETC.**

21 Section 11344 is amended by—

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

23 (2) striking “subchapter I of that chapter” in the
24 last sentence of subsection (a) and inserting “chapter
25 105”;

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

3 (4) striking “transaction.” at the end of the sec-
4 ond sentence of subsection (c) and inserting “trans-
5 action, including the divestiture of parallel tracks or
6 requiring the granting of trackage rights and access
7 to other facilities. Any trackage rights and related
8 conditions imposed to alleviate anticompetitive effects
9 of the transaction shall provide for operating terms
10 and compensation levels to ensure that such effects are
11 alleviated.”;

12 (5) striking the fourth sentence of subsection (c);

13 (6) striking “When a rail carrier is involved in
14 the transaction, the” in the last sentence of subsection
15 (c) and inserting “The”;

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

18 (8) striking subsection (e).

19 **SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION,**
20 **ETC.**

21 Section 11345 is amended by—

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

24 (2) inserting “, including comments by the Sec-
25 retary of Transportation and the Attorney General,”

1 *before “may be filed” in the first sentence of sub-*
2 *section (c)(1);*

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

5 (4) *inserting “, including comments by the Sec-*
6 *retary of Transportation and the Attorney General,”*
7 *before “may be filed” in the first sentence of sub-*
8 *section (d)(1); and*

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

11 **SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

12 *Section 11347 is amended by striking “or section*
13 *11346” in the first sentence.*

14 **SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.**

15 *Section 11348(a) is amended by striking all after the*
16 *colon and inserting “sections 504(f) and 10764, subchapter*
17 *III of chapter 111, and sections 11301, 11901(e), and*
18 *11909.”.*

19 **SEC. 357. AUTHORITY OVER INTRASTATE TRANSPOR-**
20 **TATION.**

21 *Section 11501 is amended by—*

22 (1) *striking subsections (a), (e), (g) and (h) and*
23 *redesignating subsections (b), (c), (d), and (f) as sub-*
24 *sections (a), (b), (c) and (d), respectively;*

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

3 (3) striking “(1)” and “subchapter I of” in sub-
4 section (a), as redesignated;

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

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

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

11 (7) striking the first sentence of subsection (d), as
12 redesignated, and inserting the following: “The Trans-
13 portation Board may take action under this section
14 only after a full hearing.”.

15 **SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPOR-**
16 **TATION PROPERTY.**

17 Section 11503 is amended by—

18 (1) striking “subchapter I of” in subsection
19 (a)(3); and

20 (2) striking “subchapter I of” in subsection
21 (b)(4).

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

24 Section 11504 is amended by—

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

1 (2) striking subsections (b) and (c) and redesignig-
2 nating subsection (d) as subsection (b); and

3 (3) striking “, motor, and motor private” and
4 “subsection (a) or (b) of” in subsection (b), as redesignig-
5 nated.

6 **SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, IN-**
7 **VESTIGATIONS, ETC.**

8 Section 11701 is amended by—

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

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

12 (3) striking the first 2 sentences of subsection (b)
13 and inserting the following: “A person, including a
14 governmental authority, may file with the Transpor-
15 tation Board a complaint about a violation of this
16 part by a carrier providing transportation or service
17 subject to the jurisdiction of the Transportation
18 Board under this part. The complaint must state the
19 facts that are the subject of the violation.”; and

20 (4) striking “subchapter I of” in the last sentence
21 of subsection (b).

22 **SEC. 361. ENFORCEMENT.**

23 Section 11702 is amended by—

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

1 (2) striking paragraphs (4) through (6) of sub-
2 section (a);

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

4 (4) striking paragraph (2) and inserting the fol-
5 lowing:

6 “(2) to enforce subchapter III of chapter 113 of
7 this title and to compel compliance with an order of
8 the Transportation Board under that subchapter;
9 and”

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

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

13 (7) striking subsection (b).

14 **SEC. 362. ATTORNEY GENERAL ENFORCEMENT.**

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

17 **SEC. 363. RIGHTS AND REMEDIES.**

18 Section 11705 is amended by—

19 (1) striking “or a freight forwarder” in sub-
20 section (a);

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

23 “(b)(1) A carrier providing transportation or service
24 subject to the jurisdiction of the Transportation Board
25 under chapter 105 of this title is liable to a person for

1 *amounts charged that exceed the applicable rate for the*
2 *transportation or service.”;*

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

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

6 (5) *striking “subchapter I or III of” in the first*
7 *sentence of subsection (c)(1);*

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

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

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

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

18 **SEC. 364. LIMITATION ON ACTIONS.**

19 *Section 11706 is amended by—*

20 (1) *striking subsection (a) and inserting the fol-*
21 *lowing:*

22 *“(a) A carrier providing transportation or service sub-*
23 *ject to the jurisdiction of the Intermodal Surface Transpor-*
24 *tation Board under chapter 105 of this title must begin a*
25 *civil action to recover charges for the transportation or serv-*

1 *ice provided by the carrier within 3 years after the claim*
 2 *accrues.”;*

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

7 (3) *striking “subchapter I or III of” in the last*
 8 *sentence of subsection (b);*

9 (4) *striking “(1)” in subsection (c);*

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

11 (6) *striking “(c)(1)” in the second sentence of*
 12 *subsection (d) and inserting “(c)”.*

13 **SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RE-**
 14 **CEIPTS AND BILLS OF LADING.**

15 (a) *Section 11707 is amended by—*

16 (1) *striking “(a)(1)” in subsection (a) and in-*
 17 *serting “(a)”;*

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

19 (3) *striking “subchapter I, II, or IV of” and*
 20 *“and a freight forwarder” in the first sentence of sub-*
 21 *section (a), as amended;*

22 (4) *striking “or freight forwarder” in the second*
 23 *sentence of subsection (a), as amended;*

24 (5) *striking “subchapter I, II, or IV” in the sec-*
 25 *ond sentence of subsection (a), as amended, and in-*

1 serting “chapter 105 or subject to jurisdiction under
2 part B of this subtitle”;

3 (6) striking “, except in the case of a freight for-
4 warder,” in the third sentence of subsection (a), as
5 amended;

6 (7) striking “diverted under a tariff filed under
7 subchapter IV of chapter 107 of this title.” in the
8 third sentence of subsection (a), as amended, and in-
9 serting “diverted.”;

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

12 (9) striking “and freight forwarder” in sub-
13 section (c)(1), and striking “filed with the Commis-
14 sion”;

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

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

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

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

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

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

3 *Section 11710 is amended by striking “subchapter I*
4 *of” in subsection (a)(1).*

5 **SEC. 367. GENERAL CIVIL PENALTIES.**

6 *Section 11901 is amended by:*

7 *(1) striking “subchapter I of” in subsection (a)*
8 *and subsection (b);*

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

13 *(3) striking “11127” in subsection (d), as redesi-*
14 *gnated;*

15 *(4) striking “(1)” in subsection (d), as redesi-*
16 *gnated, and striking paragraph (2) of that subsection;*

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

19 *(6) striking “(1)” in subsection (f), as redesi-*
20 *gnated, and striking paragraph (2) of that subsection;*
21 *and*

22 *(7) striking “subsections (a)-(f) of” in subsection*
23 *(f), as redesignated.*

1 **SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM**
2 **COMMON CARRIER.**

3 *Section 11902 is amended by striking “contained in*
4 *a tariff filed with the Commission under subchapter IV of*
5 *chapter 107 of this title”.*

6 **SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLA-**
7 **TIONS.**

8 *Section 11903 is amended by striking “under chapter*
9 *107 of this title” in subsection (a).*

10 **SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLA-**
11 **TIONS.**

12 *Section 11904 is amended by—*

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

14 *(2) striking “(a)(1)” in subsection (a) and in-*
15 *serting “(a)”;*

16 *(3) redesignating paragraphs (2) and (3) of sub-*
17 *section (a) as subsections (b) and (c), respectively;*

18 *(4) striking “(A)” and “(B)” in subsection (b),*
19 *as redesignated, and inserting “(1)” and “(2)”, re-*
20 *spectively;*

21 *(5) striking “subchapter I of” in subsections (b)*
22 *and (c), as redesignated; and*

23 *(6) striking “under chapter 107 of this title” in*
24 *subsection (b), as redesignated.*

1 **SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.**

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

4 **SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.**

5 Section 11909 is amended by—

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

7 (2) striking “subchapter I of” in subsection (a);

8 and

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

10 **SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.**

11 Section 11910 is amended by—

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

14 (2) striking “(a)(1)” in subsection (a) and in-
15 serting “(a)”;

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

18 (4) striking “subchapter I of” in subsections (a)
19 and (d); and

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

21 **SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF**
22 **CONTROL.**

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

24 **SEC. 375. GENERAL CRIMINAL PENALTY.**

25 Section 11914 is amended by—

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

1 of 1995. The members of the Council shall be appointed as
2 follows:

3 “(1) The members of the Council shall be ap-
4 pointed from among citizens of the United States who
5 are not regular full-time employees of the United
6 States and shall be selected for appointment so as to
7 provide as nearly as practicable a broad representa-
8 tion of the various segments of the rail and rail ship-
9 per industry.

10 “(2) Nine of the members shall be appointed
11 from senior executive officers of organizations engaged
12 in the railroad and rail shipping industry, which 9
13 members shall be the voting members of the Council.
14 Council action and Council positions shall be deter-
15 mined by a majority vote of the members or by a ma-
16 jority vote of a quorum thereof. A majority of such
17 voting members shall constitute a quorum. Of such 9
18 voting members—

19 “(A) at least 4 shall be representative of
20 small shippers (as determined by the Chairman);
21 and

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

24 “(3) The remaining 6 members of the Council
25 shall serve in a non-voting advisory capacity only,

1 *but shall be entitled to participate in Council delib-*
2 *erations. Of the remaining members—*

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

4 *“(B) 3 shall be from large shipper organiza-*
5 *tions (as determined by the Chairman).*

6 *“(4) The Secretary of Transportation and the*
7 *members of the Transportation Board shall serve as*
8 *ex officio members of the Council. The Council shall*
9 *not be subject to the Federal Advisory Committee Act.*
10 *A list of the members appointed to the Council shall*
11 *be forwarded to the Chairmen and ranking members*
12 *of the Senate Committee on Commerce, Science, and*
13 *Transportation and the House Committee on Trans-*
14 *portation and Infrastructure.*

15 *“(5) Each ex officio member of the Council may*
16 *designate an alternate, who shall serve as a member*
17 *of the Council whenever the ex officio member is un-*
18 *able to attend a meeting of the Council. Any such des-*
19 *ignated alternate shall be selected from individuals*
20 *who exercise significant decision-making authority in*
21 *the Federal agency involved.*

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

1 “(1) 5 members shall be appointed for terms of
2 1 year, and

3 “(2) 5 members shall be appointed for terms of
4 2 years,

5 as designated by the Chairman at the time of appointment.

6 Any member appointed to fill a vacancy occurring before
7 the expiration of the term for which the member’s prede-
8 cessor was appointed shall be appointed only for the re-
9 mainder of such term. A member may serve after the expira-
10 tion of his term until his successor has taken office. Vacan-
11 cies on the Council shall be filled in the same manner in
12 which the original appointments were made. No member
13 of the Council shall be eligible to serve in excess of two con-
14 secutive terms.

15 “(c) *ELECTION AND DUTIES OF OFFICERS.*—The
16 Council Chairman and Vice Chairman and other appro-
17 priate officers of the Council shall be elected by and from
18 the voting members of the Council. The Council Chairman
19 shall serve as the Council’s executive officer and shall direct
20 the administration of the Council, assign officer and com-
21 mittee duties, and shall be responsible for issuing and com-
22 municating the reports, policy positions and statements of
23 the Council. In the event that the Council Chairman is un-
24 able to serve, the Vice Chairman shall act as Council Chair-
25 man.

1 “(d) *EXPENSES.*—*The members of the Council shall re-*
2 *ceive no compensation for their services as such, but upon*
3 *request by the Council Chairman, based on a showing of*
4 *significant economic burden, the Secretary of Transpor-*
5 *tation or the Chairman may provide reasonable and nec-*
6 *essary travel expenses for such individual Council members*
7 *from Department or Transportation Board funding sources*
8 *in order to foster balanced representation on the Council.*
9 *Upon request by the Council Chairman, the Secretary or*
10 *Chairman may but is not required to pay the reasonable*
11 *and necessary expenses incurred by the Council in connec-*
12 *tion with the coordination of Council activities, announce-*
13 *ment and reporting of meetings, and preparation of such*
14 *Council documents as are required or permitted by this Act.*
15 *However, prior to making any funding requests the Council*
16 *Chairman shall undertake best efforts to fund such activities*
17 *privately unless he or she reasonably feels such private*
18 *funding would create irreconcilable conflicts or the appear-*
19 *ance thereof, or is otherwise impractical. The Council*
20 *Chairman shall not request funding from any federal agen-*
21 *cy unless he or she provides written justification as to why*
22 *private funding would create such conflict or appearance,*
23 *or is otherwise impractical. To enable the Council to carry*
24 *out its functions—*

1 “(1) the Council Chairman may request directly
2 from any Federal department or agency such person-
3 nel, information, services, or facilities, on a com-
4 pensated or uncompensated basis, as he or she deter-
5 mines necessary to carry out the functions of the
6 Council;

7 “(2) each Federal department or agency may, in
8 their discretion, furnish the Council with such infor-
9 mation, services, and facilities as the Council Chair-
10 man may request to the extent permitted by law and
11 within the limits of available funds; and

12 “(3) Federal agencies and departments may, in
13 their discretion, detail to temporary duty with the
14 Council, such personnel as the Council Chairman
15 may request for carrying out the functions of the
16 Council, each such detail to be without loss of senior-
17 ity, pay, or other employee status.

18 “(e) MEETINGS.—The Council shall meet at least semi-
19 annually and shall hold such other meetings as deemed pru-
20 dent by and at the call of the Council Chairman. Appro-
21 priate federal facilities, where available, may be used for
22 such meetings. Whenever the Council, or a committee of the
23 Council, considers matters that affect the jurisdictional in-
24 terests of Federal agencies that are not represented on the
25 Council, the Council Chairman may invite the heads of

1 *such agencies, or their alternates, to participate in the de-*
2 *liberations of the Council.*

3 “(f) *FUNCTIONS AND DUTIES; ANNUAL REPORT.—The*
4 *Council shall advise the Secretary, Chairman, and relevant*
5 *Congressional transportation policy oversight committees*
6 *with respect to rail transportation policy issues it deems*
7 *significant, with particular attention to issues of impor-*
8 *tance to small shippers and small railroads, including car*
9 *supply, rates, competition, and effective procedures for ad-*
10 *dressing legitimate shipper and other claims. To the extent*
11 *the Council addresses specific grain car issues, it shall co-*
12 *ordinate such activities with the Grain Car Council. The*
13 *Secretary and Chairman shall work in cooperation with the*
14 *Council to provide research, technical and other reasonable*
15 *support in developing any documents provided for hereby.*
16 *The Council shall endeavor to develop within the private*
17 *sector mechanisms to prevent or identify and effectively ad-*
18 *dress obstacles to the most effective and efficient transpor-*
19 *tation system practicable. The Council shall prepare an an-*
20 *nual report concerning its activities and the results of*
21 *Council efforts to resolve industry issues within the Council*
22 *structure in lieu of seeking regulatory or legislative relief,*
23 *and propose whatever regulatory or legislative relief it*
24 *deems appropriate in the event such efforts are unsuccessful.*
25 *The Council shall include therein such recommendations as*

1 *it deems appropriate with respect to the performance of the*
2 *Secretary and Chairman under this chapter, and with re-*
3 *spect to the operation and effectiveness of meetings and in-*
4 *dustry developments relating to the Council's efforts, and*
5 *such other information as it deems appropriate. Such an-*
6 *ual reports shall be reviewed by the Secretary and Chair-*
7 *man, and shall include the Secretary's and Chairman's*
8 *views or comments relating to the accuracy of information*
9 *therein, Council efforts and reasonableness of Council posi-*
10 *tions and actions and any other aspects of the Council's*
11 *work as they may deem appropriate. The Council may pre-*
12 *pare other reports or develop policy statements as the Coun-*
13 *cil deems appropriate. Each annual report shall cover a*
14 *fiscal year and shall be submitted to the Secretary and*
15 *Chairman on or before the thirty-first day of December fol-*
16 *lowing the close of the fiscal year. Other such reports and*
17 *statements may be communicated as the Council deems ap-*
18 *propriate."*

19 (b) *CONFORMING AMENDMENT.—The table of sub-*
20 *chapters for chapter 103 is amended by adding at the end*
21 *thereof the following:*

"SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION ADVISORY
COUNCIL

"10391. Rail and shipper advisory council."

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

5 **Subtitle A—Addition of Part B**

6 **SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49,**

7 **UNITED STATES CODE.**

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

10 *“PART B—MOTOR CARRIERS, WATER CARRIERS,*

11 *BROKERS, AND FREIGHT FORWARDERS*

12 **“CHAPTER 131—GENERAL PROVISIONS**

13 **“§ 13101. Transportation policy**

14 *“(a) To ensure the development, coordination, and*
 15 *preservation of a transportation system that meets the*
 16 *transportation needs of the United States, including the*
 17 *United States Postal Service and national defense, it is the*
 18 *policy of the United States Government to provide for the*
 19 *impartial regulation of the modes of transportation , and—*

20 *“(1) in regulating those modes—*

21 *“(A) to recognize and preserve the inherent*
 22 *advantage of each mode of transportation;*

23 *“(B) to promote safe, adequate, economical,*
 24 *and efficient transportation;*

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

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

8 “(E) to cooperate with each State and the
9 officials of each State on transportation matters;
10 and

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

13 “(2) in regulating transportation by motor car-
14 rier, to promote competitive and efficient transpor-
15 tation services in order to (A) encourage fair competi-
16 tion, and reasonable rates for transportation by motor
17 carriers of property; (B) promote Federal regulatory
18 efficiency in the motor carrier transportation system
19 and to require fair and expeditious regulatory deci-
20 sions when regulation is required; (C) meet the needs
21 of shippers, receivers, passengers, and consumers; (D)
22 allow a variety of quality and price options to meet
23 changing market demands and the diverse require-
24 ments of the shipping and traveling public; (E) allow
25 the most productive use of equipment and energy re-

1 sources; (F) enable efficient and well-managed car-
2 riers to earn adequate profits, attract capital, and
3 maintain fair wages and working conditions; (G)
4 provide and maintain service to small communities
5 and small shippers and intrastate bus services; (H)
6 provide and maintain commuter bus operations; (I)
7 improve and maintain a sound, safe, and competitive
8 privately owned motor carrier system; (J) promote
9 greater participation by minorities in the motor car-
10 rier system; and (K) promote intermodal transpor-
11 tation;

12 “(3) in regulating transportation by motor car-
13 rier of passengers (A) to cooperate with the States on
14 transportation matters for the purpose of encouraging
15 the States to exercise intrastate regulatory jurisdic-
16 tion in accordance with the objectives of this part; (B)
17 to provide Federal procedures which ensure that
18 intrastate regulation is exercised in accordance with
19 this part; and (C) to ensure that Federal reform ini-
20 tiatives enacted by section 31138 of this title and the
21 Bus Regulatory Reform Act of 1995 of 1982 are not
22 nullified by State regulatory actions; and

23 “(4) in regulating transportation by water car-
24 rier, to encourage and promote service and price com-
25 petition in the non-contiguous domestic trade.

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

3 **“§ 13102. Definitions**

4 *“In this part—*

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

11 “(2) *‘carrier’ means a motor carrier, a water*
12 *carrier, and a freight forwarder, and, for purposes of*
13 *sections 13902, 13905, and 13906, the term includes*
14 *foreign motor private carriers;*”

15 “(3) *‘contract carriage’ means—*

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

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

24 “(4) *“control”, when referring to a relationship*
25 *between persons, includes actual control, legal control,*

1 *and the power to exercise control, through or by (A)*
2 *common directors, officers, stockholders, a voting*
3 *trust, or a holding or investment company, or (B)*
4 *any other means;*

5 *“(5) ‘foreign motor carrier’ means a person (in-*
6 *cluding a motor carrier of property but excluding a*
7 *motor private carrier)—*

8 *“(A)(i) which is domiciled in a contiguous*
9 *foreign country; or*

10 *“(ii) which is owned or controlled by per-*
11 *sons of a contiguous foreign country and is not*
12 *domiciled in the United States; and*

13 *“(B) in the case of a person which is not a*
14 *motor carrier of property, which provides inter-*
15 *state transportation of property by motor vehicle*
16 *under an agreement or contract entered into*
17 *with a motor carrier of property (other than a*
18 *motor private carrier or a motor carrier of prop-*
19 *erty described in subparagraph (A));*

20 *“(6) ‘foreign motor private carrier’ means a per-*
21 *son (including a motor private carrier but excluding*
22 *a motor carrier of property)—*

23 *“(A)(i) which is domiciled in a contiguous*
24 *foreign country; or*

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

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

11 “(7) ‘freight forwarder’ means a person holding
12 itself out to the general public (other than as a pipe-
13 line, rail, motor, or water carrier) to provide trans-
14 portation of property for compensation and in the or-
15 dinary course of its business—

16 “(A) assembles and consolidates, or provides
17 for assembling and consolidating, shipments and
18 performs or provides for break-bulk and distribu-
19 tion operations of the shipments;

20 “(B) assumes responsibility for the trans-
21 portation from the place of receipt to the place
22 of destination; and

23 “(C) uses for any part of the transportation
24 a carrier subject to jurisdiction under part A or
25 part B of this subtitle; but the term does not in-

1 *clude a person using transportation of an air*
2 *carrier subject to part A of subtitle VII of this*
3 *title;*

4 “(8) ‘highway’ means a road, highway, street,
5 *and way in a State;*

6 “(9) ‘household goods’ means—

7 “(A) *personal effects and property used or*
8 *to be used in a dwelling when a part of the*
9 *equipment or supply of such dwelling and simi-*
10 *lar property, whether the transportation is—*

11 “(i) *requested and paid for by the*
12 *householder, including transportation of*
13 *property from a factory or store when the*
14 *property is purchased by the householder*
15 *with intent to use in his dwelling; or*

16 “(ii) *arranged and paid for by another*
17 *party;*

18 “(B) *furniture, fixtures, equipment, and the*
19 *property of stores, offices, museums, institutions,*
20 *hospitals or other establishments when a part of*
21 *the stock, equipment, or supply of such stores, of-*
22 *fices, museums, institutions, hospitals, or other*
23 *establishments and similar property; except that*
24 *this subparagraph shall not be construed to in-*
25 *clude the stock-in-trade of any establishment,*

1 *whether consignor or consignee, other than used*
2 *furniture and used fixtures, except when trans-*
3 *ported as incidental to moving of the establish-*
4 *ment, or a portion thereof, from one location to*
5 *another; and*

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

17 “(10) *‘household goods freight forwarder’ means*
18 *a freight forwarder of one or more of the following*
19 *items: household goods, unaccompanied baggage, or*
20 *used automobiles;*

21 “(11) *‘motor carrier’ means a person providing*
22 *motor vehicle transportation for compensation, in-*
23 *cluding foreign motor carriers;*

1 “(12) ‘motor private carrier’ means a person,
2 other than a motor carrier, transporting property by
3 motor vehicle when—

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

6 “(B) the person is the owner, lessee, or bail-
7 ee of the property being transported; and

8 “(C) the property is being transported for
9 sale, lease, rent, or bailment, or to further a com-
10 mercial enterprise;

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

20 “(14) ‘non-contiguous domestic trade’ means
21 motor-water transportation subject to jurisdiction
22 under chapter 135 of this title involving traffic origi-
23 nating in or destined to Alaska, Hawaii, or a terri-
24 tory or possession of the United States;

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

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

6 “(17) ‘transportation’ includes—

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

13 “(B) services related to that movement, in-
14 cluding arranging for, receipt, delivery, ele-
15 vation, transfer in transit, refrigeration, icing,
16 ventilation, storage, packing, unpacking, and
17 interchange of passengers and property;

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

20 “(19) ‘vessel’ means a watercraft or other artifi-
21 cial contrivance that is used, is capable of being used,
22 or is intended to be used, as a means of transpor-
23 tation by water; and

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

1 **“§ 13103. Remedies are cumulative**

2 *“Except as otherwise provided in this part, the rem-*
3 *edies provided under this part are in addition to remedies*
4 *existing under another law or at common law.*

5 **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

6 **“§ 13301. Powers**

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

13 *“(b) The Secretary may obtain from carriers provid-*
14 *ing, and brokers for, transportation and service subject to*
15 *this part, and from persons controlling, controlled by, or*
16 *under common control with those carriers or brokers to the*
17 *extent that the business of that person is related to the man-*
18 *agement of the business of that carrier or broker, informa-*
19 *tion the Secretary decides is necessary to carry out this*
20 *part.*

21 *“(c)(1) The Secretary may subpoena witnesses and*
22 *records related to a proceeding under this part from any*
23 *place in the United States, to the designated place of the*
24 *proceeding. If a witness disobeys a subpoena, the Secretary,*
25 *or a party to a proceeding under this part, may petition*
26 *a court of the United States to enforce that subpoena.*

1 “(2) *The district courts of the United States have juris-*
2 *isdiction to enforce a subpoena issued under this section. Trial*
3 *is in the district in which the proceeding is conducted. The*
4 *court may punish a refusal to obey a subpoena as a contempt*
5 *of court.*

6 “(d)(1) *In a proceeding under this part, the Secretary*
7 *may take the testimony of a witness by deposition and may*
8 *order the witness to produce records. A party to a proceed-*
9 *ing pending under this part may take the testimony of a*
10 *witness by deposition and may require the witness to*
11 *produce records at any time after a proceeding is at issue*
12 *on petition and answer.*

13 “(2) *If a witness fails to be deposed or to produce*
14 *records under paragraph (1) of this subsection, the Sec-*
15 *retary may subpoena the witness to take a deposition,*
16 *produce the records, or both.*

17 “(3) *A deposition may be taken before a judge of a*
18 *court of the United States, a United States magistrate*
19 *judge, a clerk of a district court, or a chancellor, justice,*
20 *or judge of a supreme or superior court, mayor or chief*
21 *magistrate of a city, judge of a county court, or court of*
22 *common pleas of any State, or a notary public who is not*
23 *counsel or attorney of a party or interested in the proceed-*
24 *ing.*

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

7 “(5) The testimony of a person deposed under this sub-
8 section shall be taken under oath. The person taking the
9 deposition shall prepare, or cause to be prepared, a tran-
10 script of the testimony taken. The transcript shall be sub-
11 scribed by the deponent.

12 “(6) The testimony of a witness who is in a foreign
13 country may be taken by deposition before an officer or per-
14 son designated by the Secretary or agreed on by the parties
15 by written stipulation filed with the Secretary. A deposition
16 shall be filed with the Secretary promptly.

17 “(e) Each witness summoned before the Secretary or
18 whose deposition is taken under this section and the indi-
19 vidual taking the deposition are entitled to the same fees
20 and mileage paid for those services in the courts of the
21 United States.

22 “(f) For those provisions of this part that are specified
23 to be carried out by the Intermodal Surface Transportation
24 Board, the Transportation Board shall have the same pow-
25 ers as the Secretary has under this section.

1 **“§ 13304. Service of process in court proceedings**

2 “(a) A motor carrier or broker providing transpor-
 3 tation subject to jurisdiction under chapter 135 of this title,
 4 including a motor carrier or broker operating within the
 5 United States while providing transportation between
 6 places in a foreign country or between a place in one foreign
 7 country and a place in another foreign country, shall des-
 8 ignate an agent in each State in which it operates by name
 9 and post office address on whom process issued by a court
 10 with subject matter jurisdiction may be served in an action
 11 brought against that carrier or broker. The designation
 12 shall be in writing and filed with the Department of Trans-
 13 portation and each State may require that an additional
 14 designation be filed with it. If a designation under this sub-
 15 section is not made, service may be made on any agent of
 16 the carrier or broker within that State.

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

19 **“CHAPTER 135—JURISDICTION**

20 **“SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION**

21 **“§ 13501. General jurisdiction**

22 “*The Secretary of Transportation and the Intermodal*
 23 *Surface Transportation Board have jurisdiction, as speci-*
 24 *fied in this part, over transportation by motor carrier and*
 25 *the procurement of that transportation, to the extent that*

1 *passengers, property, or both, are transported by motor car-*
2 *rier—*

3 “(1) *between a place in—*

4 “(A) *a State and a place in another State;*

5 “(B) *a State and another place in the same*
6 *State through another State;*

7 “(C) *the United States and a place in a ter-*
8 *ritory or possession of the United States to the*
9 *extent the transportation is in the United States;*

10 “(D) *the United States and another place*
11 *in the United States through a foreign country*
12 *to the extent the transportation is in the United*
13 *States; or*

14 “(E) *the United States and a place in a*
15 *foreign country to the extent the transportation*
16 *is in the United States; and*

17 “(2) *in a reservation under the exclusive juris-*
18 *isdiction of the United States or on a public highway.*

19 **“§ 13502. Exempt transportation between Alaska and**
20 **other States**

21 *“To the extent that transportation by a motor carrier*
22 *between a place in Alaska and a place in another State*
23 *under section 13501 of this title is provided in a foreign*
24 *country—*

1 “(1) neither the Secretary of Transportation nor
2 the Intermodal Surface Transportation Board has ju-
3 risdiction to impose a requirement over conduct of the
4 motor carrier in the foreign country conflicting with
5 a requirement of that country; but

6 “(2) the motor carrier, as a condition of provid-
7 ing transportation in the United States, shall comply,
8 with respect to all transportation provided between
9 Alaska and the other State, with the requirements of
10 this part related to rates and practices applicable to
11 the transportation.

12 **“§ 13503. Exempt motor vehicle transportation in ter-**
13 **minal areas**

14 “(a)(1) Neither the Secretary of Transportation nor
15 the Intermodal Surface Transportation Board has jurisdic-
16 tion under this subchapter over transportation by motor ve-
17 hicle provided in a terminal area when the transpor-
18 tation—

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

20 “(B) is provided by—

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

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

1 “(iii) a freight forwarder subject to jurisdic-
2 tion under subchapter III of this chapter; and

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

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

13 “(b)(1) Except to the extent provided by paragraph (2)
14 of this subsection, neither the Secretary nor the Transpor-
15 tation Board has jurisdiction under this subchapter over
16 transportation by motor vehicle provided in a terminal
17 area when the transportation—

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

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

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

23 “(ii) a motor carrier subject to jurisdiction
24 under this subchapter;

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

3 “(iv) a freight forwarder subject to jurisdic-
4 tion under subchapter III of this chapter.

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

15 **“§ 13504. Exempt motor carrier transportation en-
16 tirely in one State**

17 “Neither the Secretary of Transportation nor the
18 Intermodal Surface Transportation Board has jurisdiction
19 under this subchapter over transportation, except transpor-
20 tation of household goods, by a motor carrier operating sole-
21 ly within the State of Hawaii. The State of Hawaii may
22 regulate transportation exempt from jurisdiction under this
23 section and, to the extent provided by a motor carrier oper-
24 ating solely within the State of Hawaii, transportation ex-
25 empt under section 13503 of this title.

1 “SUBCHAPTER II—WATER CARRIER TRANSPORTATION

2 **“§ 13521. General jurisdiction**

3 “(a) *GENERAL RULES.—The Transportation Board*
4 *has jurisdiction over transportation insofar as water car-*
5 *riers are concerned—*

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

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

14 “(A) *by motor carrier that is in the United*
15 *States; and*

16 “(B) *by water carrier that is from a place*
17 *in the United States to another place in the*
18 *United States; and*

19 “(3) *by water carrier or by water carrier and*
20 *motor carrier between a place in the United States*
21 *and a place outside the United States, to the extent*
22 *that—*

23 “(A) *when the transportation is by motor*
24 *carrier, the transportation is provided in the*
25 *United States;*

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

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

15 “(b) *DEFINITIONS.*—*In this section, the terms ‘State’*
16 *and ‘United States’ include the territories, commonwealths,*
17 *and possessions of the United States.*

18 “*SUBCHAPTER III—FREIGHT FORWARDER SERVICE*

19 “**§ 13531. General jurisdiction**

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

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

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

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

15 “(c) The Secretary or Transportation Board, as appli-
16 cable, may specify the period of time during which an ex-
17 emption granted under this section is effective.

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

23 “(e) This exemption authority may not be used to re-
24 lieve a person (except a person that would have been covered
25 by a statutory exemption under subchapter II or IV of chap-

1 *ter 105 of this title that was repealed by the Interstate Com-*
2 *merce Commission Sunset Act of 1995) from the application*
3 *of, and compliance with, any law, rule, regulation, stand-*
4 *ard, or order pertaining to cargo loss and damage; insur-*
5 *ance; or safety fitness.*

6 “(f) *The Secretary or Transportation Board, as appli-*
7 *cable, is prohibited from regulating or exercising jurisdic-*
8 *tion over the transportation by water carrier in the non-*
9 *contiguous domestic trade of any cargo or type of cargo or*
10 *service which was not subject to regulation by, or under*
11 *the jurisdiction of, either the Federal Maritime Commission*
12 *or Interstate Commerce Commission under Federal law in*
13 *effect on November 1, 1995.*

14 “(g) *The Secretary or Transportation Board, as appli-*
15 *cable, may not exempt a water carrier from the application*
16 *of, or compliance with, sections 13801 and 13702 for trans-*
17 *portation in the non-contiguous domestic trade.*

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

19 **“§13701. Requirements for reasonable rates, classi-**
20 **fications, through routes, rules, and prac-**
21 **tices for certain transportation**

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

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

3 “(ii) a joint rate for a through movement with
4 a water carrier, or a rate for a movement by a water
5 carrier, in non-contiguous domestic trade,
6 must be reasonable.

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

10 “(b) When the Intermodal Surface Transportation
11 Board finds it necessary to stop or prevent a violation of
12 subsection (a), the Transportation Board shall prescribe the
13 rate, classification, rule, practice, through route, or division
14 of joint rates to be applied for such transportation or serv-
15 ice.

16 “(c) A complaint that a rate, classification, rule or
17 practice in the non-contiguous domestic trade violates sub-
18 section (a) of this section may be filed with the Transpor-
19 tation Board.

20 “(d)(1) For purposes of this section, a rate or division
21 of a carrier for service in non-contiguous domestic trade
22 is reasonable if the aggregate of increases and decreases in
23 any such rate or division is not more than 7.5 percent
24 above, or more than 10 percent below, the rate or division

1 *in effect 1 year before the effective date of the proposed rate*
2 *or division.*

3 “(2) *The percentage specified in paragraph (1) shall*
4 *be increased or decreased, as the case may be, by the per-*
5 *centage change in the Producers Price Index, as published*
6 *by the Department of Labor, that has occurred during the*
7 *most recent 1-year period before the date the rate or division*
8 *in question first took effect.*

9 “(3) *The Transportation Board shall determine wheth-*
10 *er any rate or division of a carrier or service in the non-*
11 *contiguous domestic trade which is not within the range*
12 *described in paragraph (1) is reasonable if a complaint is*
13 *filed under subsection (c) of this section or section*
14 *13702(f)(5).*

15 “(4) *The Transportation Board, upon a finding of vio-*
16 *lation of subsection (a) or this section, shall award repara-*
17 *tions to the complaining shipper or shippers in an amount*
18 *equal to all sums assessed and collected that exceed the de-*
19 *termined reasonable rate, division, rate structure or tariff.*
20 *The Transportation Board, upon complaint from any gov-*
21 *ernmental agency or authority, shall, upon a finding or vio-*
22 *lation of subsection (a) of this section, make such orders*
23 *as are just and shall require the carrier to return, to the*
24 *extent practicable, to shippers all sums, plus interest, which*

1 *the use of a facility that affects the value of that transpor-*
2 *tation or service, or another device.*

3 “(b)(1) *A carrier providing transportation or service*
4 *described in paragraph (1) of subsection (a) shall publish*
5 *and file with the Intermodal Surface Transportation Board*
6 *tariffs containing the rates established for such transpor-*
7 *tation or service. The Transportation Board may prescribe*
8 *other information that carriers shall include in such tariffs.*

9 “(2) *Carriers that publish tariffs under this subsection*
10 *shall keep them open for public inspection.*

11 “(c) *The Transportation Board shall prescribe the*
12 *form and manner of publishing, filing, and keeping tariffs*
13 *open for public inspection under subsection (b). The Trans-*
14 *portation Board may prescribe specific charges to be identi-*
15 *fied in a tariff published by a carrier, but those tariffs must*
16 *identify plainly—*

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

18 “(2) *the places between which property will be*
19 *transported;*

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

23 “(4) *privileges given and facilities allowed; and*

24 “(5) *any rules that change, affect, or determine*
25 *any part of the published rate.*

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

7 “(1) *publish new tariffs that incorporate*
8 *changes, or*

9 “(2) *plainly indicate the proposed changes in the*
10 *tariffs then in effect and kept open for public inspec-*
11 *tion.*

12 “(e) *The Transportation Board may reject a tariff sub-*
13 *mitted to it by a carrier under subsection (b) if that tariff*
14 *violates this section or regulation of the Transportation*
15 *Board carrying out this section.*

16 “(f)(1) *A carrier providing transportation described in*
17 *subsection (a)(2) shall maintain rates and related rules and*
18 *practices in a published tariff. The tariff must be available*
19 *for inspection by the Transportation Board and by ship-*
20 *pers, upon reasonable request, at the offices of the carrier*
21 *and of each tariff publishing agent of the carrier.*

22 “(2) *A carrier that maintains a tariff and makes it*
23 *available for inspection as provided in paragraph (1) may*
24 *not enforce the provisions of the tariff unless the carrier*
25 *has given notice that the tariff is available for inspection*

1 *tion under chapter 135 may enter into an agreement*
2 *with one or more such carriers to establish—*

3 *“(A) through routes and joint rates;*

4 *“(B) rates for the transportation of house-*
5 *hold goods described in section 13102(9)(A);*

6 *“(C) classifications;*

7 *“(D) mileage guides;*

8 *“(E) rules;*

9 *“(F) divisions;*

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

14 *“(H) procedures for joint consideration, ini-*
15 *tiation, or establishment of matters described in*
16 *subparagraphs (A) through (G).*

17 *“(2) SUBMISSION OF AGREEMENT TO TRANSPOR-*
18 *TATION BOARD; APPROVAL.—An agreement entered*
19 *into under subsection (a) may be submitted by any*
20 *carrier or carriers that are parties to such agreement*
21 *to the Transportation Board for approval and may be*
22 *approved by the Transportation Board only if it*
23 *finds that such agreement is in the public interest.*

24 *“(3) CONDITIONS.—The Transportation Board*
25 *may require compliance with reasonable conditions*

1 *consistent with this part to assure that the agreement*
2 *further the transportation policy set forth in section*
3 *13101.*

4 “(4) *INVESTIGATIONS.*—*The Transportation*
5 *Board may suspend and investigate the reasonable-*
6 *ness of any classification or rate adjustment of gen-*
7 *eral application made pursuant to an agreement*
8 *under this section.*

9 “(5) *EFFECT OF APPROVAL.*—*If the Transpor-*
10 *tation Board approves the agreement or renews ap-*
11 *proval of the agreement, it may be made and carried*
12 *out under its terms and under the conditions required*
13 *by the Transportation Board, and the antitrust laws,*
14 *as defined in the first section of the Clayton Act (15*
15 *U.S.C. 12), do not apply to parties and other persons*
16 *with respect to making or carrying out the agreement.*

17 “(b) *RECORDS.*—*The Transportation Board may re-*
18 *quire an organization established or continued under an*
19 *agreement approved under this section to maintain records*
20 *and submit reports. The Transportation Board, or its dele-*
21 *gate, may inspect a record maintained under this section,*
22 *or monitor any organization’s compliance with this section.*

23 “(c) *REVIEW.*—*The Transportation Board may review*
24 *an agreement approved under this section, on its own ini-*
25 *tiative or on request, and shall change the conditions of ap-*

1 *proval or terminate it when necessary to protect the public*
2 *interest. Action of the Transportation Board under this sec-*
3 *tion—*

4 “(1) *approving an agreement,*

5 “(2) *denying, ending, or changing approval,*

6 “(3) *prescribing the conditions on which ap-*
7 *proval is granted, or*

8 “(4) *changing those conditions,*

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

11 “(d) *EXPIRATION OF APPROVALS; RENEWALS.—Sub-*
12 *ject to subsection (c), approval of an agreement under sub-*
13 *section (a) shall expire 3 years after the date of approval*
14 *unless renewed under this subsection. The approval may be*
15 *renewed upon request of the parties to the agreement if such*
16 *parties resubmit the agreement to the Transportation*
17 *Board, the agreement is unchanged, and the Transportation*
18 *Board approves such renewal. The Transportation Board*
19 *shall approve the renewal unless it finds that the renewal*
20 *is not in the public interest.*

21 “(e) *EXISTING AGREEMENTS.—Agreements approved*
22 *under former section 10706(b) and in effect on the day be-*
23 *fore the effective date of this section shall be treated for pur-*
24 *poses of this section as approved by the Transportation*
25 *Board under this section beginning on such effective date.*

1 “(f) *LIMITATIONS ON STATUTORY CONSTRUCTION.*—

2 “(1) *UNDERCHARGE CLAIMS.*—*Nothing in this*
3 *section shall serve as a basis for any undercharge*
4 *claim.*

5 “(2) *OBLIGATION OF SHIPPER.*—*Nothing in this*
6 *title, the Interstate Commerce Commission Sunset Act*
7 *of 1995, or any amendments or repeals made by such*
8 *Act shall be construed as creating any obligation for*
9 *a shipper based solely on a classification that was on*
10 *file with the Interstate Commerce Commission or else-*
11 *where on the day before the effective date of this sec-*
12 *tion.*

13 “(g) *MILEAGE RATE LIMITATION.*—*No carrier subject*
14 *to jurisdiction under subchapter I or III of chapter 135 of*
15 *this title may enforce collection of its mileage rates or classi-*
16 *fications unless such carrier or forwarder maintains its*
17 *own independent publication of mileage or classification*
18 *which can be examined by any interested person upon rea-*
19 *sonable request or is a participant in a publication of mile-*
20 *ages or classifications formulated under an agreement ap-*
21 *proved under this section.*

22 “(h) *SINGLE LINE RATE DEFINED.*—*In this section,*
23 *the term ‘single line rate’ means a rate, charge, or allowance*
24 *proposed by a single motor carrier that is applicable only*

1 *over its line and for which the transportation can be pro-*
2 *vided by that carrier.*

3 **“§ 13704. Household goods rates—estimates; guaran-**
4 **tees of service**

5 “(a)(1) *Subject to the provisions of paragraph (2) of*
6 *this subsection, a motor carrier providing transportation*
7 *of household goods subject to jurisdiction under subchapter*
8 *I of chapter 135 of this title may establish a rate for the*
9 *transportation of household goods which is based on the car-*
10 *rier’s written, binding estimate of charges for providing*
11 *such transportation.*

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

15 “(b)(1) *Subject to the provisions of paragraph (2) of*
16 *this subsection, a motor carrier providing transportation*
17 *of household goods subject to jurisdiction under subchapter*
18 *I of chapter 135 of this title may establish rates for the*
19 *transportation of household goods which guarantee that the*
20 *carrier will pick up and deliver such household goods at*
21 *the times specified in the contract for such services and pro-*
22 *vide a penalty or per diem payment in the event the carrier*
23 *fails to pick up or deliver such household goods at the speci-*
24 *fied time. The charges, if any, for such guarantee and pen-*

1 *alty provision may vary to reflect one or more options*
2 *available to meet a particular shipper's needs.*

3 “(2) *Before a carrier may establish a rate for any serv-*
4 *ice under paragraph (1) of this subsection, the Secretary*
5 *of Transportation may require such carrier to have in effect*
6 *and keep in effect, during any period such rate is in effect*
7 *under such paragraph, a rate for such service which does*
8 *not guarantee the pick up and delivery of household goods*
9 *at the times specified in the contract for such services and*
10 *which does not provide a penalty or per diem payment in*
11 *the event the carrier fails to pick up or deliver household*
12 *goods at the specified time.*

13 **“§13705. Requirements for through routes among**
14 **motor carriers of passengers**

15 “(a) *A motor carrier of passengers shall establish*
16 *through routes with other carriers of the same type and*
17 *shall establish individual and joint rates applicable to*
18 *them.*

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

22 “(c) *When the Intermodal Surface Transportation*
23 *Board finds it necessary to enforce the requirements of this*
24 *section, the Transportation Board may prescribe through*
25 *routes and the conditions under which those routes must*

1 *be operated for motor carriers providing transportation of*
2 *passengers subject to jurisdiction under subchapter I of*
3 *chapter 135.*

4 **“§ 13706. Liability for payment of rates**

5 “(a) *Liability for payment of rates for transportation*
6 *for a shipment of property by a shipper or consignor to*
7 *a consignee other than the shipper or consignor, is deter-*
8 *mined under this section when the transportation is pro-*
9 *vided by motor carrier under this part. When the shipper*
10 *or consignor instructs the carrier transporting the property*
11 *to deliver it to a consignee that is an agent only, not having*
12 *beneficial title to the property, the consignee is liable for*
13 *rates billed at the time of delivery for which the consignee*
14 *is otherwise liable, but not for additional rates that may*
15 *be found to be due after delivery if the consignee gives writ-*
16 *ten notice to the delivering carrier before delivery of the*
17 *property—*

18 “(1) *of the agency and absence of beneficial title;*

19 *and*

20 “(2) *of the name and address of the beneficial*
21 *owner of the property if it is reconsigned or diverted*
22 *to a place other than the place specified in the origi-*
23 *nal bill of lading.*

24 “(b) *When the consignee is liable only for rates billed*
25 *at the time of delivery under subsection (a) of this section,*

1 *the shipper or consignor, or, if the property is reconsigned*
2 *or diverted, the beneficial owner is liable for those addi-*
3 *tional rates regardless of the bill of lading or contract under*
4 *which the property was transported. The beneficial owner*
5 *is liable for all rates when the property is reconsigned or*
6 *diverted by an agent but is refused or abandoned at its ulti-*
7 *mate destination if the agent gave the carrier in the*
8 *reconsignment or diversion order a notice of agency and*
9 *the name and address of the beneficial owner. A consignee*
10 *giving the carrier erroneous information about the identity*
11 *of the beneficial owner of the property is liable for the addi-*
12 *tional rates.*

13 ***“§ 13707. Billing and collecting practices***

14 *“(a) A motor carrier subject to jurisdiction under sub-*
15 *chapter I of chapter 135 shall disclose, when a document*
16 *is presented or electronically transmitted for payment to*
17 *the person responsible directly to the motor carrier for pay-*
18 *ment or agent of such responsible person, the actual rates,*
19 *charges, or allowances for any transportation service. No*
20 *person may cause a motor carrier to present false or mis-*
21 *leading information on a document about the actual rate,*
22 *charge, or allowance to any party to the transaction. When*
23 *the actual rate, charge, or allowance is dependent upon the*
24 *performance of a service by a party to the transportation*
25 *arrangement, such as tendering a volume of freight over a*

1 *stated period of time, the motor carrier shall indicate in*
2 *any document presented for payment to the person respon-*
3 *sible directly to the motor carrier that a reduction, allow-*
4 *ance, or other adjustment may apply.*

5 “(b) *The Transportation Board shall promulgate regu-*
6 *lations that prohibit a motor carrier subject to jurisdiction*
7 *under subchapter II of chapter 105 of this title from provid-*
8 *ing a reduction in a rate for the provision of transportation*
9 *of property to any person other than—*

10 “(1) *the person paying the motor carrier directly*
11 *for the transportation service according to the bill of*
12 *lading, receipt, or contract; or*

13 “(2) *an agent of the person paying for the trans-*
14 *portation.*

15 **“§ 13708. Procedures for resolving claims involving**
16 **unfiled, negotiated transportation rates**

17 “(a) *IN GENERAL.—When a claim is made by a motor*
18 *carrier of property (other than a household goods carrier)*
19 *providing transportation subject to jurisdiction under sub-*
20 *chapter II of chapter 105 of this title (as in effect on the*
21 *day before the effective date of this section) or subchapter*
22 *I of chapter 135 of this title, by a freight forwarder (other*
23 *than a household goods freight forwarder), or by a party*
24 *representing such a carrier or freight forwarder regarding*
25 *the collection of rates or charges for such transportation in*

1 *addition to those originally billed and collected by the car-*
2 *rier or freight forwarder for such transportation, the person*
3 *against whom the claim is made may elect to satisfy the*
4 *claim under the provisions of subsection (b), (c), or (d),*
5 *upon showing that—*

6 “(1) *the carrier or freight forwarder is no longer*
7 *transporting property or is transporting property for*
8 *the purpose of avoiding the application of this sec-*
9 *tion; and*

10 “(2) *with respect to the claim—*

11 “(A) *the person was offered a transpor-*
12 *tation rate by the carrier or freight forwarder*
13 *other than that legally on file at the time with*
14 *the Transportation Board or with the former*
15 *Interstate Commerce Commission, as required,*
16 *for the transportation service;*

17 “(B) *the person tendered freight to the car-*
18 *rier or freight forwarder in reasonable reliance*
19 *upon the offered transportation rate;*

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

1 “(D) such transportation rate was billed
2 and collected by the carrier or freight forwarder;
3 and

4 “(E) the carrier or freight forwarder de-
5 mands additional payment of a higher rate filed
6 in a tariff.

7 If there is a dispute as to the showing under para-
8 graph (1), such dispute shall be resolved by the court
9 in which the claim is brought. If there is a dispute
10 as to the showing under paragraph (2), such dispute
11 shall be resolved by the Intermodal Surface Transpor-
12 tation Board. Pending the resolution of any such dis-
13 pute, the person shall not have to pay any additional
14 compensation to the carrier or freight forwarder. Sat-
15 isfaction of the claim under subsection (b), (c), or (d)
16 shall be binding on the parties, and the parties shall
17 not be subject to chapter 149 of this title or chapter
18 119 of this title, as such chapter was in effect on the
19 date before the date of enactment of the Interstate
20 Commerce Commission Sunset Act of 1995.

21 “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000
22 POUNDS OR LESS.—A person from whom the additional le-
23 gally applicable and effective tariff rate or charges are
24 sought may elect to satisfy the claim if the shipments each
25 weighed 10,000 pounds or less, by payment of 20 percent

1 *of the difference between the carrier's applicable and effec-*
2 *tive tariff rate and the rate originally billed and paid. In*
3 *the event that a dispute arises as to the rate that was legally*
4 *applicable to the shipment, such dispute shall be resolved*
5 *by the Transportation Board .*

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

16 “(d) *CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—*
17 *Notwithstanding subsections (b) and (c), a person from*
18 *whom the additional legally applicable and effective tariff*
19 *rate or charges are sought may elect to satisfy the claim*
20 *by payment of 5 percent of the difference between the car-*
21 *rier's applicable and effective tariff rate and the rate origi-*
22 *nally billed and paid if such person is a public warehouse-*
23 *man. In the event that a dispute arises as to the rate that*
24 *was legally applicable to the shipment, such dispute shall*
25 *be resolved by the Transportation Board.*

1 “(e) *EFFECTS OF ELECTION.*—When a person from
2 whom additional legally applicable freight rates or charges
3 are sought does not elect to use the provisions of subsection
4 (b), (c) or (d), the person may pursue all rights and rem-
5 edies existing under this part or, for transportation pro-
6 vided before the effective date of this section, all rights and
7 remedies that existed under this title on the day before the
8 date of enactment of the Interstate Commerce Commission
9 Sunset Act of 1995.

10 “(f) *STAY OF ADDITIONAL COMPENSATION.*—When a
11 person proceeds under this section to challenge the reason-
12 ableness of the legally applicable freight rate or charges
13 being claimed by a carrier or freight forwarder described
14 in subsection (a) in addition to those already billed and
15 collected, the person shall not have to pay any additional
16 compensation to the carrier or freight forwarder until the
17 Transportation Board has made a determination as to the
18 reasonableness of the challenged rate as applied to the
19 freight of the person against whom the claim is made.

20 “(g) *NOTIFICATION OF ELECTION.*—

21 “(1) *GENERAL RULE.*—A person must notify the
22 carrier or freight forwarder as to its election to pro-
23 ceed under subsection (b), (c), or (d). Except as pro-
24 vided in paragraphs (2), (3), and (4), such election
25 may be made at any time.

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

11 “(A) *the 60th day following the filing of an*
12 *answer to a suit for the collection of such addi-*
13 *tional legally applicable freight rate or charges,*
14 *or*

15 “(B) *March 5, 1994.*

16 “(3) *PENDING SUITS FOR COLLECTION MADE BE-*
17 *FORE DECEMBER 4, 1993.—If the carrier or freight*
18 *forwarder or party representing such carrier or*
19 *freight forwarder has filed, before December 4, 1993,*
20 *a suit for the collection of additional freight charges*
21 *and notifies the person from whom additional freight*
22 *charges are sought of the provisions of subsections (a)*
23 *through (f), the election must be made not later than*
24 *the 90th day following the date on which such notifi-*
25 *cation is received.*

1 “(4) *DEMANDS FOR PAYMENT MADE BEFORE DE-*
2 *CEMBER 4, 1993.—If the carrier or freight forwarder*
3 *or party representing such carrier or freight for-*
4 *warder has demanded the payment of additional*
5 *freight charges, and has not filed a suit for the collec-*
6 *tion of such additional freight charges, before Decem-*
7 *ber 4, 1993, and notifies the person from whom addi-*
8 *tional freight charges are sought of the provisions of*
9 *subsections (a) through (f), the election must be made*
10 *not later than the later of—*

11 “(A) *the 60th day following the filing of an*
12 *answer to a suit for the collection of such addi-*
13 *tional legally applicable freight rate or charges,*
14 *or*

15 “(B) *March 5, 1994.*

16 “(h) *CLAIMS INVOLVING SMALL-BUSINESS CONCERNS,*
17 *CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATE-*
18 *RIALS.—Notwithstanding subsections (b), (c), and (d), a*
19 *person from whom the additional legally applicable and ef-*
20 *fective tariff rate or charges are sought shall not be liable*
21 *for the difference between the carrier’s applicable and effec-*
22 *tive tariff rate and the rate originally billed and paid—*

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

1 billed within 180 days of the receipt of the original bill in
2 order to have the right to collect such charges.

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

8 “(4) Any tariff on file with the Interstate Commerce
9 Commission on August 26, 1994, not required to be filed
10 after that date is null and void beginning on that date.
11 Any tariff on file with the Interstate Commerce Commission
12 on the effective date of the Interstate Commerce Commission
13 Sunset Act of 1995 not required to be filed after that date
14 is null and void beginning on that date.

15 “(b) If a motor carrier (other than a motor carrier
16 providing transportation of household goods) subject to ju-
17 risdiction under subchapter I of chapter 135 of this title
18 had authority to provide transportation as both a motor
19 common carrier and a motor contract carrier and a dispute
20 arises as to whether certain transportation that was pro-
21 vided prior to the effective date of the Interstate Commerce
22 Commission Sunset Act of 1995 was provided in its com-
23 mon carrier or contract carrier capacity and the parties
24 are not able to resolve the dispute consensually, the Trans-
25 portation Board shall resolve the dispute.

1 **“§ 13710. Alternative Procedure for Resolving Under-**
2 **charge Disputes**

3 “(a) *GENERAL RULE.—It shall be an unreasonable*
4 *practice for a motor carrier of property (other than a house-*
5 *hold goods carrier) providing transportation that is subject*
6 *to jurisdiction of subchapter I of chapter 135 of this title*
7 *or was subject to jurisdiction under subchapter II of chapter*
8 *105 of this title, a freight forwarder (other than a household*
9 *goods freight forwarder), or a party representing such a*
10 *carrier or freight forwarder to attempt to charge or to*
11 *charge for a transportation service the difference between—*

12 “(1) *the applicable rate that was lawfully in ef-*
13 *fect pursuant to a tariff that was filed in accordance*
14 *with this chapter, or with respect to transportation*
15 *provided before the effective date of this section in ac-*
16 *cordance with chapter 107 of this title as in effect on*
17 *the date the transportation service was provided by*
18 *the carrier or freight forwarder applicable to such*
19 *transportation service; and*

20 “(2) *the negotiated rate for such transportation*
21 *service if the carrier or freight forwarder is no longer*
22 *transporting property between places described in sec-*
23 *tion 13501(1) of this title or is transporting property*
24 *between places described in section 13501(1) of this*
25 *title for the purpose of avoiding the application of*
26 *this section.*

1 “(b) *JURISDICTION OF TRANSPORTATION BOARD.*—
2 *The Intermodal Surface Transportation Board shall have*
3 *jurisdiction to make a determination of whether or not at-*
4 *tempting to charge or the charging of a rate by a motor*
5 *carrier or freight forwarder or party representing a motor*
6 *carrier or freight forwarder is an unreasonable practice*
7 *under subsection (a). If the Transportation Board deter-*
8 *mines that attempting to charge or the charging of the rate*
9 *is an unreasonable practice under subsection (a), the car-*
10 *rier, freight forwarder, or party may not collect the dif-*
11 *ference described in subsection (a) between the applicable*
12 *rate and the negotiated rate for the transportation service.*
13 *In making such determination, the Transportation Board*
14 *shall consider—*

15 “(1) *whether the person was offered a transpor-*
16 *tation rate by the carrier or freight forwarder or*
17 *party other than that legally on file with the Trans-*
18 *portation Board or with the Interstate Commerce*
19 *Commission, as required, at the time of the movement*
20 *for the transportation service;*

21 “(2) *whether the person tendered freight to the*
22 *carrier or freight forwarder in reasonable reliance*
23 *upon the offered transportation rate;*

24 “(3) *whether the carrier or freight forwarder did*
25 *not properly or timely file with the Transportation*

1 *Board or with the Interstate Commerce Commission,*
2 *as required, a tariff providing for such transportation*
3 *rate or failed to enter into an agreement for contract*
4 *carriage;*

5 *“(4) whether the transportation rate was billed*
6 *and collected by the carrier or freight forwarder; and*

7 *“(5) whether the carrier or freight forwarder or*
8 *party demands additional payment of a higher rate*
9 *filed in a tariff.*

10 *“(c) STAY OF ADDITIONAL COMPENSATION.—When a*
11 *person proceeds under this section to challenge the reason-*
12 *ableness of the practice of a motor carrier, freight forwarder,*
13 *or party described in subsection (a) to attempt to charge*
14 *or to charge the difference described in subsection (a) be-*
15 *tween the applicable rate and the negotiated rate for the*
16 *transportation service in addition to those charges already*
17 *billed and collected for the transportation service, the person*
18 *shall not have to pay any additional compensation to the*
19 *carrier, freight forwarder, or party until the Transpor-*
20 *tation Board has made a determination as to the reason-*
21 *ableness of the practice as applied to the freight of the per-*
22 *son against whom the claim is made.*

23 *“(d) TREATMENT.—Subsection (a) is an exception to*
24 *the requirements of section 13702, and for transportation*
25 *prior to the effective date of the Interstate Commerce Com-*

1 *mission Sunset Act of 1995, to the requirements of sections*
2 *10761(a) and 10762 of this title as in effect on the date*
3 *before the date of enactment of the Interstate Commerce*
4 *Commission Sunset Act of 1995, relating to a filed tariff*
5 *rate and other general tariff requirements.*

6 “(e) *NONAPPLICABILITY OF NEGOTIATED RATE DIS-*
7 *PUTE RESOLUTION PROCEDURE.*—*If a person elects to seek*
8 *enforcement of subsection (a) with respect to a rate for a*
9 *transportation or service, section 13708 of this part shall*
10 *not apply to such rate.*

11 “(f) *DEFINITIONS.*—*For purposes of this section, the*
12 *term ‘negotiated rate’ means a rate, charge, classification,*
13 *or rule agreed upon by a motor carrier or freight forwarder*
14 *and a shipper through negotiations pursuant to which no*
15 *tariff was lawfully and timely filed and for which there*
16 *is written evidence of such agreement.*

17 “**§ 13711. Government traffic**

18 “*A carrier providing transportation or service for the*
19 *United States Government may transport property or indi-*
20 *viduals for the United States Government without charge*
21 *or at a rate reduced from the applicable commercial rate.*
22 *Section 3709 of the Revised Statutes (41 U.S.C. 5) does not*
23 *apply when transportation for the United States Govern-*
24 *ment can be obtained from a carrier lawfully operating in*
25 *the area where the transportation would be provided.*

1 **“§ 13712. Food and grocery transportation**

2 “(a) *CERTAIN COMPENSATION PROHIBITED.*—Not-
3 *withstanding any other provision of law, it shall not be un-*
4 *lawful for a seller of food and grocery products using a uni-*
5 *form zone delivered pricing system to compensate a cus-*
6 *tomers who picks up purchased food and grocery products*
7 *at the shipping point of the seller if such compensation is*
8 *available to all customers of the seller on a nondiscrim-*
9 *inatory basis and does not exceed the actual cost to the seller*
10 *of delivery to such customer.*

11 “(b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
12 *gress that any savings accruing to a customer by reason*
13 *of compensation permitted by subsection (a) of this section*
14 *should be passed on to the ultimate consumer.*

15 **“CHAPTER 139—REGISTRATION**

16 **“§ 13901. Requirement for registration**

17 “A person may provide transportation or service sub-
18 *ject to jurisdiction under subchapter I or III of chapter 135*
19 *of this title or be a broker for transportation subject to juris-*
20 *isdiction under subchapter I of that chapter, only if the per-*
21 *son is currently registered under this chapter to provide the*
22 *transportation or service.*

23 **“§ 13902. Registration of motor carriers**

24 “(a)(1) *Except as provided in this section, the Sec-*
25 *retary of Transportation shall register a person to provide*
26 *transportation subject to jurisdiction under subchapter I of*

1 *chapter 135 of this title as a motor carrier if the Secretary*
2 *finds that the person is willing and able to comply with—*

3 “(A) *this part, the applicable regulations of the*
4 *Secretary and the Intermodal Surface Transportation*
5 *Board, and any safety requirements imposed by the*
6 *Secretary,*

7 “(B) *the safety fitness requirements established*
8 *by the Secretary under section 31144 of this title, and*

9 “(C) *the minimum financial responsibility re-*
10 *quirements established by the Secretary pursuant to*
11 *sections 13906 and 31128 of this title.*

12 “(2) *The Secretary shall consider and, to the extent*
13 *applicable, make findings on, any evidence demonstrating*
14 *that the registrant is unable to comply with the require-*
15 *ments of subparagraph (A), (B), or (C) of paragraph (1).*

16 “(3) *The Secretary shall find any registrant as a*
17 *motor carrier under this section to be unfit if the registrant*
18 *does not meet the fitness requirements under paragraph (1)*
19 *of this subsection and shall withhold registration.*

20 “(4) *The Secretary may hear a complaint from any*
21 *person concerning a registration under this subsection only*
22 *on the ground that the registrant fails or will fail to comply*
23 *with this part, the applicable regulations of the Secretary*
24 *and the Transportation Board, the safety requirements of*
25 *the Secretary, or the safety fitness or minimum financial*

1 *responsibility requirements of paragraph (1) of this sub-*
2 *section.*

3 “(b) *MOTOR CARRIERS OF PASSENGERS.*—

4 “(1) *REGISTRATION OF PRIVATE RECIPIENTS OF*
5 *GOVERNMENT ASSISTANCE.*—*The Secretary shall reg-*
6 *ister under subsection (a)(1) a private recipient of*
7 *governmental assistance to provide special or charter*
8 *transportation subject to jurisdiction under sub-*
9 *chapter I of chapter 135 as a motor carrier of pas-*
10 *sengers if the Secretary finds that the recipient meets*
11 *the requirements of subsection (a)(1), unless the Sec-*
12 *retary finds, on the basis of evidence presented by any*
13 *person objecting to the registration, that the transpor-*
14 *tation to be provided pursuant to the registration is*
15 *not in the public interest.*

16 “(2) *REGISTRATION OF PUBLIC RECIPIENTS OF*
17 *GOVERNMENTAL ASSISTANCE.*—

18 “(A) *CHARTER TRANSPORTATION.*—*The*
19 *Secretary shall register under subsection (a)(1) a*
20 *public recipient of governmental assistance to*
21 *provide special or charter transportation subject*
22 *to jurisdiction under subchapter I of chapter 135*
23 *as a motor carrier of passengers if the Secretary*
24 *finds that—*

1 “(i) the recipient meets the require-
2 ments of subsection (a)(1); and

3 “(ii)(I) no motor carrier of passengers
4 (other than a motor carrier of passengers
5 which is a public recipient of governmental
6 assistance) is providing, or is willing to
7 provide, the transportation; or

8 “(II) the transportation is to be pro-
9 vided entirely in the area in which the pub-
10 lic recipient provides regularly scheduled
11 mass transportation services.

12 “(B) *REGULAR-ROUTE TRANSPORTATION.*—
13 *The Secretary shall register under subsection*
14 *(a)(1) a public recipient of governmental assist-*
15 *ance to provide regular-route transportation sub-*
16 *ject to jurisdiction under subchapter I of chapter*
17 *135 as a motor carrier of passengers if the Sec-*
18 *retary finds that the recipient meets the require-*
19 *ments of subsection (a)(1), unless the Secretary*
20 *finds, on the basis of evidence presented by any*
21 *person objecting to the registration, that the*
22 *transportation to be provided pursuant to the*
23 *registration is not in the public interest.*

24 “(C) *TREATMENT OF CERTAIN PUBLIC RE-*
25 *CIPIENTS.*—*Any public recipient of governmental*

1 *assistance which is providing or seeking to pro-*
2 *vide transportation of passengers subject to juris-*
3 *isdiction under subchapter I of chapter 135 shall,*
4 *for purposes of this part, be treated as a person*
5 *which is providing or seeking to provide trans-*
6 *portation of passengers subject to such jurisdic-*
7 *tion.*

8 “(3) *INTRASTATE TRANSPORTATION BY INTER-*
9 *STATE CARRIERS.—A motor carrier of passengers that*
10 *is registered by the Secretary under subsection (a) is*
11 *authorized to provide regular-route transportation en-*
12 *tirely in one State as a motor carrier of passengers*
13 *if such intrastate transportation is to be provided on*
14 *a route over which the carrier provides interstate*
15 *transportation of passengers.*

16 “(4) *JURISDICTION OVER CERTAIN INTRASTATE*
17 *TRANSPORTATION.—Any intrastate transportation*
18 *authorized under this subsection, except as provided*
19 *in section 14501, shall be deemed to be transportation*
20 *subject to jurisdiction under subchapter I of chapter*
21 *135 of this title until such time, not later than 30*
22 *days after the date on which a motor carrier of pas-*
23 *sengers first begins providing transportation entirely*
24 *in one State pursuant to this paragraph, as the car-*
25 *rier takes such action as is necessary to establish*

1 *under the laws of such State rates, rules, and prac-*
2 *tices applicable to such transportation.*

3 “(5) *SPECIAL OPERATIONS.*—*This subsection*
4 *shall not apply to any regular-route transportation of*
5 *passengers provided entirely in one State which is in*
6 *the nature of a special operation.*

7 “(6) *REVOCATION OF AUTHORITY FOR INTRA-*
8 *STATE TRANSPORTATION.*—*Notwithstanding para-*
9 *graph (3) of this subsection, intrastate transportation*
10 *authorized under this subsection may be suspended or*
11 *revoked by the Secretary under section 13905 of this*
12 *title at any time.*

13 “(7) *PREEMPTION OF STATE REGULATION.*—*No*
14 *State or political subdivision thereof and no inter-*
15 *state agency or other political agency of two or more*
16 *States shall enact or enforce any law, rule, regulation,*
17 *standard or other provision having the force and ef-*
18 *fect of law relating to the provision of pickup and de-*
19 *livery of express packages, newspapers, or mail in a*
20 *commercial zone if the shipment has had or will have*
21 *a prior or subsequent movement by bus in intrastate*
22 *commerce and, if a city within the commercial zone,*
23 *is served by a motor carrier of passengers providing*
24 *regular-route transportation of passengers subject to*

1 *jurisdiction under subchapter I of chapter 135 of this*
2 *title.*

3 “(8) *DEFINITIONS.—In this subsection, the fol-*
4 *lowing definitions apply:*

5 “(A) *PUBLIC RECIPIENT OF GOVERNMENTAL*
6 *ASSISTANCE.—The term ‘public recipient of gov-*
7 *ernmental assistance’ means—*

8 “(i) *any State,*

9 “(ii) *any municipality or other politi-*
10 *cal subdivision of a State,*

11 “(iii) *any public agency or instrumen-*
12 *tality of one or more states and municipali-*
13 *ties and political subdivisions of a State,*

14 “(iv) *any Indian tribe,*

15 “(v) *any corporation, board, or other*
16 *person owned or controlled by any entity*
17 *described in clause (i), (ii), (iii), or (iv),*
18 *and*

19 *which, before, on, or after the effective date of*
20 *this subsection received governmental assistance*
21 *for the purchase or operation of any bus.*

22 “(B) *PRIVATE RECIPIENT OF GOVERNMENT*
23 *ASSISTANCE.—The term ‘private recipient of gov-*
24 *ernment assistance’ means any person (other*
25 *than a person described in subparagraph (A))*

1 *who before, on or after the effective date of this*
2 *paragraph received governmental financial as-*
3 *sistance in the form of a subsidy for the pur-*
4 *chase, lease, or operation of any bus.*

5 “(c) *RESTRICTIONS ON MOTOR CARRIERS DOMICILED*
6 *IN OR OWNED OR CONTROLLED BY NATIONALS OF A CON-*
7 *TIGUOUS FOREIGN COUNTRY.—*

8 “(1) *If the President of the United States, or his*
9 *or her delegate, determines that an act, policy, or*
10 *practice of a foreign country contiguous to the United*
11 *States, or any political subdivision or any instrumen-*
12 *tality of any such country is unreasonable or dis-*
13 *criminatory and burdens or restricts United States*
14 *transportation companies providing, or seeking to*
15 *provide, motor carrier transportation of property or*
16 *passengers to, from, or within such foreign country,*
17 *the President, or his or her delegate, may—*

18 “(A) *seek elimination of such practices*
19 *through consultations; or*

20 “(B) *notwithstanding any other provision*
21 *of law, suspend, modify, amend, condition, or re-*
22 *strict operations, including geographical restric-*
23 *tion of operations, in the United States by motor*
24 *carriers of property or passengers domiciled in*

1 *such foreign country or owned or controlled by*
2 *persons of such foreign country.*

3 “(2) *Any action taken under paragraph (1)(A)*
4 *to eliminate an act, policy, or practice shall be so de-*
5 *vised so as to equal to the extent possible the burdens*
6 *or restrictions imposed by such foreign country on*
7 *United States transportation companies.*

8 “(3) *The President, or his or her delegate, may*
9 *remove or modify in whole or in part any action*
10 *taken under paragraph (1)(A) if the President, or his*
11 *or her delegate, determines that such removal or*
12 *modification is consistent with the obligations of the*
13 *United States under a trade agreement or with*
14 *United States transportation policy.*

15 “(4) *Unless and until the President or his or her*
16 *delegate makes a determination under paragraphs (1)*
17 *or (3) above, nothing in this subsection shall affect—*

18 “(A) *operations of motor carriers of prop-*
19 *erty or passengers domiciled in any contiguous*
20 *foreign country or owned or controlled by per-*
21 *sons of any contiguous foreign country permitted*
22 *in the commercial zones along the U.S.-Mexico*
23 *border as defined at the time of enactment of the*
24 *Interstate Commerce Commission Sunset Act of*
25 *1995; or*

1 “(B) any existing restrictions on operations
2 of motor carriers of property or passengers domi-
3 ciled in any contiguous foreign country or owned
4 or controlled by persons of any contiguous for-
5 eign country or any modifications thereof pursu-
6 ant to section 6 of the Bus Regulatory Reform
7 Act of 1982.

8 “(5) Unless the President, or his or her delegate,
9 determines that expeditious action is required, the
10 President shall publish in the Federal Register any
11 determination under paragraphs (1) or (3) together
12 with a description of the facts on which such a deter-
13 mination is based and any proposed action to be
14 taken pursuant to paragraphs (1)(B) or (3) and pro-
15 vide an opportunity for public comments.

16 “(6) The President may delegate any or all au-
17 thority under this subsection to the Secretary of
18 Transportation, who shall consult with other agencies
19 as appropriate. In accordance with the directions of
20 the President, the Secretary of Transportation may
21 issue regulations to enforce this subsection.

22 “(7) Either the Secretary of Transportation or
23 the Attorney General may bring a civil action in an
24 appropriate district court of the United States to en-
25 force this subsection or a regulation prescribed or

1 *order issued under this subsection. The court may*
2 *award appropriate relief, including injunctive relief.*

3 “(8) *This subsection shall not affect the require-*
4 *ment for all foreign motor carriers and foreign motor*
5 *private carriers operating in the United States to*
6 *fully comply with all applicable laws and regulations*
7 *pertaining to fitness; safety of operations; financial*
8 *responsibility; and taxes imposed by section 4481 of*
9 *the Internal Revenue Code of 1994.*

10 **“§ 13903. Registration of freight forwarders**

11 “(a) *The Secretary of Transportation shall register a*
12 *person to provide service subject to jurisdiction under sub-*
13 *chapter III of chapter 135 as a freight forwarder, if the*
14 *Secretary finds that the person is fit, willing, and able to*
15 *provide the service and to comply with this part and appli-*
16 *cable regulations of the Secretary and the Intermodal Sur-*
17 *face Transportation Board.*

18 “(b) *The freight forwarder may provide transportation*
19 *as the carrier itself only if the freight forwarder also has*
20 *been registered to provide transportation as a carrier under*
21 *this chapter.*

22 **“§ 13904. Registration of motor carrier brokers**

23 “(a) *The Secretary of Transportation shall register,*
24 *subject to section 13906(b) of this title, a person to be a*
25 *broker for transportation of property subject to jurisdiction*

1 *under subchapter I of chapter 135 of this title, if the Sec-*
2 *retary finds that the person is fit, willing, and able to be*
3 *a broker for transportation and to comply with this part*
4 *and applicable regulations of the Secretary .*

5 “(b)(1) *The broker may provide the transportation it-*
6 *self only if the broker also has been registered to provide*
7 *the transportation under this chapter.*

8 “(2) *This subsection does not apply to a motor carrier*
9 *registered under this chapter or to an employee or agent*
10 *of the motor carrier to the extent the transportation is to*
11 *be provided entirely by the motor carrier, with other reg-*
12 *istered motor carriers, or with rail or water carriers.*

13 “(c) *Regulations of the Secretary shall provide for the*
14 *protection of shippers by motor vehicle, to be observed by*
15 *brokers.*

16 “(d) *The Secretary may impose on brokers for motor*
17 *carriers of passengers such requirements for bonds or insur-*
18 *ance or both as the Secretary determines are needed to pro-*
19 *tect passengers and carriers dealing with such brokers.*

20 **“§ 13905. Effective periods of registration**

21 “(a) *Each registration under section 13902, 13903, or*
22 *13904 of this title is effective from the date specified by the*
23 *Secretary of Transportation and remains in effect for a pe-*
24 *riod of 5 years except as otherwise provided in this section*
25 *or in section 13906. The Secretary may require any carrier*

1 *or registrant to provide periodic updating of carrier infor-*
2 *mation.*

3 “(b) *On application of the holder, the Secretary may*
4 *amend or revoke a registration. On complaint or on the*
5 *Secretary’s own initiative and after notice and an oppor-*
6 *tunity for a proceeding, the Secretary may suspend, amend,*
7 *or revoke any part of the registration of a motor carrier,*
8 *broker, or freight forwarder for willful failure to comply*
9 *with this part, an applicable regulation or order of the Sec-*
10 *retary or of the Intermodal Surface Transportation Board,*
11 *or a condition of its registration.*

12 “(c)(1) *Except on application of the holder, the Sec-*
13 *retary may revoke a registration of a motor carrier, freight*
14 *forwarder, or broker, only after the Secretary has issued an*
15 *order to the holder under section 14701 of this title requir-*
16 *ing compliance with this part, a regulation of the Secretary,*
17 *or a condition of the registration of the holder, and the hold-*
18 *er willfully does not comply with the order.*

19 “(2) *The Secretary may act under paragraph (1) of*
20 *this subsection only after giving the holder of the registra-*
21 *tion at least 30 days to comply with the order.*

22 “(d)(1) *Without regard to subchapter II of chapter 5*
23 *of title 5, the Secretary may suspend the registration of a*
24 *motor carrier, a freight forwarder, or a broker for failure*
25 *to comply with safety requirements of the Secretary or the*

1 *extent applicable. The security must be sufficient to pay,*
2 *not more than the amount of the security, for each final*
3 *judgment against the carrier for bodily injury to, or death*
4 *of, an individual resulting from the negligent operation,*
5 *maintenance, or use of motor vehicles, or for loss or damage*
6 *to property (except property referred to in paragraph (3)*
7 *of this subsection), or both. A registration remains in effect*
8 *only as long as the carrier continues to satisfy the security*
9 *requirements of this paragraph.*

10 “(2) *A motor carrier and a foreign motor private car-*
11 *rier and foreign motor carrier operating in the United*
12 *States (when providing transportation between places in a*
13 *foreign country or between a place in one foreign country*
14 *and a place in another foreign country) shall comply with*
15 *the requirements of sections 13303 and 13304. To protect*
16 *the public, the Secretary may require any such motor car-*
17 *rier to file the type of security that a motor carrier is re-*
18 *quired to file under paragraph (1) of this subsection.*

19 “(3) *The Secretary may require a registered motor car-*
20 *rier to file with the Secretary a type of security sufficient*
21 *to pay a shipper or consignee for damage to property of*
22 *the shipper or consignee placed in the possession of the*
23 *motor carrier as the result of transportation provided under*
24 *this part. A carrier required by law to pay a shipper or*
25 *consignee for loss, damage, or default for which a connecting*

1 *motor carrier is responsible is subrogated, to the extent of*
2 *the amount paid, to the rights of the shipper or consignee*
3 *under any such security.*

4 “(b) *The Secretary may register a person as a broker*
5 *under section 13904 of this title only if the person files with*
6 *the Secretary a bond, insurance policy, or other type of se-*
7 *curity approved by the Secretary to ensure that the trans-*
8 *portation for which a broker arranges is provided. The reg-*
9 *istration remains in effect only as long as the broker contin-*
10 *ues to satisfy the security requirements of this subsection.*

11 “(c)(1) *The Secretary may register a person as a*
12 *freight forwarder under section 13903 of this title only if*
13 *the person files with the Secretary a bond, insurance policy,*
14 *or other type of security approved by the Secretary. The*
15 *security must be sufficient to pay, not more than the*
16 *amount of the security, for each final judgment against the*
17 *freight forwarder for bodily injury to, or death of, an indi-*
18 *vidual, or loss of, or damage to, property (other than prop-*
19 *erty referred to in paragraph (2) of this subsection), result-*
20 *ing from the negligent operation, maintenance, or use of*
21 *motor vehicles by or under the direction and control of the*
22 *freight forwarder when providing transfer, collection, or de-*
23 *livery service under this part.*

24 “(2) *The Secretary may require a registered freight*
25 *forwarder to file with the Secretary a bond, insurance pol-*

1 *icy, or other type of security approved by the Secretary suf-*
2 *ficient to pay, not more than the amount of the security,*
3 *for loss of, or damage to, property for which the freight for-*
4 *warder provides service.*

5 “(3) *The freight forwarder’s registration remains in ef-*
6 *fect only as long as the freight forwarder continues to satisfy*
7 *the security requirements of this subsection.*

8 “(d) *The Secretary may determine the type and*
9 *amount of security filed under this section. A motor carrier*
10 *may submit proof of qualifications as a self-insurer to sat-*
11 *isfy the security requirements of this section. The Secretary*
12 *shall adopt regulations governing the standards for ap-*
13 *proval as a self-insurer. Motor carriers which have been*
14 *granted authority to self-insure as of the date of enactment*
15 *of the Interstate Commerce Commission Sunset Act of 1995*
16 *shall retain that authority unless, for good cause shown and*
17 *after notice and an opportunity for a hearing, the Secretary*
18 *finds that the authority must be revoked.*

19 “(e) *The Secretary shall promulgate regulations re-*
20 *quiring the submission to the Secretary of notices of insur-*
21 *ance cancellation sufficiently in advance of actual cancella-*
22 *tion so as to enable the Secretary to promptly revoke the*
23 *registration of any carrier or broker after the effective date*
24 *of the cancellation. The Secretary shall also prescribe the*
25 *appropriate form of endorsement to be appended to policies*

1 *of insurance and surety bonds which will subject the insur-*
2 *ance policy or surety bond to the full security limits of the*
3 *coverage required under this section.*

4 **“§ 13907. Household goods agents**

5 “(a) *Each motor carrier providing transportation of*
6 *household goods subject to jurisdiction under subchapter I*
7 *of chapter 135 of this title shall be responsible for all acts*
8 *or omissions of any of its agents which relate to the per-*
9 *formance of household goods transportation services (includ-*
10 *ing accessorial or terminal services) subject to jurisdiction*
11 *under subchapter I of chapter 135 of this title and which*
12 *are within the actual or apparent authority of the agent*
13 *from the carrier or which are ratified by the carrier.*

14 “(b) *Each motor carrier providing transportation of*
15 *household goods subject to jurisdiction under subchapter I*
16 *of chapter 135 of this title shall use due diligence and rea-*
17 *sonable care in selecting and maintaining agents who are*
18 *sufficiently knowledgeable, fit, willing, and able to provide*
19 *adequate household goods transportation services (including*
20 *accessorial and terminal services) and to fulfill the obliga-*
21 *tions imposed upon them by this part and by such carrier.*

22 “(c)(1) *Whenever the Secretary of Transportation has*
23 *reason to believe from a complaint or investigation that an*
24 *agent providing household goods transportation services*
25 *(including accessorial and terminal services) under the au-*

1 *thority of a motor carrier providing transportation of*
2 *household goods subject to jurisdiction under subchapter I*
3 *of chapter 135 of this title has violated section 14901(e) or*
4 *14912 of this title or is consistently not fit, willing, and*
5 *able to provide adequate household goods transportation*
6 *services (including accessorial and terminal services), the*
7 *Secretary may issue to such agent a complaint stating the*
8 *charges and containing notice of the time and place of a*
9 *hearing which shall be held no later than 60 days after serv-*
10 *ice of the complaint to such agent.*

11 “(2) *Such agent shall have the right to appear at such*
12 *hearing and rebut the charges contained in the complaint.*

13 “(3) *If such person does not appear at the hearing or*
14 *if the Secretary finds that the agent has violated section*
15 *14901(e) or 14912 of this title or is consistently not fit,*
16 *willing, and able to provide adequate household goods trans-*
17 *portation services (including accessorial and terminal serv-*
18 *ices), the Secretary may issue an order to compel compli-*
19 *ance with the requirement that the agent be fit, willing, and*
20 *able. Thereafter, the Secretary may issue an order to limit,*
21 *condition, or prohibit such agent from any involvement in*
22 *the transportation or provision of services incidental to the*
23 *transportation of household goods subject to jurisdiction*
24 *under subchapter I of chapter 135 of this title if, after notice*
25 *and an opportunity for a hearing, the Secretary finds that*

1 *such agent, within a reasonable time after the date of issu-*
2 *ance of a compliance order under this section, but in no*
3 *event less than 30 days after such date of issuance, has will-*
4 *fully failed to comply with such order.*

5 “(4) *Upon filing of a petition with the Secretary by*
6 *an agent who is the subject of an order issued pursuant*
7 *to the second sentence of paragraph (3) of this subsection*
8 *and after notice, a hearing shall be held with an oppor-*
9 *tunity to be heard. At such hearing, a determination shall*
10 *be made whether the order issued pursuant to paragraph*
11 *(3) of this subsection should be rescinded.*

12 “(5) *Any agent adversely affected or aggrieved by an*
13 *order of the Secretary issued under this subsection may seek*
14 *relief in the appropriate United States court of appeals as*
15 *provided by and in the manner prescribed in chapter 158*
16 *of title 28, United States Code.*

17 “(d) *The antitrust laws, as defined in the first section*
18 *of the Clayton Act (15 U.S.C. 12), do not apply to discus-*
19 *sions or agreements between a motor carrier providing*
20 *transportation of household goods subject to jurisdiction*
21 *under subchapter I of chapter 135 of this title and its agents*
22 *(whether or not an agent is also a carrier) related solely*
23 *to (1) rates for the transportation of household goods under*
24 *the authority of the principal carrier, (2) accessorial, termi-*
25 *nal, storage, or other charges for services incidental to the*

1 *transportation of household goods transported under the au-*
2 *thority of the principal carrier, (3) allowances relating to*
3 *transportation of household goods under the authority of the*
4 *principal carrier, and (4) ownership of a motor carrier pro-*
5 *viding transportation of household goods subject to jurisdic-*
6 *tion under subchapter I of chapter 135 of this title by an*
7 *agent or membership on the board of directors of any such*
8 *motor carrier by an agent.*

9 **“§ 13908. Registration and other reforms**

10 “(a) *IN GENERAL.*—Within 18 months after the date
11 *of enactment of the Interstate Commerce Commission Sun-*
12 *set Act of 1995, the Secretary, in cooperation with the*
13 *States, industry groups, and other interested parties shall*
14 *conduct a study to determine whether, and to what extent,*
15 *the current Department of Transportation identification*
16 *number system, the single State registration system under*
17 *section 14505, the registration system contained in this*
18 *chapter, and the financial responsibility information sys-*
19 *tem under section 13906, should be modified or replaced*
20 *with a single, on-line Federal system.*

21 “(b) *FACTORS TO BE CONSIDERED.*—In conducting
22 *the rulemaking under subsection (a), the Secretary shall,*
23 *at a minimum, consider the following factors:*

24 “(1) *Funding for State enforcement of motor car-*
25 *rier safety regulations.*

1 “(2) *Whether the existing single State registra-*
2 *tion system is duplicative and burdensome.*

3 “(3) *The justification and need for collecting the*
4 *statutory fee for such system under section 145-*
5 *5(c)(2)(B)(iv).*

6 “(4) *The public safety.*

7 “(5) *The efficient delivery of transportation serv-*
8 *ices.*

9 “(6) *How, and under what conditions, to extend*
10 *the registration system to motor private carriers and*
11 *to carriers exempt under sections 13502, 13503, and*
12 *13506.*

13 “(c) *FEE SYSTEM.—The Secretary may consider*
14 *whether to establish, under section 9701 of title 31, a fee*
15 *system for registration and filing evidence of financial re-*
16 *sponsibility under the new system under subsection (a).*

17 “(d) *DEADLINE.—The Secretary shall conclude the*
18 *study under this section within 18 months and report to*
19 *Congress on the findings, together with recommendations*
20 *for any appropriate legislative changes that may be needed.*

21 **“CHAPTER 141—OPERATIONS OF CARRIERS**

22 **“SUBCHAPTER I—GENERAL REQUIREMENTS**

23 **“§ 14101. Providing transportation and service**

24 “(a) *A carrier providing transportation or service sub-*
25 *ject to jurisdiction under chapter 135 of this title shall pro-*

1 *vide the transportation or service on reasonable request. In*
2 *addition, a motor carrier shall provide safe and adequate*
3 *service, equipment, and facilities.*

4 “(b) A carrier providing transportation or service sub-
5 ject to jurisdiction under chapter 135 of this title may enter
6 into a contract with a shipper, other than a shipper of
7 household goods described in section 13102(9)(A)(i), to pro-
8 vide specified services under specified rates and conditions.
9 If the shipper and carrier in writing expressly waives any
10 or all rights and remedies under this part for the transpor-
11 tation covered by the contract, the transportation provided
12 under that contract shall not be subject to those provisions
13 of this part, and may not be subsequently challenged on
14 the ground that it violates such provision. The parties may
15 not waive the provisions governing registration, insurance,
16 or safety fitness. The exclusive remedy for any alleged
17 breach of a contract entered into under this subsection shall
18 be an action in an appropriate State court or United States
19 district court, unless the parties otherwise agree.

20 **“§ 14102. Leased motor vehicles**

21 “(a) The Secretary of Transportation may require a
22 motor carrier providing transportation subject to jurisdic-
23 tion under subchapter I of chapter 135 of this title that
24 uses motor vehicles not owned by it to transport property
25 under an arrangement with another party to—

1 “(1) make the arrangement in writing signed by
2 the parties specifying its duration and the compensa-
3 tion to be paid by the motor carrier;

4 “(2) carry a copy of the arrangement in each
5 motor vehicle to which it applies during the period
6 the arrangement is in effect;

7 “(3) inspect the motor vehicles and obtain liabil-
8 ity and cargo insurance on them; and

9 “(4) have control of and be responsible for oper-
10 ating those motor vehicles in compliance with require-
11 ments prescribed by the Secretary on safety of oper-
12 ations and equipment, and with other applicable law
13 as if the motor vehicles were owned by the motor car-
14 rier.

15 “(b) The Secretary shall require, by regulation, that
16 any arrangement, between a motor carrier of property pro-
17 viding transportation subject to jurisdiction under sub-
18 chapter I of chapter 135 of this title and any other person,
19 under which such other person is to provide any portion
20 of such transportation by a motor vehicle not owned by the
21 carrier shall specify, in writing, who is responsible for load-
22 ing and unloading the property onto and from the motor
23 vehicle.

1 **“§ 14103. Loading and unloading motor vehicles**

2 “(a) Whenever a shipper or receiver of property re-
3 quires that any person who owns or operates a motor vehicle
4 transporting property in interstate commerce (whether or
5 not such transportation is subject to jurisdiction under sub-
6 chapter I of chapter 135 of this title) be assisted in the load-
7 ing or unloading of such vehicle, the shipper or receiver
8 shall be responsible for providing such assistance or shall
9 compensate the owner or operator for all costs associated
10 with securing and compensating the person or persons pro-
11 viding such assistance.

12 “(b) It shall be unlawful to coerce or attempt to coerce
13 any person providing transportation of property by motor
14 vehicle for compensation in interstate commerce (whether
15 or not such transportation is subject to jurisdiction under
16 subchapter I of chapter 135 of this title) to load or unload
17 any part of such property onto or from such vehicle or to
18 employ or pay one or more persons to load or unload any
19 part of such property onto or from such vehicle, except that
20 this subsection shall not be construed as making unlawful
21 any activity which is not unlawful under the National
22 Labor Relations Act or the Act of March 23, 1932 (47 Stat.
23 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-
24 LaGuardia Act.

1 **“§ 14104. Household goods carrier operations**

2 “(a)(1) *The Secretary of Transportation may issue*
3 *regulations, including regulations protecting individual*
4 *shippers, in order to carry out this part with respect to*
5 *the transportation of household goods by motor carriers sub-*
6 *ject to jurisdiction under subchapter I of chapter 135 of this*
7 *title. The regulations and paperwork required of motor car-*
8 *riers providing transportation of household goods shall be*
9 *minimized to the maximum extent feasible consistent with*
10 *the protection of individual shippers.*

11 “(2) *Regulations of the Secretary protecting individual*
12 *shippers shall include, where appropriate, reasonable per-*
13 *formance standards for the transportation of household*
14 *goods subject to jurisdiction under subchapter I of chapter*
15 *135 of this title. In establishing performance standards*
16 *under this paragraph, the Secretary shall take into account*
17 *at least the following:*

18 “(A) *The level of performance that can be*
19 *achieved by a well-managed motor carrier transport-*
20 *ing household goods.*

21 “(B) *The degree of harm to individual shippers*
22 *which could result from a violation of the regulation.*

23 “(C) *The need to set the level of performance at*
24 *a level sufficient to deter abuses which result in harm*
25 *to consumers and violations of regulations.*

26 “(D) *Service requirements of the carriers.*

1 “(E) *The cost of compliance in relation to the*
2 *consumer benefits to be achieved from such compli-*
3 *ance.*

4 “(F) *The need to set the level of performance at*
5 *a level designed to encourage carriers to offer service*
6 *responsive to shipper needs.*

7 “(3) *Nothing in this section shall be construed to limit*
8 *the Secretary’s authority to require reports from motor car-*
9 *riers providing transportation of household goods or to re-*
10 *quire such carriers to provide specified information to con-*
11 *sumers concerning their past performance.*

12 “(b)(1) *Every motor carrier providing transportation*
13 *of household goods subject to jurisdiction under subchapter*
14 *I of chapter 135 of this title may, upon request of a prospec-*
15 *tive shipper, provide the shipper with an estimate of charges*
16 *for transportation of household goods and for the proposed*
17 *services. The Secretary shall not prohibit any such carrier*
18 *from charging a prospective shipper for providing a writ-*
19 *ten, binding estimate for the transportation and proposed*
20 *services.*

21 “(2) *Any charge for an estimate of charges provided*
22 *by a motor carrier to a shipper for transportation of house-*
23 *hold goods subject to jurisdiction under subchapter I of*
24 *chapter 135 of this title shall be subject to the antitrust*

1 *laws, as defined in the first section of the Clayton Act (15*
2 *U.S.C. 12).*

3 “(c) *The Secretary shall issue regulations that provide*
4 *motor carriers providing transportation of household goods*
5 *subject to jurisdiction under subchapter I of chapter 135*
6 *of this title with the maximum possible flexibility in weigh-*
7 *ing shipments, consistent with assurance to the shipper of*
8 *accurate weighing practices. The Secretary shall not pro-*
9 *hibit such carriers from backweighing shipments or from*
10 *basing their charges on the reweigh weights if the shipper*
11 *observes both the tare and gross weighings (or, prior to such*
12 *weighings, waives in writing the opportunity to observe*
13 *such weighings) and such weighings are performed on the*
14 *same scale.*

15 “SUBCHAPTER II—REPORTS AND RECORDS

16 “**§ 14121. Definitions**

17 “*In this subchapter—*

18 “(1) *‘carrier’ and ‘broker’ include a receiver or*
19 *trustee of a carrier and broker, respectively.*

20 “(2) *‘association’ means an organization main-*
21 *tained by or in the interest of a group of carriers or*
22 *brokers providing transportation or service subject to*
23 *jurisdiction under chapter 135 of this title that per-*
24 *forms a service, or engages in activities, related to*
25 *transportation under this part.*

1 **“§ 14122. Records: form; inspection; preservation**

2 “(a) *The Secretary of Transportation or the Inter-*
3 *modal Surface Transportation Board, as applicable, may*
4 *prescribe the form of records required to be prepared or com-*
5 *piled under this subchapter by carriers and brokers, includ-*
6 *ing records related to movement of traffic and receipts and*
7 *expenditures of money.*

8 “(b) *The Secretary or Transportation Board, or an*
9 *employee designated by the Secretary or Transportation*
10 *Board, may on demand and display of proper credentials—*

11 “(1) *inspect and examine the lands, buildings,*
12 *and equipment of a carrier or broker; and*

13 “(2) *inspect and copy any record of—*

14 “(A) *a carrier, broker, or association; and*

15 “(B) *a person controlling, controlled by, or*
16 *under common control with a carrier if the Sec-*
17 *retary or Transportation Board, as applicable,*
18 *considers inspection relevant to that person’s re-*
19 *lation to, or transaction with, that carrier.*

20 “(c) *The Secretary or Transportation Board, as appli-*
21 *cable, may prescribe the time period during which operat-*
22 *ing, accounting, and financial records must be preserved*
23 *by carriers.*

24 **“§ 14123. Reports by carriers, brokers, and associa-**
25 **tions**

26 “(a) *The Secretary—*

1 “(1) shall require class I and class II motor car-
2 riers (as defined by the Secretary) to file annual re-
3 ports with the Secretary, including a detailed balance
4 sheet and income statement, information related to
5 the ownership or lease of equipment operated by the
6 motor carrier, and data related to the movement of
7 traffic and safety performance, the form and sub-
8 stance of which shall be prescribed by the Secretary
9 and may vary for different classes of motor carriers;

10 “(2) may require carriers, freight forwarders,
11 brokers, lessors, and associations, or classes of them as
12 the Secretary may prescribe, to file quarterly, peri-
13 odic, or special reports with the Secretary and to re-
14 spond to surveys concerning their operations; and

15 “(3) shall have the authority upon good cause
16 shown to exempt any party from the financial report-
17 ing requirements prescribed by subsection (a)(1) or
18 (a)(2).

19 “(b) Any request for exemption under paragraph (3)
20 of subsection (a) must demonstrate, at a minimum, that
21 an exemption is required to avoid competitive harm and
22 preserve confidential business information that is not other-
23 wise publicly available. Exemptions shall only be granted
24 for one-year periods.”.

1 “(c) *The Intermodal Surface Transportation Board*
2 *may require carriers to file special reports containing infor-*
3 *mation needed by the Transportation Board.*

4 **“CHAPTER 143—FINANCE**

5 **“§ 14301. Security interests in certain motor vehicles**

6 “(a) *In this section—*

7 “(1) *‘motor vehicle’ means a truck of rated ca-*
8 *capacity (gross vehicle weight) of at least 10,000*
9 *pounds, a highway tractor of rated capacity (gross*
10 *combination weight) of at least 10,000 pounds, a*
11 *property-carrying trailer or semitrailer with at least*
12 *one load-carrying axle of at least 10,000 pounds, or*
13 *a motor bus with a seating capacity of at least 10 in-*
14 *dividuals.*

15 “(2) *‘lien creditor’ means a creditor having a*
16 *lien on a motor vehicle and includes an assignee for*
17 *benefit of creditors from the date of assignment, a*
18 *trustee in a case under title 11 from the date of filing*
19 *of the petition in that case, and a receiver in equity*
20 *from the date of appointment of the receiver.*

21 “(3) *‘security interest’ means an interest (includ-*
22 *ing an interest established by a conditional sales con-*
23 *tract, mortgage, equipment trust, or other lien or title*
24 *retention contract, or lease) in a motor vehicle when*

1 *the interest secures payment or performance of an ob-*
2 *ligation.*

3 “(4) ‘perfection’, as related to a security interest,
4 *means taking action (including public filing, record-*
5 *ing, notation on a certificate of title, and possession*
6 *of collateral by the secured party), or the existence of*
7 *facts, required under law to make a security interest*
8 *enforceable against general creditors and subsequent*
9 *lien creditors of a debtor, but does not include compli-*
10 *ance with requirements related only to the establish-*
11 *ment of a valid security interest between the debtor*
12 *and the secured party.*

13 “(b) A security interest in a motor vehicle owned by,
14 *or in the possession and use of, a carrier registered under*
15 *section 13902 of this title and owing payment or perform-*
16 *ance of an obligation secured by that security interest is*
17 *perfected in all jurisdictions against all general, and subse-*
18 *quent lien, creditors of, and all persons taking a motor vehi-*
19 *cle by sale (or taking or retaining a security interest in*
20 *a motor vehicle) from, that carrier when—*

21 “(1) a certificate of title is issued for a motor ve-
22 *hicle under a law of a jurisdiction that requires or*
23 *permits indication, on a certificate or title, of a secu-*
24 *rity interest in the motor vehicle if the security inter-*
25 *est is indicated on the certificate;*

1 “(2) a certificate of title has not been issued and
2 the law of the State where the principal place of busi-
3 ness of that carrier is located requires or permits pub-
4 lic filing or recording of, or in relation to, that secu-
5 rity interest if there has been such a public filing or
6 recording; and

7 “(3) a certificate of title has not been issued and
8 the security interest cannot be perfected under para-
9 graph (2) of this subsection, if the security interest
10 has been perfected under the law (including the con-
11 flict of laws rules) of the State where the principal
12 place of business of that carrier is located.

13 **“§14302. Pooling and division of transportation or**
14 **earnings**

15 “(a) A carrier providing transportation subject to ju-
16 risdiction under subchapter I of chapter 135 of this title
17 may not agree or combine with another such carrier to pool
18 or divide traffic or services or any part of their earnings
19 without the approval of the Intermodal Surface Transpor-
20 tation Board under this section.

21 “(b) The Transportation Board may approve and au-
22 thorize an agreement or combination between or among
23 motor carriers of passengers, or between a motor carrier of
24 passengers and a rail carrier of passengers, if the carriers
25 involved assent to the pooling or division and the Transpor-

1 *tation Board finds that a pooling or division of traffic, serv-*
2 *ices, or earnings—*

3 “(1) *will be in the interest of better service to the*
4 *public or of economy of operation; and*

5 “(2) *will not unreasonably restrain competition.*

6 “(c)(1) *Any motor carrier of property may apply to*
7 *the Transportation Board for approval of an agreement or*
8 *combination with another such carrier to pool or divide*
9 *traffic or any services or any part of their earnings by fil-*
10 *ing such agreement or combination with the Transportation*
11 *Board not less than 50 days before its effective date. Prior*
12 *to the effective date of the agreement or combination, the*
13 *Transportation Board shall determine whether the agree-*
14 *ment or combination is of major transportation importance*
15 *and whether there is substantial likelihood that the agree-*
16 *ment or combination will unduly restrain competition. If*
17 *the Transportation Board determines that neither of these*
18 *two factors exists, it shall, prior to such effective date and*
19 *without a hearing, approve and authorize the agreement or*
20 *combination, under such rules and regulations as the*
21 *Transportation Board may issue, and for such consider-*
22 *ation between such carriers and upon such terms and condi-*
23 *tions as shall be found by the Transportation Board to be*
24 *just and reasonable. If the Transportation Board deter-*
25 *mines either that the agreement or combination is of major*

1 *transportation importance or that there is substantial like-*
2 *lihood that the agreement or combination will unduly re-*
3 *strain competition, the Transportation Board shall hold a*
4 *hearing concerning whether the agreement or combination*
5 *will be in the interest of better service to the public or of*
6 *economy in operation and whether it will unduly restrain*
7 *competition and shall suspend operation of such agreement*
8 *or combination pending such hearing and final decision*
9 *thereon. After such hearing, the Transportation Board shall*
10 *indicate to what extent it finds that the agreement or com-*
11 *bination will be in the interest of better service to the public*
12 *or of economy in operation and will not unduly restrain*
13 *competition and if assented to by all the carriers involved,*
14 *shall to that extent, approve and authorize the agreement*
15 *or combination, under such rules and regulations as the*
16 *Transportation Board may issue, and for such consider-*
17 *ation between such carriers and upon such terms and condi-*
18 *tions as shall be found by the Transportation Board to be*
19 *just and reasonable.*

20 “(2) *In the case of an application for Transportation*
21 *Board approval of an agreement or combination between*
22 *a motor carrier providing transportation of household goods*
23 *and its agents to pool or divide traffic or services or any*
24 *part of their earnings, such agreement or combination shall*
25 *be presumed to be in the interest of better service to the*

1 *public and of economy in operation and not to restrain*
2 *competition unduly if the practices proposed to be carried*
3 *out under such agreement or combination are the same as*
4 *or similar to practices carried out under agreements and*
5 *combinations between motor carriers providing transpor-*
6 *tation of household goods to pool or divide traffic or service*
7 *of any part of their earnings approved by the Interstate*
8 *Commerce Commission before the date of enactment of the*
9 *Interstate Commerce Commission Sunset Act of 1995.*

10 “(3) *The Transportation Board shall streamline, sim-*
11 *plify, and expedite, to the maximum extent practicable, the*
12 *process (including, but not limited to, any paperwork) for*
13 *submission and approval of applications under this section*
14 *for agreements and combinations between motor carriers*
15 *providing transportation of household goods and their*
16 *agents.*

17 “(d) *The Transportation Board may impose condi-*
18 *tions governing the pooling or division and may approve*
19 *and authorize payment of a reasonable consideration be-*
20 *tween the carriers.*

21 “(e) *The Transportation Board may begin a proceed-*
22 *ing under this section on its own initiative or on applica-*
23 *tion.*

24 “(f) *A carrier may participate in an arrangement ap-*
25 *proved by or exempted by the Transportation Board under*

1 *this section without the approval of any other federal, State,*
2 *or municipal body. A carrier participating in an approved*
3 *or exempted arrangement is exempt from the antitrust laws*
4 *and from all other law, including State and municipal law,*
5 *as necessary to let that person carry out the arrangement.*

6 “(g) *Any agreements in operation under the provisions*
7 *of this title on the date of enactment of the Interstate Com-*
8 *merce Commission Sunset Act of 1995 that are succeeded*
9 *by this section shall remain in effect until further order of*
10 *the Transportation Board.*

11 **“§ 14303. Consolidation, merger, and acquisition of**
12 ***control of motor carriers of passengers***

13 “(a) *APPROVAL REQUIRED.—The following trans-*
14 *actions involving motor carriers of passengers subject to ju-*
15 *risdiction under subchapter I of chapter 135 of this title*
16 *may be carried out only with the approval of the Inter-*
17 *modal Surface Transportation Board:*

18 “(1) *Consolidation or merger of the properties or*
19 *franchises of at least 2 carriers into one operation for*
20 *the ownership, management, and operation of the pre-*
21 *viously separately owned properties.*

22 “(2) *A purchase, lease, or contract to operate*
23 *property of another carrier by any number of car-*
24 *riers.*

1 “(3) *Acquisition of control of a carrier by any*
2 *number of carriers.*

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

5 “(5) *Acquisition of control of a carrier by a per-*
6 *son that is not a carrier but that controls any number*
7 *of carriers.*

8 “(b) *The Board shall approve and authorize a trans-*
9 *action under this section when it finds the transaction is*
10 *consistent with the public interest. The Board shall consider*
11 *at least the following:*

12 “(1) *The effect of the proposed transaction on the*
13 *adequacy of transportation to the public.*

14 “(2) *The total fixed charges that result from the*
15 *proposed transaction.*

16 “(3) *The interest of carrier employees affected by*
17 *the proposed transaction.*

18 *The Board may impose conditions governing the trans-*
19 *action.*

20 “(c) *Within 30 days after an application is filed under*
21 *this section, the Board shall either publish a notice of the*
22 *application in the Federal Register or (2) reject the applica-*
23 *tion if it is incomplete.*

1 “(d) Written comments about an application may be
2 filed with the Board within 45 days after notice of the ap-
3 plication is published under subsection (c).

4 “(e) The Board shall conclude evidentiary proceedings
5 by the 240th day after notice of the application is published
6 under subsection (c). The Board shall issue a final decision
7 by the 180th day after the conclusion of the evidentiary pro-
8 ceedings. The Board may extend a time period under this
9 subsection, except that the total of all such extensions with
10 respect to any application shall not exceed 90 days.

11 “(f) A carrier or corporation participating in or re-
12 sulting from a transaction approved by the Board under
13 this section, or exempted by the Board from the application
14 of this section pursuant to section 13541, may carry out
15 the transaction, own and operate property, and exercise
16 control or franchises acquired through the transaction with-
17 out the approval of a State authority. A carrier, corpora-
18 tion, or person participating in that approved or exempted
19 transaction is exempt from the antitrust laws and from all
20 other law, including State and municipal law, as necessary
21 to let that person carry out the transaction, hold, maintain,
22 and operate property, and exercise control or franchises ac-
23 quired through the transaction.

24 “(g) This section shall not apply to transactions in-
25 volving carriers whose aggregate gross operating revenues

1 *were not more than \$2,000,000 during a period of 12 con-*
 2 *secutive months ending not more than 6 months before the*
 3 *date of the agreement of the parties.*

4 **“CHAPTER 145—FEDERAL-STATE RELATIONS**

5 **“§ 14501. Federal authority over intrastate transpor-**
 6 **tation**

7 *“(a) MOTOR CARRIERS OF PASSENGERS.—No State or*
 8 *political subdivision thereof and no interstate agency or*
 9 *other political agency of two or more States shall enact or*
 10 *enforce any law, rule, regulation, standard, or other provi-*
 11 *sions having the force and effect of law relating to schedul-*
 12 *ing of interstate or intrastate transportation (including dis-*
 13 *continuance or reduction in the level of service) provided*
 14 *by motor carrier of passengers subject to jurisdiction under*
 15 *subchapter I of chapter 135 of this title on an interstate*
 16 *route or relating to the implementation of any change in*
 17 *the rates for such transportation or for charter transpor-*
 18 *tation except to the extent that notice, not in excess of 30*
 19 *days, of changes in schedules may be required. This sub-*
 20 *section shall not apply to intrastate commuter bus oper-*
 21 *ations.*

22 *“(b) FREIGHT FORWARDERS AND TRANSPORTATION*
 23 *BROKERS.—*

24 *“(1) GENERAL RULE.—Subject to paragraph (2)*
 25 *of this subsection, no State or political subdivision*

1 *thereof and no intrastate agency or other political*
2 *agency of two or more States shall enact or enforce*
3 *any law, rule, regulation, standard, or other provi-*
4 *sion having the force and effect of law relating to*
5 *intrastate rates, intrastate routes, or intrastate serv-*
6 *ices of any freight forwarder or transportation broker.*

7 *“(2) CONTINUATION OF HAWAII’S AUTHORITY.—*
8 *Nothing in this subsection and the amendments made*
9 *by the Surface Freight Forwarder Deregulation Act of*
10 *1986 shall be construed to affect the authority of the*
11 *State of Hawaii to continue to regulate a motor car-*
12 *rier operating within the State of Hawaii.*

13 *“(c) MOTOR CARRIERS OF PROPERTY.—*

14 *“(1) GENERAL RULE.—Except as provided in*
15 *paragraphs (2) and (3), a State, political subdivision*
16 *of a State, or political authority of 2 or more States*
17 *may not enact or enforce a law, regulation, or other*
18 *provision having the force and effect of law related to*
19 *a price, route, or service of any motor carrier (other*
20 *than a carrier affiliated with a direct air carrier cov-*
21 *ered by section 41713(b)(4) of this title) or any motor*
22 *private carrier or any transportation intermediary*
23 *(as defined in sections 13102(1) and 13102(7) of this*
24 *subtitle) with respect to the transportation of prop-*
25 *erty.*

1 “(2) *MATTERS NOT COVERED.—Paragraph (1)—*

2 “(A) *shall not restrict the safety regulatory*
3 *authority of a State with respect to motor vehi-*
4 *cles, the authority of a State to impose highway*
5 *route controls or limitations based on the size or*
6 *weight of the motor vehicle or the hazardous na-*
7 *ture of the cargo, or the authority of a State to*
8 *regulate motor carriers with regard to minimum*
9 *amounts of financial responsibility relating to*
10 *insurance requirements and self-insurance au-*
11 *thorization;*

12 “(B) *does not apply to the transportation of*
13 *household goods; and*

14 “(C) *does not apply to the authority of a*
15 *State or a political subdivision of a State to*
16 *enact or enforce a law, regulation, or other pro-*
17 *vision relating to the price and related condi-*
18 *tions of for-hire motor vehicle transportation by*
19 *a tow truck, if such transportation is per-*
20 *formed—*

21 “(i) *at the request of a law enforcement*
22 *agency; or*

23 “(ii) *without the prior consent or au-*
24 *thorization of the owner or operator of the*
25 *motor vehicle.*

1 “(3) *STATE STANDARD TRANSPORTATION PRAC-*
2 *TICES.—*

3 “(A) *CONTINUATION.—Paragraph (1) shall*
4 *not affect any authority of a State, political sub-*
5 *division of a State, or political authority of 2 or*
6 *more States to enact or enforce a law, regulation,*
7 *or other provision, with respect to the intrastate*
8 *transportation of property by motor carriers, re-*
9 *lated to—*

10 “(i) *uniform cargo liability rules,*

11 “(ii) *uniform bills of lading or receipts*
12 *for property being transported,*

13 “(iii) *uniform cargo credit rules, or*

14 “(iv) *antitrust immunity for joint line*
15 *rates or routes, classifications, and mileage*
16 *guides,*

17 *if such law, regulation, or provision meets the re-*
18 *quirements of subparagraph (B).*

19 “(B) *REQUIREMENTS.—A law, regulation,*
20 *or provision of a State, political subdivision, or*
21 *political authority meets the requirements of this*
22 *subparagraph if—*

23 “(i) *the law, regulation, or provision*
24 *covers the same subject matter as, and com-*
25 *pliance with such law, regulation, or provi-*

1 *sion is no more burdensome than compli-*
 2 *ance with, a provision of this part or a reg-*
 3 *ulation issued by the Secretary of Transpor-*
 4 *tation or the Intermodal Surface Transpor-*
 5 *tation Board under this part; and*

6 *“(ii) the law, regulation, or provision*
 7 *only applies to a carrier upon request of*
 8 *such carrier.*

9 *“(C) ELECTION.—Notwithstanding any*
 10 *other provision of law, a carrier affiliated with*
 11 *a direct air carrier through common controlling*
 12 *ownership may elect to be subject to a law, regu-*
 13 *lation, or provision of a State, political subdivi-*
 14 *sion, or political authority under this para-*
 15 *graph.*

16 *“(4) This subsection shall not apply with respect*
 17 *to the State of Hawaii until August 22, 1997.*

18 **“§ 14502. Tax discrimination against motor carrier**
 19 ***transportation property***

20 *“(a) In this section—*

21 *“(1) ‘assessment’ means valuation for a property*
 22 *tax levied by a taxing district;*

23 *“(2) ‘assessment jurisdiction’ means a geographi-*
 24 *cal area in a State used in determining the assessed*
 25 *value of property for ad valorem taxation;*

1 “(3) ‘motor carrier transportation property’
2 means property, as defined by the Secretary of Trans-
3 portation, owned or used by a motor carrier provid-
4 ing transportation in interstate commerce whether or
5 not such transportation is subject to jurisdiction
6 under subchapter I of chapter 135 of this title; and

7 “(4) ‘commercial and industrial property’ means
8 property, other than transportation property and
9 land used primarily for agricultural purposes or tim-
10 ber growing, devoted to a commercial or industrial
11 use and subject to a property tax levy.

12 “(b) The following acts unreasonably burden and dis-
13 criminate against interstate commerce and a State, sub-
14 division of a State, or authority acting for a State or sub-
15 division of a State may not do any of them:

16 “(1) Assess motor carrier transportation prop-
17 erty at a value that has a higher ratio to the true
18 market value of the motor carrier transportation
19 property than the ratio that the assessed value of
20 other commercial and industrial property in the same
21 assessment jurisdiction has to the true market value
22 of the other commercial and industrial property.

23 “(2) Levy or collect a tax on an assessment that
24 may not be made under paragraph (1) of this sub-
25 section.

1 “(3) Levy or collect an ad valorem property tax
2 on motor carrier transportation property at a tax
3 rate that exceeds the tax rate applicable to commer-
4 cial and industrial property in the same assessment
5 jurisdiction.

6 “(c) Notwithstanding section 1341 of title 28 and with-
7 out regard to the amount in controversy or citizenship of
8 the parties, a district court of the United States has juris-
9 diction, concurrent with other jurisdiction of courts of the
10 United States and the States, to prevent a violation of sub-
11 section (b) of this section. Relief may be granted under this
12 subsection only if the ratio of assessed value to true market
13 value of motor carrier transportation property exceeds by
14 at least 5 percent, the ratio of assessed value to true market
15 value of other commercial and industrial property in the
16 same assessment jurisdiction. The burden of proof in deter-
17 mining assessed value and true market value is governed
18 by State law. If the ratio of the assessed value of other com-
19 mercial and industrial property in the assessment jurisdic-
20 tion to the true market value of all other commercial and
21 industrial property cannot be determined to the satisfaction
22 of the district court through the random-sampling method
23 known as a sales assessment ratio study (to be carried out
24 under statistical principles applicable to such a study), the
25 court shall find, as a violation of this section—

1 “(1) an assessment of the motor carrier transpor-
2 tation property at a value that has a higher ratio to
3 the true market value of the motor carrier transpor-
4 tation property than the assessment value of all other
5 property subject to a property tax levy in the assess-
6 ment jurisdiction has to the true market value of all
7 such other property; and

8 “(2) the collection of ad valorem property tax on
9 the motor carrier transportation property at a tax
10 rate that exceeds the tax ratio rate applicable to tax-
11 able property in the taxing district.

12 **“§ 14503. Withholding State and local income tax by**
13 **certain carriers**

14 “(a)(1) No part of the compensation paid by a motor
15 carrier providing transportation subject to jurisdiction
16 under subchapter I of chapter 135 of this title or by a motor
17 private carrier to an employee who performs regularly as-
18 signed duties in 2 or more States as such an employee with
19 respect to a motor vehicle shall be subject to the income tax
20 laws of any State or subdivision of that State, other than
21 the State or subdivision thereof of the employee’s residence.

22 “(2) In this subsection ‘employee’ has the meaning
23 given such term in section 31132 of this title.

24 “(b)(1) In this subsection, an employee is deemed to
25 have earned more than 50 percent of pay in a State or

1 *subdivision of that State in which the time worked by the*
2 *employee in the State or subdivision is more than 50 per-*
3 *cent of the total time worked by the employee while em-*
4 *ployed during the calendar year.*

5 “(2) *A water carrier providing transportation subject*
6 *to the jurisdiction of the Secretary of Transportation under*
7 *subchapter II of chapter 135 of this title shall file income*
8 *tax information returns and other reports only with—*

9 “(A) *the State and subdivision of residence of the*
10 *employee (as shown on the employment records of the*
11 *carrier); and*

12 “(B) *the State and subdivision in which the em-*
13 *ployee earned more than 50 percent of the pay re-*
14 *ceived by the employee from the carrier during the*
15 *preceding calendar year.*

16 “(3) *This subsection applies to pay of a master, officer,*
17 *or sailor who is a member of the crew on a vessel engaged*
18 *in foreign, coastwise, intercoastal or noncontiguous trade*
19 *or in the fisheries of the United States.*

20 “(c) *A motor and motor private carrier withholding*
21 *pay from an employee under subsection (a) of this section*
22 *shall file income tax information returns and other reports*
23 *only with the State and subdivision of residence of the em-*
24 *ployee.*

1 **“§ 14504. State tax**

2 “A State or political subdivision thereof may not col-
3 lect or levy a tax, fee, head charge, or other charge on—

4 “(1) a passenger traveling in interstate com-
5 merce by motor carrier;

6 “(2) the transportation of a passenger traveling
7 in interstate commerce by motor carrier;

8 “(3) the sale of passenger transportation in
9 interstate commerce by motor carrier; or

10 “(4) the gross receipts derived from such trans-
11 portation.

12 **“§ 14505. Single State registration system**

13 “(a) *DEFINITIONS.*—In this section, the terms ‘stand-
14 ards’ and ‘amendments to standards’ mean the specification
15 of forms and procedures required by regulations of the Sec-
16 retary to prove the lawfulness of transportation by motor
17 carrier referred to in section 13501.

18 “(b) *GENERAL RULE.*—The requirement of a State
19 that a motor carrier, providing transportation subject to
20 jurisdiction under subchapter I of chapter 135 and provid-
21 ing transportation in that State, must register with the
22 State is not an unreasonable burden on transportation re-
23 ferred to in section 13501 when the State registration is
24 completed under standards of the Secretary under sub-
25 section (c). When a State registration requirement imposes

1 *obligations in excess of the standards of the Secretary, the*
2 *part in excess is an unreasonable burden.*

3 “(c) *SINGLE STATE REGISTRATION SYSTEM.*—

4 “(1) *IN GENERAL.*—*The Secretary shall main-*
5 *tain standards for implementing a system under*
6 *which—*

7 “(A) *a motor carrier is required to register*
8 *annually with only one State by providing evi-*
9 *dence of its Federal registration under chapter*
10 *139;*

11 “(B) *the State of registration shall fully*
12 *comply with standards prescribed under this sec-*
13 *tion; and*

14 “(C) *such single State registration shall be*
15 *deemed to satisfy the registration requirements of*
16 *all other States.*

17 “(2) *SPECIFIC REQUIREMENTS.*—

18 “(A) *EVIDENCE OF CERTIFICATE; PROOF OF*
19 *INSURANCE; PAYMENT OF FEES.*—*Under the*
20 *standards of the Secretary implementing the sin-*
21 *gle State registration system described in para-*
22 *graph (1) of this subsection, only a State acting*
23 *in its capacity as registration State under such*
24 *single State system may require a motor carrier*

1 *holding a certificate or permit issued under this*
2 *part—*

3 “(i) to file and maintain evidence of
4 *such certificate or permit;*

5 “(ii) to file satisfactory proof of re-
6 *quired insurance or qualification as a self-*
7 *insurer;*

8 “(iii) to pay directly to such State fee
9 *amounts in accordance with the fee system*
10 *established under subparagraph (B)(iv) of*
11 *this paragraph, subject to allocation of fee*
12 *revenues among all States in which the car-*
13 *rier operates and which participate in the*
14 *single State registration system; and*

15 “(iv) to file the name of a local agent
16 *for service of process.*

17 “(B) RECEIPTS; FEE SYSTEM.—*The stand-*
18 *ards of the Secretary—*

19 “(i) shall require that the registration
20 *State issue a receipt, in a form, reflecting*
21 *that the carrier has filed proof of insurance*
22 *as provided under subparagraph (A)(ii) of*
23 *this subsection and has paid fee amounts in*
24 *accordance with the fee system established*
25 *under clause (iv) of this subparagraph;*

1 “(ii) shall require that copies of the re-
2 ceipt issued under clause (i) of this para-
3 graph be kept in each of the carrier’s com-
4 mercial motor vehicles;

5 “(iii) shall not require decals, stamps,
6 cab cards, or any other means of registering
7 or identifying specific vehicles operated by
8 the carrier;

9 “(iv) shall establish a fee system for the
10 filing of proof of insurance as provided
11 under subparagraph (A)(ii) of this sub-
12 section that—

13 “(i) is based on the number of commer-
14 cial motor vehicles the carrier operates in a
15 State and on the number of States in which
16 the carrier operates,

17 “(ii) minimizes the costs of complying
18 with the registration system, and

19 “(iii) results in a fee for each partici-
20 pating State that is equal to the fee, not to
21 exceed \$10 per vehicle, that such State col-
22 lected or charged as of November 15, 1991;
23 and

24 “(v) shall not authorize the charging or
25 collection of any fee for filing and main-

1 *taining a certificate or permit under sub-*
2 *paragraph (A)(i) of this paragraph.*

3 *“(C) PROHIBITED FEES.—The charging or*
4 *collection of any fee under this section that is not*
5 *in accordance with the fee system established*
6 *under subparagraph (B)(iv) of this paragraph*
7 *shall be deemed to be a burden on interstate com-*
8 *merce.*

9 *“(D) LIMITATION ON PARTICIPATION BY*
10 *STATES.—Only a State which, as of January 1,*
11 *1991, charged or collected a fee for a vehicle*
12 *identification stamp or number under part 1023*
13 *of title 49, Code of Federal Regulations, shall be*
14 *eligible to participate as a registration State*
15 *under this subsection or to receive any fee reve-*
16 *nue under this subsection.*

17 **“CHAPTER 147—ENFORCEMENT;**
18 **INVESTIGATIONS; RIGHTS; REMEDIES**

19 **“§ 14701. General authority**

20 *“(a) The Secretary of Transportation or the Inter-*
21 *modal Surface Transportation Board, as applicable, may*
22 *begin an investigation under this part on the Secretary’s*
23 *or the Transportation Board’s own initiative or on com-*
24 *plaint. If the Secretary or Transportation Board, as appli-*
25 *cable finds that a carrier or broker is violating this part,*

1 *the Secretary or Transportation Board, as applicable, shall*
2 *take appropriate action to compel compliance with this*
3 *part. If the Secretary finds that a foreign motor carrier*
4 *or foreign motor private carrier is violating chapter 139*
5 *of this title, the Secretary shall take appropriate action to*
6 *compel compliance with that chapter. The Secretary or*
7 *Transportation Board, as applicable, may take action*
8 *under this subsection only after giving the carrier or broker*
9 *notice of the investigation and an opportunity for a pro-*
10 *ceeding.*

11 “(b) *A person, including a governmental authority,*
12 *may file with the Secretary or Transportation Board, as*
13 *applicable, a complaint about a violation of this part by*
14 *a carrier providing, or broker for, transportation or service*
15 *subject to jurisdiction under this part or a foreign motor*
16 *carrier or foreign motor private carrier providing transpor-*
17 *tation registered under section 13902 of this title. The com-*
18 *plaint must state the facts that are the subject of the viola-*
19 *tion. The Secretary or Transportation Board, as applicable,*
20 *may dismiss a complaint that it determines does not state*
21 *reasonable grounds for investigation and action.*

22 “(c) *A formal investigative proceeding begun by the*
23 *Secretary or Transportation Board under subsection (a) of*
24 *this section is dismissed automatically unless it is con-*

1 *cluded with administrative finality by the end of the third*
2 *year after the date on which it was begun.*

3 **“§ 14702. Enforcement by the regulatory authority**

4 *“(a) The Secretary of Transportation or the Inter-*
5 *modal Surface Transportation Board, as applicable, may*
6 *bring a civil action—*

7 *“(1) to enforce section 14103 of this title; or*

8 *“(2) to enforce this part, or a regulation or order*
9 *of the Secretary or Transportation Board, as applica-*
10 *ble, when violated by a carrier or broker providing*
11 *transportation or service subject to jurisdiction under*
12 *subchapter I or III of chapter 135 of this title or by*
13 *a foreign motor carrier or foreign motor private car-*
14 *rier providing transportation registered under section*
15 *13902 of this title.*

16 *“(b) In a civil action under subsection (a)(2) of this*
17 *section—*

18 *“(1) trial is in the judicial district in which the*
19 *carrier, foreign motor carrier, foreign motor private*
20 *carrier, or broker operates;*

21 *“(2) process may be served without regard to the*
22 *territorial limits of the district or of the State in*
23 *which the action is instituted; and*

1 “(b)(1) *A carrier providing transportation or service*
2 *subject to jurisdiction under chapter 135 of this title is lia-*
3 *ble to a person for amounts charged that exceed the applica-*
4 *ble rate for transportation or service contained in a tariff*
5 *filed under section 13702 of this title.*

6 “(2) *A carrier or broker providing transportation or*
7 *service subject to jurisdiction under chapter 135 of this title*
8 *is liable for damages sustained by a person as a result of*
9 *an act or omission of that carrier or broker in violation*
10 *of this part.*

11 “(c)(1) *A person may file a complaint with the Trans-*
12 *portation Board or the Secretary, as applicable, under sec-*
13 *tion 14701(b) of this title or bring a civil action under sub-*
14 *section (b) (1) or (2) of this section to enforce liability*
15 *against a carrier or broker providing transportation or*
16 *service subject to jurisdiction under chapter 135 of this title.*

17 “(2) *When the Transportation Board or Secretary, as*
18 *applicable, makes an award under subsection (b) of this sec-*
19 *tion, the Transportation Board or Secretary, as applicable,*
20 *shall order the carrier to pay the amount awarded by a*
21 *specific date. The Transportation Board or Secretary, as*
22 *applicable, may order a carrier or broker providing trans-*
23 *portation or service subject to jurisdiction under chapter*
24 *135 of this title to pay damages only when the proceeding*
25 *is on complaint. The person for whose benefit an order of*

1 *the Transportation Board or Secretary requiring the pay-*
2 *ment of money is made may bring a civil action to enforce*
3 *that order under this paragraph if the carrier or broker*
4 *does not pay the amount awarded by the date payment was*
5 *ordered to be made.*

6 “(d)(1) *When a person begins a civil action under sub-*
7 *section (b) of this section to enforce an order of the Trans-*
8 *portation Board or Secretary requiring the payment of*
9 *damages by a carrier or broker providing transportation*
10 *or service subject to jurisdiction under chapter 135 of this*
11 *title, the text of the order of the Transportation Board or*
12 *Secretary must be included in the complaint. In addition*
13 *to the district courts of the United States, a State court*
14 *of general jurisdiction having jurisdiction of the parties has*
15 *jurisdiction to enforce an order under this paragraph. The*
16 *findings and order of the Transportation Board or Sec-*
17 *retary are competent evidence of the facts stated in them.*
18 *Trial in a civil action brought in a district court of the*
19 *United States under this paragraph is in the judicial dis-*
20 *trict in which the plaintiff resides or in which the principal*
21 *operating office of the carrier or broker is located. In a civil*
22 *action under this paragraph, the plaintiff is liable for only*
23 *those costs that accrue on an appeal taken by the plaintiff.*

24 “(2) *All parties in whose favor the award was made*
25 *may be joined as plaintiffs in a civil action brought in a*

1 *to jurisdiction under chapter 135 of this title and an elec-*
2 *tion to file a complaint with the Intermodal Surface Trans-*
3 *portation Board or Secretary of Transportation, as appli-*
4 *cable, is made under section 14704(c)(1), the complaint*
5 *must be filed within 3 years after the claim accrues.*

6 “(c) *A person must file a complaint with the Trans-*
7 *portation Board or Secretary, as applicable, to recover*
8 *damages under section 14704(b)(2) of this title within 2*
9 *years after the claim accrues.*

10 “(d) *The limitation periods under subsection (b) of this*
11 *section are extended for 6 months from the time written*
12 *notice is given to the claimant by the carrier of disallow-*
13 *ance of any part of the claim specified in the notice if a*
14 *written claim is given to the carrier within those limitation*
15 *periods. The limitation periods under subsection (b) of this*
16 *section and the 2-year period under subsection (c) of this*
17 *section are extended for 90 days from the time the carrier*
18 *begins a civil action under subsection (a) of this section*
19 *to recover charges related to the same transportation or*
20 *service, or collects (without beginning a civil action under*
21 *that subsection) the charge for that transportation or service*
22 *if that action is begun or collection is made within the ap-*
23 *propriate period.*

24 “(e) *A person must begin a civil action to enforce an*
25 *order of the Transportation Board or Secretary against a*

1 carrier for the payment of money within one year after the
2 date the order required the money to be paid.

3 “(f) This section applies to transportation for the
4 United States Government. The time limitations under this
5 section are extended, as related to transportation for or on
6 behalf of the United States Government, for 3 years from
7 the date of (1) payment of the rate for the transportation
8 or service involved, (2) subsequent refund for overpayment
9 of that rate, or (3) deduction made under section 3726 of
10 title 31, whichever is later.

11 “(g) A claim related to a shipment of property accrues
12 under this section on delivery or tender of delivery by the
13 carrier.

14 **“§ 14706. Liability of carriers under receipts and bills**
15 **of lading**

16 “(a)(1) A carrier providing transportation or service
17 subject to jurisdiction under subchapter I or III of chapter
18 135 of this title shall issue a receipt or bill of lading for
19 property it receives for transportation under this part. That
20 carrier and any other carrier that delivers the property and
21 is providing transportation or service subject to jurisdiction
22 under subchapter I or III of chapter 135 or chapter 105
23 of this title are liable to the person entitled to recover under
24 the receipt or bill of lading. The liability imposed under
25 this paragraph is for the actual loss or injury to the prop-

1 erty caused by (1) the receiving carrier, (2) the delivering
2 carrier, or (3) another carrier over whose line or route the
3 property is transported in the United States or from a place
4 in the United States to a place in an adjacent foreign coun-
5 try when transported under a through bill of lading and,
6 except in the case of a freight forwarder, applies to property
7 reconsigned or diverted under a tariff filed under section
8 13702 of this title. Failure to issue a receipt or bill of lading
9 does not affect the liability of a carrier. A delivering carrier
10 is deemed to be the carrier performing the line-haul trans-
11 portation nearest the destination but does not include a car-
12 rier providing only a switching service at the destination.

13 “(2) A freight forwarder is both the receiving and de-
14 livering carrier. When a freight forwarder provides service
15 and uses a motor carrier providing transportation subject
16 to jurisdiction under subchapter I of chapter 135 of this
17 title to receive property from a consignor, the motor carrier
18 may execute the bill of lading or shipping receipt for the
19 freight forwarder with its consent. With the consent of the
20 freight forwarder, a motor carrier may deliver property for
21 a freight forwarder on the freight forwarder’s bill of lading,
22 freight bill, or shipping receipt to the consignee named in
23 it, and receipt for the property may be made on the freight
24 forwarder’s delivery receipt.

1 “(b) *The carrier issuing the receipt or bill of lading*
2 *under subsection (a) of this section or delivering the prop-*
3 *erty for which the receipt or bill of lading was issued is*
4 *entitled to recover from the carrier over whose line or route*
5 *the loss or injury occurred the amount required to be paid*
6 *to the owners of the property, as evidenced by a receipt,*
7 *judgment, or transcript, and the amount of its expenses rea-*
8 *sonably incurred in defending a civil action brought by that*
9 *person.*

10 “(c)(1) *A carrier may limit liability imposed under*
11 *subsection (a) by establishing rates for the transportation*
12 *of property (other than household goods) under which the*
13 *liability of the carrier for such property is limited to a*
14 *value established by written or electronic declaration of the*
15 *shipper or by a mutual written agreement between the car-*
16 *rier and shipper.*

17 “(2) *If loss or injury to property occurs while it is*
18 *in the custody of a water carrier, the liability of that carrier*
19 *is determined by its bill of lading and the law applicable*
20 *to water transportation. The liability of the initial or deliv-*
21 *ering carrier is the same as the liability of the water car-*
22 *rier.*

23 “(d)(1) *A civil action under this section may be*
24 *brought against a delivering carrier (other than a rail car-*
25 *rier) in a district court of the United States or in a State*

1 *court. Trial, if the action is brought in a district court of*
2 *the United States is in a judicial district, and if in a State*
3 *court, is in a State through which the defendant carrier*
4 *operates.*

5 “(2)(A) *A civil action under this section may be*
6 *brought against the carrier alleged to have caused the loss*
7 *or damage, in the judicial district in which such loss or*
8 *damage is alleged to have occurred.*

9 “(B) *A civil action under this section may be brought*
10 *in a United States district court or in a State court.*

11 “(C) *In this section, ‘judicial district’ means (i) in the*
12 *case of a United States district court, a judicial district*
13 *of the United States, and (ii) in the case of a State court,*
14 *the applicable geographic area over which such court exer-*
15 *cises jurisdiction.*

16 “(e) *A carrier may not provide by rule, contract, or*
17 *otherwise, a period of less than 9 months for filing a claim*
18 *against it under this section and a period of less than 2*
19 *years for bringing a civil action against it under this sec-*
20 *tion. The period for bringing a civil action is computed*
21 *from the date the carrier gives a person written notice that*
22 *the carrier has disallowed any part of the claim specified*
23 *in the notice. For the purposes of this subsection—*

24 “(1) *an offer of compromise shall not constitute*
25 *a disallowance of any part of the claim unless the*

1 *carrier, in writing, informs the claimant that such*
2 *part of the claim is disallowed and provides reasons*
3 *for such disallowance; and*

4 *“(2) communications received from a carrier’s*
5 *insurer shall not constitute a disallowance of any*
6 *part of the claim unless the insurer, in writing, in-*
7 *forms the claimant that such part of the claim is dis-*
8 *allowed, provides reason for such disallowance, and*
9 *informs the claimant that the insurer is acting on be-*
10 *half of the carrier.*

11 *“(f) A carrier or group of carriers subject to jurisdic-*
12 *tion under subchapter I or III of chapter 135 of this title*
13 *may petition the Transportation Board to modify, elimi-*
14 *nate, or establish rates for the transportation of household*
15 *goods under which the liability of the carrier for that prop-*
16 *erty is limited to a value established by written declaration*
17 *of the shipper or by a written agreement.*

18 *“(g) Within one year after enactment of the Interstate*
19 *Commerce Commission Sunset Act of 1995, the Secretary*
20 *shall deliver to the appropriate Congressional authorizing*
21 *committees a report on the benefit of revising or modifying*
22 *the terms or applicability of this section, together with any*
23 *proposed legislation to implement the study’s recommenda-*
24 *tions, if any.*

1 **“§ 14707. Private enforcement of registration require-**
2 **ment**

3 “(a) *If a person provides transportation by motor ve-*
4 *hicle or service in clear violation of section 13901–13904*
5 *or 13906 of this title, a person injured by the transportation*
6 *or service may bring a civil action to enforce any such sec-*
7 *tion. In a civil action under this subsection, trial is in the*
8 *judicial district in which the person who violated that sec-*
9 *tion operates.*

10 “(b) *A copy of the complaint in a civil action under*
11 *subsection (a) of this section shall be served on the Secretary*
12 *of Transportation and a certificate of service must appear*
13 *in the complaint filed with the court. The Secretary may*
14 *intervene in a civil action under subsection (a) of this sec-*
15 *tion. The Secretary may notify the district court in which*
16 *the action is pending that the Secretary intends to consider*
17 *the matter that is the subject of the complaint in a proceed-*
18 *ing before the Secretary. When that notice is filed, the court*
19 *shall stay further action pending disposition of the proceed-*
20 *ing before the Secretary.*

21 “(c) *In a civil action under subsection (a) of this sec-*
22 *tion, the court may determine the amount of and award*
23 *a reasonable attorney’s fee to the prevailing party. That fee*
24 *is in addition to costs allowable under the Federal Rules*
25 *of Civil Procedure.*

1 **“§ 14708. Dispute settlement program for household**
2 **goods carriers**

3 “(a)(1) *As a condition of registration under section*
4 *13902 or 13903 of this title, a carrier providing transpor-*
5 *tation of household goods subject to jurisdiction under sub-*
6 *chapter I or III of chapter 135 of this title must agree to*
7 *offer to shippers neutral arbitration as a means of settling*
8 *disputes between such carriers and shippers of household*
9 *goods concerning the transportation of household goods.*

10 “(b)(1) *The arbitration that is offered must be designed*
11 *to prevent a carrier from having any special advantage in*
12 *any case in which the claimant resides or does business at*
13 *a place distant from the carrier’s principal or other place*
14 *of business.*

15 “(2) *The carrier must provide the shipper an adequate*
16 *notice of the availability of neutral arbitration, including*
17 *a concise easy-to-read, accurate summary of the arbitration*
18 *procedure and disclosure of the legal effects of election to*
19 *utilize arbitration. Such notice must be given to persons*
20 *for whom household goods are to be transported by the car-*
21 *rier before such goods are tendered to the carrier for trans-*
22 *portation.*

23 “(3) *Upon request of a shipper, the carrier must*
24 *promptly provide such forms and other information as are*
25 *necessary for initiating an action to resolve a dispute under*
26 *arbitration.*

1 “(4) Each person authorized to arbitrate or otherwise
2 settle disputes must be independent of the parties to the dis-
3 pute and must be capable, as determined under such regula-
4 tions as the Secretary of Transportation may issue, to re-
5 solve such disputes fairly and expeditiously. The carrier
6 must ensure that each person chosen to settle the disputes
7 is authorized and able to obtain from the shipper or carrier
8 any material and relevant information to the extent nec-
9 essary to carry out a fair and expeditious decision making
10 process.

11 “(5) No fee for instituting an arbitration proceeding
12 may be charged the shipper; except that, if the arbitration
13 is binding solely on the carrier, the shipper may be charged
14 a fee of not more than \$25 for instituting an arbitration
15 proceeding. In any case in which a shipper is charged a
16 fee under this paragraph for instituting an arbitration pro-
17 ceeding and such dispute is settled in favor of the shipper,
18 the person settling the dispute must refund such fee to the
19 shipper unless the person settling the dispute determines
20 that such refund is inappropriate.

21 “(6) The carrier must not require the shipper to agree
22 to utilize arbitration prior to the time that a dispute arises.

23 “(7) The arbitrator may provide for an oral presen-
24 tation of a dispute concerning transportation of household
25 goods by a party to the dispute (or a party’s representa-

1 *tive), but such oral presentation may be made only if all*
2 *parties to the dispute expressly agree to such presentation*
3 *and the date, time, and location of such presentation.*

4 “(8) *The arbitrator must, as expeditiously as possible*
5 *but at least within 60 days of receipt of written notification*
6 *of the dispute, render a decision based on the information*
7 *gathered, except that, in any case in which a party to the*
8 *dispute fails to provide in a timely manner any informa-*
9 *tion concerning such dispute which the person settling the*
10 *dispute may reasonably require to resolve the dispute, the*
11 *arbitrator may extend such 60-day period for a reasonable*
12 *period of time. A decision resolving a dispute may include*
13 *any remedies appropriate under the circumstances, includ-*
14 *ing repair, replacement, refund, reimbursement for ex-*
15 *penses, and compensation for damages.*

16 “(c) *Materials and information obtained in the course*
17 *of a decision making process to settle a dispute by arbitra-*
18 *tion under this section may not be used to bring an action*
19 *under section 14905 of this title.*

20 “(d) *In any court action to resolve a dispute between*
21 *a shipper of household goods and a motor carrier providing*
22 *transportation or service subject to jurisdiction under sub-*
23 *chapter I or III of chapter 135 of this title concerning the*
24 *transportation of household goods by such carrier, the ship-*
25 *per shall be awarded reasonable attorney’s fees if—*

1 “(1) the shipper submits a claim to the carrier
2 within 120 days after the date the shipment is deliv-
3 ered or the date the delivery is scheduled, whichever
4 is later;

5 “(2) the shipper prevails in such court action;
6 and

7 “(3)(A) a decision resolving the dispute was not
8 rendered through arbitration under this section with-
9 in the period provided under subsection (b)(8) of this
10 section or an extension of such period under such sub-
11 section; or

12 “(B) the court proceeding is to enforce a decision
13 rendered through arbitration under this section and is
14 instituted after the period for performance under such
15 decision has elapsed.

16 “(e) In any court action to resolve a dispute between
17 a shipper of household goods and a carrier providing trans-
18 portation, or service subject to jurisdiction under sub-
19 chapter I or III of chapter 135 of this title concerning the
20 transportation of household goods by such carrier, such car-
21 rier may be awarded reasonable attorney’s fees by the court
22 only if the shipper brought such action in bad faith—

23 “(1) after resolution of such dispute through ar-
24 bitration under this section; or

1 *such claims among the parties shall not subject any party*
2 *to the penalties for departing from a filed tariff.*

3 **“CHAPTER 149—CIVIL AND CRIMINAL PENALTIES**

4 **“§ 14901. General civil penalties**

5 “(a) *A person required to make a report to the Sec-*
6 *retary of Transportation or to the Intermodal Surface*
7 *Transportation Board, answer a question, or make, pre-*
8 *pare, or preserve a record under this part concerning trans-*
9 *portation subject to jurisdiction under subchapter I or III*
10 *of chapter 135 of this title or transportation by a foreign*
11 *carrier registered under section 13902 of this title, or an*
12 *officer, agent, or employee of that person that (1) does not*
13 *make the report, (2) does not specifically, completely, and*
14 *truthfully answer the question, (3) does not make, prepare,*
15 *or preserve the record in the form and manner prescribed,*
16 *(4) does not comply with section 13901 of this title, or (5)*
17 *does not comply with section 13902(c) of this title is liable*
18 *to the United States Government for a civil penalty of not*
19 *less than \$500 for each violation and for each additional*
20 *day the violation continues; except that, in the case of a*
21 *person who does not have authority under this part to pro-*
22 *vide transportation of passengers, or an officer, agent, or*
23 *employee of such person, that does not comply with section*
24 *13901 of this title with respect to providing transportation*
25 *of passengers, the amount of the civil penalty shall not be*

1 *less than \$2,000 for each violation and for each additional*
2 *day the violation continues.*

3 “(b) *A person subject to jurisdiction under subchapter*
4 *I of chapter 135 of this title, or an officer, agent, or em-*
5 *ployee of that person, and who is required to comply with*
6 *section 13901 of this title but does not so comply with re-*
7 *spect to the transportation of hazardous wastes as defined*
8 *by the Environmental Protection Agency pursuant to sec-*
9 *tion 3001 of the Solid Waste Disposal Act (but not includ-*
10 *ing any waste the regulation of which under the Solid*
11 *Waste Disposal Act has been suspended by Congress) shall*
12 *be liable to the United States for a civil penalty not to ex-*
13 *ceed \$20,000 for each violation.*

14 “(c) *In determining and negotiating the amount of a*
15 *civil penalty under subsection (a) or (d) concerning trans-*
16 *portation of household goods, the degree of culpability, any*
17 *history of prior such conduct, the degree of harm to shipper*
18 *or shippers, ability to pay, the effect on ability to do busi-*
19 *ness, whether the shipper has been adequately compensated*
20 *before institution of the proceeding, and such other matters*
21 *as fairness may require shall be taken into account.*

22 “(d) *If a carrier providing transportation of household*
23 *goods subject to jurisdiction under subchapter I or III of*
24 *chapter 135 of this title or a receiver or trustee of such car-*
25 *rier fails or refuses to comply with any regulation issued*

1 *by the Secretary or the Transportation Board relating to*
2 *protection of individual shippers, such carrier, receiver, or*
3 *trustee is liable to the United States for a civil penalty of*
4 *not less than \$1,000 for each violation and for each addi-*
5 *tional day during which the violation continues.*

6 “(e) *Any person that knowingly engages in or know-*
7 *ingly authorizes an agent or other person (1) to falsify doc-*
8 *uments used in the transportation of household goods subject*
9 *to jurisdiction under subchapter I or III of chapter 135 of*
10 *this title which evidence the weight of a shipment, or (2)*
11 *to charge for accessorial services which are not performed*
12 *or for which the carrier is not entitled to be compensated*
13 *in any case in which such services are not reasonably nec-*
14 *essary in the safe and adequate movement of the shipment,*
15 *is liable to the United States for a civil penalty of not less*
16 *than \$2,000 for each violation and of not less than \$5,000*
17 *for each subsequent violation. Any State may bring a civil*
18 *action in the United States district courts to compel a per-*
19 *son to pay a civil penalty assessed under this subsection.*

20 “(f) *A person, or an officer, employee, or agent of that*
21 *person, that knowingly pays accepts, or solicits a reduced*
22 *rate or rates in violation of the regulations issued under*
23 *section 13707 of this title is liable to the injured party or*
24 *the United States for a civil penalty of not less than \$5,000*

1 *and not more than \$10,000 plus 3 times the amount of*
2 *damages which a party incurs because of such violation.*

3 “(g) *Trial in a civil action under subsections (a)*
4 *through (f) of this section is in the judicial district in which*
5 *(1) the carrier or broker has its principal office, (2) the*
6 *carrier or broker was authorized to provide transportation*
7 *or service under this part when the violation occurred, (3)*
8 *the violation occurred, or (4) the offender is found. Process*
9 *in the action may be served in the judicial district of which*
10 *the offender is an inhabitant or in which the offender may*
11 *be found.*

12 “**§ 14902. Civil penalty for accepting rebates from**
13 **carrier**

14 “A person—

15 “(1) *delivering property to a carrier providing*
16 *transportation or service subject to jurisdiction under*
17 *chapter 135 of this title for transportation under this*
18 *part or for whom that carrier will transport the prop-*
19 *erty as consignor or consignee for that person from a*
20 *State or territory or possession of the United States*
21 *to another State or possession, territory, or to a for-*
22 *foreign country; and*

23 “(2) *knowingly accepting or receiving by any*
24 *means a rebate or offset against the rate for transpor-*

1 *tation for, or service of, that property contained in a*
2 *tariff required under section 13702 of this title,*
3 *is liable to the United States Government for a civil penalty*
4 *in an amount equal to 3 times the amount of money that*
5 *person accepted or received as a rebate or offset and 3 times*
6 *the value of other consideration accepted or received as a*
7 *rebate or offset. In a civil action under this section, all*
8 *money or other consideration received by the person during*
9 *a period of 6 years before an action is brought under this*
10 *section may be included in determining the amount of the*
11 *penalty, and if that total amount is included, the penalty*
12 *shall be 3 times that total amount.*

13 **“§ 14903. Tariff violations**

14 *“(a) A person that knowingly offers, grants, gives, so-*
15 *licits, accepts, or receives by any means transportation or*
16 *service provided for property by a carrier subject to juris-*
17 *isdiction under chapter 135 of this title at less than the rate*
18 *in effect under section 13702 of this title shall be fined at*
19 *least \$1,000 but not more than \$20,000, imprisoned for not*
20 *more than 2 years, or both.*

21 *“(b) A carrier providing transportation or service sub-*
22 *ject to jurisdiction under chapter 135 of this title or an*
23 *officer, director, receiver, trustee, lessee, agent, or employee*
24 *of a corporation that is subject to jurisdiction under that*
25 *chapter, that willfully does not observe its tariffs as required*

1 *under section 13702 of this title, shall be fined at least*
2 *\$1,000 but not more than \$20,000, imprisoned for not more*
3 *than 2 years, or both.*

4 “(c) *When acting in the scope of their employment, the*
5 *actions and omissions of persons acting for or employed by*
6 *a carrier or shipper that is subject to subsection (a) or (b)*
7 *of this section are considered to be the actions and omissions*
8 *of that carrier or shipper as well as that person.*

9 “(d) *Trial in a criminal action under this section is*
10 *in the judicial district in which any part of the violation*
11 *is committed or through which the transportation is con-*
12 *ducted.*

13 **“§ 14904. Additional rate violations**

14 “(a) *A person, or an officer, employee, or agent of that*
15 *person, that—*

16 “(1) *knowingly offers, grants, gives, solicits, ac-*
17 *cepts, or receives a rebate for concession, in violation*
18 *of a provision of this part related to motor carrier*
19 *transportation subject to jurisdiction under sub-*
20 *chapter I of chapter 135 of this title; or*

21 “(2) *by any means knowingly and willfully as-*
22 *sists or permits another person to get transportation*
23 *that is subject to jurisdiction under that subchapter*
24 *at less than the rate in effect for that transportation*
25 *under section 13702 of this title,*

1 *shall be fined at least \$200 for the first violation and at*
2 *least \$250 for a subsequent violation.*

3 “(b)(1) *A freight forwarder providing service subject*
4 *to jurisdiction under subchapter III of chapter 135 of this*
5 *title, or an officer, agent, or employee of that freight for-*
6 *warder, that knowingly and willfully assists a person in*
7 *getting, or willingly permits a person to get, service pro-*
8 *vided under that subchapter at less than the rate in effect*
9 *for that service under section 13702 of this title, shall be*
10 *fined not more than \$500 for the first violation and not*
11 *more than \$2,000 for a subsequent violation.*

12 “(2) *A person that knowingly and willfully by any*
13 *means gets, or attempts to get, service provided under sub-*
14 *chapter III of chapter 135 of this title at less than the rate*
15 *in effect for that service under section 13702 of this title,*
16 *shall be fined not more than \$500 for the first violation*
17 *and not more than \$2,000 for a subsequent violation.*

18 **“§ 14905. Penalties for violations of rules relating to**
19 **loading and unloading motor vehicles**

20 “(a) *Any person who knowingly authorizes, consents*
21 *to, or permits a violation of subsection (a) or (b) of section*
22 *14103 of this title or who knowingly violates subsection (a)*
23 *of such section is liable to the United States Government*
24 *for a civil penalty of not more than \$10,000 for each viola-*
25 *tion.*

1 *files a false report or record, (6) knowingly and willfully*
2 *makes a false or incomplete entry in that record about a*
3 *business related fact or transaction, or (7) knowingly and*
4 *willfully makes, prepares, or preserves a record in violation*
5 *of an applicable regulation or order of the Secretary or*
6 *Transportation Board shall be fined not more than \$5,000.*

7 ***“§ 14908. Unlawful disclosure of information***

8 “(a)(1) *A carrier or broker providing transportation*
9 *subject to jurisdiction under subchapter I, II, or III of chap-*
10 *ter 135 of this title or an officer, receiver, trustee, lessee,*
11 *or employee of that carrier or broker, or another person au-*
12 *thorized by that carrier or broker to receive information*
13 *from that carrier or broker may not knowingly disclose to*
14 *another person, except the shipper or consignee, and another*
15 *person may not solicit, or knowingly receive, information*
16 *about the nature, kind, quantity, destination, consignee, or*
17 *routing of property tendered or delivered to that carrier or*
18 *broker for transportation provided under this part without*
19 *the consent of the shipper or consignee if that information*
20 *may be used to the detriment of the shipper or consignee*
21 *or may disclose improperly to a competitor the business*
22 *transactions of the shipper or consignee.*

23 “(2) *A person violating paragraph (1) of this sub-*
24 *section shall be fined not less than \$2,000. Trial in a crimi-*

1 *nal action under this paragraph is in the judicial district*
2 *in which any part of the violation is committed.*

3 “(b) *This part does not prevent a carrier or broker pro-*
4 *viding transportation subject to jurisdiction under chapter*
5 *135 of this title from giving information—*

6 “(1) *in response to legal process issued under au-*
7 *thority of a court of the United States or a State;*

8 “(2) *to an officer, employee, or agent of the Unit-*
9 *ed States Government, a State, or a territory or pos-*
10 *session of the United States; or*

11 “(3) *to another carrier or its agent to adjust mu-*
12 *tual traffic accounts in the ordinary course of busi-*
13 *ness.*

14 **“§ 14909. Disobedience to subpoenas**

15 “A *person not obeying a subpoena or requirement of*
16 *the Secretary of Transportation or the Intermodal Surface*
17 *Transportation Board to appear and testify or produce*
18 *records shall be fined not less than \$5,000, imprisoned for*
19 *not more than one year, or both.*

20 **“§ 14910. General criminal penalty when specific pen-**
21 ***alty not provided***

22 “*When another criminal penalty is not provided under*
23 *this chapter, a person that knowingly and willfully violates*
24 *a provision of this part or a regulation or order prescribed*
25 *under this part, or a condition of a registration under this*

1 *part related to transportation that is subject to jurisdiction*
2 *under subchapter I or III of chapter 135 of this title or*
3 *a condition of a registration under section 13902 of this*
4 *title, shall be fined at least \$500 for the first violation and*
5 *at least \$500 for a subsequent violation. A separate viola-*
6 *tion occurs each day the violation continues.*

7 ***“§14911. Punishment of corporation for violations***
8 ***committed by certain individuals***

9 *“An act or omission that would be a violation of this*
10 *part if committed by a director, officer, receiver, trustee,*
11 *lessee, agent, or employee of a carrier providing transpor-*
12 *tation or service subject to jurisdiction under chapter 135*
13 *of this title that is a corporation is also a violation of this*
14 *part by that corporation. The penalties of this chapter*
15 *apply to that violation. When acting in the scope of their*
16 *employment, the actions and omissions of individuals act-*
17 *ing for or employed by that carrier are considered to be*
18 *the actions and omissions of that carrier as well as that*
19 *individual.*

20 ***“§14912. Weight-bumping in household goods trans-***
21 ***portation***

22 *“(a) For the purposes of this section, ‘weight-bumping’*
23 *means the knowing and willful making or securing of a*
24 *fraudulent weight on a shipment of household goods which*

1 *is subject to jurisdiction under subchapter I or III of chap-*
2 *ter 135 of this title.*

3 “(b) *Any individual who has been found to have com-*
4 *mitted weight-bumping shall, for each offense, be fined at*
5 *least \$1,000 but not more than \$10,000, imprisoned for not*
6 *more than 2 years, or both.*

7 **“§14913. Conclusiveness of rates in certain prosecu-**
8 **tions**

9 “*When a carrier publishes or files a particular rate*
10 *under section 13702 or participates in such a rate, the pub-*
11 *lished or filed rate is conclusive proof against that carrier,*
12 *its officers, and agents that it is the legal rate for that trans-*
13 *portation or service in a proceeding begun under section*
14 *14902 or 14903 of this title. A departure, or offer to depart,*
15 *from that published or filed rate is a violation of those sec-*
16 *tions.”.*

17 ***Subtitle B—Motor Carrier Registra-***
18 ***tion and Insurance Require-***
19 ***ments***

20 ***SEC. 451. AMENDMENT OF SECTION 31102.***

21 *Section 31102(b)(1) is amended by—*

22 (1) *striking “and” at the end of subparagraph*
23 *(O);*

24 (2) *striking the period at the end of subpara-*
25 *graph (P) and inserting a semicolon and “and”; and*

1 (3) adding at the end thereof the following:

2 “(Q) ensures that the State will cooperate in the
3 enforcement of registration and financial responsibil-
4 ity requirements under sections 31140 and 31146 of
5 this title, or regulations issued thereunder.”

6 **SEC. 452. AMENDMENT OF SECTION 31138.**

7 (a) Section 31138(c) is amended by adding at the end
8 thereof the following new paragraph:

9 “(3) A motor carrier may obtain the required
10 amount of financial responsibility from more than
11 one source provided the cumulative amount is equal
12 to the minimum requirements of this section.”.

13 (b) Section 31138(e) is amended—

14 (1) by striking “or” at the end of paragraph (2);

15 (2) by striking the period at the end of para-
16 graph (3) and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(4) providing mass transportation service with-
19 in a transit service area under an agreement with a
20 Federal, State, or local government funded, in whole
21 or in part, with a grant under section 5307, 5310, or
22 5311, including transportation designed and carried
23 out to meet the special needs of elderly individuals
24 and individuals with disabilities; Provided That, in
25 any case in which the transit service area is located

1 *in more than 1 State, the minimum level of financial*
2 *responsibility for such motor vehicle will be at least*
3 *the highest level required for any of such States.”.*

4 *(c) Section 31139(e) is amended by adding at the end*
5 *thereof the following:*

6 *“(3) A motor carrier may obtain the required*
7 *amount of financial responsibility from more than*
8 *one source provided the cumulative amount is equal*
9 *to the minimum requirements of this section.”.*

10 ***SEC. 453. SELF-INSURANCE RULES.***

11 *The Secretary of Transportation shall continue to en-*
12 *force the rules and regulations of the Interstate Commerce*
13 *Commission, as in effect on July 1, 1995, governing the*
14 *qualifications for approval of a motor carrier as a self-in-*
15 *surer, until such time as the Secretary finds it in the public*
16 *interest to revise such rules. The revised rules must provide*
17 *for—*

18 *(1) continued ability of motor carriers to qualify*
19 *as self-insurers; and*

20 *(2) the continued qualification of all carriers*
21 *then so qualified under the terms and conditions set*
22 *by the Interstate Commerce Commission or Secretary*
23 *at the time of qualification.*

24 ***SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.***

25 *Section 31144 is amended by—*

1 (1) striking “In cooperation with the Interstate
2 Commerce Commission, the” in the first sentence of
3 subsection (a) and inserting “The”;

4 (2) by striking “sections 10922 and 10923” in
5 that sentence and inserting “section 13902”;

6 (3) striking “and the Commission” in subsection
7 (a)(1)(C); and

8 (4) striking subsection (b) and inserting the fol-
9 lowing:

10 “(b) *FINDINGS AND ACTION ON REGISTRATIONS.*—The
11 Secretary shall—

12 “(1) find a registrant as a motor carrier unfit
13 if the registrant does not meet the safety fitness re-
14 quirements established under subsection (a) of this
15 section; and

16 “(2) withhold registration.”.

17 **TITLE V—AMENDMENTS TO**
18 **OTHER LAWS**

19 **SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.**

20 Section 401 of the Federal Election Campaign Act of
21 1971 (2 U.S.C. 451) is amended by—

22 (1) striking “Interstate Commerce Commission,”
23 and inserting “Intermodal Surface Transportation
24 Board,”; and

1 (2) striking “promulgate, within ninety days
2 after the date of enactment of this Act,” and inserting
3 “maintain”.

4 **SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.**

5 Section 201 of the Agricultural Adjustment Act of 1938
6 (7 U.S.C. 1291) is amended by—

7 (1) striking “Interstate Commerce Commission”
8 and inserting “Intermodal Surface Transportation
9 Board” each place it appears;

10 (2) striking “Commission”, wherever it appears
11 and inserting “Transportation Board”; and

12 (3) striking “Commission’s” in subsection (b)
13 and inserting “Transportation Board’s”.

14 **SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.**

15 Section 203(j) of the Agricultural Marketing Act of
16 1946 (7 U.S.C. 1622(j)) is amended by striking “Interstate
17 Commerce Commission,” and inserting “Intermodal Sur-
18 face Transportation Board,”.

19 **SEC. 504. ANIMAL WELFARE ACT.**

20 Section 15(a) of the Animal Welfare Act (7 U.S.C.
21 2145(a)) is amended by striking “Interstate Commerce
22 Commission” and inserting “Intermodal Surface Transpor-
23 tation Board”.

1 **SEC. 505. TITLE 11, UNITED STATES CODE.**

2 (a) Section 1164 of title 11, United States Code, is
3 amended by striking “Commission” and inserting “Inter-
4 modal Surface Transportation Board”.

5 (b) Section 1170 of title 11, United States Code, is
6 amended by—

7 (1) striking “Commission” the first time it ap-
8 pears in subsection (b) and inserting “Intermodal
9 Surface Transportation Board”; and

10 (2) striking “Commission” wherever else it ap-
11 pears and inserting “Transportation Board”.

12 (c) Section 1172 of title 11, United States Code, is
13 amended by—

14 (1) striking “Commission” the first time it ap-
15 pears in subsection (b) and inserting “Intermodal
16 Surface Transportation Board”; and

17 (2) striking “Commission” wherever else it ap-
18 pears and inserting “Transportation Board”.

19 **SEC. 506. CLAYTON ACT.**

20 The Clayton Act (15 U.S.C. 12 et seq.) is amended
21 by—

22 (1) striking “Interstate Commerce Commission”
23 in the last sentence of section 7 (15 U.S.C. 18) and
24 inserting “Intermodal Surface Transportation
25 Board”;

1 (2) *inserting a comma and “Transportation*
2 *Board,” after “such Commission” in the last sentence*
3 *of that section;*

4 (3) *striking “Interstate Commerce Commission”*
5 *in the first sentence of section 11(a) (15 U.S.C. 21)*
6 *and inserting “Intermodal Surface Transportation*
7 *Board”;* and

8 (4) *striking “Interstate Commerce Commission”*
9 *in section 16 (15 U.S.C. 26) and inserting “Inter-*
10 *modal Surface Transportation Board”.*

11 **SEC. 507. CONSUMER CREDIT PROTECTION ACT.**

12 *The Consumer Credit Protection Act (15 U.S.C. 1601*
13 *et seq.) is amended by—*

14 (1) *striking “Interstate Commerce Commission”*
15 *in section 621(b)(4) (15 U.S.C. 1681s) and inserting*
16 *“Intermodal Surface Transportation Board”;*

17 (2) *inserting a comma and “and part B of sub-*
18 *title IV of title 49, United States Code, by the Sec-*
19 *retary of Transportation with respect to any common*
20 *carrier subject to such part;” in section 621(b)(4) (15*
21 *U.S.C. 1681s) after “those Acts”;*

22 (3) *striking “Interstate Commerce Commission”*
23 *in section 704(a)(4) (15 U.S.C. 1691c) and inserting*
24 *“Intermodal Surface Transportation Board”;*

1 (4) *inserting a comma and “and part B of sub-*
2 *title IV of title 49, United States Code, by the Sec-*
3 *retary of Transportation with respect to any common*
4 *carrier subject to such part” in section 704(a)(4) (15*
5 *U.S.C. 1691c) after “those Acts”;*

6 (5) *striking “Interstate Commerce Commission”*
7 *in section 814(b)(4) (15 U.S.C. 1692l) and inserting*
8 *“Intermodal Surface Transportation Board”;* and

9 (6) *inserting a comma and “and part B of sub-*
10 *title IV of title 49, United States Code, by the Sec-*
11 *retary of Transportation with respect to any common*
12 *carrier subject to such part” in section 814(b)(4) (15*
13 *U.S.C. 1692l) after “those Acts”.*

14 **SEC. 508. NATIONAL TRAILS SYSTEM ACT.**

15 *The National Trails System Act (16 U.S.C. 1241 et*
16 *seq.) is amended by—*

17 (1) *striking “Interstate Commerce Commission”*
18 *in the first sentence of section 8(d) (16 U.S.C.*
19 *1247(d)) and inserting “Intermodal Surface Trans-*
20 *portation Board”;*

21 (2) *striking “Commission” in the last sentence of*
22 *section 8(d) (16 U.S.C. 1247(d)) and inserting*
23 *“Intermodal Surface Transportation Board”;* and

1 (3) striking “Interstate Commerce Commission”
2 in section 9(b) (16 U.S.C. 1248(d)) and inserting
3 “Intermodal Surface Transportation Board”.

4 **SEC. 509. TITLE 18, UNITED STATES CODE.**

5 Section 6001 of title 18, United States Code, is amend-
6 ed by striking “Interstate Commerce Commission” in sub-
7 section (1) and inserting “Intermodal Surface Transpor-
8 tation Board”.

9 **SEC. 510. INTERNAL REVENUE CODE OF 1986.**

10 (a) Section 3231 of the Internal Revenue Code of 1986
11 (26 U.S.C. 3231) is amended by—

12 (1) striking “Interstate Commerce Commission”
13 in subsection (a) and inserting “Intermodal Surface
14 Transportation Board”; and

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

17 “(g) CARRIER.—For purposes of this chapter, the term
18 ‘carrier’ means a rail carrier providing transportation sub-
19 ject to chapter 105 of title 49, United States Code.”.

20 (b) Section 7701(a) of the Internal Revenue Code of
21 1986 (26 U.S.C. 7701(a)) is amended by—

22 (1) striking “Federal Power Commission” in
23 paragraph (33)(B) and inserting “Federal Energy
24 Regulatory Commission”;

1 (2) striking “Interstate Commerce Commission”
2 in paragraph (33)(C)(i) and inserting “Intermodal
3 Surface Transportation Board”;

4 (3) striking “Interstate Commerce Commission”
5 in paragraph (33)(C)(ii) with “Federal Energy Regu-
6 latory Commission”;

7 (4) striking “Interstate Commerce Commission
8 under subchapter III of chapter 105” in paragraph
9 (33)(F) and inserting “Secretary of Transportation
10 under subchapter II of chapter 135”;

11 (5) striking “subchapter I of” in paragraph
12 (33)(G); and

13 (6) striking “subchapter I of” in the first sen-
14 tence of paragraph (33)(H).

15 **SEC. 511. TITLE 28, UNITED STATES CODE.**

16 (a) The heading of chapter 157 of part VI of title 28,
17 United States Code, is amended by striking “INTER-
18 STATE COMMERCE COMMISSION” and inserting
19 “INTERMODAL SURFACE TRANSPORTATION
20 BOARD”.

21 (b) Section 2321 of title 28, United States Code, is
22 amended by—

23 (1) striking “Commission’s” in the section cap-
24 tion and inserting “Intermodal Surface Transpor-
25 tation Board’s”; and

1 (2) striking “Interstate Commerce Commission”
2 in subsections (a) and (b) and inserting “Intermodal
3 Surface Transportation Board”.

4 (c) Section 2323 of title 28, United States Code, is
5 amended by—

6 (1) striking “Interstate Commerce Commission”
7 and inserting “Intermodal Surface Transportation
8 Board”; and

9 (2) striking “Commission”, wherever it appears,
10 and inserting “Transportation Board”.

11 (d) Section 2341 of title 28, United States Code, is
12 amended by—

13 (1) striking “Interstate Commerce Commission”
14 in paragraph (3)(A);

15 (2) striking “and” in paragraph (3)(C);

16 (3) striking “Act.” in paragraph (3)(D) and in-
17 serting “Act; and”; and

18 (4) inserting after paragraph (3)(D) the follow-
19 ing:

20 “(E) the Transportation Board, when the
21 order was entered by the Intermodal Surface
22 Transportation Board.”.

23 (e) Section 2342 of title 28, United States Code, is
24 amended by—

1 (1) inserting “or pursuant to part B of subtitle
2 IV of title 49, United States Code” at the end of para-
3 graph (3)(A); and

4 (2) striking paragraph (5) and inserting the fol-
5 lowing:

6 “(5) all rules, regulations, or final orders of the
7 Intermodal Surface Transportation Board made
8 reviewable by section 2321 of this title; and”.

9 **SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORK-**
10 **ER PROTECTION ACT.**

11 Section 401(b) of the Migrant and Seasonal Agricul-
12 tural Worker Protection Act (29 U.S.C. 1841(b)) is amend-
13 ed by—

14 (1) striking “part II of the Interstate Commerce
15 Act (49 U.S.C. 301 et seq.), or any successor provi-
16 sion of” in paragraph (2)(C) and inserting “part B
17 of”; and

18 (2) striking “part II of the Interstate Commerce
19 Act (49 U.S.C. 301 et seq.), and any successor provi-
20 sion of” in paragraph (3) and inserting “part B of”.

21 **SEC. 513. TITLE 39, UNITED STATES CODE.**

22 (a) Section 5005 of title 39, United States Code, is
23 amended by striking “Interstate Commerce Commission” in
24 subsection (b)(3) and inserting “Intermodal Surface Trans-
25 portation Board”.

1 (b) Section 5203 of title 39, United States Code, is
2 amended by—

3 (1) striking subsection (f) and redesignating sub-
4 section (g) as subsection (f); and

5 (2) striking “Commission” in subsection (f), as
6 redesignated, and inserting “Intermodal Surface
7 Transportation Board”.

8 (c) Section 5207 of title 39, United States Code, is
9 amended by—

10 (1) striking “Interstate Commerce Commission”,
11 in both the section caption and subsection (a), and
12 inserting “Intermodal Surface Transportation
13 Board”; and

14 (2) striking “Commission” wherever it appears
15 and inserting “Transportation Board”.

16 (d) Section 5208 of title 39, United States Code, is
17 amended by—

18 (1) striking “Commission’s” in subsection (a)
19 and inserting “Transportation Board’s”; and

20 (2) striking “Commission” wherever it appears
21 and inserting “Transportation Board”.

22 (e) The index for chapter 52 of title 39, United States
23 Code, is amended by striking out the items relating to sec-
24 tion 5207 and inserting in lieu thereof the following:

“5207. Intermodal Surface Transportation Board to fix rates.”.

1 **SEC. 514. ENERGY POLICY ACT OF 1992.**

2 *Section 1340 of the Energy Policy Act of 1992 (42*
3 *U.S.C. 13369) is amended by striking “Interstate Com-*
4 *merce Commission” in subsections (a) and (d) and insert-*
5 *ing “Intermodal Surface Transportation Board”.*

6 **SEC. 515. RAILWAY LABOR ACT.**

7 *Section 151 of the Railway Labor Act (45 U.S.C. 151)*
8 *is amended by—*

9 *(1) striking “any express company, sleeping-car*
10 *company, carrier by railroad, subject to” in the first*
11 *paragraph and inserting “any railroad subject to”;*

12 *(2) striking “Interstate Commerce Commission”*
13 *in the first and fifth paragraphs and inserting*
14 *“Intermodal Surface Transportation Board”; and*

15 *(3) striking “Commission”, wherever it appears*
16 *in the fifth paragraph and inserting “Intermodal*
17 *Surface Transportation Board”.*

18 **SEC. 516. RAILROAD RETIREMENT ACT OF 1974.**

19 *Section 1 of the Railroad Retirement Act of 1974 (45*
20 *U.S.C. 231) is amended by—*

21 *(1) striking subsection (a)(1)(i) and inserting:*

22 *“(i) any carrier by railroad subject to chapter*
23 *105 of title 49, United States Code;”;*

24 *(2) striking “Interstate Commerce Commission”*
25 *in subsection (a)(2)(ii) and inserting “Intermodal*
26 *Surface Transportation Board”;*

1 (3) striking “Board,” in subsection (a)(2)(ii)
2 and inserting “Railroad Retirement Board,”; and

3 (4) inserting “Intermodal Surface Transpor-
4 tation Board,” after Interstate Commerce Commis-
5 sion,” in the first sentence of subsection (o).

6 **SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.**

7 (a) Section 1 of the Railroad Unemployment Insur-
8 ance Act (45 U.S.C. 351) is amended by—

9 (1) striking “Interstate Commerce Commission”
10 in the second sentence of paragraph (a) and inserting
11 “Intermodal Surface Transportation Board”;

12 (2) striking “Board,” in the second sentence of
13 paragraph (a) and inserting “Railroad Retirement
14 Board,”; and

15 (3) striking paragraph (b) and inserting the fol-
16 lowing:

17 “(b) The term ‘carrier’ means a carrier by railroad
18 subject to chapter 105 of title 49, United States Code.”.

19 (b) Section 2(h)(3) of the Railroad Unemployment In-
20 surance Act (45 U.S.C. 352(h)(3)) is amended by—

21 (1) striking “Interstate Commerce Commission”
22 and inserting “Intermodal Surface Transportation
23 Board,”; and

24 (2) striking “Board,” and inserting “Railroad
25 Retirement Board,”.

1 **SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.**

2 *Section 3 of the Emergency Rail Services Act of 1970*
3 *(45 U.S.C. 662) is amended by striking “Commission”,*
4 *wherever it appears in subsections (a) and (b), and insert-*
5 *ing “Intermodal Surface Transportation Board”.*

6 **SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.**

7 *Section 304 of the Regional Rail Reorganization Act*
8 *of 1973 (45 U.S.C. 744) is amended by—*

9 *(1) striking “Commission” in subsection*
10 *(d)(1)(A) and inserting “Intermodal Surface Trans-*
11 *portation Board”; and*

12 *(2) striking “Commission” wherever else it ap-*
13 *pears in paragraph (1) or (3) of subsection (d), and*
14 *in subsections (f) and (g), and inserting “Transpor-*
15 *tation Board”.*

16 **SEC. 520. RAILROAD REVITALIZATION AND REGULATORY**
17 **REFORM ACT OF 1976.**

18 *Section 510 of the Railroad Revitalization and Regu-*
19 *latory Reform Act of 1976 (45 U.S.C. 830) is amended by*
20 *striking “section 20a of the Interstate Commerce Act (49*
21 *U.S.C. 20a)” and inserting “section 11301 of title 49,*
22 *United States Code”.*

23 **SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.**

24 *Section 608 of the Alaska Railroad Transfer Act of*
25 *1982 (45 U.S.C. 1207) is amended by striking “Interstate*
26 *Commerce Commission” wherever it appears in subsections*

1 (a) and (c) and inserting “Intermodal Surface Transpor-
2 tation Board”.

3 **SEC. 522. MERCHANT MARINE ACT, 1920.**

4 (a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C.
5 App. 867) is amended by—

6 (1) striking “Interstate Commerce Commission”
7 in both places that it appears and inserting “Inter-
8 modal Surface Transportation Board”; and

9 (2) striking “commission” and inserting
10 “board”.

11 (b) Section 28 of the Merchant Marine Act, 1920 (46
12 U.S.C. App. 884) is amended by—

13 (1) striking “Interstate Commerce Commission”
14 where it first appears and inserting “Intermodal Sur-
15 face Transportation Board”; and

16 (2) striking “Interstate Commerce Commission”
17 wherever else it appears and inserting “Transpor-
18 tation Board”.

19 **SEC. 523. SERVICE CONTRACT ACT OF 1965.**

20 Section 356(3) of the Service Contract Act of 1965 (41
21 U.S.C. 356(3)), is amended by striking “where published
22 tariff rates are in effect”.

1 **SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHOR-**
2 **IZATION ACT OF 1994.**

3 *Section 601(d) of the Federal Aviation Administration*
4 *Authorization Act of 1994 (Pub. L. 103–305) is amended*
5 *by striking all after “subsection (c)” and inserting “shall*
6 *not take effect as long as section 11501(g)(2) of title 49,*
7 *United States Code, applies to that State.”.*

8 **SEC. 525. FIBER DRUM PACKAGING.**

9 *(a) IN GENERAL.—In the administration of chapter*
10 *51 of title 49, United States Code, the Secretary of Trans-*
11 *portation shall issue a final rule within 60 days after the*
12 *date of enactment of this Act authorizing the continued use*
13 *of fiber drum packaging with a removable head for the*
14 *transportation of liquid hazardous materials if—*

15 *(1) the packaging is in compliance with regula-*
16 *tions of the Secretary under the Hazardous Materials*
17 *Transportation Act as such Act was in effect before*
18 *October 1, 1991;*

19 *(2) the packaging will not be used for the trans-*
20 *portation of hazardous materials that include mate-*
21 *rials which are poisonous by inhalation; and*

22 *(3) the packaging will not be used in the trans-*
23 *portation of hazardous materials from a point in the*
24 *United States to a point outside the United States, or*
25 *from a point outside the United States to a point in-*
26 *side the United States.*

1 (b) *HAZARDOUS MATERIALS TRANSPORTATION AU-*
2 *THORIZATION ACT OF 1994.*—Section 122 of the Hazardous
3 *Materials Transportation Authorization Act of 1994* (49
4 *U.S.C. 5101 note*) is repealed.

5 **SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHOR-**
6 **ITY.**

7 (a) *REPEAL OF INTERCOASTAL SHIPPING ACT,*
8 *1933.*—The Act of March 3, 1933 (Chapter 199; 46 U.S.C.
9 *App. 843 et seq.*), commonly referred to as the *Intercoastal*
10 *Shipping Act, 1933*, is repealed effective September 30,
11 1996.

12 (b) *REPEAL OF PROVISIONS OF SHIPPING ACT,*
13 *1916.*—The following provisions of the *Shipping Act, 1916*,
14 are repealed effective September 30, 1996:

15 (1) *Section 3* (46 U.S.C. *App. 804*).

16 (2) *Section 14* (46 U.S.C. *App. 812*).

17 (3) *Section 15* (46 U.S.C. *App. 814*).

18 (4) *Section 16* (46 U.S.C. *App. 815*).

19 (5) *Section 17* (46 U.S.C. *App. 816*).

20 (6) *Section 18* (46 U.S.C. *App. 817*).

21 (7) *Section 19* (46 U.S.C. *App. 818*).

22 (8) *Section 20* (46 U.S.C. *App. 819*).

23 (9) *Section 21* (46 U.S.C. *App. 820*).

24 (10) *Section 22* (46 U.S.C. *App. 821*).

25 (11) *Section 23* (46 U.S.C. *App. 822*).

1 (12) *Section 24 (46 U.S.C. App. 823).*

2 (13) *Section 25 (46 U.S.C. App. 824).*

3 (14) *Section 27 (46 U.S.C. App. 826).*

4 (15) *Section 29 (46 U.S.C. App. 828).*

5 (16) *Section 30 (46 U.S.C. App. 829).*

6 (17) *Section 31 (46 U.S.C. App. 830).*

7 (18) *Section 32 (46 U.S.C. App. 831).*

8 (19) *Section 33 (46 U.S.C. App. 832).*

9 (20) *Section 35 (46 U.S.C. App. 833a).*

10 (21) *Section 43 (46 U.S.C. App. 841a).*

11 (22) *Section 45 (46 U.S.C. App. 841c).*

12 **SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVI-**

13 **TIES.**

14 *The licensing of a launch vehicle or launch site opera-*
15 *tor (including any amendment, extension, or renewal of the*
16 *license) under chapter 701 of title 49, United States Code,*
17 *shall not be considered a major Federal action for purposes*
18 *of section 102(C) of the National Environmental Policy Act*
19 *of 1969 (42 U.S.C. 4332(C)) if—*

20 (1) *the Department of the Army has issued a*
21 *permit for the activity; and*

22 (2) *the Army Corps of Engineers has found that*
23 *the activity has no significant impact.*

1 **SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED**
2 **PROJECTS AND ACTIVITIES.**

3 *Notwithstanding any other provision of law, the State*
4 *of Vermont may use any unobligated funds apportioned to*
5 *the State under section 104 of title 23, United States Code,*
6 *to fund projects and activities related to the provision of*
7 *rail passenger service on Amtrak within that State.*

8 **SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REG-**
9 **ULATIONS.**

10 (a) **FEDERAL REGULATIONS.**—*Section 31310 is*
11 *amended by adding at the end thereof the following:*

12 “(h) **GRADE-CROSSING VIOLATIONS.**—

13 “(1) **SANCTIONS.**—*The Secretary shall issue reg-*
14 *ulations establishing sanctions and penalties relating*
15 *to violations, by persons operating commercial motor*
16 *vehicles, of laws and regulations pertaining to rail-*
17 *road-highway grade crossings.*

18 “(2) **MINIMUM REQUIREMENTS.**—*The regulations*
19 *issued under paragraph (1) shall, at a minimum, re-*
20 *quire that—*

21 “(A) *the penalty for a single violation is*
22 *not less than a 60-day disqualification of the*
23 *driver’s commercial driver’s license; and*

24 “(B) *any employer that knowingly allows,*
25 *permits, authorized, or requires an employee to*
26 *operate a commercial motor vehicle in violation*

1 *of such a law or regulation shall be subject to a*
2 *civil penalty of not more than \$10,000.”.*

3 **(b) DEADLINE.**—*The initial regulations required*
4 *under section 31310(h) of title 49, United States Code, shall*
5 *be issued not later than one year after the date of enactment*
6 *of this Act.*

7 **(c) STATE REGULATIONS.**—*Section 31311(a) is*
8 *amended by adding at the end thereof the following:*

9 *“(18) The State shall adopt and enforce regula-*
10 *tions prescribed by the Secretary under section*
11 *31310(h) of this title.”.*

12 **TITLE VI—AUTHORIZATION**

13 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

14 *For the purpose of carrying out the provisions of this*
15 *Act, there are authorized to be appropriated—*

16 *(1) for the closedown of the Interstate Commerce*
17 *Commission and severance costs for Interstate Com-*
18 *merce Commission personnel, regardless of whether*
19 *those severance costs are incurred by the Commission*
20 *or by the Intermodal Surface Transportation Board,*
21 *the balance of the \$13,379,000 appropriated to the*
22 *Commission for fiscal year 1996, together with any*
23 *unobligated balances from user fees collected by the*
24 *Commission during fiscal year 1996;*

1 (2) *for the operations of the Intermodal Surface*
2 *Transportation Board for fiscal year 1996,*
3 *\$8,421,000, and any fees collected by the Transpor-*
4 *tation Board pursuant to section 9701 of title 31,*
5 *United States Code, shall be made available to the*
6 *Transportation Board; and*

7 (3) *for the operations associated with functions*
8 *transferred from the Interstate Commerce Commission*
9 *to the Intermodal Surface Transportation Board*
10 *under this Act, \$12,000,000 for each of the fiscal*
11 *years 1997 and 1998, and any fees collected by the*
12 *Transportation Board pursuant to section 9701 of*
13 *title 31, United States Code, shall be made available*
14 *to the Transportation Board.*

15 **TITLE VII—MISCELLANEOUS**
16 **PROVISION**

17 **SEC. 701. PAY OF MEMBERS OF CONGRESS AND THE PRESI-**
18 **DENT DURING GOVERNMENT SHUTDOWNS.**

19 (a) *COMPARABLE PAY TREATMENT.*—*The pay of Mem-*
20 *bers of Congress and the President shall be treated in the*
21 *same manner and to the same extent as the pay of the most*
22 *adversely affected Federal employees who are not com-*
23 *pensated for any period in which appropriations lapse.*

24 (b) *EFFECTIVE DATE.*—*This section shall take effect*
25 *December 15, 1995.*

1 ***TITLE VIII—EFFECTIVE DATE***

2 ***SEC. 801. EFFECTIVE DATE.***

3 *Except as otherwise expressly provided, this Act and*
4 *the amendments made by this Act shall take effect on Janu-*
5 *ary 1, 1996.*

Attest:

Secretary.

HR 2539 EAS—2

HR 2539 EAS—3

HR 2539 EAS—4

HR 2539 EAS—5

HR 2539 EAS—6

HR 2539 EAS—7

HR 2539 EAS—8

HR 2539 EAS—9

HR 2539 EAS—10

HR 2539 EAS—11

HR 2539 EAS—12

HR 2539 EAS—13

HR 2539 EAS—14

HR 2539 EAS—15

104TH CONGRESS
1ST SESSION

H. R. 2539

AMENDMENT