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AN ADDRESS BY REP. GERALD R. FORD, R-MICH.
REPUBLICAN LEADER, U.S. HOUSE OF REPRESENTATIVES
BEFORE THE COMMON CARRIER CONFERENCE -- IRREGULAR ROUTE
NEW ORLEANS, LOUISIANA
MONDAY, MARCH 10, 1969

FOR RELEASE AT 9:30 AM. MONDAY

"THE CHALLENGE AND THE OPPORTUNITY"

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So John Volpe is faced with a great challenge -- both in seeking to improve the functioning of DOT as a part of the federal government structure and in dealing with the tremendous transportation problems posed by the fantastic growth of this country.

It is estimated, for instance, that if the demand for transportation continues to match America's anticipated economic growth we will have to double our transportation capacity in less than 20 years.

To do this, we have to know where we are and where we are going. We have to decide how best to get to where we want to go. We have to formulate a national transportation policy and then see to it that our day-by-day actions point toward the achievement of our desired objectives.

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I say that because making changes in the agricultural exemption is like trying to abolish the National Guard. As I mentioned, the whole omnibus transportation bill foundered on it a few years ago.

Last year the co-ops were restricted to 15 per cent of non-agricultural hauling, and the government business was excluded from that amount under terms of Public Law 90-433. The bill did not really go to the heart of the exemption matter. The fact simply was that some of the co-ops were set up to carry agricultural stuff but actually were munitions haulers for the government.

I am happy to note that this Conference supports the concept of a strong Interstate Commerce Commission. That happens also to be my view.

I talked earlier about the need to improve coordination within the Department of Transportation and that department's relations with other agencies of the Federal Government.

I think it is also appropriate at this time to renew our determination that the Highway Trust Fund will be kept inviolate -- that the funds paid into the Highway Trust Fund by highway users will be used only for highway purposes.

I urge, too, that the interstate highway program move ahead smoothly and not be subject to freezes and to movement by fits and starts as it has in recent years.

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For the most part, they deal with the need to reorganize the work of the Federal Government and to return more money and power to the states and to the private sector in this country.

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Common Carrier Conference
Greg. R. - Am. Trucking Ass'n

~~6 p.m. at the beginning
of the week
with friends~~

(755-7160)

10:30^{am} Mon - March 30 = New Orleans

Hotel Monte Leone

Common Carrier Conf = Am Trucking Ass'n

Henry van Dallen

Howberry x 3641

Topic: Transportation - Title

Interst Comm Act (1887-?) = RR's

placed under ICC

1935 - Congress passed "Act II" of the Act & placed motor trucks under regul. as vehicles for hire - Since then periodic amend.'s - In 58 - a lot of frozen items etc. placed under regul. thru ext. interpretations - van Dallen had been removed fr regul. - Items the truckers wanted "it" - Parts of vehicles for hire under regul. "are not"

1939-43 - dealt w/

eg. Corps & Transport - Prev.

The corps has been exempted as vessels

to which concept of corps help. The farmer

90-433 - want of help. The corps

could haul 15% of their total gross

tonnage - ICC now is setting up



The gd rules on this >

At now - The Am. Truck Assn
don't try to obtain regul
The support of ord. livestock
- This is now excluded. They're
w/pt of the Natl Cattleman's Assn
to get their support for legislation
= Sen. 748 - Sen. Estan =

- We're trying to get some rate stability
= Expect vid. bill to be intro by
Sen. Magnusson =

= Expect Rep. Staggers (?) to intro
Companion bill in the House =

= Sen. Cafferata says ~~the rest for the~~ that
~~there is a problem~~

- Livestock carriers are in a sump
today that the motor carriers were in 1935
= Won't get the legis unless the shippers
(Cattlemen) agree.

= 20% of the livestock carriers are going
out of business. y

Size & Weight Bill = is their
dom. chief interest

It passed the Senate - I was right
out in the field

Schwenkel, Hoked, et al

The four issues

- ① The concept of regul. by ICC.
- ② Size & Weight Bill - every.



Part of the

want to see what Volpe
has to say about it

u We supp. the concept of a
strong ICC

Nixon last Thurs. named EA-Rps
Jackson of Calif. to the ICC
The I.C.C. reports to the Congress
selects chairman from amongst own mbrs.

Not call enough the need to
keep the highway trust fund concept
keep it inviolate - but there was
attempts to take highway trust fund money
out of it for unrelated purposes

Issues of restricted franchise
types

- ① private carrier - best
- ② contract carrier - smallest
- ③ common carrier - Reg. Rte
- ④ " " " " - Reg. Rte

* Reg Rte CC - only cert. rtes + public
commodities -

* Reg. Rte CC - Temporary franchise
- mostly specified commodities -

S. 789 = Bill to take approp. + assets
of portions of ICC + divorce it from the Budget



90TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1026 }

VEHICLE WEIGHTS AND DIMENSIONS
VEHICLE WEIGHTS AND
DIMENSIONS

REPORT

OF THE

COMMITTEE ON PUBLIC WORKS
UNITED STATES SENATE

TO ACCOMPANY

S. 2658

(II)



MARCH 27, 1968.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

VEHICLE WEIGHTS AND
DIMENSIONS

COMMITTEE ON PUBLIC WORKS

JENNINGS RANDOLPH, West Virginia, *Chairman*

STEPHEN M. YOUNG, Ohio	JOHN SHERMAN COOPER, Kentucky
EDMUND S. MUSKIE, Maine	HIRAM L. FONG, Hawaii
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M. BARRY MEYER, *Counsel*

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RICHARD E. GERRISH, *Minority Staff Director*

JOSEPH F. VAN VLADRICKEN, LEON G. BILLINGS, J. B. HUYETT, Jr., and

RICHARD D. GRUNDY, *Professional Staff Members*

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WASHINGTON : 1968

98-12

VEHICLE WEIGHTS AND DIMENSIONS

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Mr. RANDOLPH, from the Committee on Public Works,
submitted the following

REPORT

[To accompany S. 2658]

The Committee on Public Works, to which was referred the bill (S. 2658) to amend section 127 of title 23 of the United States Code relating to vehicle weight and width limitations on the Interstate System, in order to make certain increases in such limitations, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. PURPOSE OF THE LEGISLATION

S. 2658 as reported with amendments will facilitate a more efficient and economic use of the Interstate System and insure that the vehicles using that system will not unreasonably or unnecessarily impair its serviceability or durability. The limits established by S. 2658 are intended to set the maximums which most closely strike the balance between productive use and reasonable life of pavement, subsurface, and structures. Of course, weights and widths of vehicles are only one factor to be considered in the durability of highway life. Proper design, construction and maintenance, and the effects of climate are also extremely important.

The proposed legislation continues the congressional policy of providing limits regarding maximum permissible use of weights and dimensions on the Interstate System in order to adequately protect the Federal investment. This determination is based on the condition that such maximums will be properly implemented and enforced by the States, which continue to bear the ultimate responsibility for permitting vehicles to operate within these weight and width ranges. The committee most emphatically reaffirms that the responsibility for legal maximum allowable limits and control of sizes and weights of vehicles operating on the Interstate System, as well as on all the other road systems of the United States, rests with the individual States. The legislation is

(1)

not intended as a Federal determination that such weights should be permitted, nor does it imply that roads other than those on the Interstate System are capable of carrying such loads. It is a statement of policy that permitting such weights will not do violence to the Federal interest in the development of a nationwide network of major traffic service highways.

II. COMMITTEE AMENDMENTS

As reported by the Committee on Public Works, the bill would be amended by changing the permissible tandem weight from 36,000 pounds to 34,000 pounds, by changing the constant factor in the gross weight formula from 40 to 36, and by changing the definitions of the variables in the formula to give emphasis to interior axle spacings as well as the overall wheelbase. The effect of these amendments is to reduce the weights which could be permitted pursuant to this legislation while at the same time providing for significant increases over present limits. The committee amendments are consistent with the weight recommendations of the Department of Transportation and the American Association of State Highway Officials.

III. BACKGROUND OF THE LEGISLATION

Until July 1, 1956, the regulation of motor vehicle weights and dimensions was a matter solely within the province of the individual States. The Federal-Aid Highway Act of 1956 established maximum permissible weights and widths for vehicles operating on the Interstate System. Though it constituted a departure from the policy of the past, this action was taken by the Congress in order to protect the Federal investment in interstate highways and to insure the safety of the traveling public. Preexisting Federal-aid statutes were silent on the subject.

The language of the 1956 act, now section 127, title 23, United States Code, "Highways," provides that the maximum allowable weight and dimensions for vehicles on the Interstate System are:

Per single axle, 18,000 pounds;
 Per tandem axle, 32,000 pounds;
 Overall gross weight, 73,280 pounds;
 Width, 96 inches;
 or
 the corresponding weights and dimensions permitted under State law or regulation in effect on July 1, 1956, whichever is greater.

Any State which by law permits use of the Interstate System by vehicles with maximum weight and width greater than those established under the provisions of section 127 will continue to be penalized by the loss of apportioned funds for any fiscal year during which the violation occurs.

The basic standards adopted by the Congress were those which had been adopted by the American Association of State Highway Officials during the period 1944-46.

As a companion measure to the enactment of the limitations on the sizes and weights of motor vehicles, the Congress in the 1956 act also directed the Secretary of Commerce to take all action possible to expedite the conduct of a series of tests, later known as the Illinois road tests, for the purpose of determining the maximum desirable dimensions and weights for vehicles operating on the Federal-aid highway systems, including the Interstate System. Recommendations

on such standards were to be presented to the Congress not later than March 1, 1959.

On August 18, 1964, the Secretary of Commerce transmitted to the Congress the requested study and recommendations (H. Doc. 354, 88th Cong., 2d sess.).

On November 15, 1967, Senator Magnuson, on behalf of himself and 21 other Members of the Senate, introduced S. 2658, which would amend section 127, title 23, United States Code, by providing for changes in vehicle weights and dimensions as follows: single axle, 20,000 pounds; tandem axle, 36,000 pounds; and overall gross weight as arrived at by application of the following formula:

$$W=500\left(\frac{LN}{N-1}+12N+40\right)$$

where W=overall gross weight of the vehicle plus load, L=overall wheel base or the distance in feet between the centers of the first and last axles in the vehicle or vehicle combination, and N=number of axles.

IV. HEARINGS

Following the announcement of hearings, the committee received a number of requests for appearances from interested groups. Four days of hearings were held on the subject. The organization witnesses who appeared were:

- American Trucking Associations.
- American Association of State Highway Officials.
- National Association of Motor Bus Operators.
- American Transit Association.
- American Automobile Association.
- American Farm Bureau Federation.

The Department of Transportation presented its views, as did two State senators and the following U.S. Senators:

- Hon. Frank E. Moss.
- Hon. Thomas Kuchel.
- Hon. Clifford Hansen.
- Hon. Warren Magnuson.

In addition, a number of statements were received for the record; among these were expression of views by the National League of Cities, the Association of American Railroads, as well as from manufacturers and producers of the many products transported by trucks.

Among the major issues presented to the committee were those dealing with highway safety, economic impact, effect of increases on road systems and structures and the contributions of the various user beneficiaries.

Evidence presented to the committee with regard to highway safety did not demonstrate a meaningful relationship between the sizes and weights under consideration and the incidence of traffic accidents. There is, however, a relationship between the physical capabilities of large vehicles and highway safety involving such matters as horsepower-weight ratios, braking capacity, and linkage and coupling devices. The Department of Transportation requested inclusion of authority to set national standards with regard to these factors. The committee, in not including such authority in the bill as reported, in no way intends to indicate that these are not important factors or that they are not worthy of consideration. However, authority for such controls already rests with the Department of Transportation.

The act creating the Department of Transportation, Public Law 89-670, transferred to the Department all of the authority over safety of motor vehicles operating in interstate commerce which had previously been administered by the Interstate Commerce Commission. In addition, the Department administers the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563, pursuant to which performance standards for vehicles and equipment are established by the Department. Further, the Highway Safety Act of 1966, Public Law 89-564, authorizes and directs the Secretary to insure that each State will have a highway safety program which will insure safe use of our highways.

The committee believes that this existing authority is broad enough to provide for effective control of these important safety requirements for large motor vehicles and that it should be exercised. Should experience prove that a gap in authority exists, prompt legislative action will be taken by the appropriate committees of Congress to correct the situation.

V. EFFECT OF THIS LEGISLATION

The beneficial effects on the economy which will result from implementation of the increases recommended by the committee are amply supported by the testimony presented. Larger payload capacity will facilitate more productive, economic, and efficient passenger and freight transportation by highway. It will be the responsibility of Federal and State regulatory agencies to insure that savings achieved by reason of the movement of larger vehicles are passed on to the consumers and work to the advantage of the public in general. It will be the further responsibility of such agencies to insure that the benefits of improved highway transportation are accorded to all communities in the United States, large or small.

The most difficult problem inherent in consideration of S. 2658 concerned the impact of increased weights and widths on the existing road systems and structures. The testimony presented to the committee made it quite clear that the Interstate System is designed and built to accommodate vehicles with weights and dimensions recommended in the bill as reported by the committee. This is not the case with many of our existing primary and secondary roads. It will, therefore, be the responsibility of each of the States to determine the acceptability of the maximums permitted by S. 2658, as amended, and if acceptable how they will be implemented. The laws of a number of States relating to this subject and in effect over the past 12 years include weights and dimensions at levels equal to or above those proposed by S. 2658, as amended. In addition, a number of States now designate road systems which carry different maximum axle or gross loads or both.

The Department of Transportation recommended that the limits set forth in S. 2658, as amended, be applied to all Federal-aid systems. In view of the foregoing and the fact that a congressionally established limit could be interpreted as a finding that such weights and dimensions could be accommodated on the other Federal-aid systems, the committee would continue to restrict the application of the bill to the Interstate System. Each State will have to examine the needs of its own economy, the capacity of its existing road system and the costs of maintenance which will be entailed in making the decisions relating to any increase of the size and weights of vehicles which may operate within its borders.

While not subject to the jurisdiction of this committee, the question of the contribution to the trust fund made by the various classes of users was raised. Trucks of all sizes now contribute in excess of \$1,700 million to the trust fund annually. Whether this is sufficient and whether the level of contribution should be raised as a result of the enactment of S. 2658 is a subject for analysis, determination, and recommendation by other committees of the Congress.

In addition to the 4 days of hearings on the legislation, the committee more recently completed 3 days of exhaustive and intensive hearings devoted to the subject of highway bridges. While the hearings were not intended as a further exploration of the impact of vehicular sizes and weights on bridges, that subject is thoroughly interwoven with anything dealing with bridge safety. Questions relating to the impact of large vehicles on bridge life, and the impact of large vehicles on older bridges, most of which are not located on the Interstate System, were thoroughly explored. With the knowledge gained through these bridge hearings, the committee was greatly assisted in its deliberations on S. 2658.

As a result of those additional hearings we have serious question concerning the capability of many of the older noninterstate structures to support vehicles of the dimensions and weights presently, permitted to operate under existing State legislation. These bridges many of which are more than a generation old, were designed to serve a community whose transportation needs did not reflect the demands of today's highly developed economy. As a result of the hearings, we direct the appropriate Federal agencies, in cooperation with State and local agencies, to determine without delay the capacity of existing bridges to bear the added weights contemplated by S. 2658 as reported. This information will assist the States in considering legislation to implement the use of the sizes and weights which would be permitted under the bill as reported.

VI. ANALYSIS OF THE LEGISLATION

The bill, as reported, adopts the basic recommendations made by the Department of Transportation and is amply supported by the data contained in House Document 354, 88th Congress, second session, which was filed with the Congress on August 19, 1964, as a result of a series of tests conducted for the purpose of determining maximum desirable dimensions and weights of vehicles operated on the Federal-aid systems.

S. 2658 would permit any State to increase single-axle weights to 20,000 pounds, tandem-axle weights to 34,000 pounds, and width of vehicles to 102 inches.

The increase in width would be of benefit in that it would provide improved safety and operating conditions. Among the factors to be considered as gains from an increase of 6 inches over the existing 96-inch width limitation are:

1. Greater lateral stability for all vehicles.
2. Greater steering and braking stability of vehicles when cornering, or under severe wind or emergency conditions.
3. Additional space for spring mountings and frame members for better spring systems.
4. Greater space for larger tires and more tire and brake ventilation.
5. Greater width for efficient storage of 4- and 8-foot standard modular sizes of merchandise.

6. Greater potential for comfort or more passengers per trip in motorbus transportation, as well as improved stability resulting from increased wheel treads, reduced vibration and shock both to cargo and pavement as a result of more efficient suspension system, and lower unit ground pressures resulting from use of larger tires with lower inflation pressures.

S. 2658, as amended, would also replace the existing gross weight limit of 73,280 pounds by a formula designed to protect bridges and other structures from unreasonable overstresses.

Based on the weight formula

$$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

as included in S. 2658, as amended, the following table indicates the range of permissible gross loads for vehicles in regular operation:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles								
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	
4	34,000								
5	34,000								
6	34,000								
7	34,000								
8	34,000	42,000							
9	39,000	42,500							
10	40,000	43,500							
11		44,000							
12		45,000	50,000						
13		45,500	50,500						
14		46,500	51,500						
15		47,000	52,000						
16		48,000	52,500	58,000					
17		48,500	53,500	58,500					
18		49,500	54,000	59,000					
19		50,000	54,500	60,000					
20		51,000	55,500	60,500	66,000				
21		51,500	56,000	61,000	66,500				
22		52,500	56,500	61,500	67,000				
23		53,000	57,500	62,500	68,000				
24		54,000	58,000	63,000	68,500	74,000			
25		54,500	58,500	64,000	69,000	74,500			
26		55,500	59,500	65,000	69,500	75,000			
27		56,000	60,000	65,500	70,000	75,500			
28		57,000	60,500	66,000	71,000	76,000	82,000		
29		57,500	61,500	66,500	71,500	77,000	82,500		
30		58,500	62,000	67,000	72,000	77,500	83,000		
31		59,000	62,500	67,500	72,500	78,000	83,500		
32		60,000	63,500	68,000	73,000	78,500	84,500	90,000	
33			64,000	68,500	74,000	79,000	85,000	90,500	
34			64,500	69,000	74,500	80,000	85,500	91,000	
35			65,500	70,000	75,000	80,500	86,000	91,500	
36			66,000	70,500	75,500	81,000	86,500	92,000	
37			66,500	71,000	76,000	81,500	87,000	93,000	
38			67,500	72,000	77,000	82,000	87,500	93,500	
39			68,000	72,500	77,500	82,500	88,500	94,000	
40			68,500	73,000	78,000	83,500	89,000	94,500	
41			69,500	73,500	78,500	84,000	89,500	95,000	
42			70,000	74,000	79,000	84,500	90,000	95,500	
43			70,500	75,000	80,000	85,000	90,500	96,000	
44			71,500	75,500	80,500	85,500	91,000	96,500	
45			72,000	76,000	81,000	86,000	91,500	97,500	
46			72,500	76,500	81,500	87,000	92,500	98,000	
47			73,500	77,500	82,000	87,500	93,000	98,500	
48			74,000	78,000	83,000	88,000	93,500	99,000	
49			74,500	78,500	83,500	88,500	94,000	99,500	
50			75,500	79,000	84,000	89,000	94,500	100,000	
51			76,000	80,000	84,500	89,500	95,000	100,500	
52			76,500	80,500	85,000	90,500	95,500	101,000	
53			77,500	81,000	86,000	91,000	96,500	102,000	
54			78,000	81,500	86,500	91,500	97,000	102,500	
55			78,500	82,500	87,500	92,000	97,500	103,000	
56			79,500	83,000	87,500	92,500	98,000	103,500	
57			80,000	83,500	88,000	93,000	98,500	104,000	
58				84,000	89,000	94,000	99,000	104,500	
59				85,000	89,500	94,500	99,500	105,000	
60				85,500	90,000	95,000	100,500	105,500	

In keeping with the policy established by the original language of the size and weight limitation contained in the Federal-Aid Highway Act of 1956, State laws in effect as of January 1, 1968, which permit greater weights or dimensions than contained in this legislation, would continue in effect. The original "grandfather date" was July 1, 1956, and our new date merely reaffirms the validity of State laws which have been controlling motor vehicle sizes and weights for the past 12 years. This provision also confirms the authority of each State to issue so-called special permits which are needed to permit movements of loads of unusual weights or widths.

The following table shows the essential proposals as made by S. 2658 as reported, the administration's recommendation and the general AASHO policy and compares these to the present law:

	Present law	S. 2658, as amended	Administration recommendation ³	AASHO
Single axle	18,000 lbs.	20,000 lbs.	20,000 lbs.	20,000 lbs.
Tandem axle	32,000 lbs.	34,000 lbs.	34,000 lbs.	34,000 lbs.
Gross weight	73,280 lbs.	$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)^b$	$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)^d$	$W=500 \left(\frac{LN}{N-1} + 12N + 32 \right)^e$
Width	96 ins.	102 ins.	102 ins.	102 ins. ⁶
Coverage	Interstate System	Interstate System	All Federal-aid systems	All systems.
Grandfather clause	July 1, 1956 ¹	Jan. 1, 1968	Jan. 1, 1968	
Penalty	Loss of apportionment.	Same	Same	

¹ Presently the laws of some of the States do permit higher maximum weights and dimensions than were provided for in the 1956 act. Such greater limits were in effect on July 1, 1956:

Single axle: 26 States allow more than 18,000 pounds; 15 of these States allow 20,000 pounds or more.

Tandem axle: 24 States allow more than 32,000 pounds; 8 of these States allow 36,000 pounds or more.

Width: 3 States allow widths of 102 inches or more.

² Based on the 1964 BPR report (H. Doc. No. 354, 89th Cong. 2d sess.).
³ Where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in the group under consideration.

⁴ Where W represents overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L represents distance between centers of the extreme axles of any group of two or more consecutive axles to the nearest foot, and N represents number of axles in the group under consideration.

⁵ Where W=maximum weight in pounds carried on any group of two or more axles, including any and all weight tolerances, L=distance in feet between the extremes of any group of two or more consecutive axles, and N=number of axles in the group under consideration.

⁶ Interstate System plus other roads with 12-ft. lanes.

The following tables show the present weight laws in effect in the various States:

SINGLE-AXLE LIMIT ON INTERSTATE SYSTEM

[In pounds]

Present State limits	Statutory limit	Tolerance	Legal limit
Alabama	18,000	1,800	19,800
Alaska	20,000		20,000
Arizona	18,000		18,000
Arkansas	18,000		18,000
California	18,000		18,000
Colorado	18,000		18,000
Connecticut	22,400	448	22,848
Delaware	20,000		20,000
District of Columbia	22,000		22,000
Florida	20,000	2,000	22,000
Georgia	18,000	2,340	20,340
Hawaii	24,000		24,000
Idaho	18,000		18,000
Illinois	18,000		18,000
Indiana	18,000		18,000
Iowa	18,000	540	18,540
Kansas	18,000		18,000
Kentucky	18,000	900	18,900
Louisiana	18,000		18,000
Maine	22,000		22,000
Maryland	22,400		22,400
Massachusetts	22,400		22,400
Michigan	18,000		18,000
Minnesota	18,000		18,000
Mississippi	18,000		18,000
Missouri	18,000		18,000
Montana	18,000		18,000
Nebraska	18,000	900	18,900
Nevada	18,000		18,000
New Hampshire	22,400		22,400
New Jersey	22,400	1,120	23,520
New Mexico	21,600		21,600
New York	22,400		22,400
North Carolina	18,000	1,000	19,000
North Dakota	18,000		18,000
Ohio	19,000		19,000
Oklahoma	18,000		18,000
Oregon	18,000		18,000
Pennsylvania	22,400	672	23,072
Rhode Island	22,400		22,400
South Carolina	20,000		20,000
South Dakota	18,000		18,000
Tennessee	18,000		18,000
Texas	18,000		18,000
Utah	18,000		18,000
Vermont	22,400		22,400
Virginia	18,000		18,000
Washington	18,000		18,000
West Virginia	18,000		18,000
Wisconsin	19,500	900	20,400
Wyoming	18,000		18,000

Number of States at—	
18,000 lbs.	25
18,001 to 24,000 lbs.	11
20,001 lbs. and over	15
Total	51

TANDEM-AXLE LIMIT ON INTERSTATE SYSTEM

[In pounds]

Present State limits	Statutory limit	Tolerance	Legal limit
Alabama	36,000	3,600	39,600
Alaska	34,000		34,000
Arizona	32,000		32,000
Arkansas	32,000		32,000
California	32,000		32,000
Colorado	36,000		36,000
Connecticut	36,000	720	36,720
Delaware	36,000		36,000
District of Columbia	38,000		38,000
Florida	40,000	4,000	44,000
Georgia	36,000	4,680	40,680
Hawaii	32,000		32,000
Idaho	32,000		32,000
Illinois	32,000		32,000
Indiana	32,000		32,000
Iowa	32,000	960	32,960
Kansas	32,000		32,000
Kentucky	32,000	1,600	33,600
Louisiana	32,000		32,000
Maine	32,000		32,000
Maryland	40,000		40,000
Massachusetts	36,000		36,000
Michigan	26,000		26,000
Minnesota	32,000		32,000
Mississippi	32,000		32,000
Missouri	32,000		32,000
Montana	32,000		32,000
Nebraska	32,000	1,600	33,600
Nevada	32,000		32,000
New Hampshire	36,000		36,000
New Jersey	32,000	1,600	33,600
New Mexico	34,320		34,320
New York	36,000		36,000
North Carolina	36,000	2,000	38,000
North Dakota	32,000		32,000
Ohio	32,000		32,000
Oklahoma	32,000		32,000
Oregon	32,000		32,000
Pennsylvania	36,000	1,080	37,080
Rhode Island	36,000		36,000
South Carolina	32,000		32,000
South Dakota	32,000		32,000
Tennessee	32,000		32,000
Texas	32,000		32,000
Utah	33,000		33,000
Vermont	36,000		36,000
Virginia	32,000		32,000
Washington	32,000		32,000
West Virginia	32,000	1,600	33,600
Wisconsin	32,000		32,000
Wyoming	36,000		36,000

Number of States at—	
32,000 lbs.	27
32,001 to 36,000 lbs.	16
36,001 lbs. and over	8
Total	51

¹ On designated highways 1 pair of tandems permitted 32,000 lbs.

HIGHEST PRACTICAL WEIGHT BY STATES

[In pounds]

State	Highest practical gross weight	State	Highest practical gross weight
Alabama	73,280	Montana	76,800
Alaska	189,000	Nebraska	73,280
Arizona	76,800	Nevada	76,800
Arkansas	73,280	New Hampshire	73,280
California	76,800	New Jersey	73,280
Colorado	76,000	New Mexico	86,400
Connecticut	73,000	New York	71,000
Delaware	73,280	North Carolina	73,280
District of Columbia	70,000	North Dakota	73,280
Florida	73,271	Ohio	78,000
Georgia	73,280	Oklahoma	73,280
Hawaii	73,280	Oregon	76,000
Idaho	76,800	Pennsylvania	73,279
Illinois	73,280	Rhode Island	73,280
Indiana	73,000	South Carolina	73,280
Iowa	73,280	South Dakota	73,280
Kansas	73,280	Tennessee	73,280
Kentucky	73,280	Texas	72,000
Louisiana	74,000	Utah	79,900
Maine	73,280	Vermont	73,280
Maryland	73,280	Virginia	70,000
Massachusetts	73,000	Washington	76,000
Michigan	196,000	West Virginia	73,280
Minnesota	73,280	Wisconsin	73,000
Mississippi	73,280	Wyoming	73,950
Missouri	73,280		

¹ Maximum gross weight for 6-axle twin trailer combination; higher maximum gross weight possible with increase in number of axles.

VII. AGENCY VIEWS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 12, 1968.

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for comments on S. 2658, a bill to amend section 127 of title 23 of the United States Code relating to vehicle weight and width limitations on the Interstate System, in order to make certain increases in such limitations.

This bill would increase the vehicle weights and widths which a State may lawfully permit on the Interstate System without loss of its apportionment of interstate funds. The increase in weights would be from 18,000 to 20,000 pounds on a single axle, 32,000 to 36,000 pounds on a tandem axle, and from an overall gross weight limit of 73,280 pounds to one produced by the application of a gross load formula (providing a means of approximating the maximum desirable loads to be carried on highway bridges). The increase in width would be from 96 to 102 inches plus additional width necessary for safety devices and tire bulge.

As indicated by the Department of Transportation in its report on S. 2658, an increase in permissive vehicle size and dimensions suggested in the 1964 report on "Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-aid System," would bring with it gains in the economical use of highway transport. The

Department suggests additions to S. 2658 to insure the safety of large trucks, also recommended in the report, and further recommends extension of the maximum limitations to the entire Federal-aid system.

We wish to emphasize the close relationship between S. 2658 and the administration's proposed highway user charges for heavy vehicles. Since passage of S. 2658, as introduced or with the amendments proposed by the Department of Transportation, would result in higher costs and reduced life of the highway system, we concur with the view of the Department that increased user charges are an essential complement to this legislation.

The Bureau of the Budget would favor enactment of S. 2658 if amended as recommended in the report of the Department of Transportation.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 13, 1968.

HON. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department concerning S. 2658, a bill to amend section 127 of title 23 of the United States Code relating to vehicle weight and width limitations on the Interstate System, in order to make certain increases in such limitations.

This proposal would increase the vehicle weight and width which a State may lawfully permit on the Interstate System without loss of its apportionment of Interstate funds. The increase in weights would be from 18,000 to 20,000 pounds on a single axle, 32,000 to 36,000 pounds on a tandem axle, and from an overall gross weight of 73,280 pounds to one produced by the application of the formula:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 40 \right)$$

where,

W = overall gross weight of the vehicle plus load.

L = overall wheelbase or the distance in feet between the centers of the first and last axles of the vehicle or vehicle combination.

N = number of axles.

The increase in width would be from 96 to 102 inches plus additional width necessary for safety devices and tire bulge due to loads.

The weights and width presently contained in section 127 are based principally on the maximums prescribed by the States when this provision was enacted 12 years ago. Sufficient scientific information was not available at that time to determine the relationship of the weights and width of vehicles to the physical characteristics of the highway.

In the same act that contained section 127, the Congress recognized the need for additional information in this regard. Section 108(k) of the Federal-Aid Highway Act of 1956, as amended (70 Stat. 374, 72 Stat. 983), directed the Secretary of Commerce to expedite procedures to determine future maximum desirable dimensions and weights for vehicles operating on the Federal-aid highway systems and to report his conclusions to the Congress. This report was made and transmitted to the Congress on August 18, 1964, and has been published as House Document 354, 88th Congress.

With certain exceptions explained below, the Department of Transportation believes that the findings, conclusions, and recommendations of that 1964 report remain applicable today. The report recognizes that an increase in permissive vehicle weight and dimension would bring with it gains in the economical use of highway transport. The report additionally points out, however, the adverse effects which flow from such an increase, not only on the serviceability and life of pavements and structures, but also with regard to highway traffic and safety considerations. With this in mind, we have reviewed the increases in allowable vehicle weight and width proposed in S. 2658. In the interest of achieving what we believe to be a fair balance between the benefits and the burdens from such increases, we offer the following suggestions regarding the proposed bill which, with the exception noted below, follow the lines of the 1964 report. We have also enclosed a draft bill for your consideration which would incorporate our suggestions; the parenthetical references in this report are to that draft.

First, we have no objection to increasing the single axle limit to 20,000 pounds as proposed by S. 2658, but the permissible load on a tandem axle should be raised to 34,000 pounds, rather than the 36,000 pounds presently specified in S. 2658. Similarly, we concur in the proposal to increase the permissible width of vehicles to 102 inches. This limit, however, should include tolerances but exclude safety devices of types approved by the Secretary (sec. 127(a)).

We believe, however, that the formula for computing the maximum gross weight of vehicles should be along the lines recommended in the 1964 report, which would permit a somewhat lesser rise over the present limitations in 23 U.S.C. 127 than is proposed by S. 2658. The formula we suggest would read as follows:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W represents the overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L represents the distance between centers of the extreme axles of any group of two or more consecutive axles to the nearest foot, and N represents the number of axles in the group under consideration (sec. 127(a)(1)).

We would include a grandfather clause, permitting States which already authorize vehicles on the systems above these limits to continue to be able to do so (sec. 127(a)(2)). An additional express exception should be added, however, to permit the use of certain transit type buses in urban areas (sec. 127(b)). We also think it appropriate

to limit the maximum height of vehicles to 13 feet, 6 inches, also as recommended in the 1964 report (sec. 127(a)(1)).

To make these limitations effective, we concur with the S. 2658 provision which, like the present 23 U.S.C. 127, requires the cutoff of future Federal-aid highway funds to noncomplying States (secs. 127 (a) and (b)).

Our recommendations regarding weights and dimensions does depart from the 1964 report in a few respects. That report recommends setting certain Federal limits on the overall length of vehicles and vehicle combinations. S. 2658 does not do so, and we agree with that approach at this time. While there is a regional trend developing on this subject, presently there is no nationwide consensus regarding appropriate vehicle lengths. The Department is presently conducting studies in this area. Until the studies have been completed and sufficient objective data reviewed, we think this question is best left to the individual States to decide in the light of their particular geographic and traffic needs and problems.

At this time we also think it appropriate to extend the limitations in maximum vehicle weight and dimension to the entire Federal-aid system, and not merely impose them on the Interstate System alone (sec. 127(a)). One of the goals of our highway program is to achieve uniformity in permissible vehicle weight and dimension across the Nation. This has obvious advantages to the transport industry. However, we should avoid the incongruous circumstances—now extant in certain States—where road systems designed to lower standards are permitted to carry heavier vehicles than the Interstate System. This not only jeopardizes the extensive Federal investment in the primary and secondary systems, but also encourages other States to follow suit with a resultant destruction in uniform standards. Extending the maximum weight and dimension requirements to all systems would end this problem while, at the same time, retain a State's entitlement to set lower standards on the primary and secondary systems in the interests of safety and the preservation of roads and structures.

Finally, the 1964 report recommends that the allowance of vehicles of increased weight and dimension on the highways be coupled with the establishment of appropriate safety standards. Consequently, we recommend that S. 2658 be amended to add authority for the Secretary of Transportation to develop and prescribe performance standards applicable to the larger vehicles and vehicle combinations (sec. 127(c)(1)). These standards would be issued after consultation with the States and such other public and private organizations as the Secretary deems appropriate, and would prescribe:

- (a) Minimum performance standards specifying a ratio of gross weight of a vehicle or vehicle combination to the net engine horsepower available for movement of the vehicle or vehicle combination;
- (b) Minimum performance standards for the braking system of a vehicle or vehicle combination; and
- (c) Minimum performance standards for the strength and operation of the linkage and coupling systems between components of a vehicle combination.

These standards would be required to be reasonable, practicable and in terms of objective criteria.

The Secretary would be required to prescribe such standards within 2 years following the enactment of this legislation (sec. 127(c)(1)). Thereafter, following a period specified in our suggested amendment, which the Secretary could enlarge for good cause (sec. 127(c)(2)), a State which authorized vehicles not meeting those standards to use the Federal-aid systems within its boundaries would have its apportionment of Federal-aid highway funds reduced 10 percent for any fiscal year in which it permitted such below-standard operations (sec. 127(c)(3)). However, no State's apportionment would be reduced under this provision in the same fiscal year in which a reduction under section 402(e) of title 23 (relating to other aspects of the highway safety program) had been applied to it. The Secretary would also have authority to suspend the application of this provision to a State for such period as be deemed necessary, as well as to review and revise the standards as technology and his knowledge in this area increased. We also suggest the inclusion of a savings clause to insure that nothing in this act would detract from any authority or duties required or imposed on the Secretary or the Federal Highway Administrator by any other act (sec. 127(c)(4)).

The Department of Transportation would favor the enactment of S. 2658 subject to the comments and recommendations outlined above.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

A BILL To provide for more uniform standards for the weights and dimensions and the safety and performance of vehicles using the Federal-aid systems, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Section 127, of title 23 of the United States Code is hereby amended to read as follows:

"SEC. 127. VEHICLE WEIGHT AND DIMENSION LIMITATIONS, SAFETY AND PERFORMANCE STANDARDS.—

"(a) No funds authorized to be appropriated for any fiscal year for expenditure upon the Federal-aid systems shall be apportioned to any State within the boundaries of which any Federal-aid system may lawfully be used by a vehicle or vehicle combination with:

"(1) weight in excess of twenty thousand pounds including tolerances carried on any one axle, or with a tandem-axle weight in excess of thirty-four thousand pounds including tolerances, or with an overall width in excess of one hundred and two inches excluding tire bulge due to loads and safety devices approved by the Secretary, or with an overall height in excess of thirteen feet, six inches, or with an overall gross weight including tolerances on a group of two or more consecutive axles

not in excess of that derived by application of the following formula:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W represents overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds; L represents distance between centers of the extreme axles of any group of two or more consecutive axles to the nearest foot; and N represents number of axles in the group under consideration; or

"(2) the corresponding weights and dimensions permitted for vehicle or vehicle combinations using the public highways of such State under laws or regulations established by appropriate State authority in effect on January 1, 1968, whichever is the greater.

"(b) Any amount which is withheld from apportionment to any State pursuant to subsection (a) of this section shall lapse. Subsection (a) of this section does not deny apportionment to any State allowing the operation within such State of vehicles or vehicle combinations that could be lawfully operated within such State on January 1, 1968, or the operation within an urban area as defined in section 101(a) of this title of any transit-type bus meeting the requirements of section 4483(c) of title 26, United States Code, that could be lawfully operated within such area while engaged in scheduled bus service on January 1, 1968.

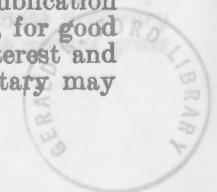
"(c)(1) In the interest of safety and the efficient utilization of the Federal-aid highway systems the Secretary, after consultation with the States and such other public and private organizations as he deems appropriate and no later than two years following the enactment of this Act, shall develop and publish in the Federal Register reasonable and practicable performance standards providing objective criteria applicable to vehicles and vehicle combinations having more than two axles or an overall gross weight in excess of 14,000 pounds, which shall prescribe:

"(A) minimum performance standards specifying a ratio of gross weight of a vehicle or vehicle combination to the net engine horsepower available for movement of the vehicle or vehicle combination;

"(B) minimum performance standards for the braking system of a vehicle or vehicle combination; and

"(C) minimum performance standards for the strength and operation of the linkage and coupling systems between the components of a vehicle combination.

"(2) The Secretary shall determine the effective date of any standard prescribed under this subsection, which date shall be not less than one nor more than two years after the beginning of the fiscal year next following its publication in the Federal Register unless the Secretary finds, for good cause shown, that a later date is in the public interest and publishes his reasons for such finding. The Secretary may



revise, amend or revoke any standard prescribed under this subsection by notice published in the Federal Register, but the effective date of any revision or amendment shall not be less than one nor more than two years after the beginning of the fiscal year next following its publication in the Federal Register, unless the Secretary finds, for good cause shown, that a later date is in the public interest and publishes his reasons for such finding.

"(3) After the effective date of any standard prescribed under this subsection, 10 per centum of funds authorized to be appropriated for any fiscal year for expenditure upon the Federal-aid systems shall be withheld from apportionment to any State within the boundaries of which any segment of any system may lawfully be used by vehicles in violation of that standard. No withholding from the amounts which would otherwise be apportioned to such State shall be made pursuant to the preceding sentence where a reduction in apportionment under section 402(c) of this title is applied to that State for the same fiscal year. Where he determines it to be in the public interest the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to any State. Any amount which is withheld from apportionment to any State pursuant to this subsection shall lapse.

"(4) Nothing in this section shall diminish any authority conferred upon the Secretary or the Federal Highway Administrator pursuant to any other act.

SEC. 2. Section 101(a) of title 23, United States Code, is hereby amended by adding at the end thereof the following:

"The term 'single axle' means an assembly of two or more wheels, whose centers are in one transverse vertical plane or may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

"The term 'tandem-axle' means any two or more consecutive axles whose centers are more than forty inches but not more than ninety-six inches apart and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

"The term 'overall gross weight' means the weight of a vehicle or vehicle combination without load plus the weight of any load thereon.

"The term 'vehicle' means a mechanical device intended primarily for highway transportation of any person or property therein or upon, or by which such device may be drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

"The term 'vehicle combination' means a truck-tractor and semitrailer either with or without a trailer, or a truck with one or more trailers."

SEC. 3. The analysis of chapter 1 of title 23 of the United States Code is amended by revising the caption of section 127 to read as follows:

"Vehicle weight and dimension limitations, safety and performance standards"

VIII. COMMITTEE VIEWS

The Committee on Public Works recommends the enactment of S. 2658, as amended, in the interest of promoting the most productive, economic and efficient use of our highway system by passenger and freight carriers. The committee believes that the benefits to be derived from the increased sizes and weights of motor vehicles which would be permitted by the legislation would offset the increased maintenance and construction costs for our highway system. This legislation will establish the proper maximum dimensions and weights for the long-term use of the Interstate System. The committee further believes that highway safety will not be jeopardized as a result of the proposed maximum allowable sizes and weights. It further emphasizes that the ultimate decisions related to vehicle dimensions and weights will be made by the States individually after consideration by the State legislatures of all the relevant factors. Since the legislation establishes a maximum level of use consistent with protection of the Federal investment in the National System of Interstate and Defense Highways, and no changes can be made in existing highway operations without the affirmative action of the States, the committee recommends the adoption of S. 2658 as amended.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 23, UNITED STATES CODE

Chapter 1—FEDERAL-AID HIGHWAYS

* * * * *

§ 127. Vehicle weight and width limitations—Interstate System.

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles or combinations thereof with weight in excess of [eighteen] *twenty* thousand pounds *including tolerances* carried on any one axle, or with a tandem-axle weight in excess of [thirty-two] *thirty-four* thousand pounds *including tolerances*, [or with an overall gross weight in excess of seventy-three thousand two hundred and eighty pounds,] or with a width in excess of [ninety-six inches,] *one hundred and two inches plus additional width necessary for safety devices and tire bulge due to loads, or with an overall gross*

weight including tolerances on a group of two or more consecutive axles in excess of that produced by application of the following formula:

$$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W =overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L =distance in feet between the extreme of any group of two or more consecutive axles, and N =number of axles in the group under consideration; or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on [July 1, 1956,] January 1, 1968, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on [July 1, 1956,] January 1, 1968. [With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.]



TITLE 23, UNITED STATES CODE

Chapter I—FEDERAL-AID HIGHWAYS

§ 127. Vehicle weight and width limitations—Interstate System.

Notwithstanding to be apportioned for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles on combination thereof with weight in excess of [eighteen] [twenty thousand] pounds including tolerances on any one axle or with a tandem axle weight in excess of [thirty-two] [thirty-two thousand] pounds including tolerances [or with an overall gross weight in excess of seventy-three thousand] [two hundred and eighty pounds] or with a width in excess of [ninety-six inches] one hundred and thirty inches, with additional weight necessary for safety devices and the design load, with an overall gross

**VEHICLE WEIGHT AND WIDTH LIMITATIONS—
INTERSTATE SYSTEM**

JULY 8, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FALLON, from the Committee on Public Works,
submitted the following

**REPORT
together with
MINORITY VIEWS**

[To accompany S. 2658]

The Committee on Public Works, to whom was referred the bill (S. 2658) to amend section 127 of title 23 of the United States Code relating to vehicle weight and width limitations on the Interstate System, in order to make certain increases in such limitations, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

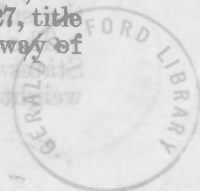
Page 2, line 19, strike out "public highways of" and insert in lieu thereof "Interstate System within".

Page 3, line 2, after "operated" insert "upon the Interstate System".

COMMITTEE AMENDMENTS

The 1956 Highway Act set forth existing maximum sizes and weights of vehicles that could be operated on the Interstate System. It also provided that if the laws of any State at that time permitted the operation of larger vehicles, then those State laws could remain in effect as to the Interstate System.

S. 2658 as it was referred to the committee amends section 127, title 23, to revise the permissible sizes and weights of vehicles operated on the Interstate System as is fully explained below. In addition, the Senate bill would have validated, for the purposes of section 127, title 23, any State law permitting the operation on any public highway of



vehicles exceeding the new maximum dimensions if that State law was enacted before January 1, 1968.

The committee believes that the State laws in effect in 1956, which were protected by the 1956 Highway Act, should continue to be protected, but that this protection should not be extended to State law enacted after 1956 insofar as the Interstate System is concerned.

The committee amendments in effect, therefore, continue the grandfather clause contained in the 1956 Highway Act, and eliminate the proposed grandfather clause, which was contained in S. 2658 as it was referred to the committee, with respect to State laws enacted after 1956.

PURPOSE OF THE LEGISLATION

S. 2658 as reported with amendments will facilitate a more efficient and economic use of the Interstate System and insure that the vehicles using that system will not unreasonably or unnecessarily impair its serviceability or durability. The limits established by S. 2658 are intended to set the maximums which most closely strike the balance between productive use and reasonable life of pavement, subsurface, and structures. Of course, weights and widths of vehicles are only one factor to be considered in the durability of highway life. Proper design, construction and maintenance, and the effects of climate are also extremely important.

The proposed legislation continues the congressional policy of providing limits regarding maximum permissible use of weights and dimensions on the Interstate System in order to adequately protect the Federal investment. This determination is based on the condition that such maximums will be properly implemented and enforced by the States, which continue to bear the ultimate responsibility for permitting vehicles to operate within these weights and width ranges. *The committee most emphatically reaffirms that the responsibility for legal maximum allowable limits and control of sizes and weights of vehicles operating on the Interstate System, as well as on all the other road systems of the United States, rests with the individual States.* The legislation is not intended as a Federal determination that such weights should be permitted, nor does it imply that roads other than those on the Interstate System are capable of carrying such loads. It is a statement of policy that permitting such weights will not do violence to the Federal interest in the development of a nationwide network of major traffic service highways.

BACKGROUND OF THE LEGISLATION

Until July 1, 1956, the regulation of motor vehicle weights and dimensions was a matter solely within the province of the individual States. The Federal-Aid Highway Act of 1956 established maximum permissible weights and widths for vehicles operating on the Interstate System. Though it constituted a departure from the policy of the past, this action was taken by the Congress in order to protect the Federal investment in interstate highways and to insure the safety of the traveling public. Preexisting Federal-aid statutes were silent on the subject.

The language of the 1956 act, now section 127, title 23, United States Code, "Highways," provides that the maximum allowable weight and dimensions for vehicles on the Interstate System are:

Per single axle, 18,000 pounds;
Per tandem axle, 32,000 pounds;
Overall gross weight, 73,280 pounds;
Width, 96 inches;

or

the corresponding weights and dimensions permitted under State law or regulation in effect on July 1, 1956, whichever is greater.

Any State which by law permits use of the Interstate System by vehicles with maximum weight and width greater than those established under the provisions of section 127 will continue to be penalized by the loss of apportioned funds for any fiscal year during which the violation occurs.

The basic standards adopted by the Congress were those which had been adopted by the American Association of State Highway Officials during the period 1944-46.

As a companion measure to the enactment of the limitations on the sizes and weights of motor vehicles, the Congress in the 1956 act also directed the Secretary of Commerce to take all action possible to expedite the conduct of a series of tests, later known as the Illinois road tests, for the purpose of determining the maximum desirable dimensions and weights for vehicles operating on the Federal-aid highway systems, including the Interstate System. Recommendations on such standards were to be presented to the Congress not later than March 1, 1959.

On August 18, 1964, the Secretary of Commerce transmitted to the Congress the requested study and recommendations (H. Doc. 354, 88th Cong., second sess.):

H.R. 14474 was introduced by Mr. Kluczynski, of Illinois, and several other Members. S. 2658, the bill here, was passed by the Senate and referred to the Public Works Committee before the committee scheduled its hearings on this subject. Thus the hearings covered both the original bill, H.R. 14474, and S. 2658.

A substantial amount of testimony was received from both proponents and opponents, and lengthy statements were submitted for the record.

Among the major issues presented to the committee were those dealing with highway safety, economic impact, effect of increases on road systems and structures and the contributions of the various user beneficiaries.

Evidence presented to the committee with regard to highway safety did not demonstrate a meaningful relationship between the sizes and weights under consideration and the incidence of traffic accidents.

EFFECT OF THIS LEGISLATION

The beneficial effects on the economy which will result from implementation of the increases recommended by the committee are amply supported by the testimony presented. Larger payload capacity will facilitate more productive, economic, and efficient passenger and freight transportation by highways. It will be the responsibility of Federal and State regulatory agencies to insure that savings achieved by reason of the movement of larger vehicles are passed on to the consumers and work to the advantage of the public in general. It will be the further responsibility of such agencies to insure that the benefits

of improved highway transportation are accorded to all communities in the United States, large or small.

The most difficult problem inherent in consideration of S. 2658 concerned the impact of increased weights and widths on the existing road systems and structures. The testimony presented to the committee made it quite clear that the Interstate System is designed and built to accommodate vehicles with weights and dimensions recommended in the bill as reported by the committee. This is not the case with many of our existing primary and secondary roads. It will, therefore, be the responsibility of each of the States to determine the acceptability of the maximums permitted by S. 2658, as amended, and if acceptable how they will be implemented. The laws of a number of States relating to this subject and in effect over the past 12 years include weights and dimensions at levels equal to or above those proposed by S. 2658, as amended. In addition, a number of States now designate road systems which carry different maximum axle or gross loads or both.

The Department of Transportation recommended that the limits set forth in S. 2658, as amended, be applied to all Federal-aid systems. In view of the foregoing and the fact that a congressionally established limit could be interpreted as a finding that such weights and dimensions could be accommodated on the other Federal-aid systems, the committee would continue to restrict the application of the bill to the Interstate System. Each State will have to examine the needs of its own economy, the capacity of its existing road system and the costs of maintenance which will be entailed in making the decisions relating to any increase of the size and weights of vehicles which may operate within its borders.

ANALYSIS OF THE LEGISLATION

The bill, as reported, adopts the basic recommendations made by the Department of Transportation and is amply supported by the data contained in House Document 354, 86th Congress, second session, which was filed with the Congress on August 19, 1964, as a result of a series of tests conducted for the purpose of determining maximum desirable dimensions and weights of vehicles operated on the Federal-aid systems.

S. 2658 would permit any State to increase single-axle weights to 20,000 pounds, tandem-axle weights to 34,000 pounds, and width of vehicles to 102 inches.

The increase in width would be of benefit in that it would provide improved safety and operating conditions. Among the factors to be considered as gains from an increase of 6 inches over the existing 96-inch width limitation are:

1. Greater lateral stability for all vehicles.
2. Greater steering and braking stability of vehicles when cornering, or under severe wind or emergency conditions.
3. Additional space for spring mountings and frame members for better spring systems.
4. Greater space for larger tires and more tire and brake ventilation.
5. Greater width for efficient storage of 4- and 8-foot standard modular sizes of merchandise.

6. Greater potential for comfort or more passengers per trip in motorbus transportation, as well as improved stability resulting from increased wheel treads, reduced vibration and shock both to cargo and pavement as a result of more efficient suspension system, and lower unit ground pressures resulting from use of larger tires with lower inflation pressures.

S. 2658, as amended, would also replace the existing gross weight limit of 73,280 pounds by a formula designed to protect bridges and other structures from unreasonable overstresses.

Based on the weight formula

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

as included in S. 2658, as amended, the following table indicates the range of permissible gross loads for vehicles in regular operation:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles								
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	
4	34,000								
5	34,000								
6	34,000								
7	34,000								
8	34,000	42,000							
9	39,000	42,500							
10	40,000	43,500							
11		44,000							
12		45,000	50,000						
13		45,500	50,500						
14		46,500	51,500						
15		47,000	52,000						
16		48,000	52,500	58,000					
17		48,500	53,500	58,500					
18		49,500	54,000	59,000					
19		50,000	54,500	60,000					
20		51,000	55,500	60,500	66,000				
21		51,500	56,000	61,000	66,500				
22		52,500	56,500	61,500	67,000				
23		53,000	57,500	62,500	68,000				
24		54,000	58,000	63,000	68,500	74,000			
25		54,500	58,500	64,500	69,000	74,500			
26		55,500	59,500	65,000	69,500	75,000			
27		56,000	60,000	65,000	70,000	75,500			
28		57,000	60,500	65,500	71,500	76,500	82,000		
29		57,500	61,500	66,000	71,500	77,000	82,500		
30		58,500	62,000	66,500	72,000	77,500	83,000		
31		59,000	62,500	67,500	72,500	78,000	83,500		
32			60,000	63,500	68,000	73,000	78,500	84,500	90,000
33				64,000	68,500	74,000	79,000	85,000	90,500
34				64,500	69,000	74,500	80,000	85,500	91,000
35				65,500	70,000	75,000	80,500	86,000	91,500
36				66,000	70,500	75,500	81,000	86,500	92,000
37				66,500	71,000	76,000	81,500	87,000	93,000
38				67,500	72,000	77,000	82,000	87,500	93,500
39				68,000	72,500	77,500	82,500	88,500	94,000
40				68,500	73,000	78,000	83,500	89,000	94,500
41				69,500	73,500	78,500	84,000	89,500	95,000
42				70,000	74,000	79,000	84,500	90,000	95,500
43				70,500	75,000	80,000	85,000	90,500	96,000
44				71,500	75,500	80,500	85,500	91,000	96,500
45				72,000	76,000	81,000	86,000	91,500	97,500
46				72,500	76,500	81,500	87,000	92,500	98,000
47				73,500	77,500	82,000	87,500	93,000	98,500
48				74,000	78,000	83,000	88,000	93,500	99,000
49				74,500	78,500	83,500	88,500	94,000	99,500
50				75,500	79,000	84,000	89,000	94,500	100,000
51				76,000	80,000	84,500	89,500	95,000	100,500
52				76,500	80,500	85,000	90,500	95,500	101,000
53				77,500	81,000	85,000	91,000	96,500	102,000
54				78,000	81,500	86,500	91,500	97,000	102,500
55				78,500	82,500	87,500	92,000	97,500	103,000
56				79,500	83,000	87,500	92,500	98,000	103,500
57					83,500	88,000	93,000	98,500	104,000
58					84,000	89,000	94,000	99,000	104,500
59					85,000	89,500	94,500	99,500	105,000
60					85,500	90,000	95,000	100,500	105,500

The following table shows the essential proposals as made by S. 2658 as reported, the administration's recommendation and the general AASHO policy and compares these to the present law:

	Present law ¹	S. 2658, as amended	Administration recommendation ²	AASHO
Single axle	18,000 lbs.	20,000 lbs.	20,000 lbs.	20,000 lbs.
Tandem axle	32,000 lbs.	34,000 lbs.	34,000 lbs.	34,000 lbs.
Gross weight	73,280 lbs.	$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)$	$W=500 \left(\frac{LN}{N-1} + 12N + 36 \right)$	$W=500 \left(\frac{LN}{N-1} + 12N + 32 \right)$
Width	96 ins.	102 ins.	102 ins.	102 ins. ³
Coverage	Interstate System	Interstate System	All Federal-aid systems	All systems.
Grandfather clause	July 1, 1956 ⁴	July 1, 1956 (in effect)	Jan. 1, 1968	
Penalty	Loss of apportionment.	Same.	Same.	

¹ Presently the laws of some of the States do permit higher maximum weights and dimensions than were provided for in the 1956 act. Such greater limits were in effect on July 1, 1956 and are continued by this bill.
² Single axle: 26 States allow more than 18,000 pounds; 15 of these States allow 20,000 pounds or more.
 Tandem axle: 24 States allow more than 32,000 pounds; 8 of these States allow 36,000 pounds or more.
³ Width: 3 States allow widths of 102 inches or more.
⁴ Based on the 1964 BPR report (H. Doc. No. 354, 89th Cong. 2d sess.).
⁵ Where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in the group under consideration.
⁶ Where W represents overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L represents distance between centers of the extreme axles of any group of two or more consecutive axles to the nearest foot, and N represents number of axles in the group under consideration.
⁷ Where W=maximum weight in pounds carried on any group of two or more axles, including any and all weight tolerances, L=distance in feet between the extremes of any group of two or more consecutive axles, and N=number of axles in the group under consideration.
⁸ Interstate System plus other roads with 12-ft. lanes.

The following tables show the present weight laws in effect in the various States:

State	SINGLE-AXLE LIMIT ON INTERSTATE SYSTEM		
	Present State limits	Statutory limit	Legal limit
Alabama		18,000	19,800
Alaska		20,000	20,000
Arizona		18,000	18,000
Arkansas		18,000	18,000
California		18,000	18,000
Colorado		18,000	18,000
Connecticut		22,400	22,848
Delaware		20,000	20,000
District of Columbia		22,000	22,000
Florida		20,000	22,000
Georgia		18,000	20,340
Hawaii		24,000	24,000
Idaho		18,000	18,000
Illinois		18,000	18,000
Indiana		18,000	18,000
Iowa		18,000	18,540
Kansas		18,000	18,000
Kentucky		18,000	18,900
Louisiana		18,000	18,000
Maine		22,000	22,000
Maryland		22,400	22,400
Massachusetts		22,400	22,400
Michigan		18,000	18,000
Minnesota		18,000	18,000
Mississippi		18,000	18,000
Missouri		18,000	18,000
Montana		18,000	18,000
Nebraska		18,000	18,900
Nevada		18,000	18,000
New Hampshire		22,400	22,400
New Jersey		22,400	23,520
New Mexico		21,600	21,600
New York		22,400	22,400
North Carolina		18,000	19,000
North Dakota		18,000	18,000
Ohio		19,000	19,000
Oklahoma		18,000	18,000
Oregon		18,000	18,000
Pennsylvania		22,400	23,072
Rhode Island		22,400	22,400
South Carolina		20,000	20,000
South Dakota		18,000	18,000
Tennessee		18,000	18,000
Texas		18,000	18,000
Utah		18,000	18,000
Vermont		22,400	22,400
Virginia		18,000	18,000
Washington		18,000	18,000
West Virginia		18,000	18,900
Wisconsin		19,500	19,500
Wyoming		18,000	18,000

Number of States at—	
18,000 lbs.	25
18,001 to 20,000 lbs.	11
20,001 lbs and over	15
Total	51

The following table shows the present weight laws in effect in the various States, the committee recommends the adoption of S. 2658 as amended.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause A of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):



TANDEM-AXLE LIMIT ON INTERSTATE SYSTEM

[In pounds]

Present State limits	Statutory limit	Tolerance	Legal limit
Alabama	36,000	3,600	39,600
Alaska	34,000		34,000
Arizona	32,000		32,000
Arkansas	32,000		32,000
California	32,000		32,000
Colorado	36,000		36,000
Connecticut	36,000	720	36,720
Delaware	36,000		36,000
District of Columbia	38,000		38,000
Florida	40,000	4,000	44,000
Georgia	36,000	4,680	40,680
Hawaii	32,000		32,000
Idaho	32,000		32,000
Illinois	32,000		32,000
Indiana	32,000		32,000
Iowa	32,000	960	32,960
Kansas	32,000		32,000
Kentucky	32,000	1,600	33,600
Louisiana	32,000		32,000
Maine	32,000		32,000
Maryland	40,000		40,000
Massachusetts	36,000		36,000
Michigan	26,000		26,000
Minnesota	32,000		32,000
Mississippi	32,000		32,000
Missouri	32,000		32,000
Montana	32,000		32,000
Nebraska	32,000	1,600	33,600
Nevada	32,000		32,000
New Hampshire	36,000		36,000
New Jersey	32,000	1,600	33,600
New Mexico	34,320		34,320
New York	36,000		36,000
North Carolina	36,000	2,000	38,000
North Dakota	32,000		32,000
Ohio	32,000		32,000
Oklahoma	32,000		32,000
Oregon	32,000		32,000
Pennsylvania	36,000	1,080	37,080
Rhode Island	36,000		36,000
South Carolina	32,000		32,000
South Dakota	32,000		32,000
Tennessee	32,000		32,000
Texas	32,000		32,000
Utah	33,000		33,000
Vermont	36,000		36,000
Virginia	32,000		32,000
Washington	32,000		32,000
West Virginia	32,000	1,600	33,600
Wisconsin	32,000		32,000
Wyoming	36,000		36,000

Number of States at—	
32,000 lbs.	27
32,001 to 36,000 lbs.	16
36,001 lbs. and over	8
Total	51

¹ On designated highways 1 pair of tandems permitted 32,000 lbs.

HIGHEST PRACTICAL WEIGHT BY STATES

[In pounds]

State	Highest practical gross weight	State	Highest practical gross weight
Alabama	73,280	Montana	76,800
Alaska	189,000	Nebraska	73,280
Arizona	76,800	Nevada	76,800
Arkansas	73,280	New Hampshire	73,280
California	76,800	New Jersey	73,280
Colorado	76,000	New Mexico	86,400
Connecticut	73,000	New York	71,000
Delaware	73,280	North Carolina	73,280
District of Columbia	70,000	North Dakota	73,280
Florida	73,271	Ohio	76,000
Georgia	73,280	Oklahoma	73,280
Hawaii	73,280	Oregon	76,000
Idaho	76,800	Pennsylvania	73,279
Illinois	73,280	Rhode Island	73,280
Indiana	73,000	South Carolina	73,280
Iowa	73,280	South Dakota	73,280
Kansas	73,280	Tennessee	73,280
Kentucky	73,280	Texas	73,000
Louisiana	74,000	Utah	73,280
Maine	73,280	Vermont	70,000
Maryland	73,280	Virginia	76,000
Massachusetts	73,000	Washington	73,280
Michigan	198,000	West Virginia	73,280
Minnesota	73,280	Wisconsin	73,000
Mississippi	73,280	Wyoming	73,950
Missouri	73,280		

¹ Maximum gross weight for 6-axle twin trailer combination; higher maximum gross weight possible with increase in number of axles.

COMMITTEE VIEWS

The Committee on Public Works recommends the enactment of S. 2658, as amended, in the interest of promoting the most productive, economic and efficient use of our highway system by passenger and freight carriers. The committee believes that the benefits to be derived from the increased sizes and weights of motor vehicles which would be permitted by the legislation would offset the increased maintenance and construction costs for our highway system. This legislation will establish the proper maximum dimensions and weights for the long-term use of the Interstate System. The committee further believes that highway safety will not be jeopardized as a result of the proposed maximum allowable sizes and weights. It further emphasizes that the ultimate decisions related to vehicle dimensions and weights will be made by the States individually after consideration by the State legislatures of all the relevant factors. Since the legislation establishes a maximum level of use consistent with protection of the Federal investment in the National System of Interstate and Defense Highways, and no changes can be made in existing highway operations without the affirmative action of the States, the committee recommends the adoption of S. 2658 as amended.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 127 OF TITLE 23, UNITED STATES CODE

§ 127. Vehicle weight and width limitations—Interstate System

[No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight in excess of seventy-three thousand two hundred and eighty pounds, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.]

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles or combinations thereof with weight in excess of twenty thousand pounds including tolerances carried on any one axle, or with a tandem-axle weight in excess of thirty-four thousand pounds including tolerances, or with a width in excess of one hundred and two inches plus additional width necessary for safety devices and tire bulge due to loads, or with an overall gross weight including tolerances on a group of two or more consecutive axles in excess of that produced by application of the following formula:

$$W=500 \left(\frac{LN}{N+1} + 12N + 36 \right)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in the group under consideration; or the corresponding maximum weights or maximum widths permitted for vehicles using the Interstate System within such State under laws or regulations established by appropriate State authority in effect on January 1, 1968, whichever is greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated upon the Interstate System within such State on January 1, 1968.

MINORITY VIEWS

The undersigned present the following views not because we are against the proposed legislation, but because it is apparent as the following will show, that not all the facts and factors were considered which relate to obvious problems which will result if the States take advantage of what the committee is authorizing or, interpret committee action as endorsement of a policy on weight, width, and length limits.

It is apparent that there is a deplorable lack of agreement among the engineers and experts as to the desirability of allowing greater weights and dimensions of motor vehicles.

The lack of any limitation on length will cause serious traffic hazards.

The increase in allowable width, from 8 feet to 8½ feet, will cause serious traffic hazards.

Although the bill applies to the Interstate System, it will affect all other highways which must be used to enter or exit from the Interstate System.

Since it is conceded that heavier vehicle weights will damage highways and cause additional expense, the bill should not be enacted until additional user taxes are imposed upon the beneficiaries of this bill.

The action of this committee which makes possible the increasing of truck sizes and weights on the National System of Interstate Defense Highways can be and, no doubt will be, described by knowledgeable people as an ill-advised attempt at satisfying special interest.

This legislation becomes "special" when there is evidence that less than 300,000 trucks out of 15 million trucks will apparently be able to take advantage of it. Some will recognize it as "special" because the 80 million passenger car drivers and 15 million light truck owners will have to share in the major cost of the bill. And there will be a "bill." The U.S. Department of Transportation estimates that it will cost \$2,800 million for new construction and upgrading of older highways if every State takes advantage of this new authorization.

This legislation is much more important than we have recognized to date because an analysis of activities of Government expenditures for road building in the Public Works Committee indicates \$232 billion has been invested in highway networks in the United States. Passage of this bill may seriously jeopardize this investment and make much of our highway system obsolete. Many people and government representatives interested in highways recognize this including the mayors in their recent U.S. Conference of Mayors. They passed a resolution opposing provisions of this bill in its present form.

There was hasty consideration and inadequate testimony when the bill was considered on the Senate side. It has had a very similar experience on the House side thus far. When the bill was in the subcommittee, Members who were opposed to the passage because they did not have all the facts were given unequivocal assurance that they would have full

and adequate opportunity to discuss the bill, the effects of the legislation and a chance to consider any and all amendments. The assurance was given also that every Member would have an opportunity to express his views and to ask questions.

The record clearly shows that the full committee passed the bill after less than 40 minutes of discussion and that many Members with questions, with suggestions and with pertinent observations had very little or no opportunity to be heard. Many members of the committee felt like they didn't have "their day in court." In addition, no member of the committee had a chance to review the entire record of the hearings nor the special questions addressed to the American Trucking Association, Inc., and their answers with an addendum by a member of the committee.

It should be noted that much of the stimulus for increasing existing size and weight limits has come from the West. Truckers there say they were put at a disadvantage when the 1956 act was passed limiting them to 18,000-pound single and 32,000-pound tandem axle loadings. Many of the Eastern States already permitted heavier axle loadings and, under the terms of the grandfather clause, could continue these heavier weights.

Without delving into the record, the arguments of the western truckers seem to have merit. However, the facts do not bear out the validity of their position. Bureau of Public Roads tables conclusively demonstrate that for the last 25 years truckers in the Western States have consistently carried heavier payloads than their eastern counterparts.

It is difficult to comprehend why this legislation has been approved when opposition has been expressed by such respected groups as the American Automobile Association and the U.S. Conference of Mayors and State highway departments. For the Public Works Committee to reject the counsel of these organizations is unfortunate and it is strange, indeed, that we are rejecting the much sought after counsel of AASHO (American Association of State Highway Officials) whose official policy is 20,000-pound single axles and 32,000-pound tandem axles. These are the true experts—the men who must build and maintain these highways—yet we say in effect, "Sorry, we won't heed your advice on trucks."

The president of AASHO, John O. Morton, has testified and rightly pointed out interstate bridges are designed for a 32,000-pound axle loading. This limitation applies to bridges on our Interstate System. He said "A road network is useless if its bridges cannot handle the loads."

The record is replete with other examples of why we should not pass this legislation now and before we have considered all of the facts and factors that relate to deterioration and maintenance costs. The testimony of Francis C. Turner, the respected Director of the Bureau of Public Roads, is impressive. He says increasing permissive weights from the present 32,000-pound limit to 34,000 pounds would overstress the Interstate System bridges by 32 to 36 percent.

The Department of Transportation and the State highway departments are currently engaged in a study of all highway and railroad bridges. Their study will determine the capabilities of bridges to safely accommodate the weights encountered under today's traffic conditions.

The results of their study will not be available for congressional consideration for some time. Thus, it is apparent we are legislating to increase legal weights before we have received information on the capabilities of bridges to withstand such weights.

This legislation affects only the Interstate System described as the best highway system ever built. This is true but we should not forget that truck movements do not begin or end on the Interstate, and that they must use, in order to serve the public, the other streets and roads as well.

These streets and roads are not built to the same standards as the Interstate, yet some would sluff this off, saying: "This is not our problem, that is a question for each State." Yet we know State legislators will be just as hard pressed to beat back the intensive lobbying efforts by large truckers on this issue.

Since the 1956 legislation, 48 States have increased sizes and weights. This indicates the impracticality of adopting standards only for the Interstate System. Limiting standards to the Interstate System provides heavy trucking a continuing opportunity and incentive to pursue their checkerboard tactics under which greater maximums permitted in some States are used to bring pressure on the legislatures of neighboring States for similar concessions.

Such a ceiling on all Federal-aid systems was requested by the Department of Transportation, AASHO and AAA, and this bill should provide for such a ceiling. This would be adopting good public policy and certainly would be advisable for the industry.

Another reason Congress should be concerned with this situation is that the Federal highway trust fund pays the bill. We do have a right and obligation to be concerned over the increased deterioration of the roads. Failure to establish ceilings on all Federal-aid systems in which we have invested billions and billions of dollars is just poor business.

Finally, there is the issue of safety. Testimony by the American Trucking Association showed that heavy trucks accounted for 1.54 percent of vehicle registrations in 1964, traveled 5.33 percent of all the miles operated in this country, but were involved in 11.6 percent of the fatalities.

It is reasonable to assume that this record will continue to worsen if we permit bigger and heavier trucks on our Nation's highways and if we permit this legislation to pass with an increase in permissible width from a flat 96 inches to 102 inches plus safety gear, which means 108-inch widths, an increase of 12 inches.

We will have 9-foot wide trucks on our Interstate System which has 12-foot lanes, or a safety clearance of 18 inches on each side. Imagine trying to steer a car through an opening with only 18 inches to spare on either side at 65 miles per hour.

Hardly appreciated or even known by members of the committee, is the fact that apparently this bill would permit triple-trailer trucks. It would allow trucks almost double the present permissible weight. According to the law as we know it, the ceiling is now 73,280 pounds and according to the formula in the bill as we understand it now, the bill would permit trucks to operate weighing 138,000 pounds. Some believe there is no ceiling at all.

It is the feeling of the minority that the committee should heed the weight, width, and length requests. It is not the feeling of the minority

that we should not heed the requests for increasing the weight, width, and length. Indeed a growing, expanding society like ours must grow and progress, but it is our view that we should do this only after we have considered all of the facts and factors that relate to the many evident problems that testimony has shown so clearly.

The attitude of the Bureau of the Budget as expressed in their report is as follows, "We wish to emphasize the close relationship between S. 2658 and the administration's proposed highway user charges for heavy vehicles. Since passage of S. 2658, as introduced or with the amendments proposed by the Department of Transportation, would result in higher costs and reduced life of the highway system, we concur with the view of the Department that increased user charges are an essential complement to this legislation."

By letter dated April 22, 1968, the Secretary of Transportation recommended the enactment of legislation providing for, "a more equitable distribution of the costs of the program borne by different classes of users." Among other things, the heavier trucks would be required to pay additional highway user taxes. Since it is conceded that permitting heavier and larger vehicles will create additional expenses, S. 2658 should be deferred until the enactment of legislation under which the beneficiaries of S. 2658—the relatively few operators of large trucks and truck-trailer combinations—will be required to pay, in the form of increased highway user taxes, their fair share of such additional costs.

Hopefully, the Members will have some second thoughts on this matter and will consider our suggestion to give more thought to the problem and the need with the view of legislating more intelligently and adequately on the subject of increased width, weight and length.

ROBERT A. EVERETT.
FRED SCHWENDEL.
RICHARD D. MCCARTHY.
JAMES KEE.

SUPPLEMENTAL VIEWS OF CONGRESSMEN CLEVELAND AND McEWEN

We are opposed to S. 2658 in its present form and at the present time. We concur in some respects with the minority views of Congressmen McCarthy, Schwengel, Everett, and Kee.

Our present opposition to S. 2658 in its present form may best be expressed in the form of certain reservations which we have. We do not feel that adequate time and study have been given to resolving these reservations.

1. There is lack of agreement among the engineers and experts as to the desirability of allowing greater weights and dimensions of motor vehicles.

2. The lack of any limitation on length could cause serious traffic and safety hazards.

3. The increase in allowable width, from 8 feet to 8½ feet, could cause serious traffic and safety hazards.

4. Although the bill applies to the Interstate System, it will affect all other highways which must be used to enter upon or exit from the Interstate System.

5. Since it is conceded that allowing heavier vehicle weights will damage highways and cause additional expense, the bill should not be enacted until additional user taxes upon the beneficiaries of the bill are fully considered.

It is quite true that this legislation is permissive and does not force the several States to adopt these increases. As a practical matter, however, the Congress by giving its stamp of approval to these increases would in effect be paving the way for increases by many of the States.

JAMES C. CLEVELAND.
ROBERT C. McEWEN.

(15)

Transportation

90TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

REPORT }
No. 1667 }

**AGRICULTURAL COOPERATIVE TRANSPORTATION
EXEMPTION**

JULY 10, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

MR. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 752]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 752) to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 752 is to clarify the meaning of the exemption from the provisions of the Interstate Commerce Act provided for the transportation by motor vehicles operated by an agricultural cooperative association, particularly when such vehicles are used to perform transportation for nonmembers.

This clarification is accomplished through amendment to section 203(b)(5) of the act restricting such transportation where the nonmembers are neither farmers, cooperative associations, nor federations thereof to that which is (1) incidental to the association's primary transportation operation and necessary for its effective performance, and in no event in excess of 15 percent of its total transportation service and including within such percentage transportation performed for the United States; and (2) amending section 220 of the act to grant the Commission specific authority to examine the books and records of such cooperative as they pertain to their transportation services.



BACKGROUND AND NEED FOR THE LEGISLATION

The agricultural cooperative transportation exemption set forth in section 293(b)(5) of the Interstate Commerce Act provides as follows:

Section 203(b): "Nothing in this part except the provisions of section 203 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * * (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined;"

Under this section, motor vehicles controlled and operated by agricultural cooperatives, or by a federation of such cooperatives, are exempt from the Commission's economic regulation provided the cooperatives meet certain qualifying criteria as defined in the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j). The original exemption from regulation for agricultural cooperatives was included in the Motor Carrier Act of 1935. In 1940, this exemption was expanded to include a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined.

Section 15(a) of the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j), defines the cooperatives entitled to the exemption under section 203(b)(5) as follows:

As used in this act, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of

member and nonmember business transacted by such association.

Inasmuch as section 203(b)(5) is modified only by the terms of the definition of a cooperative association as defined in the Agricultural Marketing Act, it will be perceived that the problems arising in connection with transportation by such an association for nonmembers stem from item No. 3, above; namely, that the association may deal in services for nonmembers in an amount up to the value of the business transacted with members and from the fact that business done for the United States is not included in determining the volume of such nonmember business.

In the last Congress, Public Law 89-170 was enacted, culminating many years of effort to provide the Interstate Commerce Commission with improved tools to combat illegal carriage. This legislation included the transportation message recommendations for cooperative State and Federal enforcement agreements, civil forfeiture penalties, increased penalties, and, in addition, contained provisions for uniform State registration of motor carrier certificates.

At that time some consideration was given to the problem of those operators performing general transportation services under the guise of being exempt agricultural cooperatives. The Interstate Commerce Commission made certain recommendations for legislation and extensive hearings were held by the Senate committee on this problem.

Following the decision of the U.S. Court of Appeals for the Ninth Circuit in *Northwest Agricultural Cooperatives Association v. Interstate Commerce Commission* (350 F. 2d 252 (1965), certiorari denied, 382 U.S. 1011 (1966)), which reversed the position taken by the Interstate Commerce Commission in 1961 in the *Machinery Haulers Association v. Agricultural Commodity Service* (86 M.C.C. 5), the Commission recommended that something be done to limit the scope of the cooperative exemption since it appeared that the case had stimulated expansion of the transportation of non-farm-related traffic being handled by these cooperatives for nonmembers. The information stated that certain farm cooperative associations were even soliciting through newspaper advertisements and by letters to traffic managers for all kinds of freight on backhaul movements. In the case of one organization, Agricultural Transportation Association of Texas, the Department of Defense advised that they intended to continue to use their services for the movement of military traffic, even after the ICC had found the organization to be engaging in for-hire transportation without appropriate authority, until review of the ICC decision was completed in the court. The Commission's decision that this operation was unlawful was upheld by a three-judge court decision in *Agricultural Transportation Association of Texas v. United States* (274 Fed. Supp. 528).

The Commission's recommendations for legislation were submitted in the 90th Congress as H.R. 6530 and as S. 752. Following hearings last year by the Senate committee on S. 752, all parties at interest, including the Department of Agriculture, the agricultural cooperative organizations and farm groups, worked out language acceptable to all which substantially amended the bills as introduced and is contained in the form of S. 752 as it passed the Senate and was referred to this committee, and is the text of the bill here being reported.

WHAT THIS BILL DOES

The bill is in two sections. The first section amends section 203(b)(5) of the Interstate Commerce Act by adding clarifying and limiting language to the exemption therein contained. This clarifying and limiting language is in itself limited by three provisos. The second section of the bill amends section 220 of the Interstate Commerce Act by adding an additional subsection (f) to specifically authorize the Commission to inspect the books and records pertaining to motor vehicle transportation of cooperatives and federations required to give the notice called for in the second proviso of section 1 of this bill.

The first section of the bill amends section 203(b)(5) but is not intended to alter existing law defining cooperative associations or federations of such cooperative associations. The definitions and limitations set forth in the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j) and in section 521 of the Internal Revenue Code would continue to apply.

The bill adds further limitations to those presently contained in section 203(b)(5) with respect to the interstate (motor) transportation which may lawfully be performed by a cooperative association or federation of cooperative associations without first obtaining a certificate or permit under the provisions of the Interstate Commerce Act. The first section begins by exempting from the additional limitations contained therein interstate (motor) transportation by a cooperative or federation "for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation." A cooperative association or federation may continue to transport its own property, its members' property, the property of other farmers, and the property of other cooperatives or federations in accordance with existing law, except insofar as the third proviso of the first section may be applicable with respect to the limit on member/nonmember transportation.

The next phrase in the first section excepts "transportation otherwise exempt under this part." The committee intends by this phrase that cooperatives or federations may transport agricultural and other commodities exempt under section 203(b)(6) of part II of the Interstate Commerce Act, in accordance with existing law, except insofar as the third proviso of the first section may be applicable with respect to the limitation on member/nonmember transportation.

Section 1 of the bill next sets forth two maximum limitations on the interstate (motor) transportation which may lawfully be performed by cooperatives or federations for nonmembers who are neither farmers, cooperative associations nor federations thereof for compensation, and excepting transportation otherwise exempt under part II of the Interstate Commerce Act. These maximum limitations on "other" nonmember for-hire transportation are: (1) such transportation shall be limited to that which is incidental to its (the cooperative or federation) primary transportation operation and necessary for its effective performance; and (2) shall in no event exceed 15 percent of its total interstate transportation services in any fiscal year, measured in terms of tonnage. The committee intends, as indicated by the language, that such "other" transportation must meet both tests to be lawful, that is, be both incidental and necessary and within the 15-percent limitation. In other words, even if a cooperative were, for example, to haul only 1 percent "of other" transportation, and thus

be within the 15-percent limitation, such transportation must also be shown to be incidental and necessary for the exemption to apply.

The court in that *Northwest* decision defined "incidental and necessary" as follows:

* * * On the uncontradicted facts, Northwest's transportation of nonfarm products and supplies was incidental and necessary to its farm-related transportation both in character and in amount—incidental because limited to otherwise empty trucks returning from hauling member farm products to market, and producing a small return in proportion to Northwest's income from trucking farm products and farm supplies; necessary because it is not economically feasible to operate the trucks empty on return trips and because the additional income obtained is no more than that required to render performance of the cooperative's primary farm transportation service financially practicable.

The committee intends by the phrase "incidental to its primary transportation operation and necessary for its effective performance" that a cooperative's transportation for nonmembers must have the direct relationship above described to the cooperative farm-related transportation.

The second maximum limitation is that such "other" nonmember transportation shall in no event exceed 15 percent of the cooperative or federation's total interstate transportation services in any fiscal year, measured in terms of tonnage. This same percentage is used in section 521(b)(4) of the Internal Revenue Code of 1954 as a limitation on nonmember, nonproducer purchases. The Department of Agriculture further recommended that the 15 percent be measured in terms of interstate tonnage transported, rather than in terms of revenue, inasmuch as the cooperatives do not generally collect revenues in the transportation of their own goods.¹

Two additional pertinent exemptions contained in sec. 203(b) of the Interstate Commerce Act are 203(b)(4a), which exempts motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities and products thereof, or in the transportation of supplies to his farms; and, 203(b)(6), which exempts motor vehicles used in carrying livestock, fish, or agricultural (including horticultural) commodities (not including manufactured products thereof) listed as exempt in that subsection.

The 15 percent maximum limitation on tonnage is of the total interstate transportation services of a cooperative or federation in any fiscal year of such cooperative or federation. In other words, the base to which the 15 percent is applicable is all of the interstate (motor) tonnage transported by a cooperative in any fiscal year. Included in the base would be any interstate (motor) tonnage transported by a cooperative of its own property, its members, of nonmember farmers, of other cooperatives or federations, exempt commodities, and "other"

¹ Sec. 521(b)(4) of the Internal Revenue Code relating to the tax treatment of farmer cooperatives meeting the requirements of that section reads as follows:

"TRANSACTIONS WITH NONMEMBERS.—Exemption shall not be denied any such association which markets the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, or which purchases supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases."

nonmember transportation. The "other" nonmember transportation which may not lawfully exceed 15 percent of the tonnage would include any transportation for the U.S. Government, and any transportation of "other" freight. The committee intends that transportation would be considered "other" transportation if it were for the nonfarm business of a cooperative member farmer or nonmember farmer. In the example earlier cited on nonfarm business, gasoline transported for a cooperative member would be included within the 15 percent maximum limitation if it were for use in his "construction business."

The first proviso of section 1 of the bill makes clear that (interstate motor) transportation performed by a cooperative on behalf of the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember. As heretofore indicated, such transportation for the Government is subject to both the "incidental and necessary" and 15 percent maximum tonnage limitation. However, if the traffic transported for the Government is of agricultural commodities exempted under section 203(b)(6), such tonnage would fall within the total, but not be subject to the 15 percent maximum limitation.

The second proviso requires a cooperative or federation which performs interstate (motor) transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, except transportation otherwise exempt under this part, to notify the Commission of the cooperative's or federation's intent to perform such transportation prior to the commencement thereof. In other words, a cooperative would be operating unlawfully if it failed to file notice with the ICC before transporting nonexempt property for the U.S. Government for nonfarm shippers; or in connection with the nonfarm business of member farmers or nonmember farmers.

The third proviso clarifies that in no event shall any such cooperative association or federation, required to give notice to the Commission, transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the total quantity of property transported interstate for itself and its members in any fiscal year of the cooperative.

Under the Agricultural Marketing Act of 1929, a cooperative may not deal in "farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members." This provision applies to the total business activities of a cooperative. The Department of Agriculture referred to the concern expressed by the regulated motor carrier industry that in a case where the only nonmember business of a cooperative is transportation, the cooperative could assert it would be free to engage in transportation for nonmembers in an amount equal in value to the total business of all kinds conducted by the cooperative for members. Therefore, the Department suggested a provision along the lines of the third proviso to limit nonmember transportation business to an amount not to exceed member transportation business.

Transportation for a nonmember under this proviso would be considered nonmember transportation whether or not the commodity

transported would be exempt under section 203(b)(6). As heretofore indicated, transportation for nonfarm business of a member of a cooperative (such as for his "construction business") would be considered to be nonmember transportation; and, under the first proviso, U.S. Government property transported would also be considered to be nonmember.

Section 2 of the bill amends section 220 of the act to authorize the Commission to have access to and authority to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative or federation which is required to give notice under section 1 of this bill. A proviso to section 2 provides that the Commission shall not have authority to prescribe the form of any accounts, records, or memorandums to be maintained by a cooperative or federation.

This language grants the Commission this authority only in the case of those cooperatives who are "required to give notice" and only as to their transportation activities.

HEARINGS

Hearings were held on H.R. 6530 and S. 752 by the Subcommittee on Transportation and Aeronautics on July 1, 1968. The bill is supported by the Interstate Commerce Commission, the National Association of Railroad & Utilities Commissioners, the National Council of Farm Cooperatives, the American Farm Bureau Federation, the American Trucking Associations, and the Association of American Railroads. The bill is opposed by certain farm cooperatives, the Bureau of the Budget, and by the Department of Defense insofar as it pertains to the elimination of the exemption of business done with the Government in the calculation of percentages.

COST OF THE LEGISLATION

It is not believed that the enactment of this proposed legislation will result in any significant increased cost to the Government. The provisions of this bill will enable the Commission more effectively to carry out its present enforcement efforts in this area. The committee recognizes, however, that the Commission initially will have to devote resources to develop rules and regulations for the administration of the clarifying and restricting provisions of this proposed legislation, and to the enforcement thereof. It is expected that the Commission to fully utilize the State-Federal cooperative enforcement agreement provisions of Public Law 89-170 to lessen any budgetary impact in the enforcement of this proposed legislation.

DEPARTMENTAL REPORTS

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 28, 1968.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This will reply to your request of June 7, 1968, for a report on S. 752, a bill to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes.

This bill would amend section 203(b)(5), known as the agricultural cooperative transportation exemption, in order to limit and clarify the scope of the exemption and to assist the Interstate Commerce Commission in its enforcement operations. Specifically, there would be added to section 203(b)(5):

Provisions under which the interstate transportation that could be performed by a cooperative association or federation of cooperative associations, for nonmembers who are neither farmers, cooperative associations nor federations thereof for compensation (except motor transportation otherwise exempt) would be limited to that which is incidental to its primary transportation operation and necessary for its effective performance, but in no event more than 15 percent of its total interstate transportation services in any fiscal year, measured in terms of tonnage.

A provision that transportation performed by a cooperative association or federation for or on behalf of the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember.

A provision that a cooperative association or federation which performs interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof (except motor transportation otherwise exempt) shall notify the Interstate Commerce Commission of its intent to do so prior to the commencement thereof.

A provision that in no event shall a cooperative association or federation which is required to give notice to the Commission transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the quantity transported interstate for itself and its members in such fiscal year.

The bill would also amend section 220 of the Interstate Commerce Act by adding a new subsection which would authorize the Commission or its agents to have access to and authority, under its order, to inspect, examine, and copy (but not prescribe the form of) accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative association or federation of cooperative associations required to give notice to the Commission pursuant to the third provision described above.

The Department supports enactment of S. 752 in its present form.

In its original form, S. 752 was identical to H.R. 6530, introduced in the House of Representatives on March 2, 1967. These bills, if enacted, would have severely limited the scope of the exemption and would have impaired the efficiency and economy under which transportation is conducted by cooperatives in accordance with existing provisions of law.

In its report to your committee under date of July 24, 1967, the Department expressed opposition to H.R. 6530. At the same time, however, the Department pointed out that there would appear to be merit in legislation which would clarify the scope of the exemption and assist the Interstate Commerce Commission in its enforcement of the motor carrier provisions of the act.

To accomplish these objectives, the Department report suggested a number of clarifying provisions for inclusion in amendatory legisla-

tion. For the convenience of the committee, a copy of the July 24, 1967, report containing the suggestions is enclosed. All of these suggestions are now embodied in S. 752, as passed by the U.S. Senate, and as presently before your committee for consideration.

One additional provision is incorporated in the bill before you. That provision is a specific limitation on the amount of interstate transportation (except motor transportation otherwise exempt) which a cooperative association or federation of such associations may perform for nonmembers who are neither farmers, cooperative associations, nor federations thereof. Such interstate transportation, which the Department recommended be limited to an amount which is incidental to the primary transportation operation of the cooperative or federation and necessary to its effective performance, is also made subject to a specific limitation of 15 percent of the total interstate transportation services of the cooperative or federation.

The inclusion of a specific percentage limitation on the indicated traffic apparently stemmed from a concern on the part of regulated motor carriers that the limitation imposed by the terms "incidental" and "necessary" might permit a cooperative association or federation to transport a significant volume of such traffic, perhaps up to 50 percent of its total interstate volume. The 15-percent limitation should allay any such concern. The Department does not object to this limitation.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 24, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request of March 13, 1967, for comments with respect to H.R. 6530, a bill to amend section 203(b)(5) of the Interstate Commerce Act to clarify this exemption with respect to transportation performed by agricultural cooperative associations for nonmembers.

This proposed legislation would, if enacted, limit the exemption of motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperatives. The exemption from economic regulation would no longer apply to such motor vehicles when used in the transportation, for nonmembers for compensation, of property of any kind except farm products, farm supplies, or other farm related traffic. This provision for total elimination of certain kinds of cargo from the benefits of exemption would impair the efficiency and economy under which transportation is conducted by cooperatives in accordance with the existing provisions of law.

The Department does not favor enactment of this legislation.

The interpretation of the cooperative exemption in section 203(b)(5) of the Interstate Commerce Act has been the subject of much litigation. In a number of cases before the Interstate Commerce Commission and the courts, the Department of Agriculture has consistently taken the position that the language of the Interstate Commerce Act, when read in conjunction with the language of the Agricultural Marketing Act of 1929, should be given a liberal construction; that cooperatives should not be so limited in their motor carrier operations that efficient operation on behalf of farmer members would be stifled; that it was clearly the intent of the statute that a cooperative, in the conduct of its motor carrier operations, be permitted to transport in addition to its own and its members' property, incidental quantities of property belonging to others; and that backhauls of nonmember property of a character which would otherwise be subject to regulation, should be permitted, provided the transportation of such property remained incidental to the transportation of property of the cooperative and its members.

Generally, the courts have ruled in favor of the Department's interpretation of the statutes and against the more restrictive interpretations which others have advocated. The decision of the Ninth Circuit Court of Appeals (350 Fed. 252 (1965), cert. denied, 382 U.S. 1011 (1966)), involving the Northwest Agricultural Cooperative Association supports the Department's view. In this case the court held that a cooperative "does not lose its status by engaging in activity other than its primary statutory activity, so long as the other activity is incidental to the primary one and necessary to its effective performance." Pursuant to the court's decision a cooperative would be permitted to engage in the transportation of so-called nonfarm related property to the extent that such transportation activity is incidental to its primary activity of transporting its own or member property and necessary to the effective performance of that activity.

We should like to emphasize that our position in cases involving the cooperative exemption has not been dictated solely by the belief that this is the proper legal interpretation of the statutes, but also by the conviction that the public interest would be appropriately served. Clearly, the interests of the cooperatives and their farmer members are served through the greater operating efficiencies made possible under the "incidental and necessary" test of the *Northwest* decision. Further, to the extent that the motor carrier operations of the cooperatives are efficient, the interests of the marketing system and of consumers are served. At the same time, Department statistics clearly indicate that the impact upon the regulated common carrier industry of transportation by the cooperatives of property which might otherwise be transported by the common carriers is quite negligible. Accordingly, we believe it would not be in the public interest to adopt the restrictive approach provided for in H.R. 6530.

Although the Department is opposed to H.R. 6530, there would appear to be merit in legislation which would clarify the scope of the exemption and assist the ICC in its enforcement of the motor carrier provisions of the act. Our views may be summarized as follows:

First, we believe it would be appropriate for a cooperative to be required to notify the Interstate Commerce Commission if it intends to transport for hire in motor vehicles which it controls or operates,

any property other than its own or that of its members, farm products and farm supplies for nonmember farmers, and commodities exempt under section 203(b)(6) of the Interstate Commerce Act. The ICC would thus have a record of those cooperatives which intend to transport the type of property which has been the subject of controversy.

Second, to further assist the ICC and to meet one of the problems with respect to which Commission representatives have expressed concern, we believe the Commission or its agents should be given express authority to have access to the books, records, and accounts pertaining to the motor vehicle transportation of those cooperatives which transport property in accordance with their notice to the Commission.

Third, we believe the quantity of this noncooperative traffic described above which a cooperative could transport in any year should be limited to a quantity which is incidental to the primary transportation operation of the cooperative and necessary to its effective performance. Such a limitation, we believe, flows from application of the decision in the *Northwest* case referred to previously. The amount of such property which cooperatives should be authorized to transport in order to achieve efficiency of operation will vary depending upon the nature of the business of the cooperative, the geographic area where it operates, and the availability of other backhaul traffic.

Fourth, to clarify a question which has arisen in the past and which appears to be one of concern to the regulated motor carrier industry, we believe that transportation operations which a cooperative carries out for nonmembers should not exceed the transportation operations which it carries out for members. Under the Agricultural Marketing Act of 1929, a cooperative may not deal in "farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members." This provision applies to the total business activities of a cooperative. Apparently, there is concern that in a case where the only nonmember business of a cooperative is transportation, the cooperative would be free to engage in transportation for nonmembers in an amount equal in value to the total business of all kinds conducted by the cooperative for members. A provision which would equate nonmember transportation business with member transportation business would alleviate this concern.

There has also been concern expressed that under the language of the Agricultural Marketing Act cooperatives could transport property for the U.S. Government or any of its agencies without limit. We question, however, whether any such result was intended. Any doubt could be removed by a specific provision that transportation of property for the U.S. Government or any of its agencies is to be considered nonmember business.

We believe that legislation which embodies the views set out above would constitute an appropriate prescription of the intended scope of the cooperative exemption, and would provide a mechanism which would materially assist ICC in its enforcement of motor carrier operations. It would give appropriate recognition to the interests of the agricultural community, the common carrier industry, and the public.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 1, 1968.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on S. 752, an act to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes.

This act is similar to H.R. 6530 in that it would restrict the statutory exemption from economic regulation given to transportation by agricultural cooperatives.

Unregulated transportation by cooperatives is extremely minor and limited in comparison to total for-hire truck and rail transportation and does not appear to have been abused or to have had any adverse effect on the regulated carriers. Such transportation provides revenues that are essential to the efficient operation of the cooperatives while also providing significant benefits and economies for the users.

Although we would have no objection to an amendment clarifying that transportation for the U.S. Government is "nonmember business," we continue to believe, as expressed in our comments on H.R. 6530, that the present exemption properly recognizes and carefully balances the needs of agriculture, the regulated for-hire carriers and the public interest. We would therefore be opposed to enactment of S. 752.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

JULY 2, 1968.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to S. 752, 90th Congress, an act to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes. The Secretary of Defense has assigned to the Department of the Army the responsibility for expressing the views of the Department of Defense on this act.

Section 203(b)(5) of the Interstate Commerce Act (49 U.S.C. 303(b)(5)) exempts agricultural cooperative associations, as defined in the Agricultural Marketing Act of 1929, from economic regulation

by the Interstate Commerce Commission. On August 10, 1965, the U.S. Court of Appeals for the Ninth Circuit in the case of *Northwest Agricultural Cooperative Association, Inc. v. Interstate Commerce Commission* (350 F. 2d 252, cert. den. 382 U.S. 1011 (1966)) judicially established the right of agricultural cooperative association trucklines to backhaul nonfarm commodities for nonmembers. The court limited the legitimate extent of such traffic to that which is incidental and necessary to the farm-related transportation of the cooperative. Since that decision, the Department of Defense has utilized the transportation services of agricultural cooperative associations where their use is deemed to be in the best interest of the Government.

S. 752, as introduced on January 31, 1967, would amend section 203(b)(5) of the Interstate Commerce Act to expressly state that in providing for-hire transportation to nonmembers, the agricultural cooperatives exemption applies only when the commodities transported consist of farm products, farm supplies, or other farm-related traffic. The effect of such an amendment would be to eliminate the present exemption except in those situations where the backhaul traffic is farm related. The amendment of section 203(b)(5) of the act proposed in S. 752, as passed by the Senate on June 4, 1968, on the other hand, would place no such restriction as to the type of commodities that may be handled for nonmembers, but would limit presently authorized nonmember traffic including transportation performed for the U.S. Government to an amount not to exceed 15 percent of the total interstate tonnage handled by such cooperatives during any fiscal year. Additionally, in order to assist the Interstate Commerce Commission in the enforcement of the cooperatives exemption, S. 752 as passed by the Senate requires that cooperatives shall give the Commission prior notice of its intent to perform transportation for nonmembers and for such purpose, make available all accounts, books, and records for Commission examination.

In letter to the Senate Committee on Commerce dated July 24, 1967, this Department opposed enactment of S. 752, as introduced, on the basis that the proposed amendment would totally deprive the Department of Defense of the use of transportation facilities of bona fide farm cooperatives and thus remove an effective element of price and service competition. For this reason the Department of Defense continues to oppose S. 752, as passed by the Senate.

While the amendments proposed in S. 752, as passed by the Senate, appear to have merit in that they should clarify the scope of the exemption and materially assist the Interstate Commerce Commission in its enforcement, this Department is particularly concerned with the provision which would place a 15-percent limitation on nonmember traffic. It is not known at this time whether this specific limitation considered together with the provision subjecting U.S. Government traffic thereto would materially reduce the ability of farm cooperatives to furnish transportation services to the Department of Defense. However, to the extent that this or any other percentage limitation would produce such a result, this Department strongly objects.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

STANLEY R. RESOR,
Secretary of the Army.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERSTATE COMMERCE ACT

DEFINITIONS

SEC. 203. (a) * * *

(b) Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or (2) taxicabs, or other motor vehicles performing a bona fide taxicab service, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini; or (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles operated, under authorization, regulation, and control of the Secretary of the Interior, principally for the purpose of transporting persons in and about the national parks and national monuments; or (4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities and products thereof, or in the transportation of supplies to his farm; or (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined[;] but any interstate transportation performed by such a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under this part, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 per centum of its total interstate transportation services in any fiscal year, measured in terms of tonnage: *Provided, That, for the purposes hereof, notwithstanding any other provision of law, transportation performed for or on behalf of*

*the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember: Provided further, That any such cooperative association or federation which performs interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, except transportation otherwise exempt under this part, shall notify the Commission of its intent to perform such transportation prior to the commencement thereof: And provided further, That in no event shall any such cooperative association or federation which is required hereunder to give notice to the Commission transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the total quantity of property transported interstate for itself and its members in such fiscal year; * * **

* * * * *

ACCOUNTS, RECORDS, AND REPORTS

SEC. 220. (a) The Commission is hereby authorized to require annual, periodical, or special reports from all motor carriers, brokers, lessors, and associations (as defined in this section); to prescribe the manner and form in which such reports shall be made; and to require from such carriers, brokers, lessors, and associations specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier, broker, lessor, or association in such form and detail as may be prescribed by the Commission. The Commission may also require any motor carrier or broker to file with it a true copy of any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this part. The Commission shall not, however, make public any contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest: *Provided, That if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by motor vehicle as required by section 218(a), the Commission may, in its discretion, make public such of the provisions of the contract as the Commission considers necessary to disclose such failure and the extent thereof.*

* * * * *

(g) *The Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative association or federation of cooperative associations which is required to give notice to the Commission pursuant to the provisions of section 203 (b) (5) of this part: Provided, however, That the Commission shall have no authority to prescribe the form of any accounts, records, or memorandums to be maintained by a cooperative association or federation of cooperative associations.*





Transportation

Public Law 90-433
90th Congress, S. 752
July 26, 1968

An Act

To amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That at the end of section 203(b)(5) of the Interstate Commerce Act delete the semicolon and add the following language: "but any interstate transportation performed by such a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under this part, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 per centum of its total interstate transportation services in any fiscal year, measured in terms of tonnage: *Provided*, That, for the purposes hereof, notwithstanding any other provision of law, transportation performed for or on behalf of the United States or any agency or instrumentality thereof shall be deemed to be transportation performed for a nonmember: *Provided further*, That any such cooperative association or federation which performs interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, except transportation otherwise exempt under this part, shall notify the Commission of its intent to perform such transportation prior to the commencement thereof: *And provided further*, That in no event shall any such cooperative association or federation which is required hereunder to give notice to the Commission transport interstate for compensation in any fiscal year of such association or federation a quantity of property for nonmembers which, measured in terms of tonnage, exceeds the total quantity of property transported interstate for itself and its members in such fiscal year.

SEC. 2. Section 220 of the Interstate Commerce Act, as amended, is further amended by adding the following immediately after subsection (f):

"(g) The Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence, and other documents pertaining to motor vehicle transportation of a cooperative association or federation of cooperative associations which is required to give notice to the Commission pursuant to the provisions of section 203(b)(5) of this part: *Provided, however*, That the Commission shall have no authority to prescribe the form of any accounts, records, or memorandums to be maintained by a cooperative association or federation of cooperative associations."

Approved July 26, 1968.

(over)

Interstate
Commerce Act,
amendment.
54 Stat. 921.
49 USC 303.

82 STAT. 448
82 STAT. 449

Accounts, etc.
of motor carriers,
access and
inspection authority.

49 USC 320.



LEGISLATIVE HISTORY:

HOUSE REPORT No. 1667 (Comm. on Interstate & Foreign Commerce).

SENATE REPORT No. 1152 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 114 (1968):

June 4: Considered and passed Senate.

July 15: Considered and passed House.

Approved July 26, 1968.

of cooperative associations.

or organizations to be maintained by a cooperative association or

shall have authority to prescribe the form of any records, reports,

304(p) (3) of this part: Provided, That the Commission

to give notice to the Commission pursuant to the provisions of section

association or federation of cooperative associations which is required

documents pertaining to motor vehicle transportation of a cooperative

all accounts, books, records, memorandums, correspondence, and other

and authority, under its order, to inspect, examine, and copy any and

and or examiners shall, during normal business hours, have access to

section (1):

(g) The Commission or its duly authorized special agents, account-

is further amended by adding the following immediately after sub-

Part 2 Section 304 of the Interstate Commerce Act, as amended,

date for itself and its members in such fiscal year.

tion a quantity of property for nonmembers which, measured in terms

state for cooperation in any fiscal year of such association or federa-

required hereunder to give notice to the Commission transport inter-

an event shall say such cooperative association or federation which in

prior to the commencement thereof: And provided further, That in

notify the Commission of its intent to perform such transportation

thereof, except transportation otherwise exempt under this part, shall

thereof, except transportation otherwise exempt under this part, shall

number: Provided further, That any such cooperative association or

thereof shall be deemed to be transportation performed for a non-

for or on behalf of the United States or any agency or instrumentality

notwithstanding any other provision of law, transportation performed

measured in terms of tonnage: Provided, That for the purpose hereof,

amount of the total interstate transportation services in any fiscal year,

any for its effective performance and shall in no event exceed 15 per

which is incidental to its primary transportation operation and neces-

portion otherwise exempt under this part, shall be limited to that

associations, nor federations thereof for cooperative, except trans-

five associations for nonmembers who are neither farmers, cooperative

performed by such a cooperative association or federation of cooperat-

and add the following language: "but any interstate transportation

section 304(p) (3) of the Interstate Commerce Act before the section

United States of America in Congress assembled, That at the end of

(over)

INTERSTATE COMMERCE COMMISSION

TRANSMITTAL SLIP

DATE

8/31/67

To: Lewis Berry

ROOM

FROM: James T. Corcoran

ROOM

2121

THROUGH MAILS AND FILES

ACTION

- | | |
|---|--|
| <input type="checkbox"/> AS REQUESTED | <input type="checkbox"/> NOTE AND FILE |
| <input type="checkbox"/> DRAFT OF SUGGESTED REPLY | <input type="checkbox"/> NOTE AND FORWARD |
| <input type="checkbox"/> FOR COMMENT | <input type="checkbox"/> NOTE AND RETURN |
| <input type="checkbox"/> FOR CORRECTION | <input type="checkbox"/> PREPARE REPLY |
| <input type="checkbox"/> FOR SIGNATURE | <input type="checkbox"/> PREPARE FOR MY SIGNATURE |
| <input type="checkbox"/> FOR YOUR APPROVAL | <input type="checkbox"/> PREPARE REPLY FOR SIGNATURE OF CHAIRMAN |
| <input type="checkbox"/> FOR YOUR INFORMATION | <input type="checkbox"/> RECOMMENDATION |
| <input type="checkbox"/> IMMEDIATE ACTION DESIRED | <input type="checkbox"/> SEE ME |
| <input type="checkbox"/> INITIALS | <input type="checkbox"/> TAKE APPROPRIATE ACTION |

COMMENTS:

I think you find the enclosed statements very interesting.

*Joint Rates &
Thru Rtes*





DEPARTMENT OF AGRICULTURE
WASHINGTON 25, D.C.

Transportation

August 28 1967

Honorable Warren G. Magnuson, Chairman
Committee on Commerce
United States Senate

Dear Mr. Chairman:

This will reply to your letter of February 9, 1967, inviting comments on S. 751, a bill "To authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such ~~carriers~~ and common carriers by rail, express, and water, and for other purposes."

There are gaps in the Commission's authority in this area. The only provisions in the Interstate Commerce Act for through routes and joint rates between motor common carriers of property and between such carriers and other carriers of property subject to the Act are permissive, not mandatory. The bill would make it the duty of common carriers of property by motor vehicle, by railroad and/or express, and by water, who are subject to the Act, to establish such routes and rates; and would give the Commission jurisdiction over the lawfulness of such rates under other provisions of the Act.

The Department favors enactment of this bill.

Movement of basic farm commodities by motor is exempt from economic regulation under Section 203(b)(6) of the Act. Movements of bulk commodities by water are exempt from economic regulation pursuant to Section 303(b) of the Act. The bill would not affect farm commodities moving under these exemptions. It would, however, affect the movement by motor and water of manufactured agricultural commodities. In recent years motor common carriers have voluntarily established a great number of joint routes and rates. There is, however, need for establishment of a greater number of joint services, particularly among motor common carriers. We believe that this bill is harmonious with the National Transportation Policy and that authority is needed by the Interstate Commerce Commission to correct possible future inequities in this area.



Growth Through Agricultural Progress





DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

August 28 1967

Honorable Warren G. Magnuson
Chairman, Committee on Commerce
United States Senate

Dear Mr. Chairman:

This will reply to your letter of May 17, 1967, inviting comments on S. 1768, a bill "To authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes."

The bill would amend section 216(e) of the Interstate Commerce Act to provide criteria by which the Interstate Commerce Commission could prescribe through routes and joint rates. This bill treats the same subject as S. 751, which is presently being considered by your Committee, but in a different manner.

The Department recommends that this bill not be enacted.

There are gaps in the Commission's authority in this area. The only provisions in the Interstate Commerce Act for through routes and joint rates between motor common carriers of property and between such carriers and other carriers of property subject to the Act are permissive, not mandatory. While this bill would establish criteria for joint rates, the bill is neither as comprehensive in its treatment of carriers as S. 751 nor does it provide the degree of protection to the public afforded by S. 751.

Movement of basic farm commodities by motor is exempt from economic regulation under section 203(b)(6) of the Act. Movements of bulk commodities by water are exempt from economic regulation pursuant to section 303(b) of the Act. The bill would not affect farm commodities moving under these exemptions. It could, however, affect the movement of manufactured agricultural commodities. While there has been voluntary establishment of some through routes and joint rates, we believe that there is need for statutory authority for the Interstate Commerce Commission to deal with the problems which it has listed as the reasons for the enactment of S. 751. We believe that enactment of S. 751, rather than this bill, is in the public interest.



The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Orville L. Freeman
SECRETARY



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

29 AUG 1967

File

AUG 28 1967

S1768

Honorable Warren G. Magnuson
Chairman, Committee on Commerce
United States Senate
Washington; D. C. 20510

Dear Mr. Chairman:

This is in reply to your request for the views of this Department concerning S. 1768, a bill

"To authorize the Interstate Commerce Commission, after investigation and hearing, to require the establishment of through routes and joint rates between motor common carriers of property, and between such carriers and common carriers by rail, express, and water, and for other purposes."

This proposal is similar in many respects to S. 751, a proposal of the Interstate Commerce Commission, which this Department has supported. We note, however, that S. 1768 differs from S. 751 in a number of areas. Since we are in accord with the substance of the rate coordination approach advanced in both bills, we will confine our comments to those areas of S. 1768 which differ from S. 751.

- (1) Unlike S. 751, S. 1768 imposes no duty on common carriers of property to establish reasonable through routes and joint rates. While S. 751 requires such action from carriers under Part I of the Interstate Commerce Act upon reasonable request, it is our understanding that the Commission has now offered an amendment to require that such a request be made to Part II and Part III carriers. S. 1768, however, imposes no such obligation upon reasonable request or otherwise.
- (2) A "long-haul" provision prevents the Commission from requiring a carrier to embrace, without its consent, a joint route substantially less than the entire length of its route and of any intermediate carrier which lies between the termini of a proposed through route, unless the inclusion of such lines would result in an unreasonably long through route and unless the through route proposed is needed to provide adequate and more efficient or more economic transportation. Under this concept, reasonable preference would be given to the originating carrier.
- (3) No through route and joint rate would be established by the Commission for the purpose of assisting any carrier to meet its financial needs.

- (4) No joint rate would be prescribed except, in the absence of an acceptable agreement among participating carriers, upon a finding by the Commission that the rate is adequate to support and sustain the joint service.
- (5) The carriers involved would have to be financially and otherwise fit.
- (6) In the event of failure by a carrier to pay divisions and interline settlements promptly, the Commission would be required to order the prompt settlement of such payments. Upon failure of a carrier to make such payments, the aggrieved carrier would have the right to cancel the joint rate and through route arrangement pursuant to Commission regulations. In other cancellation situations, the burden of proof in cancelling such arrangements would be upon the proposing carrier when the matter is suspended by the Commission for investigation.

This Department recognizes that the Supreme Court's very recent action of May 29, 1967, in United States v. Atchison, Topeka & Santa Fe R. Co., sustaining the Commission's approach to railroad "open tariffs" may serve to encourage more intermodal joint rates. At the very least, it will prevent discrimination among carriers by providing that service offered in an open tariff proposal must be made available to all -- shippers and carriers -- similarly situated. At the same time, the Department recognizes that the Commission should also be authorized to require joint rates and through routes where necessary in the public interest. Particularly is such authority needed in the small shipment area where service and rates are shown to be less than satisfactory.

The Department, while in accord with the substance and form of S. 751, also is aware that appropriate revisions can be made to meet particular conditions and situations which obtain in the motor carrier industry. In this respect, we recognize the merit in concepts (5) and (6) above which S. 1768 advances; we have no objection to them. We have a number of comments, and in certain instances objections, as to the remaining aspects of this bill.

The Department is of the opinion that certain of the proposals mark a substantial and unnecessary change in the principles of economic regulation. Most important, in our opinion, is the fact that S. 1768 imposes no duty to provide joint rates and through routes upon reasonable request therefor. Such a holding out is basic to common carrier activity and should rest equally on all modes if true coordinated service is to be effected.

With regard to the long-haul provision, while we recognize that similar language obtains in section 15(4) as to railroads, we question whether preservation of such an approach is really conducive to effective joint



rate service. Inordinate protection of the long-haul by, for example, a narrow statutory construction of the exceptions to the rule may well result in an effective barrier to needed joint rate service. Moreover, we would note that section 15(4) has additional exceptions not contemplated by the long-haul provisions of S. 1768. Section 15(4) permits the prescription of joint rates except as provided in section 3 (the provisions dealing with undue preference and prejudice) and except where one of the carriers is a water carrier. On balance, however, we would have no objection to the "long-haul" provision if an exception for section 3 (section 216(d) in Part II) concepts is included. We see no need, however, to go beyond such action and include further protection for water carriers.

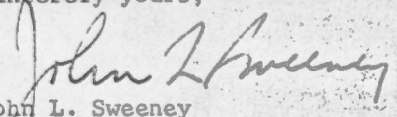
Item (3) is consistent with present language in section 15(4). We have no objection to its inclusion subject to the understanding that it would not prevent the Commission from establishing divisions which would financially aid a weaker carrier. Such authority is often a principal element in resolving divisional disputes. It permits the Commission to develop a financially stable industry.

Item (4) would, in effect, preclude the Commission from prescribing a joint rate that is not compensatory. However, the Commission has the power to prescribe noncompensatory rates in other situations under existing law. It is not clear why a distinction should be drawn here intermodally or in an intramodal situation involving motor carriers of freight. We would, therefore, favor the omission of the language "is adequate to support and sustain the joint service;" on line 25 of sheet 3.

In sum, the Department would favor S. 751, rather than S. 1768. We would have no objection, however, to the amendment of S. 751 by the provisions of concepts (5) and (6), of concept (2) as modified above, and of concept (3) subject to our understanding of its intent.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,



John L. Sweeney
Assistant Secretary for
Public Affairs



Transportation
Common Carrier Conference • Irregular Route

ATA BUILDING

1616 P STREET, N.W.

WASHINGTON, D. C. 20036



TELEPHONES
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NO, VIRGINIA, THERE IS NO SANTA CLAUS

The passage of S.752 by the House of Representatives represents the result of a two-year effort to cure a cancerous situation in interstate commerce.

The drain of traffic in this area to erstwhile transporters is another symbol of a trend in some areas of policy making toward the deregulation of the motor common carrier industry in the United States. Carried to its total conclusion, a policy of this nature can be the most uneconomical development in transportation this country could experience.

The fundamentals of the National Transportation Policy as expressed in the Interstate Commerce Act were never conceived to do anything except bring on the development of our entire economic system to its full potential, not for the benefit of the railroads, the motor carriers of property or persons, nor the barge lines. But rather so that every citizen, every manufacturing establishment, every service industry, could stand in equal opportunity in the movement of goods and persons. To coin a phrase, this is a "gut" situation. Only by support of this policy will there be the continuous, and shall we say, the magical development of American business which brings increasing prosperity to our citizens.

Let it be here recorded, however, that the great advances which have been hammered out are so much the result of the work of our leadership, that there results a debt which is difficult to repay. These leaders heat the furnace of performance to a white hot heat which melds our society, and our industry, into the world of opportunity which we must have to achieve the growth so necessary to those elements of superproductivity which all of us instinctively expect of future generations.

We have become so accustomed to living in a rising productivity, that we sometimes forget that the future lies in an area so advanced from present activity, that we are but little children in our attempts to solve problems which today seem so complex but tomorrow will seem simple by comparison.

We repeat — these developments do not just happen. They are the natural results of contributions by those who give more than they get. They do the work that must be done. They solve the problems which must be solved. They give the time which must be given least those things which most of us take for granted, saying unconsciously "Let George do it", go by the wayside.

There is no Santa Claus. No, indeed, because if you look cautiously, behind every success you will find someone who performed the duty. Elbert Hubbard said, "Civilization is one long, anxious search" for individuals to carry the message to Garcia. We have a few of them in our industry and we are grateful. Would that we had more.

Henry A. S. van Daalen
July 16, 1968



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Transportation

Congress of the United States
House of Representatives
 Committee on Interstate and Foreign Commerce
 Room 2125, Rayburn House Office Building
 Washington, D.C. 20515

March 5, 1969

Memorandum to: Paul Miltich, Office of Honorable Gerald Ford
 From: Lewis E. Berry, Minority Counsel
 Re: Common Carrier Conference

Here are a few notes which I hope will help in putting together an appropriate speech.

At the present time there are no trucking bills introduced, at least the kind that come to this committee. The weight bill is elsewhere. No doubt some old timers will be back, however, for further consideration:

1. The freight forwarder bill died of strangulation last time. Freight forwarders are regulated by Title IV of the Interstate Commerce Act. They are presently allowed to make negotiated contracts with truck lines for hauls up to 450 miles. This means they do not pay the filed tariff but whatever they can get agreement on. The bill would have allowed them to do the same with railroads. At first it looked as though nobody would care much. Then some shipping associations got stirred up and thought they must have similar privileges and wanted the bill so amended. This brought the Trucking Association into the act, and it suggested that the whole scheme be eliminated because it never was so hot for truckers either. So it died. Freight Forwarders are singing the blues and want a new game.

2. The Barge Mixing Rule was a complicated mess which affected all three modes. For years the unregulated barges (those which avoided certification by hauling only exempt bulk products according to the formula which defined bulk products as those so defined by custom in 1939 and carrying no more than three such products in one entire tow--one barge or twenty) had made a practice of turning their barges over to regulated carriers on a separate contract for pushing them to specified points. Then the unregulated fellow picked them up again and delivered them. The ICC said it was



no good. The court agreed. The barges said it would kill them dead. So the bill, S. 1314, was intended to make such arrangements legal. But it went much further and changed the definition on bulk products and vessels so that any three bulk products would be carried on each barge. When truck and railroads got wind of this the balloon went up and they combined their forces to stop it. By that time it was not possible for the barge folks to backpedal to a safer position. The barge people are around again so the issue will be tested once more no doubt.

3. A bill to require through routes and joint rates was pushed as a help to small shippers. There are many such arrangements now but not among truckers--mostly between trucks and railroads. The bill would require such lash-ups. The House didn't give it much consideration, but we may see it again soon.

~~Exemption is like carrying
bill routes
and the
the heart of
the government business
the exemption but that some of the co-ops were
actually were only auxiliary
the government.~~

The bill to take cattle out of the agricultural exemption has not as yet been introduced in the House. Judging from past records it will have a tough time.

LEB:bb
Enclosures

