

RAILROAD RETIREMENT AMENDMENTS OF 1973

JUNE 22 (legislative day, JUNE 18), 1973.—Ordered to be printed

Mr. HATHAWAY, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 7200]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7200) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures pertaining to certain rate adjustments for carriers subject to part I of the act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—RAILROAD RETIREMENT ACT AMENDMENTS

SEC. 101. Section 2(a) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out "Women" in paragraph 2 and inserting in lieu thereof "Individuals";

(2) by striking out "Men who will have attained the age of sixty and will have completed thirty years of service, or individuals" in paragraph 3 and inserting in lieu thereof "Individuals"; and

(3) by striking out "such men or" in paragraph 3 thereof.

SEC. 102. (a) Section 3201 of the Internal Revenue Code of 1954 (relating to the rate of tax on employees under the Railroad Retirement Act of 1937) is amended—

ment Tax Act) is amended by striking out all that appears therein and inserting in lieu thereof the following:

"In addition to other taxes, there is hereby imposed on the income of every employee a tax equal to the rate of the tax imposed with respect to wages by section 3101(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3101(b) of such Code of so much of the compensation paid to such employee for services rendered by him after September 30, 1973, as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973."

(b) Section 3202(a) of such Code is amended—

(1) by striking out "1965" wherever it appears in the second sentence thereof and inserting in lieu thereof "1973";

(2) by striking out "(i) \$450, or (ii)" wherever it appears in the second sentence thereof; and

(3) by striking out "whichever is greater," wherever it appears in the second sentence thereof.

(c) Section 3211(a) of such Code (relating to the rate of tax on employee representatives under the Railroad Retirement Tax Act) is amended by striking out all that appears therein and inserting in lieu thereof the following:

"(a) In addition to other taxes there is hereby imposed on the income of each employee representative a tax equal to 9.5 percent plus the sum of the rates of tax imposed with respect to wages by sections 3101(a), 3101(b), 3111(a), 3111(b) of the Internal Revenue Code of 1954 of so much of the compensation paid to such employee representative for services rendered by him after September 30, 1973, as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973."

(d) Section 3221(a) of such Code (relating to the rate of tax on employers under the Railroad Retirement Tax Act) is amended by striking out "In addition to other taxes" and all that follows to "except that" and inserting in lieu thereof the following:

"In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 9.5 percent of so much of the compensation paid by such employer for services rendered to him after September 30, 1973, as is, with respect to any employee for any calendar month, not in excess of an amount equal to one-twelfth of the current maximum annual taxable 'wages' as defined in section 3121 of the Internal Revenue Code of 1954 for any month after September 30, 1973;".

(e) Section 3221(a) of such Code, as amended by section 102(d) of this Act, is further amended—

(1) by striking out "1965" wherever it appears in the first sentence thereof and inserting in lieu thereof "1973";

(2) by striking out "(i) \$450, or (ii)" wherever it appears in the first sentence thereof; and

(3) by striking out "whichever is greater," wherever it appears in the first sentence thereof.

(f) Section 3221(b) of such Code is amended by striking out all that appears therein and inserting in lieu thereof the following:

"(b) The rate of tax imposed by subsection (a) shall be increased, with respect to compensation paid for services rendered after September 30, 1973, by the rate of tax imposed with respect to wages by section 3111(a) of the Internal Revenue Code of 1954 plus the rate imposed by section 3111(b) of such Code."

SEC. 103. (a) Section 6 of Public Law 91-377, as amended by section 8(c) of Public Law 92-46, is further amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

(b) Section 8(b) of Public Law 92-46 is amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

(c) Section 5(b) of Public Law 92-460 is amended by striking out "June 30, 1973" each time that date appears and inserting in lieu thereof "December 31, 1974".

SEC. 104. (a) Section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(6) If title II of the Social Security Act is amended to provide an increase in benefits payable thereunder at any time during the period July 1, 1973, through December 31, 1974, the individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased in an amount equal to the difference between (i) the amount (before any reduction on account of age) which would be payable to such individual under the then current law if his or her annuity were computed under the first proviso of section 3(e) of this Act, without regard to the words 'plus 10 per centum of such amount' contained therein; and (ii) the amount (before any reduction on account of age) which would have been payable to such individual under the law as in effect prior to July 1, 1973, if his or her annuity had been computed under such first proviso of section 3(e) of this Act, without regard to the words 'plus 10 per centum of such total amount' contained therein (assuming for this purpose that the eligibility conditions and the proportions of the primary insurance amounts payable under the then current Social Security Act had been in effect prior to July 1, 1973): Provided, however, That, in computing such amount, only the social security benefits which would have been payable to the individual whose annuity is being computed under this Act shall be taken into account: Provided further, That if an annuity accrues to an individual for a part of a month the added amount payable for such part of a month under this section shall be one-thirtieth of the added amount payable under this section for an entire month, multiplied by the number of days in such part of a month. If wages or compensation prior to 1951 are used in making any computation required by this paragraph, the Railroad Retirement Board shall have the authority to approximate the primary insurance amount to be utilized in making such computation. In making any computation required by this paragraph, any benefit to which an individual may be entitled under title II of the Social Security Act

shall be disregarded. For purposes of this paragraph, individuals entitled to an annuity under section 2(a) (2) of this Act shall be deemed to be age 65, and individuals entitled to an annuity under section 2(a) (3) of this Act who have not attained age 62 shall be deemed to be age 62. Individuals entitled to annuities under section 2(a) (4) or 2(a) (5) of this Act for whom no disability freeze has been granted shall be treated in the same manner for purposes of this paragraph as individuals entitled to annuities under section 2(a) (4) or 2(a) (5) for whom a disability freeze has been granted. In the case of an individual who is entitled to an annuity under this Act but whose annuity is based on insufficient quarters of coverage to have a benefit computed, either actually or potentially, under the first proviso of section 3(e) of this Act, the average monthly wage to be used in determining the amount to be added to the annuity of such individual shall be equal to the average monthly compensation or the average monthly earnings, whichever is applicable, used to enter the table in section 3(a) (2) of such Act for purposes of computing other portions of such individual's annuity."

(b) Section 2(e) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out "section 3(a), (3), (4), or (5) of this Act" and inserting in lieu thereof "section 3(a), (3), (4), (5), or (6) of this Act";

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased in an amount determined by the method of computing increases set forth in subsection (a) (6) of section 3. The preceding sentence and the other provisions of this subsection shall not operate to increase the annuity of a spouse (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding three paragraphs."

(c) Section 2(i) of the Railroad Retirement Act of 1937 is amended by striking out "the last paragraph plus the two preceding paragraphs" and inserting in lieu thereof "the last paragraph plus the three preceding paragraphs".

(d) Section 5 of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new subsection:

"(q) A survivor's annuity computed under the preceding provisions of this section shall be increased in an amount determined by the method of computing increases set forth in subsection (a) (6) of section 3: Provided, however, That in computing such an amount for an individual entitled to an annuity under subsection 5(a) (2), the 90.75 per centum figure appearing in the third paragraph of section 3(e) of this Act shall be deemed to be 82.5 per centum."

SEC. 105. If title II of the Social Security Act is amended to provide an increase in benefits payable thereunder at any time during the period July 1, 1973, through December 31, 1974, the pension of each individual under section 6 of the Railroad Retirement Act of 1937 and

the annuity of each individual under the Railroad Retirement Act of 1935 shall be increased in an amount determined by the method of computing increases set forth in subsection (a) of section 104 of this Act, deeming for this purpose the average monthly earnings (in the case of a pension) or the average monthly compensation (in the case of an annuity under the Railroad Retirement Act of 1935) which would be used to compute the basic amount if the individual were to die to be the average monthly wage.

SEC. 106. All recertifications required by reason of the amendments made by sections 104 and 105 of this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 107. (a) For the purpose of preparing and submitting the report provided for in subsection (c), it shall be the duty and responsibility of representatives of employees to designate (within the thirty-day period commencing on the date of enactment of this Act) and notify the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce of the identity (by name and position) of the labor members, and of representatives of carriers to designate (within such thirty-day period) and notify such committees of the identity (by name and position) of the management members, who shall compose the group authorized to prepare in their behalf, the report provided for in subsection (c).

(b) The group so authorized to prepare the report provided for in subsection (c) shall—

(1) hold such meetings (which shall not be less often than once each month) as may be necessary to assure that such report will be submitted within the time provided, and contain the material prescribed, under subsection (c); and

(2) submit to such committees on September 1, 1973, November 1, 1973, and January 1, 1974, interim reports as to the progress being made toward completion of the report provided for in subsection (c); except that no such interim report shall be submitted after the submission of the report provided for in subsection (c).

(c) (1) Not later than April 1, 1974, representatives of employees and representatives of carriers, acting through the group designated by them pursuant to subsection (a), shall submit to such committees a report containing their joint recommendations for restructuring the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system, which recommendations shall take into account the specific recommendations of the Commission on Railroad Retirement.

(2) The joint recommendations contained in such report shall be specific and shall be presented in the form of a draft bill.

SEC. 108. The Congress hereby declares its intent to enact legislation in 1974, effective not later than January 1, 1975, which will assure the long-term actuarial soundness of the railroad retirement system.

SEC. 109. (a) The amendments made by section 101 of this Act shall become effective on July 1, 1974: Provided, however, That those amendments shall not apply to individuals whose annuities began to accrue prior to that date.

(b) The amendments made by section 102 of this Act shall become effective on October 1, 1973, and shall apply only with respect to com-

pensation paid for services rendered on or after that date: Provided, however, That such amendments shall not be applicable to any dock company, common carrier railroad, or railway labor organization described in section 1(a) of the Railroad Retirement Act of 1937, with respect to those of its employees covered as of October 1, 1973, by a private supplemental pension plan established through collective bargaining, where a moratorium in an agreement made on or before March 8, 1973, is applicable to changes in rates of pay contained in the current collective-bargaining agreement covering such employees, until the earlier of (1) the date as of which such moratorium expires, or (2) the date as of which such dock company, common carrier railroad, or railway labor organization agrees through collective bargaining to make the provisions of such amendments applicable.

(c) The amendments made by sections 103 and 104 of this Act shall be effective on the enactment date of this Act: Provided, however, That any increases in annuities or pensions resulting from the provisions of sections 104 and 105 of this Act shall be effective on the same date or dates as the benefit increases under title II of the Social Security Act which gave rise to such annuity or pension increases are effective.

SEC. 110. This title may be cited as the "Railroad Retirement Amendments of 1973".

TITLE II—INTERSTATE COMMERCE ACT AMENDMENTS

SEC. 201. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

"(4) (a) The Commission shall by rule, on or before August 1, 1973, establish requirements for petitions for adjustment of interstate rates of common carriers subject to this part based upon increases in expenses of such carriers resulting from any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such requirements, established pursuant to section 553 of title 5 of the United States Code (with time for comment limited so as to meet the required date for establishment and subject to future amendment or revocation), shall be designed to facilitate fair and expeditious action on any such petition as required in subparagraph (b) of this paragraph by disclosing such information as the amount needed in rate increases to offset such increases in expenses and the availability of means other than a rate increase by which the carrier might absorb or offset such increases in expenses.

"(b) Notwithstanding any other provision of law, the Commission shall, within thirty days of the filing of a verified petition in accordance with rules promulgated under subparagraph (a) of this paragraph, by any carrier or group of carriers subject to this part, permit the establishment of increases in the general level of the interstate rates of said carrier or carriers in an amount approximating that needed to offset increases in expenses theretofore experienced or demonstrably certain to occur commencing on or before the effective date of the increased rates, as a result of any increases in taxes under the Railroad

Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973. Such increases in rates may be made effective on not more than thirty nor less than ten days' notice to the public, notwithstanding any outstanding orders of the Commission. To the extent necessary to effectuate their establishment, rates so increased shall be relieved from the provisions of section 4 of this part and may be published in tariff supplements of the kind ordinarily authorized in general increase proceedings.

“(c) The Commission shall within sixty days from the date of establishment of interim rates under paragraph (4) (b) of this section commence hearings for the purpose of making the final rate determination. The Commission shall then proceed to make such final rate determination with the carrier having the burden of proof. In making such determination, the Commission may take into account all factors appropriate to ratemaking generally under part I of this Act and shall determine such final rates under the standards and limitations applicable to ratemaking generally under part I of this Act. If the increases in rates finally authorized by the Commission are less than the increases in rates initially made effective, the carrier or carriers shall, subject to such tariff provisions as the Commission shall deem sufficient, make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by the Commission, plus a reasonable rate of interest as determined by the Commission. Nothing contained in this paragraph shall limit or otherwise affect the authority of the Commission to authorize or to permit to become effective any increase in rates other than the increases herein specified.

“(d) (A) The State authority having jurisdiction over petitions for intrastate rate increases by any carrier or group of carriers subject to part I of this Act shall, within 60 days of the filing of a verified petition for such increases based upon increases in expenses of such carriers as a result of any increases in taxes under the Railroad Retirement Tax Act, as amended, occurring on or before January 1, 1975, or as a result of the enactment of the Railroad Retirement Amendments of 1973, act upon said petition. Such State authority may grant an interim rate increase or a final rate increase. If such State authority grants any interim rate increases, it shall thereafter investigate and determine the reasonableness of such increases and modify them to the extent required by applicable law. To the extent that any such interim increases are reduced as a result of the action of a State authority, the carrier or carriers shall make such refunds (in the amount by which the initially increased rate collected exceeds the finally authorized increased rate) as may be ordered by such State authority, plus a reasonable rate of interest as determined by the State authority.

“(B) If a State authority denies in toto such a petition filed with it by such carrier or group of carriers seeking relief regarding such intrastate rate increases or does not act finally on such petition within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to such intrastate rates, act upon such petition by applying the ratemaking criteria of subparagraph (4) (c) of this paragraph. If the Commission grants, in whole or in part, such petition by any

carrier or group of carriers, the increase authorized shall be considered as an interim rate increase as provided in subparagraph (A) above and shall be subject to final determination by the State authority in accordance with the procedures prescribed for interim intrastate rate increases as provided above, including the ordering of refunds by such State authority.

“(C) If a State authority denies in part such a petition filed with it by such carrier or group of carriers, within 60 days from the presentation thereof, the Commission shall, within 30 days of the filing of a verified petition by such carrier or group of carriers relating to the intrastate rates involved, act upon such petition by applying the criteria of section 13(4) of this part.

“(D) Nothing in subparagraph (A) or (B) shall be construed to abrogate the authority of the Commission under section 13(4) of this part and in the event a carrier or group of carriers subject to a refund requirement under subparagraph (A) or (B) files a petition under section 13(3), the refund requirement shall be stayed pending final order of the Commission under section 13(4) of this part.

“(e) Any increased freight rates authorized shall not exceed a reasonable level by types of traffic, commodities, or commodity groups and shall preserve existing market patterns and relationships and present port relationships by increase limitations within and between the major districts to the extent possible without authorizing unreasonable increases in any district.”

SEC. 202. This title may be cited as the “Railroad Rate Adjustment Act of 1973”.

TITLE III—SEPARABILITY

SEC. 301. If any provision of this Act or the application thereof to any person or circumstances should be held invalid, the remainder of such Act or the application of such provision to other persons or circumstances shall not be affected thereby.

And the Senate agree to the same.

Mr. HATHAWAY,

Mr. PELL,

Mr. NELSON,

Mr. HUGHES,

Mr. MONDALE,

Mr. SCHWEIKER,

Mr. TAFT,

Mr. BEALL,

Mr. LONG,

Mr. BENNETT,

Mr. MAGNUSON,

Mr. PASTORE,

Mr. HARTKE,

Mr. GRIFFIN,

Managers on the Part of the Senate.

Mr. STAGGERS,

Mr. JARMAN,

Mr. DINGELL,

Mr. HARVEY,

Mr. KUYKENDALL,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7200) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures pertaining to certain rate adjustments for carriers subject to part I of the Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text, and the House disagreed to the Senate amendment.

The committee of conference recommends that the House recede from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment.

The differences between the House bill, the Senate amendment thereto, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE RAILROAD RETIREMENT ACT, THE RAILROAD RETIREMENT TAX ACT, AND CERTAIN PUBLIC LAWS

Both the House bill and the Senate amendment provide for retirement at age 60 after 30 years' service for male railroad employees; provide for an extension to December 31, 1974, of the temporary railroad retirement benefit increases presently scheduled to expire July 1, 1973; provide for a pass-through of social security benefit increases which might be enacted in 1973 or 1974; provide for a shift in the liability for the payment of railroad retirement taxes from employees to employers to the extent that the taxes are imposed at a rate in excess of the rates prescribed in the Social Security Act; and for the establishment of a labor management committee to recommend a restructuring of the railroad retirement system to insure its actuarial soundness with recommendations to be submitted to the Congress in 1974.

The House bill and the Senate amendment also provide for expedited freight-rate making procedures applicable to interstate and intrastate rates, to cover the costs arising out of this legislation.

EARLY RETIREMENT; PERMANENT BENEFIT INCREASES;
ACTUARIAL DEFICIT

House bill

The House bill provided that men at the age of 60 can retire after 30 years of service without reduction in their annuities, effective only with respect to retirements occurring after June 30, 1974. The House bill also extended the temporary benefit increases presently due to expire June 30, 1973, through December 31, 1974.

Senate amendment

The Senate amendment, in part A of title I, provided that the early retirement eligibility feature would expire December 31, 1974. Part B of title I of the Senate amendment provided for making permanent the temporary benefit increases otherwise due to expire December 31, 1974, and was intended to provide for making permanent the early retirement features, along with providing for an increase in railroad retirement taxes of 7.5 percent with the liability for the taxes to be determined by the Congress in 1974.

Conference substitute

The conference agreement deletes the specific level of taxes contained in the Senate amendment, but provides a new section stating that the Congress declares its intent to enact legislation in 1974, to take effect on or before January 1, 1975, which will assure the long-term actuarial soundness of the railroad retirement system.

The conference agreement also makes permanent the liberalization of retirement eligibility for men at age 60 with 30 years of service, and leaves for the legislation to be enacted in 1974 the problem of making the temporary benefit increases permanent.

The conferees recognize that the actuarial solvency of the railroad retirement system is a serious matter, and expect to deal with it in 1974, along with the consideration of making these temporary increases permanent, as well as the overall restructuring of the Act.

The conferees wish to emphasize that the solution of the financial problems of the railroad retirement fund cannot be delayed beyond 1974. Accordingly the bill contains a statement that it is the intent of Congress to act on this matter during 1974, and further provides for the submission of the recommendations of labor and management for legislation by April 1, 1974. A joint labor-management committee is established for the purpose of formulating such recommendations.

JOINT LABOR-MANAGEMENT COMMITTEE

House bill

The House bill provided for the establishment of a joint labor-management committee composed of representatives of employees and carriers, which would report no later than July 1, 1974, to the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce, their joint recommendations for restructuring the railroad retirement system.

Senate amendment

The Senate amendment provided for such a committee, composed of representatives of employees and retirees and representatives of

carriers, which would meet not less often than once each month; would submit to Congress interim progress reports in September and November of 1973, and in January 1974; and which would present a draft bill to the Congress carrying out the parties' specific recommendations for restructuring the railroad retirement system in a manner which will assure the long-term actuarial soundness of the system. The final recommendations of the committee were to be submitted by March 1, 1974.

Conference substitute

The conference agreement is substantially the same as the Senate amendment, except that it provides that the committee shall be composed of representatives of employees and carriers, and provides for the submission of a report to the above-mentioned committees by April 1, 1974, in order to give Congress more time to deal with the complex issues involved. It is the intent of the conferees that the periodic progress reports need not cover all items of detail involved in the negotiations, but may be general statements, sufficient to keep the Congress informed of the progress being made.

TAX RATE CHANGES FOR RAILWAY LABOR ORGANIZATIONS

House bill

Both the House bill and the Senate amendment contained a provision temporarily exempting from the change in tax liabilities under the Railroad Retirement Tax Act certain steel companies whose employees were covered by the Railroad Retirement Act as well as other supplemental pension programs.

Senate amendment

The Senate amendment extended this exemption to railway labor organizations which have similar arrangements covering their employees. The affected organizations are permitted under the amendment to obtain a delay in the transfer of tax liabilities until the earlier of (1) the date as of which any moratorium in current collective bargaining agreements covering pay expires, or (2) the date the organization agrees through collective bargaining to assume the liability for payment of those taxes.

Conference substitute

The conference agreement is the same as the Senate amendment.

TITLE II—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

SECTION 201

House bill

The purpose of section 201 was to allow railroads to increase the general level of inter- and intrastate rates to offset increases in costs resulting from increases in taxes under the Railroad Retirement Act, as amended, occurring before January 1, 1975, or as a result of the enactment of the House bill. Under the procedure established to accomplish this purpose, the Commission was required, within thirty days after the filing of a verified petition by a carrier or group of carriers, to permit the filing of tariffs providing for increased rates

to become effective not less than 10 nor more than 30 days from the date of filing. (Such increases could not take effect until the cost increases upon which they were based had become effective.) The Commission could withhold permission to file tariffs if it found that the proposed increase clearly exceeded the amount needed to cover the increases in costs, but otherwise once the tariffs were filed the Commission would have no authority to suspend them pending final determination. After such hearings as it deemed necessary, the Commission was required to authorize such permanent increases as were necessary to offset the increased costs described above in accordance with the standards applied by the Commission under the Interstate Commerce Act. In the event that the increases authorized on a permanent basis were less than those initially allowed and collected, the carriers were required to refund the difference.

SECTION 202

This section provided that the Commission require carriers which have been permitted or authorized increased rates under section 201, above, to make such increases as are established for interstate traffic concurrently effective on intrastate shipments. The intrastate increases thus required would be deemed to have been prescribed under section 13(4) of the Interstate Commerce Act, as amended, and they would be subject to the same refund provisions as described above.

Senate amendment

Section 201 of the Senate amendment would amend the Interstate Commerce Act to provide for an expedited procedure for petitions requesting adjustments of interstate rates of common carriers (subject to part I of the Interstate Commerce Act) based upon increases in expenses of such carriers pursuant to section 102 of the bill—i.e. railroad retirement tax increases. On or before August 1, 1973 the Commission was required to establish in an informal rulemaking proceeding requirements for such rate increase petitions which would "facilitate fair and expeditious action on any such petition . . . by disclosing such information as the amount needed in rate increases to offset such increases in expenses and the availability of means other than a rate increase by which the carrier might absorb or offset such increases in expenses." In order to meet the August 1 deadline, the Commission could modify its rulemaking procedures to require comments sooner than 30 days after publication of the proposed requirements.

The Commission was required to act upon a petition for an adjustment in interstate rates within sixty days of the receipt of such petition. If the petition was filed in accordance with the requirements established pursuant to rule as discussed above, the petition would be deemed approved as filed if the Commission failed to act within the required sixty days. This provision was included to insure timely action by the Commission within the sixty-day period.

Increases for intrastate rate adjustments would first be considered by the State authority having jurisdiction over such intrastate rates. The State authority was required to act upon such petition within sixty days of its presentation by the carrier. If the State authority denied in whole or in part a petition or failed to take action, the Commission,

upon petition to it by the carrier, was required to act upon such petition within thirty days. The Commission could overrule a denied petition if such denial unduly burdened interstate commerce.

The bill specifically required that any increased freight rates authorized "shall not exceed a reasonable level by types of traffic, commodities, or commodities groups and shall preserve existing market patterns and relationships and present port relationships by uniform maximum increase limitations within and between the major districts."

Conference substitute

The conference substitute in general incorporates the provisions of the House bill with respect to increases in interstate freight rates related to increases in railroad retirement taxes, but requires the Interstate Commerce Commission to prescribe by rule the requirements which must be satisfied in the petitions filed by carriers for increases. The substitute revises the procedures with respect to intrastate rate-making, and makes certain clarifications with respect to the implementation of rate increases so as to avoid discrimination between commodities and districts. A description of the conference substitute follows.

The conference substitute adds a new paragraph (4) to section 15(a) of the Interstate Commerce Act. Subparagraph (a) of the proposed new paragraph (4) provides that the Commission shall, by informal rule-making under the Administrative Procedure Act establish the requirements for petitions for adjustments of rates of common carriers subject to part I of the Interstate Commerce Act occasioned by the tax increases prescribed in this legislation, in existing law, or imposed by law on or before January 1, 1975. The requirements which the petitions must meet shall be such as to lead to the disclosure of the availability of means other than a rate increase by which carriers might absorb or offset the increases.

Subparagraphs (b) and (c) of the proposed new paragraph (4) are essentially the same as the provisions of the House bill, but are limited to interstate freight rate increases, and the carriers are required to pay interest on refunds ordered by the Commission.

Subparagraph (d) differs from both the House and Senate versions, but in general follows the pattern of the Senate amendment, with some revisions. In the case of intrastate rate increases to offset expenses arising out of the taxes referred to above, the carriers must initially apply to the appropriate State authority. If the State authority grants the full amount of the requested increase within 60 days, the Commission does not become involved in the proceeding. If the State authority chooses, it may grant an interim rate increase in the full amount requested, and subsequently order refunds in the same fashion as the Interstate Commerce Commission may order refunds in the case of interstate rates.

If the State authority does not act on the petition within 60 days, or if the State authority denies the increase entirely, the carriers may petition the Interstate Commerce Commission for an order granting such increases, and the Commission must act upon that petition within 30 days, applying the criteria it applies to final determinations of interstate rate increases under the conference substitute. Thereafter, the State authority may consider the justification for the rate increases

granted, and may order refunds if it subsequently determines that the rate increases are not justified, subject however to the overall authority of the Interstate Commerce Commission to grant relief against undue discrimination against, or burdens upon, interstate commerce in accordance with section 13(4) of the Interstate Commerce Act.

If the State authority to whom a petition for intrastate rate increases is submitted under this section grants an increase within the 60 day period prescribed but in amounts less than requested by the carriers, the carriers may petition the Interstate Commerce Commission for relief under section 13(4) (relating to undue discrimination against, or burdens upon, interstate commerce) of the Interstate Commerce Act, and the Commission is required to act on that petition within 30 days.

Subparagraph (e) is derived from the Senate amendment and provides that any increased freight rates authorized are not to exceed a reasonable level by types of traffic, commodities, or commodity groups and are to preserve existing market patterns and relationships and present port relationships through the use of increase limitations within and between the major districts to the extent possible, but not in such a way as to authorize unreasonable increases in any district.

MR. HATHAWAY,
MR. PELL,
MR. NELSON,
MR. HUGHES,
MR. MONDALE,
MR. SCHWEIKER,
MR. TAFT,
MR. BEALL,
MR. LONG,
MR. BENNETT,
MR. MAGNUSON,
MR. PASTORE,
MR. HARTEKE,
MR. GRIFFIN,

Managers on the Part of the Senate.

MR. STAGGERS,
MR. JARMAN,
MR. DINGELL,
MR. HARVEY,
MR. KUYKENDALL,

Managers on the Part of the House.