

to give proper accolades when we completed that work.

I say again how much I appreciate the leadership of Senator DOMENICI, the chairman of the Budget Committee. As always, he exhibited real leadership. He knows more about budget substance, about the numbers, and about the points of order than all the rest of us combined probably. He did a great job of getting the bill through in, I believe, record time at least in recent history, certainly since I have been in the Senate since 1988. So I thought that was a tremendous accomplishment. He did get good cooperation from Senator LAUTENBERG, the ranking member of the Budget Committee, and he worked on both sides of the aisle to hold down some of the amendments that really did not need to be offered, either sense of the Senate or could be offered at another time.

It was really a tremendous accomplishment to get it completed from a process standpoint, but also the substance deserves more attention than we were able to give it late last night. It is a historic budget because it does for the first time since, I believe, 1969 get us to an actual balanced budget and to a surplus, hopefully, in this year and over the next few years, hundreds of millions, billions of dollars of surplus, which is something we have not experienced in a long, long time. So it is balanced. It will lead to surpluses. It provides tax cuts, and we hope to have even more tax cuts agreed to in the conference report beyond what was actually included in this budget resolution.

It does take steps to further protect and preserve and allows us to look at reforming Social Security so it will be there not only for our parents but for ourselves and our children well into the next century by setting aside a surplus for Social Security.

I think that is a very positive step. I think we need to think very carefully about how we go beyond not just setting aside some money but how we really deal with the future needs of Social Security. It also, after repeated attacks, continues to say that any tobacco settlement that we may reach will go into Medicare, where it is needed, because over the next 8 to 10 years that program will again begin to have problems.

So the combination was a really good budget resolution. It goes to conference now, as I noted. We will have a good conference. I hope, as we discussed yesterday, that we can actually come up with more tax cuts than we have earmarked in this budget resolution. But I remind my colleagues we can always come up with more than what is provided in the budget if we can find offsets, and we should look for them. We should look for places where there is spending not necessary or that is duplicative or can be better used by allowing people to keep their own money.

I do think we should make a special effort this year to begin the process of

eliminating the marriage penalty tax. How in the world in America can we defend the fact that young couples, when they get married, pay more taxes even though they make no more income. The average tax increase for a married couple over what they pay before they are married is \$1,400. You talk about fairness in the Tax Code. That is one provision that must be changed, and we will work together in a bipartisan way to see if we can eliminate the marriage penalty tax this year.

I also thank the Senate for a lot of good work in other areas over the past couple weeks. We did reach agreement on how to consider the Coverdell A+ education bill. It will be a very fair process. We will have 15 or so amendments that will be offered dealing with education only, not extraneous matters that we argued about for over 2 weeks. It will deal with education from both sides of the aisle. Some of them may be accepted, some of them may be second degreed, but I think we will have a great education discussion when we return on April 20, and hopefully we can complete that bill by April 22.

We do hope to take up the NATO enlargement bill later on that week, but I want to make sure that every Senator is comfortable with how that is done, make sure that we have enough time to debate that very important matter fully, but reach a conclusion within, hopefully, 3 days or so—probably by the 26th or 27th of April.

The Finance Committee took a very positive step forward earlier this week with regard to IRS reform. The House did a good job last year getting it started, but we found where there are other real abuses by IRS. We had a unanimous bipartisan vote to report the IRS reform bill out of the Finance Committee, so that bill will be coming to the floor, probably around the first week in May—May 4, something of that nature. It does deal with abuses of such things like the innocent spouse, where an innocent spouse, even though he or she may be divorced, is now being held responsible for half or all of the debts of their spouse or former spouse in a very unfair way. It does provide for some restrictions on the excesses of penalties and interest. Many of us know instances, now, where people have found that they owe more in penalties and interest on taxes than they originally owed. So this bill will begin to cut that back and get it under control. I think the taxpayers will be very proud of that.

Finally, I think we should take note of the vote that occurred in the Senate Commerce Committee on a tobacco settlement package. It still has a long way to go, but that vote was 19 to 1, and was reported out. Most people thought it would never get beyond the committee, that it probably would never even be considered. But it was considered, and I think that was a move that will lead us to an opportunity in late May to take up that very

important legislation to deal with teenage smoking, to try to deal with the Medicare problems that are caused by the health effects of smoking.

I commend Senator McCAIN and Senator HOLLINGS, all those on both sides of the Commerce Committee for their leadership there.

So, as is typical of the Senate, after a lot of work behind the scenes, there was a burst of activity this week, and I think it has put us in a position to complete a lot of good bills when we return the latter part of April.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR—S. 414

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Larry DiRita, my legislative director, and Jim Sartucci from the Commerce Committee professional staff, be allowed floor privileges during the duration of the debate on S. 414.

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

OCEAN SHIPPING REFORM ACT OF 1997

Mrs. HUTCHISON. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to the consideration of S. 414, and it be considered under the following limitations: A substitute amendment offered by Senator HUTCHISON and an amendment to the substitute on application of the act to be offered by Senator GORTON.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Shipping Reform Act of 1997".

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect on March 1, 1998.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) striking "needs." in paragraph (3) and inserting "needs; and";

(3) adding at the end thereof the following:

"(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking paragraph (5) and redesignating paragraph (4) as paragraph (5);

(2) inserting after paragraph (3) the following:

"(4) 'Board' means the Intermodal Transportation Board.";

(3) striking "the government under whose registry the vessels of the carrier operate;" in paragraph (8) and inserting "a government;";

(4) striking paragraph (9) and inserting the following:

"(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.";

(5) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(6) striking "in an unfinished or semfinished state that require special handling moving in lot sizes too large for a container," in paragraph (10), as redesignated;

(7) striking "paper board in rolls, and paper in rolls." in paragraph (10) as redesignated and inserting "paper and paper board in rolls or in pallet or skid-sized sheets.";

(8) striking "conference, other than a service contract or contract based upon time-volume rates," in paragraph (13) as redesignated and inserting "agreement";

(9) striking "conference," in paragraph (13) as redesignated and inserting "agreement and the contract provides for a deferred rebate arrangement.";

(10) by striking "carrier." in paragraph (14) as redesignated and inserting "carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.";

(11) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(12) striking paragraph (17), as redesignated, and inserting the following:

"(17) 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term

"(A) 'ocean freight forwarder' means a person that—

"(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(ii) processes the documentation or performs related activities incident to those shipments; and

"(B) 'non-vessel-operating common carrier' means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(13) striking paragraph (19), as redesignated and inserting the following:

"(19) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual common carrier or an agreement between or

among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.";

(14) striking paragraph (21), as redesignated, and inserting the following:

"(21) 'shipper' means—

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.";

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment, except that the amendments made by paragraphs (1) and (2) take effect on January 1, 1999.

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking "operators or non-vessel-operating common carriers;" in paragraph (5) and inserting "operators;"; and

(2) striking "and" in paragraph (6) and inserting "or";

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking "(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)"; and

(2) striking "arrangements." in paragraph (2) and inserting "arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.".

SEC. 104. AGREEMENTS.

(a) IN GENERAL.—Section 5(b) of the Shipping Act of 1984 (46 U.S.C. App. 1704(b)) is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking paragraph (8) and inserting the following:

"(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item; and

"(9) prohibit the agreement from—

"(A) prohibiting or restricting the members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

"(B) requiring a member of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those specified by section 8(c)(3) of this Act; and

"(C) issuing mandatory rules or requirements affecting an agreement member's right to negotiate and enter into service contracts.

An agreement may issue voluntary guidelines relating to the terms and procedures of agreement members' service contracts if the guidelines explicitly state the right of members of the

agreement not to follow the guidelines and the guidelines are filed with the agreement.".

(b) APPLICATION.—Section 5(d) of that Act (46 U.S.C. App. 1704(d)) is amended by striking "this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933," and inserting "this Act and the Shipping Act, 1916,".

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

(a) IN GENERAL.—Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting "or publication" in paragraph (2) of subsection (a) after "filing";

(2) inserting "Federal Maritime" before "Commission" in paragraph (6) of subsection (a);

(3) striking "or" at the end of subsection (b)(2);

(4) striking "States." at the end of subsection (b)(3) and inserting "States; or"; and

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

"(4) to any loyalty contract.".

(b) SPECIAL EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of enactment except the amendment made by paragraph (2) of subsection (a) takes effect on January 1, 1999.

SEC. 106. TARIFFS.

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting "new assembled motor vehicles," after "scrap," in paragraph (1);

(2) striking "file with the Commission, and" in paragraph (1);

(3) striking "inspection," in paragraph (1) and inserting "inspection in an automated tariff system,";

(4) striking "tariff filings" in paragraph (1) and inserting "tariffs";

(5) striking "and" at the end of paragraph (1)(D);

(6) striking "loyalty contract," in paragraph (1)(E);

(7) striking "agreement." in paragraph (1)(E) and inserting "agreement; and";

(8) adding at the end of paragraph (1) the following:

"(F) include copies of any loyalty contract, omitting the shipper's name."; and

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

"(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.".

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

"(c) SERVICE CONTRACTS.—

"(1) IN GENERAL.—An individual common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be affiliated with, or controlled by, any party to the contract.

"(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

"(A) the origin and destination port ranges;

"(B) the origin and destination geographic areas, in the case of through intermodal movements;

"(C) the commodity or commodities involved;

"(D) the minimum volume or portion;

"(E) the line-haul rate;

"(F) the duration;

"(G) service commitments; and

"(H) the liquidated damages for nonperformance, if any.

"(3) PUBLICATION OF CERTAIN ESSENTIAL TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the terms described in paragraphs (2)(C), (D), and (F) and the United States port range shall be published and made available to the public in tariff format.

"(4) DISCLOSURE OF CERTAIN UNPUBLISHED TERMS.—A party to a collective-bargaining agreement may petition the Commission for the disclosure of any service contract terms not required to be published by paragraph (3) which that party considers to be in violation of that agreement. The petition shall include evidence demonstrating that

"(A) a specific ocean common carrier is a party to a collective-bargaining agreement with the petitioner;

"(B) the ocean common carrier may be violating the terms and conditions of that agreement; and

"(C) the alleged violation involves the moment of cargo subject to this Act.

"(5) ACTION BY COMMISSION.—The Commission, after reviewing a petition under paragraph (4), the evidence provided with the petition, and the filed service contracts of the carrier named in the petition, may disclose to the petitioner only such unpublished terms of that carrier's service contracts that the Commission reasonably believes may constitute a violation of the collective-bargaining agreement. The Commission may not disclose any unpublished service contract terms with respect to a collective-bargaining agreement term or condition determined by the Commission to be in violation of this Act."

(c) RATES.—Subsection (d) of that section is amended by—

(1) striking "30 days after filing with the Commission." in the first sentence and inserting "30 calendar days after publication,";

(2) inserting "calendar" after "30" in the next sentence; and

(3) striking "publication and filing with the Commission." in the last sentence and inserting "publication."

(d) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (e) of that section is amended to read as follows:

"(e) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions."

(e) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Subsection (f) of that section is amended to read as follows:

"(f) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published."

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking "service contracts filed with the Commission" in the first sentence of subsection (a) and inserting "service contracts, or charge or assess rates,";

(2) striking "or maintain" in the first sentence of subsection (a) and inserting "maintain, or enforce";

(3) striking "disapprove" in the third sentence of subsection (a) and inserting "prohibit the publication or use of"; and

(4) striking "filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission" in the last sentence of subsection (a) and inserting "that have been suspended or prohibited by the Commission";

(5) striking "may take into account appropriate factors including, but not limited to, whether—" in subsection (b) and inserting "shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs. For purposes of the preceding sentence, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—";

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking "filed" in paragraph (1) as redesignated and inserting "published or assessed";

(8) striking "filing with the Commission." in subsection (c) and inserting "publication.";

(9) striking "DISAPPROVAL OF RATES.—" in subsection (d) and inserting "PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.";

(10) striking "filed" in subsection (d) and inserting "published or assessed";

(11) striking "may issue" in subsection (d) and inserting "shall issue";

(12) striking "disapproved." in subsection (d) and inserting "prohibited.";

(15) striking "60" in subsection (d) and inserting "30";

(16) inserting "controlled" after "affected" in subsection (d);

(17) striking "file" in subsection (d) and inserting "publish";

(18) striking "disapproval" in subsection (e) and inserting "prohibition";

(19) inserting "or" after the semicolon in subsection (f)(1);

(20) striking paragraphs (2), (3), and (4) of subsection (f); and

(21) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

"(2) provide services, facilities, or privileges, other than in accordance with the rates or terms in its tariffs or service contracts in effect when the service was provided;"

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking "except for service contracts," in paragraph (4), as redesignated, and inserting "for service pursuant to a tariff,";

(6) striking "rates;" in paragraph (4), as redesignated, and inserting "rates or charges;"

(7) inserting "(5) for service pursuant to a service contract, engage in any unfair or un-

justly discriminatory practice in the matter of rates or charges with respect to any location, port, class or type of shipper or ocean transportation intermediary, or description of traffic;" after paragraph (4);

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

(9) striking paragraph (6) as redesignated and inserting the following:

"(6) use a vessel in a particular trade to drive another ocean common carrier out of that trade;"

(10) striking paragraphs (9) through (13) and inserting the following:

"(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

"(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any location, port, class or type of shipper or ocean transportation intermediary, or description of traffic;

"(10) unreasonably refuse to deal or negotiate;"

(10) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(11) striking "a non-vessel-operating common carrier" in paragraphs (11) and (12) as redesignated and inserting "an ocean transportation intermediary";

(12) striking "sections 8 and 23" in paragraphs (11) and (12) as redesignated and inserting "sections 8 and 19";

(13) striking "or in which an ocean transportation intermediary is listed as an affiliate" in paragraph (11), as redesignated;

(14) striking "Act;" in paragraph (12), as redesignated, and inserting "Act, or with an affiliate of such ocean transportation intermediary;"

(15) striking "paragraph (16)" in the matter appearing after paragraph (13), as redesignated, and inserting "paragraph (13)"; and

(16) inserting "the Commission," after "United States," in such matter.

(b) Section 10(c)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)(5)) is amended by striking "freight forwarder" and inserting "transportation intermediary, as defined by section 3(17)(A) of this Act,".

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking "freight forwarders," and inserting "transportation intermediaries,";

(2) striking "freight forwarder," in paragraph (1) and inserting "transportation intermediary,";

(3) striking "subsection (b)(11), (12), and (16)" and inserting "subsections (b) (8), (9), (10), and (13)"; and

(4) adding at the end thereof the following:

"(4) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries as defined by section 3(17)(A) of this Act."

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking "section 10(b)(5) or (7)" and inserting "section 10(b)(3) or (6)"; and

(2) striking "section 10(b)(6)(A) or (B)" and inserting "section 10(b)(4)(A) or (B)."

SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking "non-vessel-operating common carrier," in subsection (a)(1) and inserting "ocean transportation intermediary,";

(2) striking "forwarding and" in subsection (a)(4);

(3) striking "non-vessel-operating common carrier" in subsection (a)(4) and inserting "ocean transportation intermediary services and";

(4) striking "freight forwarder," in subsections (c)(1) and (d)(1) and inserting "transportation intermediary,";

(5) striking "filed with the Commission," in subsection (e)(1)(B) and inserting "and service contracts,";

(6) inserting "and service contracts" after "tariffs" the second place it appears in subsection (e)(1)(B); and

(7) striking "(b)(5)" each place it appears in subsection (h) and inserting "(b)(6)".

SEC. 112. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: "The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels of the common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.".

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking "section 10(b)(1), (2), (3), (4), or (8)" in paragraph (1) and inserting "section 10(b)(1), (2), or (7)";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

"(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)."; and

(4) striking "paragraphs (1), (2), and (3)" in paragraph (6), as redesignated, and inserting "paragraphs (1), (2), (3), and (4)".

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking "or (b)(4)" and inserting "or (b)(2)"; and

(2), striking "(b)(1), (4)" and inserting "(b)(1), (2)".

SEC. 113. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking "and certificates" in the section heading;

(2) striking "(a) REPORTS.—" in the subsection heading for subsection (a); and

(3) striking subsection (b).

SEC. 114. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking "substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce." and inserting "result in substantial reduction in competition or be detrimental to commerce.".

SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 116. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking "freight forwarders" in the section caption and inserting "transportation intermediaries";

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

"(a) LICENSE.—No person in the United States may act as an ocean transportation inter-

mediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary's license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.";

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

(4) inserting after subsection (a) the following:

"(b) FINANCIAL RESPONSIBILITY.—

"(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

"(2) A bond, insurance, or other surety obtained pursuant to this section—

"(A) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act, or any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act; and

"(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim.

"(3) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.";

(5) striking each place such term appears—

(A) "freight forwarder" and inserting "transportation intermediary";

(B) "a forwarder's" and inserting "an intermediary's";

(C) "forwarder" and inserting "intermediary"; and

(D) "forwarding" and inserting "intermediary";

(6) striking "a bond in accordance with subsection (a)(2)." in subsection (c), as redesignated, and inserting "a bond, proof of insurance, or other surety in accordance with subsection (b)(1).";

(7) striking "FORWARDERS.—" in the caption of subsection (e), as redesignated, and inserting "INTERMEDIARIES.—";

(8) striking "intermediary" the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph (5)(A), and inserting "intermediary, as defined in section 3(17)(A) of this Act,";

(9) striking "license" in paragraph (1) of subsection (e), as redesignated, and inserting "license, if required by subsection (a).";

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

"(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

"(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

"(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the intermediary services are provided.".

SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

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

"(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984 shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1997, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1997.";

(2) inserting the following at the end of subsection (e):

"(3) The Ocean Shipping Reform Act of 1997 shall not affect any suit—

"(A) filed before the effective date of that Act; or

"(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

"(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1997.".

SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

SEC. 119. REPLACEMENT OF FEDERAL MARITIME COMMISSION WITH INTERMODAL TRANSPORTATION BOARD.

(a) IN GENERAL.—The Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by—

(1) striking "Federal Maritime Commission" each place it appears, except in sections 7(a)(6) and 20, and inserting "Intermodal Transportation Board";

(2) striking "Commission" each place it appears (including chapter and section headings), except in sections 7(a)(6) and 20, and inserting "Board"; and

(3) striking "Commission's" each place it appears and inserting "Board's".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 1, 1999.

TITLE II—TRANSFER OF FUNCTIONS OF THE FEDERAL MARITIME COMMISSION TO THE INTERMODAL TRANSPORTATION BOARD

SEC. 201. TRANSFER TO THE INTERMODAL TRANSPORTATION BOARD.

(a) CHANGE OF NAME OF SURFACE TRANSPORTATION BOARD TO INTERMODAL TRANSPORTATION BOARD.—The Surface Transportation Board shall be known as the Intermodal Transportation Board after December 31, 1998.

(b) TRANSFER OF FUNCTIONS, PERSONNEL, AND ASSETS OF THE FEDERAL MARITIME COMMISSION.—

(1) FUNCTIONS; POWERS; DUTIES.—All functions, powers, and duties vested in the Federal Maritime Commission are hereby transferred to and shall be administered by the Intermodal Transportation Board.

(2) TRANSFER OF ASSETS AND PERSONNEL.—Any personnel, property, or records employed, used, held, available, or to be made available in connection with a function transferred to the Board under paragraph (1) shall be transferred to the Board for use in connection with the function transferred, and unexpended balances of appropriations, allocations, and other funds of the Federal Maritime Commission shall be transferred to the Board. Those unexpended balances, allocations, and other funds, together with any unobligated balances from fees collected by the Commission during fiscal year 1999, may be used to pay for the closedown of

the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

(c) **REGULATIONS.**—No later than January 1, 1998, the Federal Maritime Commission, in consultation with the Surface Transportation Board, shall prescribe final regulations to implement the changes made by this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.**—There is authorized to be appropriated to the Federal Maritime Commission, \$15,000,000 for fiscal year 1998.

(e) **COMMISSIONERS OF THE FEDERAL MARITIME COMMISSION.**—Effective January 1, 1999, the right of any Federal Maritime Commission commissioner to remain in office is terminated.

(f) **MEMBERSHIP OF THE INTERMODAL TRANSPORTATION BOARD.**—

(1) **NUMBER OF MEMBERS.**—Section 701(b)(1) of title 49, United States Code, is amended by—

(A) striking “3 members,” and inserting “5 members,”; and

(B) striking “2 members” and inserting “3 members”.

(2) **INITIAL TERMS.**—Of the 2 additional members of the Intermodal Transportation Board first appointed under section 701(b)(1) of title 49, United States Code, as amended by paragraph (1), one shall serve for a term ending December 31, 2000, and the other shall serve for a term ending December 31, 2002.

(3) **QUALIFICATIONS.**—Section 701(b)(2) of title 49, United States Code, is amended to read as follows:

“(2) At any given time, at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of surface or maritime transportation or their regulation, and at least 2 members shall be individuals with professional or business experience (including agriculture, surface or maritime transportation, or marine terminal or port operation) in the private sector. At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in maritime transportation or its regulation or professional or business experience in maritime transportation or marine terminal or port operation in the private sector, and at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in surface transportation or its regulation or professional or business experience in agriculture or surface transportation in the private sector. Neither of the 2 individuals appointed as surface transportation members under the preceding sentence, and neither of the 2 individuals appointed as maritime transportation members under that sentence, may be members of the same political party.”.

SEC. 202. SAVING PROVISIONS.

(a) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Federal Maritime Commission or the Surface Transportation Board, any officer or employee of the Surface Transportation Board that are in effect on December 31, 1998, (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Intermodal Transportation Board, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) **PROCEEDINGS.**—The provisions of this title shall not affect any proceedings or any application for any license pending before the Federal Maritime Commission or the Surface Transportation Board at the time this Section takes effect, but such proceedings and applications shall be continued before the Intermodal Transportation Board. Orders shall be issued in such

proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) **SUITS.**—(1) This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) Any suit by or against the Federal Maritime Commission or the Surface Transportation Board begun before the effective date of this Act shall be continued with the Intermodal Transportation Board.

(3) If the court in a suit described in paragraph (1) remands a case to the Board, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

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

SEC. 203. REFERENCES.

Any reference to the Surface Transportation Board in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Surface Transportation Board or an officer or employee of the Surface Transportation Board, is deemed to refer to the Intermodal Transportation Board, or a member or employee of the Board, as appropriate.

SEC. 204. EFFECTIVE DATE.

This title, and the amendments made by this section shall take effect on January 1, 1999, except as otherwise provided.

SUBTITLE B—CONFORMING AMENDMENTS TO UNITED STATES CODE

SEC. 221. TITLE 5 AMENDMENTS.

(a) **COMPENSATION FOR POSITIONS AT LEVEL III.**—Section 5314 of title 5, United States Code, is amended by striking “Chairman, Surface Transportation Board.” and inserting in lieu thereof “Chairman, Intermodal Transportation Board.”.

(b) **COMPENSATION FOR POSITIONS AT LEVEL IV.**—Section 5315 of title 5, United States Code, is amended by striking “Members, Surface Transportation Board.” and inserting in lieu thereof “Members, Intermodal Transportation Board.”.

SEC. 222. TITLE 11 AMENDMENTS.

Subchapter IV of chapter 11 of title 11, United States Code, is amended—

(1) by striking section 1162 and inserting in lieu thereof the following:

“SEC. 1162. Definition

“In this subchapter, ‘Board’ means the ‘Intermodal Transportation Board’;” and

(2) by striking “Commission” each place it appears and inserting in lieu thereof “Board”.

SEC. 223. TITLE 18 AMENDMENT.

Section 6001(1) of title 18, United States Code, is amended by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

SEC. 224. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.

(a) **SECTION 2321.**—Section 2321(a) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

(b) **SECTION 7701.**—Section 7701(a)(33)(c)(i) of such Code is amended by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

SEC. 225. TITLE 28 AMENDMENTS.

(a) **Chapter 85.**—Chapter 85 of title 28, United States Code, is amended—

(1) in the section heading to section 1336 by striking “Surface Transportation Board’s” and inserting in lieu thereof “Intermodal Transportation Board’s”;

(2) in section 1336 by striking “Surface Transportation Board” each place it appears and inserting in lieu thereof “Intermodal Transportation Board”;

(4) in the item relating to section 1336 of the table of sections by striking “Surface Transportation Board’s” and inserting in lieu thereof “Intermodal Transportation Board’s”.

(b) **Chapter 157 Amendments.**—

(1) **IN GENERAL.**—Chapter 157 of such title is amended—

(A) by striking “SURFACE TRANSPORTATION BOARD” in the chapter heading and inserting in lieu thereof “INTERMODAL TRANSPORTATION BOARD”; and

(B) by striking “Surface Transportation Board” each place it appears and inserting in lieu thereof “Intermodal Transportation Board”.

(2) **TABLE OF CHAPTERS.**—The item relating to chapter 157 in the table of chapters of such title is amended by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

(c) **CHAPTER 158 AMENDMENTS.**—

SEC. 226. TITLE 31 AMENDMENTS.

Section 3726(b)(2) of title 31, United States Code, is amended by striking “Surface” and inserting “Intermodal”.

SEC. 227. TITLE 39 AMENDMENTS.

Title 39, United States Code, is amended—

(1) in section 5005(b)(3) by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”;

(2) in section 5201(1) by striking “Surface” and inserting “Intermodal”;

(3) in the section heading to section 5207 by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board; and

(4) in the item relating to section 5207 of the table of sections of chapter 52, by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

SEC. 228. TITLE 49 AMENDMENTS.

(a) **CHAPTER 7.**—Chapter 7 of title 49, United States Code, is amended by striking “Surface Transportation Board” each place it appears, and inserting “Intermodal Transportation Board”.

(b) **CHAPTER 221.**—Chapter 221 of such title is amended—

(1) in section 22101(a)(1) by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”;

(2) in section 22103(b)(1) by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”;

(3) in section 22107(c) by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.

(c) **Section 24301.**—Section 24301(c)(2)(B) of such title is amended by striking “Surface” and inserting “Intermodal”.

(d) **Subtitle IV** of such title is amended by striking “Surface Transportation Board” each place it appears and inserting “Intermodal Transportation Board”.

SUBTITLE C—OTHER AMENDMENTS

SEC. 241. AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENTS.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended by striking "Surface Transportation Board" each place it appears and inserting in lieu thereof "Intermodal Transportation Board".

SEC. 242. ANIMAL WELFARE ACT AMENDMENT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 6145(a)) is amended by striking "Surface Transportation Board" and inserting in lieu thereof "Intermodal Transportation Board".

SEC. 243. FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS.

Section 401 of the Federal Election Campaign Act of 1971 is amended by striking "Surface" and inserting "Intermodal".

SEC. 244. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 621(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(4)) is amended by striking "Surface" and inserting "Intermodal".

SEC. 245. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.

Section 704(a)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(4)) is amended by striking "Surface" and inserting "Intermodal".

SEC. 246. FAIR DEBT COLLECTION PRACTICES ACT AMENDMENT.

Section 814(b)(4) of the Fair Debt Collection Practices Act (15 U.S.C. 1692(b)(4)) is amended by striking "Surface" and inserting "Intermodal".

SEC. 247. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Sections 8(d) and 9(b) of the National Trails System Act are each amended by striking "Surface" and inserting "Intermodal".

SEC. 248. CLAYTON ACT AMENDMENTS.

Sections 7, 11(a), and 16 of the Clayton Act (15 U.S.C. 18, 21(a), and (22)) is amended

SEC. 249. ENERGY POLICY ACT OF 1992 AMENDMENTS.

Subsections (a) and (d) of section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369 (a) and (d)) are each amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Intermodal Transportation Board".

SEC. 250. ADDITIONAL MERCHANT MARINE ACT, 1920, AMENDMENTS.

Sections 8 and 28 of Merchant Marine Act, 1920 (46 U.S.C. App. 867 and 883-1) are each amended by striking "Surface" and inserting "Intermodal".

SEC. 251. RAILWAY LABOR ACT AMENDMENTS.

The first and fifth paragraphs of section 1 of the Railway Labor Act (45 U.S.C. 151) are each amended by striking "Surface" and inserting "Intermodal".

SEC. 252. RAILROAD RETIREMENT ACT OF 1974 AMENDMENTS.

Subsections (a)(1)(i), (a)(2)(ii), and (o) of section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) are each amended by striking "Surface" and inserting "Intermodal".

SEC. 253. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENTS.

Sections 1(a), a(b), and 2(h)(3) of the Railroad Unemployment Insurance Act (45 U.S.C. 351(a), 351(b), and 352(h)(3)) are each amended by striking "Surface" and inserting "Intermodal".

SEC. 254. EMERGENCY RAIL SERVICES ACT OF 1970 AMENDMENTS.

Section 2(2) of the Emergency Rail Services Act of 1970 (45 U.S.C. 661(2)) is amended by striking "Surface" and inserting "Intermodal".

SEC. 255. REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.

Section 713 of the Regional Rail Reorganization Act of 1973 is amended by striking "Surface" and inserting "Intermodal".

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS**SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.**

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking "Federal Maritime Commission" each place it appears and inserting "Intermodal Transportation Board";

(2) striking "forwarding and" in subsection (1)(b);

(3) striking "non-vessel-operating common carrier operations," in subsection (1)(b) and inserting "ocean transportation intermediary services and operations,";

(4) striking "methods or practices" and inserting "methods, pricing practices, or other practices" in subsection (1)(b);

(5) striking "tariffs of a common carrier" in subsection 7(d) and inserting "tariffs and service contracts of a common carrier";

(6) striking "use the tariffs of conferences" in subsections (7)(d) and (9)(b) and inserting "use tariffs of conferences and service contracts of agreements";

(7) striking "tariffs filed with the Commission" in subsection (9)(b) and inserting "tariffs and service contracts"; and

(8) striking "freight forwarder," each place it appears and inserting "transportation intermediary,";

(9) striking "tariff" each place it appears in subsection (11) and inserting "tariff or service contract"; and

(10) striking "Commission" each place it appears (including the heading) and inserting "Board".

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

(1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

(2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);

(3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;

(4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;

(5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;

(6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;

(7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;

(8) striking "subdivision (c) of paragraph (1)" in subsection (c), as redesignated, and inserting "subsection (a)(3)";

(9) striking "paragraph (2)" in subsection (c), as redesignated, and inserting "subsection (b)"; striking "paragraph (1)(b)" each place it appears and inserting "subsection (a)(2)";

(10) striking "subdivision (b)," in subsection (g)(4), as redesignated, and inserting "paragraph (2),";

(11) striking "paragraph (9)(d)" in subsection (j)(1), as redesignated, and inserting "subsection (i)(4)"; and

(12) striking "paragraph (7)(d) or (9)(b)" in subsection (k), as redesignated, and inserting "subsection (g)(4) or (i)(2)".

(c) SPECIAL EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act, except that the amendments made by paragraphs (1) and (10) of subsection (a), take effect on January 1, 1999.

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89-777.—Sections 2 and 3 of the Act of November 6, 1966, (46 U.S.C. App. 817d and 817e) are amended by—

(1) striking "Federal Maritime Commission" each place it appears and inserting "Intermodal Transportation Board";

(2) striking "Commission" each place it appears and inserting "Board"; and

(3) striking "they in their discretion" each place it appears and inserting "it in its discretion".

(b) TITLE 28, UNITED STATES CODE, AND CROSS REFERENCE.—

(1) Section 2341 of title 28, United States Code, is amended by—

(A) striking "the Federal Maritime Commission," in paragraph (3)(A); and

(B) striking "Surface" in paragraph (3)(E) and inserting "Intermodal".

(2) Section 2342 of such title is amended by—

(A) striking paragraph (3) and inserting the following:

"(3) all rules, regulations, or final orders of the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, or 841a) or pursuant to part B or C of subtitle IV of title 49 (49 U.S.C. 13101 et seq. or 15101 et seq.);"; and

(B) striking paragraph (5) and inserting the following:

"(5) all rules, regulations, or final orders of the Intermodal Transportation Board—

"(A) made reviewable by section 2321 of this title; or

"(B) pursuant to—

"(i) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

"(ii) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

"(iii) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d));";

(c) FOREIGN SHIPPING PRACTICES ACT OF 1988.—Section 10002(i) of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 1710a(i)) is amended by striking "2342(3)(B)" and inserting "2342(5)(B)".

(d) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) take effect January 1, 1999.

(2) The repeal made by subsection (d) takes effect March 1, 1998.

TITLE IV—MERCHANT MARINER BENEFITS.**SEC. 401. MERCHANT MARINER BENEFITS.**

(a) BENEFITS.—Part G of subtitle II, title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 112—MERCHANT MARINER BENEFITS

"Sec.

"11201. Qualified service.

"11202. Documentation of qualified service.

"11203. Eligibility for certain veterans' benefits.

"11204. Processing fees.

"§ 11201. Qualified service

"For purposes of this chapter, a person engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

"(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transportation Service) serving as a crewmember of a vessel that was—

"(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

"(B) operated in waters other than inland waters, the Great Lakes, other lakes, bays, and harbors of the United States;

"(C) under contract or charter to, or property of, the Government of the United States; and

"(D) serving the Armed Forces; and

"(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

"§ 11202. Documentation of qualified service"

"(a) RECORD OF SERVICE.—The Secretary shall, upon application—

"(1) issue a certificate of honorable discharge to a person who, as determined by the Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

"(2) correct, or request the appropriate official of the Federal government to correct, the service records of the person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable discharge.

"(b) TIMING OF DOCUMENTATION.—The Secretary shall take action on an application under subsection (a) not later than one year after the Secretary receives the application.

"(c) STANDARDS RELATING TO SERVICE.—In making a determination under subsection (a)(1), the Secretary shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(b) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

"(d) CORRECTION OF RECORDS.—An official of the Federal government who is requested to correct service records under subsection (a)(2) shall do so.

"§ 11203. Eligibility for certain veterans' benefits"

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—The qualified service of an individual referred to in paragraph (2) is deemed to be active duty in the armed forces during a period of war for purposes of eligibility for benefits under chapters 23 and 24 of title 38.

"(2) COVERED INDIVIDUALS.—Paragraph (1) applies to an individual who—

"(A) receives an honorable discharge certificate under section 11202 of this title; and

"(B) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs.

"(b) REIMBURSEMENT FOR BENEFITS PROVIDED.—The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for an individual by reason of eligibility under this section.

"(c) PROSPECTIVE APPLICABILITY.—An individual is not entitled to receive, and may not receive, benefits under this chapter for any period before the date of enactment of this chapter.

"§ 11204. Processing fees"

"(a) COLLECTION OF FEES.—The Secretary shall collect a fee of \$30 from each applicant for processing an application submitted under section 11202(a) of this title.

"(b) TREATMENT OF FEES COLLECTED.—Amounts received by the Secretary under this section shall be credited to appropriations available to the secretary for carrying out this chapter."

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following:

"112. Merchant mariner benefits.....11201".

TITLE V—CERTAIN LOAN GUARANTEES AND COMMITMENTS

SEC. 501. CERTAIN LOAN GUARANTEES AND COMMITMENTS.

The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) unless the Commissioner of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years;

(2) is not currently under investigation by the Commission concerning the suspected violation

of section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a);

(1) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; and

(4) is not currently under investigation by the Commission concerning the suspected violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port.

Amend the title so as to read "A Bill to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there be a total of 10 minutes of debate on the bill, equally divided, between the chairman and ranking member or their designees, that there be an additional 60 minutes for debate on the Gorton amendment, equally divided between the proponents and the opponents. I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to lay aside the Gorton amendment and a vote occur on or in relation to the Gorton amendment at a time to be determined by the majority leader, after notification of the Democratic leader, on Tuesday, April 21, to be preceded by 20 minutes for closing remarks equally divided on Tuesday, to be followed by adoption of the substitute amendment, and that the bill then be read a third time and passed, with no intervening action or debate. I finally ask unanimous consent that if the Gorton amendment is adopted, this consent be considered void and the bill be open to further amendment and debate.

Mr. GORTON. Reserving the right to object, I simply would like a clarification that the 20 minutes, after the recess is over, is 20 minutes on the Gorton amendment, is it not?

Mrs. HUTCHISON. Yes.

Mr. GORTON. I have no objection.

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

AMENDMENT NO. 1689

(Purpose: To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes)

Mrs. HUTCHISON. Mr. President, I ask that the substitute at the desk, amendment No. 1689, be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. LOTT and Mr. BREAUX, proposes an amendment numbered 1689.

Mrs. HUTCHISON. I ask unanimous consent that reading of the amendment be dispensed with and I be recognized to speak on the bill.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, American ports and carriers and shippers are disadvantaged by current laws that require all contracts to be public. To avoid publication, U.S. ports are bypassed when possible and the U.S. carriers lose business. U.S. exporters, unlike their foreign competitors, must reveal their ocean transportation costs, permitting the foreign competition to undercut them. Recent economic problems in Asia will increase pressure in those countries to increase their exports. S. 414 will be even more important if our shippers meet the heightened competitive challenge. S. 414 attempts to level the playing field between U.S. companies which export and their foreign competitors.

This bill will encourage greater competition among carriers. It will provide American exporters and importers with greater choice in obtaining ocean transportation services and promote more ocean shipping activity for our carriers and our ports.

In providing our shippers with this important reform, we have still attempted to preserve antidiscrimination provisions in current law and the elements of our current "transparent" system that protect our ports, smaller shippers, and U.S. workers. This bill balances the need to have enough transparency to assure fair pricing with contract privacy.

Ninety-five percent of U.S. foreign commerce is transported via ocean shipping. Half of this trade which is carried by container liner vessels with scheduled service is regulated under the Shipping Act of 1984 and would be affected by these reforms. This legislation represents an important opportunity to ease the hand of regulation on a significant sector of commerce.

This bill represents the first major reform of this critical industry in a decade and the most significant change to the underlying statute since 1984. Its completion complements the free trade revolution that has occurred during this same period and will allow American businesses and consumers to take advantage of the global increase in trade, both imports and exports.

Mr. President, I am proud to have worked on this bill with the distinguished Majority Leader LOTT and colleagues from both sides of the aisle to advance this important legislation. I really appreciate the leadership of the ranking member of the full Commerce Committee, Senator HOLLINGS, as well as certainly the ranking member of the Surface Transportation and Merchant Marine Subcommittee, Senator INOUE, and my colleague from Louisiana, Senator BREAUX, and the chairman of the committee, Senator MCCAIN.

I would also like to acknowledge the concerns of my colleague from Washington, Senator GORTON. I am aware of the outstanding issue that he will soon address with his amendment. I understand the merits of his amendment. I have sympathy for it. However, I will have to vote against it and urge my colleagues to do likewise because its adoption at this time will jeopardize the progress of this bill.

I would like to outline the key points of the legislation. Here are the highlights of the floor amendment that I have introduced.

We provide shippers and common carriers greater choice and flexibility in entering into contractual relationships for ocean transportation and intermodal services. To this end, the most significant improvements are:

No. 1, that we strengthen the right of individual members of ocean carrier groups to negotiate and enter into service contracts with one or more shippers, independent of the carrier group. This means that individual carriers will be better able to customize their services without the interference of the carrier conferences.

No. 2, we clarify the rights of groups of ocean common carriers to jointly negotiate inland transportation rates and services consistent with antitrust statutes and FMC approval. This means that carriers will be able to incorporate electronic commerce, logistics and other services that add value to the customer's contract.

No. 3, we continue to require a form of tariff publication. However, it is much more flexible than the current tariff filings. Tariffs become effective upon publication through a private system, such as on the carriers' World Wide Web pages, not a governmental publication. Also tariff changes do not require Government approval. This puts the maritime industry on a similar footing as other transportation industries which we have deregulated in recent years, providing carriers with greater flexibility.

The measure protects U.S. exporters from disclosure to their foreign competitors of certain proprietary business information through their contractual relationships with common carriers by allowing confidentiality of certain service contract terms. As I have mentioned earlier, our competitors can and do contract ocean shipping transportation confidentially, and our shippers never know what their competitors are paying for transportation. However, U.S. shippers' ocean transportation costs are an open book, and foreign competitors use the information to undercut our exporters whenever possible. Our ports suffer, too. Shippers who conveniently can, will ship out of foreign ports in nearby Canada or Mexico to avoid this penalty.

Our shippers say they want more flexibility in dealing with their ocean carriers and the ability to go outside the traditional tariff system and conference structure. We have provided

this needed confidentiality, but balanced it with protections for ports and U.S. dockworkers who seek information on the movement of commodities to protect their competitive position.

Additionally, this measure relaxes some of the restrictions on individual carriers relating to practices or preferences in dealing with exporters, but maintains them with regard to the concerted activity of two or more carriers.

Finally, the reported bill would have combined the functions of the Federal Maritime Commission and the Service Transportation Board into a single agency. This floor amendment retains these separate agencies and functions in their current form.

Thus, the overall thrust of this entire bill—with the amendment that I am offering—is to generate more competition for shippers of all sizes in the ocean transportation sector and to make this important transportation link to their overseas markets more affordable and sensitive to their individual needs.

This is a bill that should help our ports get more business, which means more jobs in America. It should level the playing field for our U.S. carriers while protecting the rights of shippers and dock workers and other union personnel. It is very important that we have tried to balance this.

Is the bill perfect? No. There are things I would like to have seen different. We have had to compromise to a degree. But I do think we have done a good job of working with all the interests here and allowing our carriers, shippers and ports to compete, which means jobs for Americans.

That is the purpose of this bill. I believe we have done it in the best way we could, balancing all of the competing interests. I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

AMENDMENT NO. 2287 TO AMENDMENT NO. 1689

(Purpose: To provide rules for the application of the Act to intermediaries)

Mr. GORTON. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington, [Mr. GORTON], proposes an amendment numbered 2287 to amendment numbered 1689.

Mr. GORTON. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 10, strike "ocean".

On page 5, line 15, strike "ocean".

On page 11, line 16, strike "ocean".

On page 12, line 8, strike "ocean".

Mr. GORTON. Mr. President, with the exception of the single paragraph toward the beginning of the eloquent

statement by the Senator from Texas, I agree, literally, with every word of her remarks. In fact, I think, as I will show to you, that single paragraph with which I disagree is totally inconsistent with the remarks of the Senator from Texas. Let me tell you why.

For my first 3 years in the U.S. Senate, 1981-1984, I held hearings, drafted, worked on, discussed, and ultimately sponsored and passed the Shipping Act of 1984. Fifteen years ago, I probably could have recited it from memory. I was at that time the chairman of the subcommittee of the Commerce Committee now chaired by my esteemed friend, the Senator from Texas. The goal of the Shipping Act of 1984 was to breathe fresh air, competition, and deregulation into the worldwide system of ocean carriage of goods, at least as that carriage affected the United States. It was an industry controlled by cartels and monopolies far less interested in those whom it served than in those who provided the service—most particularly, many foreign-flagged merchant marines.

I am certain when I introduced that bill for debate I made the same remarks the Senator from Texas has just made—that it was not perfect, that it did not create a purely competitive market, but that it represented a major step forward in allowing the fresh air of competition to breathe on the ocean carriage of goods. And now building on that 1984 act, the Senator from Texas has brought us a further proposal which opens up, still wider, the field of ocean carriage of goods to competition. It is in that respect a fine bill.

What the bill does is say that shippers can make agreements with ocean carriers in the same fashion that almost all contracts in the private sector can be made in the United States without having to follow the specific monetary requirements of filed tariffs, but simply as private contracts in which the shipper could get the best possible deal that it can negotiate and the carrier can get as high a price for that carriage as it can negotiate. This is the heart of the free market system. It is a precisely proper philosophy for the carriage of goods by sea. The bill also allows the ocean carriers to get together with land carriers so that you can get one price for shipping your goods from, say, in your case, Mr. President, Cheyenne, WY, to Yokohama, Japan, also a major step forward.

One thing, however, it does not do, and that is what my amendment is all about. If you are a major manufacturer, a huge shipper, capable of filling an entire vessel with a single shipment of your goods, or at least so large a container that you can effectively deal directly with the ocean carrier, you get the advantage of this competitive system. You can make the best deal you can wring out of that ocean carrier.

But if you are the kind of shipper or seller that I suspect is more common in a rural State like Wyoming, and you

are shipping only a modest amount of goods, you have very little leverage with the ocean carrier. You probably don't even know very much about how to engage in that business. So you hire an intermediary, usually in one of America's ports, a customs broker, or a freight consolidator, to do it for you. These intermediaries, almost without exception, are small business people. That intermediary gets together a bunch of shipments from small shippers and it makes the contract with the ocean carrier. In other words, small business people hire other small business people to consolidate their shipments so they can have advantages equal to those of the big businesses and the big shippers.

At the present time, under the 1984 law the same rules as to published tariffs and the degree of competition or lack of competition apply to the big shipper and the small shipper.

And I may say that when the Senator from Texas wrote this bill, she provided the same advantages to the small shipper and the intermediary as she did to the big shipper. Obviously, there should not be discrimination between those two groups. And that is the way the bill was reported from the Commerce Committee—more competition, more ability to negotiate. You didn't have to tell your competitors what you were paying. Everybody benefited.

Oh, but, Mr. President, what happen then? Well, then, the big longshore unions objected. The International Longshoremen's Association and the International Longshoremen's and Warehousemen's Union don't like these little guys because sometimes the little guys don't use the longshore unions to put these shipments together. So the longshoremen's unions go to the majority leader and the Senator from Texas and say: We are not going to let this bill pass unless you help us drive these little people out of business and say that we will give all of these new competitive advantages to the big boys, who automatically use the longshore unions, but we are not going to give the benefits of competition to the little people, to that small shipper from Cheyenne, WY; we are not going to give them to that freight intermediary in Seattle, WA, or in Newark, NJ. Oh, no. They still have to publish their rates. They still can't enter into long term contracts and make the best possible deal.

So not only are you depriving the small shippers and transportation intermediaries of an advantage of a free market, you are telling them they are in a terribly unfavored competitive situation as against the ocean carriers themselves. You are forcing the small shipper in Cheyenne, if he can possibly do so, to go directly to the ocean carrier.

What kind of deal do you expect he is going to get under those circumstances? He doesn't know anything about these transactions and he doesn't have any expert working for

him. He will pay far more than his large competitor will for the carriage of his goods. Or, of course, he could still go to the intermediary, but the intermediary can't get as good a deal for him as the large shipper can get.

You listened to the unanimous consent that preceded this debate, Mr. President, and you may have questioned the end of it. The end of it states that if I win, the ball game is over. If my amendment is adopted, most of the members of the party that claims to be for the little guy will kill the bill, and they will kill it because the little guy gets equal advantages with the big guy. That is what the unanimous consent is all about.

Mr. President, it is no more complicated and no less complicated than just that. If we are willing to put our votes where our mouths are when we go home and talk about the virtues of small businesses, if we are willing to carry out the kind of pledges we make in our election campaigns and treat people equally, if we are willing to say that if a competitive market is good for the large, it is good for the small, we will vote for the Gorton amendment and see whether or not the people on the other side dare kill a procompetitive bill just because it doesn't add to the monopoly of two unions at the expense of small businesses all across the United States of America.

Mr. President, I ask that you and other Members of this body consider this matter in the 2½ weeks we are going to be away, and see whether or not we don't want to treat people fairly and not ratify an agreement that was made behind closed doors, with the ocean carriers present and the big shippers present and the unions present, but the small business people told: Get lost; we are not going to listen to you while we make this deal.

That is the wrong way to reach an agreement, and it is the wrong way to pass legislation. We can correct it by passing this amendment.

Mr. BREAU. Mr. President, I rise in opposition to the Gorton amendment, which would give non-vessel-operating common carriers, or NVOs, the right to offer service contracts to shippers—that is, the importers and exporters—just as do vessel-operating ocean common carriers. NVOs do not own or operate vessels. They are middlemen, who act as carriers in relation to their shipper customers, and who then act as shippers when they offer those cargoes to vessel-operating carriers for transport. NVOs were first legislatively recognized as a legal entity in the 1984 Shipping Act, in recognition that NVOs can provide specialized attention and service to small shippers whose minimal cargo volumes are not always worth the time and attention of large vessel-operating carriers. No other nation has legally recognized the concept of non-vessel-owner-common carriers.

Originally, NVOs consolidated the cargoes of several shippers into a container and then took advantage of the

full container rates offered by ocean carriers. There are thousands of NVOs doing business in the United States, all of whom are required to file their rates, to adhere to their rates, and to be bonded to establish their financial responsibility to their customers. It should be noted that S. 414 will reduce the cost of tariff filing by eliminating the requirement that the federal government collect and disseminate tariff information, and would replace this system with a requirement that tariff information be publicly available through a private sector resource, such as the internet or other private sector information system provider.

This system has been working well for 14 years. There is no reason to change it. Small shippers—with only the occasional box or two of cargo to be transported—have come to depend on NVOs for the care and personal attention that a larger carrier cannot offer. But some NVOs have grown immeasurably in size, primarily those that are based in Europe, and are now competing directly for cargo with the major U.S. and foreign shipping lines. It is precisely these NVOs who are not satisfied with their current status, and insist that despite the fact that they have none of the expenses attendant to actually operating vessels, want to be treated like a vessel-operating common carrier in every respect. They want to offer service contracts to shippers and groups of shippers who can afford to promise large volumes of cargo in return for more favorable rates.

It is not fair to the vessel-operating common carriers serving our trades, with their huge capital investments, that they be put on par with entities taking advantage of the fiction of current law calling them carriers. And it is especially not fair that the small "mom and pop" NVOs, who are not in a position to compete with some of the NVO giants that have emerged, may be swallowed up by them if the larger ones are allowed to offer service contracts. Small NVOs, by virtue of the modest cargoes they handle, will not be able to take advantage of the Gorton amendment; only the mega-companies will. America's small businesses do not deserve this treatment. This amendment is not about protecting the interests of small business, it is actually about treating large multinational forwarding companies the same way that we would ocean carriers. The end result would be to provide a disincentive to actually own and operate ships. Why actually own and operate ships if you could function in the same fashion as an ocean carrier without actually having to own or control any of the transportation functions or liabilities.

Moreover, S. 414, as revised by the Hutchison, Lott, Breaux amendment, represents a delicately crafted compromise reflecting the interests of all sectors of the shipping industry, including vessel- and non-vessel-operating common carriers, as well as shipper, forwarder, port and labor interests. The resulting documents cannot

be altered in a piecemeal fashion without upsetting that balance. No one in this compromise got exactly and completely what was wanted; everyone won a little and lost a little. That's what a compromise is.

I urge my colleagues to vote against destroying several years of hard work to come up with a fair and viable revision of our shipping laws. I would like to thank my colleagues, Senators HUTCHISON, LOTT and GORTON for all of the work that they have put into this measure, and I urge you to vote against the Gorton amendment.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I think the Senator from Washington has made a very eloquent statement, and I am very glad that we agree on 99 percent of this bill and that we agree that this is a very important improvement for the whole shipping and carrier industry which will promote more business for U.S. ports.

I do not take issue with anything Senator GORTON has said, except to say that in the balancing of competing interests, it is very difficult to have acceptance by all. And I can truthfully say that no one who is affected in this shipping industry is completely happy with this bill—no one—not the unions, not the shippers, not the carriers, and not the non-vessel-operating common carriers of which Senator GORTON spoke. But in the main, the balance is better for all of these than in the present law.

This bill has some advantages above current law for these non-vessel-operating common carriers. They can take advantage of the tariff reforms. They will be able to privately publish tariffs, and they don't need to file them with the Federal Maritime Commission. These NVOs, as shippers, can have confidential contracts with carriers, helping them compete against each other. They will be able to benefit, of course, from the more competitive atmosphere among carriers when purchasing space, and they have the current protections against discrimination against them by cartels maintained in this bill.

So while they are not completely happy with this bill—and I certainly understand their concerns—there are important pro-competitive reforms they will benefit from.

I would point out that the other entities affected by this bill are also not completely happy with it. But they too, recognize it as a compromise that contains positive reforms. I think all would say that having this legislation does open competition, it does bring business to U.S. carriers, the competition will bring lower prices to shippers, and our ports will get the business.

That is good for everyone above and beyond the law as it stands today.

I hope, when we vote on Senator GORTON's amendment, people will under-

stand this balancing, that they will opt in favor of the Hutchison amendment to S. 414 unamended by the Gorton amendment and then let us keep working on this issue, which I think certainly the non-vessel-operating common carriers are entitled to and which I pledge I will do and try to get a bill that is a balance, that creates more jobs and more business for America. That should be our goal, and I believe it is. Let us just get there.

I thank the Chair.

Now, according to the unanimous consent agreement, I will yield back the time from the majority side. The minority side has agreed to also yield back time. If Senator GORTON does not wish to have further debate, then I will yield the floor and the unanimous consent agreement is in effect.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Washington.

Mr. GORTON. I thank the Senator from Texas. We are about finished with debate on this amendment, and it is the appropriate course of action for both of us to yield back our time. I will maybe take 2 minutes on it and then relieve the Chair for my assignment there, and we can go on to something else.

Mr. President, I appreciate the courteous response of the Senator from Texas to my remarks. Again I have to say that she and I agree profoundly on the goals of this legislation. I am proud that she has been able to build on what I started a decade and a half ago. She has worked as hard and almost as long on this bill as I did on the 1984 act itself. It certainly can be said they go in precisely the same direction—more competition, better service, and a higher degree of competitiveness on the part of American business in that portion of the world's merchant marine, including the U.S. flag merchant marine that operates out of the United States. She is certainly right when she says many of the current rules disadvantage American businesses and cause some shipments to go to Canada or Mexico that might otherwise come directly here.

The amendment that I have proposed, of course, moves another major step in that direction. It is, as I emphasized, exactly what the Senator from Texas wanted when she wrote the bill in the committee and was forced to retreat from by these large interests, particularly the maritime unions. But it does disadvantage one group. If you have a semicompetitive system and all American businesses, large and small, operate under the same rules, that is one thing. If you have a system that says the big boys get to operate under much less restrictive rules, do not have to publish their fares and their tariffs, can enter into any kind of agreements they want, but the little guys cannot, they are still subject to those old rules, you have created a fundamentally unfair situation. When that unfairness is

directed at small shippers and small freight consolidators, the difference, the discrimination, is particularly egregious.

I agree with the Senator from Texas. However it ends up, this is not the final form of the bill; it has not passed the House of Representatives yet. But, Mr. President, you and my colleagues should not fool yourselves to think if we do not adopt this fairness amendment, this small business amendment now, it is somehow going to come back in later. I think if we do adopt it now, we have a far greater opportunity to see to it that this bill is not only procompetition and deregulatory but fair; that all the people, all the groups in America who deserve that fairness, the small businesses, about whom we talk so much on every one of our trips home, do deserve an equal opportunity to compete.

That is all this amendment is about. It allows the little guys to contract the way the big guys contract. Often we will make a policy that says the little people will have an advantage over the big ones because the big ones have the advantage of their bigness. Rarely do we say, as we are asked to here, that we will give the big guys an advantage and deprive their small competitors of that advantage. Equal the playing field. If competition is good for the large shippers, it is good for the small shippers. If it is good for the large carriers, it is good for the small carriers. That is what this amendment is all about.

With that, I will yield the remainder of my time.

Mrs. HUTCHISON. Mr. President, I think Senator GORTON has made a very good statement. I think we will be able to work together for our common goal.

I yield back the remainder of my time.

Mr. GORTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. It is my understanding, Mr. President, that this vote will not take place before April 21.

Mrs. HUTCHISON. That is correct.

The PRESIDING OFFICER. If all time is yielded back, under the previous order, S. 414 will be laid aside until Tuesday, April 21, to be considered at a time to be determined by the majority leader.

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

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

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

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

Under the previous order, the Senator from Ohio is recognized to speak for up to 1 hour.

Mr. DEWINE. Mr. President, I ask unanimous consent at this time to extend that to 75 minutes.

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

HAITI

Mr. DEWINE. Mr. President, I rise today to bring my colleagues up to date on the situation in Haiti. Two weeks ago, I traveled once again to this troubled country. While I knew little about Haiti before becoming a Senator, this was my fifth trip to Haiti in the last 3 years. So I have had the opportunity to see what changes have taken place and the general direction of events.

Later today, the Secretary of State, Madeleine Albright, will visit Haiti. She will find when she arrives a troubled country, but a country in which the United States does have a major national interest.

Mr. President, let me begin by pointing out that while Haiti is not of strategic importance to the United States, what happens there does have a impact on our country and on our citizens.

Haiti's current political system is not stable. It is a struggling democracy in its infancy. If this unstable democracy descends into outright chaos, the result could be an exodus of boat people coming to our shores.

It has, of course, Mr. President, happened before. Remember, Haiti is just 700 miles from Florida. During the early 1990s, after President Jean Bertrand Aristide was ousted from power, tens of thousands of Haitians risked their lives by boarding small boats, even rafts, hoping to reach the United States or other countries. Between 1991 and 1994, 67,000 Haitians were interdicted at sea—67,000. Our Government was forced to house more than 25,000 Haitians in Guantanamo Bay in Cuba, at a cost of more than \$400 million.

Historically, our countries have important ties. Haiti is the second oldest republic in the hemisphere. Their defeat of Napoleon's army in 1804 led the French to sell us the Louisiana Territory. In 1915, the United States intervened militarily to restore order to Haiti, and we remained there until a new government was installed in 1934. So our interest in Haiti is not new—it is rooted in our history.

Hundreds of thousands of Haitians live in the United States. In fact, there are more Haitians in the United States than any other country outside of Haiti, and thousands of U.S. citizens live in Haiti, either permanently or temporarily, for humanitarian purposes. I am amazed, as I travel throughout Haiti, at the number of Americans I meet. They can be found all over that small country.

Haiti's troubles have a direct effect on the United States, and impact. Haiti's current political power vacuum already is being filled by dangerous drug lords. Today, 8 percent of the drugs on our Nation's streets come from Haiti or through Haiti. This is a clear example of how the current crisis in Haiti has a

clear and direct impact on the people of my home State of Ohio, your home State of Washington, and the rest of this country.

Geographic proximity has dictated U.S. interest in Haiti over the course of this century. It will continue to do so. In September 1994, the United States—in conjunction with the international community—sent over 20,000 troops, at a cost of over \$1 billion, to restore President Aristide to power. This figure does not include the additional \$120 million the United States provided the United Nations for peacekeeping operations. In addition, since then, the United States has invested well over \$2 billion in nonmilitary assistance to establish and help sustain democracy in Haiti.

Mr. President, I would now like to update my colleagues on where things stand in Haiti with regard to a number of specific topics. Let me first start with American civilian police presence there.

One cause for optimism in Haiti is the American civilian police, who participate in the United Nations civilian police presence. Their mandate recently shifted from mentoring the cops on the streets, the Haitian police officers on the streets, to mentoring the mid-level management of the Haitian National Police.

I had the distinct pleasure, when I was in Haiti several weeks ago, of accompanying American civilian policemen on duty in Cite Soleil—a slum in Port-au-Prince with probably the highest degree of violence in this whole country. Surprisingly, several of these American cops told me they had no problem moving through Cite Soleil both during the day and at night. We have, today, 31 dedicated U.S. police officers, Haitian-born U.S. citizen veteran U.S. cops, who are down in Haiti on a contract basis, mentoring the Haitian police. These 31 dedicated police officers from New York, New Jersey, Florida, L.A.—they are all creole speakers. This enables them to communicate well with the Haitian population. In fact, the majority of these 31 Americans were born or have relatives in Haiti. These U.S. police officers told me they feel their work with the Haitian police is helping. It is beneficial. It is important. Mr. President, I commend them and I support the efforts of these fine Americans.

Let me turn now to the Haitian police. One of the main missions of the United States after President Aristide was restored to power was to help train a brand new Haitian police force. This was a daunting, and remains a daunting, task. I don't know that it has ever been undertaken in the world at such a magnitude as we tried and have been doing in Haiti. We have trained over 5,000 new Haitian police recruits. Our men and women who travel to Haiti to do this did, and continue to do, an excellent job.

The Haitian National Police, or HNP, are doing fairly well and have taken

strides to professionalize the institution. Continued concerns of some human rights violations are being addressed in the newly formed inspector general's office. The United States has spent considerable money and effort in training the police force. In conjunction with other interested international donors, this training must continue. Furthermore, efforts should be made to address the lack of resources needed by this police force.

When the international community restored Aristide to power in 1994, the Haitian military and police were then totally dismantled. A new police force was formed from scratch. Although a very young force, the Haitian National Police has been described as the only functioning institution in Haiti.

When the U.S. Government decided to train the new Haitian police through the International Criminal Investigative Training Assistance Program—this is our U.S. Government program known as "ICITAP"—we laid down three conditions: No. 1, that the old armed forces must be and were disbanded; No. 2, that the new police force must be civilian; and, No. 3, that the police must have reasonable means to overcome their historic corruption.

While the Haitian police are generally doing a good job, some Haitians continue to fear HNP, the Haitian National Police. These Haitians particularly fear the crowd control/riot squad unit. This unit, which dresses in all black uniforms, including reflective sunglasses, is extremely intimidating and reminiscent of the previous military regime. Further, serious human rights abuses by the HNP officials continue, tragically, to occur.

There is really only one solution, and that is to continue to work to help professionalize the police. That is what we are doing. A newly installed inspector general's office within the HNP is looking at these human rights violation cases. We will not see real progress in this area until and unless the IG moves these cases forward—and until and unless the judicial system successfully prosecutes policemen involved in these crimes.

Efforts are being made to start integrating the Haitian police into the Haitian society. The concept of community policing is a concept that our men and women are taking to Haiti. Haitian President Preval has requested the HNP to engage in this community policing. American civilian police personnel are mentoring their HNP counterparts in this effort. Though this effort is only in its initial stages, it is a change in the right direction. The police are also attempting to change from a reactive force to become a more typically American proactive force.

Our continued commitment to the professionalization of the Haitian police is essential. As all Americans know, a strong and effective police force is essential to any civil, democratic society. We must continue the ICITAP program, and urge the Haitian