

wise 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 legislation. All of these suggestions are now embodied in S. 752, as passed by the United States 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 THE ARMY,
Washington, D.C., 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.