

Administratively
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THE WHITE HOUSE
WASHINGTON

August 12, 1965

MEMORANDUM FOR Honorable Alan Boyd
Under Secretary of Commerce
for Transportation
Department of Commerce

In accordance with our discussion Friday morning, August 6, 1965, this memorandum establishes a Task Force on Transportation for the Fiscal Year 1966 legislative program. To be chaired by you, the Task Force will include representatives from the Commerce and Treasury Departments, the Council of Economic Advisers, the Office of Science and Technology, the Housing and Home Finance Agency, and the Bureau of the Budget. I suggest that you discuss with heads of these agencies the individuals to represent them on the Task Force.

This special Task Force effort reflects our deep concern with many problems in the transportation field. In view of these problems it is our earnest desire to develop a vigorous and imaginative program for consideration by the Second Session of the 89th Congress.

Pursuant to the understanding reached at the meeting, the Task Force should not consider matters relating to the commercial supersonic transport program or the Maritime Program.

We would like you to conduct staff studies of the ideas and proposals listed below. The end product with respect to each should be a paper which contains the following information:

1. A statement of the idea, proposal and/or problem to be resolved.
2. What the Federal government is currently doing in the area of the proposal, including a description (with costs) of the present programs, the people whom those programs reach, and the needs these programs fulfill and fail to fulfill.

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3. The objective of the proposal and the reason why the proposal is the most desirable way to accomplish that objective, with a statement of its advantages and disadvantages and the costs of implementation.

4. Other alternative means of meeting the objective which were considered and the reasons why those alternatives were rejected.

The following proposals should be staffed out in the manner indicated above. It should be clearly understood that these are merely proposals resulting from our meeting and no decisions with respect to any of them have been made. Furthermore, the list is not at all inclusive and you should add any other proposal that you believe is worthy of consideration to assist in solving pressing transportation problems.

1. Develop proposals for the expansion of federally supported research in the general area of transportation, to include, for example, a system of selective grants to research centers in universities. The proposals should specify what areas of research can most profitably be pursued, the estimated dollar amounts, whether new legislation would be required, or whether the program could be accomplished under existing legislation but with budgetary increases.

2. Develop alternative reorganization plans to improve the efficiency of Government transportation functions. List the pros and cons of each. (For example, should there be a new Department of Transportation, an Interagency Committee on Regulatory Policies, a Transportation Investment Review Board, a Transportation Court of Appeals or a single transportation regulatory body, or restructuring of the ICC to reduce membership from 11 to 5 and make the Chairman a Presidential appointee.) In this connection, inventory existing transportation programs of the Federal Government indicating what these programs are, major expenditure categories, who administers the programs, and the problems they are designed to overcome.

3. Develop a major proposal to deal with the problem of highway safety. This should include a stepped-up effort to eliminate high accident locations, to achieve better traffic control, to improve traffic flow and reduce congestion. (Various proposals have been under consideration this year. If they are not enacted, the opportunity to develop a comprehensive highway safety program for presentation next year should be given serious consideration.)

4. Develop a major new motor vehicle safety program through such means as federally supported aid for driver training and education and, in particular, research into vehicular design. Some thought might be given to minimum federal standards for driving licenses.

5. Develop proposals aimed at the comprehensive, systematic collection and analysis of statistics on motor vehicle and highway safety.

6. Develop proposals for a highway beautification program for the next session, designed to focus on the junkyard and billboard problems. (The work on junkyards should be coordinated with the Air & Water Pollution Task Force headed by Gardner Ackley.)

7. Consider and make recommendations for legislation to obtain additional revenues needed to finance Federal-aid highways, including differential charges to reduce traffic peaking in congested urban areas.

8. Address the user charge question, particularly as it relates to the Federal airways and inland waterways, considering the relationship of these charges to the cost of the facilities and the benefits to various classes of users.

9. Develop proposals designed to improve the coordination of Federal programs assisting urban mass transportation, to include

methods of evaluating alternative systems and tests of their conformance to over-all community development plans and programs. Explore means of coordinating the distribution of goods with passenger transport services in urban areas.

10. Develop alternative proposals to achieve greater flexibility in the regulation of transport rates, routes, operating authorities, entry and exit (abandonment of lines and discontinuance of service), and mergers. Consider the economic impact of proposed changes on both carriers and shippers.

Where appropriate, you should add other agency representatives to work on specific proposals. The papers on each of the items mentioned above, as well as any other items, ideas, or proposals you may have should be submitted to me in 10 copies by September 1, 1965, with a copy to the Director of the Budget. Lee White, Special Counsel to the President, will be the White House representative on the Task Force.

- Relationship of labor policy to transportation policy
Joseph A. Califano, Jr.
Special Assistant to the President
- Anti-trust policies

cc: Mr. Connor
Mr. Surrey
Mr. Weaver
Mr. Schultze
Dr. Ackley
Dr. Hornig
Mr. White

T9-10 ✓
4

12/24/65

December 24, 1965

MEMORANDUM FOR

Honorable Joseph A. Califano, Jr.
Special Assistant to the President

Attached are the redrafts that you requested
on transport organization, regulation, and
highway safety.

(signed) Charles J. Zwick

Charles J. Zwick

Attachments

CJZWICK:fp 12/24/65

cc: Dir. Records
Dir. Chron.
Zwick ✓
Broadbent/Pfleger
Murray/Boehner

12/24/65

AN EFFECTIVE HIGHWAY SAFETY PROGRAM

The Problem of Highway Accidents

The high and rising toll of death and injuries on the Nation's highways has become intolerable. In 1965 highway accidents have:

- Claimed nearly 50 thousand lives.
- Brought injury to 3 million persons.
- Caused property damage approximately \$11 billion.

The efforts of Federal, State, local and private agencies to halt this carnage are uncoordinated, shockingly underfinanced in relation to the value of life and property placed in jeopardy, and therefore largely ineffectual. Even within the Federal Government there is no clearly established center of responsibility and leadership to direct a concerted attack on the problem.

Specific Program Proposals

A. The Department of Commerce would:

- Initiate collection and analysis of comprehensive accident data. Gross ignorance of the nature and causes of highway accidents prevails.
- Undertake an intensive campaign of on-the-spot accident investigations.
- Work with Public Health to intensify testing of improved emergency medical services in the field.
- Convene a conference of experts, including doctors, psychologists, safety engineers, systems analysts and others to outline a long-term approach to the problem.

B. The Department of Commerce would identify promising ideas for further investigation and development. These would include:

- Improvement of driver training, licensing and control.
- Improvement of State vehicle inspection.
- Improvement of police enforcement of safety laws and regulations.
- Intensification of research on communications and traffic control systems.
- Advanced safety standards for vehicle and accessory design.
- Preparation of plans for a Federal Research Facility and program to evaluate the above ideas and generate new ones for study and testing.

The controlling objective would be a continuing systematic evaluation of all safety activities and a flexible use of resources to assure maximum payoff.

C. Increased attention would be given to safety features in the design of additions to the highway system and also to "spot improvements" on existing roads.

D. The Federal Government would encourage a long-range program of education to change the attitudes of the public at large toward destruction of life and property on the highways, and to instill in drivers a greater sense of responsibility for their own and other's safety.

Financing

The suggested first year program (including the planning of research facilities), would require \$14 million in

addition to funds already provided in the 1967 budget (\$11 million). The trust fund should also finance an expanded safety construction program. This is obviously of greater potential benefit than the existing secondary roads program, and an initial diversion of \$50 million of secondary roads funds is recommended. Thus, no new money would be required for the construction program.

Federal Reorganization for Effective Action

Federal policy direction over highway safety programs should be strengthened by:

- Issuing an Executive Order to (1) give the Secretary of Commerce major responsibility for Federal leadership; (2) reconstitute the President's Committee for Traffic Safety as a Public advisory committee reporting to the Secretary of Commerce; (3) clarify the role of Interdepartmental Highway Safety Board; and (4) give the Federal safety Counsel increased responsibility for coordination of internal Federal highway safety programs.
- Creating necessary central support staff under the Office of the Under Secretary of Commerce for Transportation in a new Highway Safety Services Administration. The Secretary of Commerce can do this by administrative action.

12/24/65

A MODERN TRANSPORT REGULATORY POLICY

The Problem

Our transportation regulatory policy was largely formulated in the nineteenth century and is to a great extent irrelevant in today's economic and technological environment. This mismatch produces a number of unfortunate consequences.

- Pervasive Government activities obstruct prompt management reaction to changing competitive conditions.
- Travellers and shippers pay excessive costs and receive inferior services because of lagging technology and redundant capacity.
- Some of the sporadic financial difficulties that carriers find themselves in are a consequence of this situation.

Redirection of regulation is key to more efficient and economical transport services. A modern set of transportation regulations would generate a number of benefits. These would include:

- Transportation services responsive to the needs of users.
- Reasonable profits to all branches of the industry.
- Efficient use of resources which would make a major contribution to the country's continued economic growth.

Two basic principles should guide any program of regulatory improvement.

- The objective should be a modern and efficient transport industry.
- Procedures should be simple and flexible -- the absolute minimum required to protect the public interest.

Specific Proposals

National transportation policy needs to be restated. The policy statements in all basic transport regulatory legislation should be revised to give effect to the above principles with a view to:

- Encouraging market-oriented, individual business initiative.
- Improving the quality of transport services available to users.
- Facilitating technological advancement.

Rates. The rules of rate making should be amended to require that costs be used as the primary determinant of the reasonableness of rates. In terms of generally accepted economic theory, the cost principle is unassailable. Such a policy would:

- Make cost-established rates a yardstick of the need for similar rate adjustments in other areas.
- Establish joint boards to set through routes and joint rates.
- Repeal the requirement of the Interstate Commerce Act that rates be based on classification of property. The current rule is a primary impediment to the modernization and improvement of the transportation system.

There are, however, several problems associated with this policy.

- There are unresolved statistical and accounting questions which make the rigorous implementation of the policy difficult.
- There are uncertainties regarding the effects on various industries and regions, e.g. the long-haul, short-haul problem, and questions of internal subsidization of low-traffic by high traffic points.

The Interstate Commerce Act should be amended to require rail and motor carriers to accept shipper-owned or -leased equipment at cost-based rates. This would:

- Reduce capital requirements of the carriers.
- Encourage the acquisition of specialized equipment by users.
- Help solve the perennial "car shortage" problem.
- Simplify pricing of services.

The Interstate Commerce and Federal Aviation Acts should be amended to limit rate suspension by the regulatory bodies to 60 days (currently 7 months, Interstate Commerce Act; 90 days, Federal Aviation Act). Both carriers and shippers would benefit from expedited procedures.

Regulatory Acts should be amended to prohibit mixing rules which limit the effective use of piggyback and other containers. Present regulations retard the introduction of new technology and deter the application of cost-based rates.

The Federal Aviation Act should be amended to authorize the Civil Aeronautics Board to regulate the rates of U.S.

and foreign air carriers in international air transport. This measure runs contrary to the general thrust of the regulatory reforms proposed in this memorandum. It is justified, however, in terms of giving CAB powers equivalent to those exercised by all other air carrier nations.

Control of Operating Rights. The Interstate Commerce Act should be amended to make performance the primary test of qualification of motor carriers for additional operating rights. This should help to break down artificial restrictions on routing, commodities carried, direction of movement and territory served with a consequent reduction of the "back haul" problem, and an enhancement of efficiency and service.

Abandonment. The Interstate Commerce Act should be amended to allow railroad abandonments to be effective automatically in the absence of intervention by the Interstate Commerce Commission. Shift the burden of proof to protestants. This would assist the railroads to shrink redundant capacity, make capital available for needed system improvements. This measure would parallel the successful revision of rail service discontinuance rules established in 1958.

Extend Agricultural Exemptions. The Interstate Commerce Act should be amended to authorize the Interstate Commerce Commission to add commodities to the existing list of exempt Agricultural Commodities. This proposal would apply only to motor carriers.

Extend Exemptions for Water Carriers. The Interstate Commerce Act should be amended to make all dry bulk commodities exempt from regulation. This involves repealing the "rule of three" and the present definition which limits commodities to those listed as of June 1, 1939.

Continuing Analysis. The Department of Commerce, through the Office of the Under Secretary for Transportation, will continue its analysis of the regulatory system to identify additional legislative and administrative actions that can be taken to move toward a market-directed transportation system. To assist in this effort, the Office of the Under Secretary has recently expanded its policy-oriented research program.

12/24/65

A PROPOSED DEPARTMENT OF TRANSPORTATION

The Problem

The United States Government does not have a rational organization for dealing with transportation problems. Fragmented responsibility makes it virtually impossible to have effective leadership or control within the executive branch of capital investment, operations, subsidy, research and development or safety in the field of transportation.

Present Organization

Present transportation responsibilities are widely diffused. For example:

- The Under Secretary of Commerce for Transportation was established in 1949, as a substitute for a Department of Transportation.
- In 1958, the Civil Aeronautics Board (now Federal Aviation Agency) was removed from Commerce.
- Recently, Federal programs to aid mass transit were placed in the HHFA.
- The Civil Aeronautics Board is responsible for local service airline subsidy and has major safety responsibilities.
- The Corps of Engineers through its rivers and harbors projects has an important transportation impact.
- There is no effective mechanism for coordinating executive branch policy with the responsibilities of the independent regulatory agencies.

Benefits of a new Department of Transportation

A Department of Transportation would provide an effective means of formulating and implementing comprehensive, integrated national transportation policy. It would provide a focal point of responsibilities, at Cabinet level, for assuring that the U. S. has a national transportation system adequate to our peacetime and emergency needs and for making full use of modern technology.

Creation of a Department of Transportation was recommended by the Task Force of the Hoover Commission in 1949, and the Presidential Task Forces on Transportation and on Government Reorganization in 1954.

Agencies to be included in a Department of Transportation

A Department of Transportation should include:

- All of the transportation activities of the Department of Commerce
- The Federal Aviation Agency
- The mass transportation activities of HUD
- The safety functions of the ICC
- The safety and subsidy functions of the CAB
- The Coast Guard
- Veto power over waterways improvement projects of the Corps of Engineers

A proposal such as this for a reorganization of transportation will be controversial, and can be expected to encounter opposition from some transportation interests - especially aviation, from some members of Congress, and from the agencies which would lose functions or independent status.

Recommendation:

It is recommended that you propose to the Congress legislation for a Department of Transportation. As a preliminary step decisions will have to be made on the agencies to be included, followed by drafting of legislation.

Presidential appointment of the ICC Chairman

Even with the creation of a Department of Transportation there will be difficulty in insuring harmony between Presidential policies and the independent regulatory commissions. This is particularly true in the case of the Interstate Commerce Commission which chooses its chairman annually from among its members. The Chairman has no statutory authority over the administration of the agency. Provision of a Presidentially appointed "strong" chairman for the ICC would (1) provide an improved channel of communication between the President and the Commission, enabling the President to obtain a sympathetic hearing for broader considerations of national policy, and (2) improve internal administration by providing for a single executive.

Recommendation:

It is recommended that you approve a reorganization plan which would provide for Presidential designation of the Chairman of the ICC and invest him with administrative authority over the work of the Commission.

FOR OFFICIAL USE ONLY

Commerce Draft
January 21, 1966

A.L. Deen ✓
AD-1

A BILL

To establish a Department of Transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Transportation Act."

DECLARATION OF PURPOSE

Sec. 2. The Congress hereby declares that the general welfare, economic stability and growth, and security of the Nation require, as a matter of national purpose, the development and implementation, within the Executive Branch of the Government, of sound overall transportation policy and programing.

To carry out such purposes, and in recognition of the vital importance of transportation in our national life, the Congress finds that the establishment of an executive department is desirable and necessary in the public interest to achieve the best administration and coordination of the principal programs of the Federal Government in the field of transportation; to promote safe, effective, economical, efficient, and integrated transportation systems to assist in the growth and development of the domestic and international commerce of the United States; to encourage the development and improvement of transportation through the cooperation of Federal, State and local governments, private industry, labor, and other interested parties; to encourage technological advances in and among all modes of transportation and types of transportation services and facilities in a framework conducive to government, management, and labor cooperation; to provide leadership in transportation matters; and to provide for full

and appropriate consideration, at the national level, of the needs and interests of the transportation industry of the Nation and of the people who are associated with it and who use its services.

comment: Self explanatory.

ESTABLISHMENT OF DEPARTMENT

Sec. 3. (a) There is hereby established at the seat of government an executive department to be known as the Department of Transportation (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary. The Secretary shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments.

(b) The Secretary shall, among his responsibilities, advise the President with respect to Federal programs and activities relating to transportation; develop and recommend to the President policies for fostering the coordination, development, and growth of safe, effective, economical, efficient, and integrated overall transportation systems; exercise leadership under the direction of the President in transportation matters, including transportation matters affecting the national defense and in times of national or regional emergency; cooperate with and promote cooperation among Federal, State, and local governments, private industry, labor, and other interested parties in the development of overall transportation systems; promote and undertake development, collection, and dissemination of

technological, statistical and economic information necessary to strengthen transportation and to aid in the improvement of national, international, State and local transportation; promote and undertake research and development in and among all modes of transportation and types of transportation services and facilities.

Comment: Self explanatory.

(c) In order to assist the Secretary in carrying out his functions, powers, and duties relating to safety, the Secretary is authorized to appoint a National Transportation Safety Board, whose members shall serve for 6 years. The Board shall be independent from the operating units of the Department, shall have the responsibility ^{for} ~~of~~ conducting accident investigations, ^{or providing for the conduct of} of determining ^{of causes for the determination of} probable cause in such investigations and of making reports thereon. ¹⁹⁶⁰ ~~to present~~ ^{to present} ~~the~~ ^{the} ~~NTSB shall~~ ^{NTSB shall} be able to ~~to~~ ^{to} ~~offer~~ ^{offer} ~~employment~~ ^{employment} in the Department.

Comment: Details subject to further consideration.

(d) All departments and agencies of the Executive Branch shall consult and cooperate with the Secretary on all matters within their jurisdiction affecting transportation, including matters involving investment in transportation facilities and equipment.

Comment: There is some question of whether, as a legal matter, the words "Executive Branch" includes regulatory agencies. If it does, specific language excluding regulatory agencies would be desirable.

Respectfully,
E. J. Br.

The President may by Executive Order
[for a period of one year after passage
of this Act] transfer to the Secretary
any function ^{which he determines to be} primarily related to transportation,
but excluding the economic regulatory functions
of the ICC, CAB & FHB.

UNDER SECRETARY AND OTHER OFFICERS AND OFFICES

Sec. 4. There shall be in the Department an Under Secretary,
[an Under Secretary for Policy Development and Program Coordination,] U.S. /
five Assistant Secretaries, and a General Counsel, who shall be
appointed by the President, by and with the advice and consent of the
Senate, and who shall receive compensation at the rate now or hereafter
generally provided by law for under secretaries, assistant secretaries,
and general counsels, respectively, of executive departments, and who
shall perform such functions, powers, and duties as the Secretary shall
prescribe from time to time.

Comment: This provision gives the Secretary broad discretion in
organizing the new department. At the moment, both a functional and
modal organization are under consideration. No final decision has been
reached.

*
Asst Sec for Administration should be provided for

SEC p.12 { The Secretary may also appoint not to exceed
six officers at least V (or V) of the E & P Act on
basis then to sub delay in to using defense

The Secretary may also, without regard to the
classification but at 1949 is needed compensation and
to exceed — officers employed at the Dept
of Defense who are not to represent those provided for
Sec 14 of the Armed Services Act of 1946 (48 Stat. 1061)

TRANSFERS TO DEPARTMENT

Sec. 5. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under title 23, United States Code, relating to highways; the Act of July 14, 1960 (74 Stat. 526), relating to the National Driver Register Service; the Act of April 27, 1962 (76 Stat. 59), relating to the annual audit of bridge commissions; the Act of September 30, 1965, relating to high-speed ground transportation (79 Stat. 893); the Act of September 7, 1957, relating to guarantee of loans for purchase of aircraft and aircraft equipment (71 Stat. 629); title XIII, War Risk Insurance, of the Federal Aviation Act of 1958 (72 Stat. 800); the Great Lakes Pilotage Act of 1960 (74 Stat. 259); the Merchant Marine Act, 1920 (41 Stat. 938); the Merchant Marine Act, 1928 (45 Stat. 689); the Merchant Marine Act, 1936 (49 Stat. 1935); the Shipping Act, 1916 (39 Stat. 723); the Merchant Ship Sales Act of 1946 (60 Stat. 41); the Maritime Academy Act of 1953 (72 Stat. 622); the Act of July 24, 1956 (70 Stat. 605), relating to the grant of medals and decorations for service in the United States Merchant Marine; the Act of August 9, 1954 (68 Stat. 675), relating to emergency foreign merchant vessel acquisition and operation; Reorganization Plan No. 21 of 1950 (64 Stat. 1273); and Reorganization Plan No. 7 of 1961 (75 Stat. 840).

Comment: Transfers all functions carried on by OUST, MarAd, and Bureau of Public Roads.

(How about Fed Highway Admin.?)

(b) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Treasury, and of other officers and offices of the Department of the Treasury under title 14, United States Code, relating to the Coast Guard.

Comment: The issue of whether the Coast Guard would be included is subject to further consideration.

*Excluded
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(c) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the head and other officers and offices thereof.

Comment: Transfers all functions of the FAA. That agency would lapse under section 9(c). Functions of the FAA include control of airspace and facilities, airport construction aid, issuance of certificates for airmen, certain air safety functions (i.e., air navigation, air traffic rules) and safety certification of aircraft.

(d) Transfer from Department of Housing and Urban Development. No draft language is submitted at this time on mass transit. Language is being prepared which would generally reflect the following:

[Transfer the present authority of the Secretary of Commerce (administered through the Bureau of Public Roads) to approve comprehensive transportation planning processes in urban areas of more than 50,000 population to the Secretary of Housing and Urban Development, and retain in HUD its similar authority relating to mass transportation grants. This

would mean that no grants in aid for either highways or mass transportation by the Department of Transportation could be made unless a metropolitan area of more than 50,000 population had a comprehensive planning process meeting the standards of the Secretary of HUD. All other mass transit research and development, and grant in aid authority of HUD relating to mass transit would be transferred to the new Department of Transportation.

(c) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, Members, officers and offices thereof under titles VI (72 Stat. 775) and VII (72 Stat. 781) of the Federal Aviation Act of 1958.

(f) Section 406(a) of the Federal Aviation Act of 1958, as amended, (72 Stat. 763) is amended by striking "Postmaster General" and inserting in lieu thereof "Postmaster General, Secretary of Transportation".

Comment: Permits Secretary to reopen CAB rate determinations in order to provide policy control over subsidy to local service airlines. Relates to transfer of policy control over subsidy.

Subsidy (g) Section 406(b) of the Federal Aviation Act of 1958, as amended, (72 Stat. 763) is amended by inserting after "and (3)" the following:

"subject to such policies, principles, criteria, standards, ^{of 1958 and 1960} ~~rules~~, or ^{at large} regulations] ^{CAB shall "by} as the Secretary of Transportation shall prescribe," ^{into account"}

Comment: Makes CAB subsidy payment (to local service airlines) function subject to policy control of the new Secretary. Details subject to further consideration.

(h) There are transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission and of the Chairman, Members, and other officers and offices thereof, to the extent that they relate primarily to railroad, motor carrier, and pipeline safety, railroad car service, and locomotive inspection.

Comment: Details subject to further consideration.

Material on this page deleted.

RELATED AMENDMENTS TO OTHER LAWS

Sec. 6. (a) The first section of the Act of August 1, 1947, (61 Stat. 715) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary of Transportation is authorized to establish and fix the compensation for not more than _____ scientific or professional positions in the Department of Transportation, each such position being established to effectuate those research and development functions of such department which require the services of specially qualified personnel."

Comment: This provision is similar to authority now in the Department of Commerce and other agencies and departments. Commerce has 30 such positions. *FAA has 20. How about Ex level & special positions.*

(b) Section 410 of the Federal Aviation Act of 1958, as amended, (72 Stat. 769) is hereby repealed.

Comment: Repeals CAB authority to disapprove Government loans to airlines and repeals Secretary of Commerce responsibility to consult with CAB on aircraft loan guarantees. Commerce loan guarantee function is transferred under section 5(a). The CAB loan authority is an executive type function.

(c) Section 19(d)(1) of title 3, United States Code, is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Transportation."

Comment: Adds new Secretary at end of list of cabinet officers in line of succession to Presidency.

(d) Section 158 of the Revised Statutes (5 U.S.C. 1) is amended by adding at the end thereof:

"Twelfth. The Department of Transportation."

Comment: Adds new department to list of executive departments.

(e) The amendment made by subsection (d) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

Comment: This is a technical provision, assuring that section 6(d) of this Act, which makes applicable certain general provisions of law relating to the filling of vacancies, duties of clerks and the like, will not be effective where inconsistent with the Act. An identical provision is in HUD Act.

ADMINISTRATIVE PROVISIONS

Sec. 7. (a) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations allocations, and other funds employed, held, used, arising from,

available or to be made available, of the Federal Aviation Agency, and of the head and other officers and offices thereof, are hereby transferred to the Secretary.

Comment: Self-Explanatory

(b) So much of the personnel, assets, liability, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by section 5 of this Act as the Director of the Bureau of the Budget shall determine shall be transferred to the Secretary.

Comment: Self Explanatory

(c) The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as shall be necessary to carry out the provisions of this Act and to prescribe their authority and duties. Any other provision of law to the contrary notwithstanding, the Secretary may establish and fix the compensation for not more than _____ positions in the Department at the annual rate which may now or hereafter be provided for positions in level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964 (78 Stat. 415).

How about specials of not to exceed GS-18

Comment: The first sentence of this provision is standard authority to appoint civil service employees. The second sentence is modeled after the HUD Act. Level V salary is \$26,000 per annum. Commerce has authority to appoint 10 specific officials, but does not have this general authority.

(d) The Secretary may delegate any of his functions, powers, and duties, to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

Comment: Self Explanatory

(e) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810), but at rates not to exceed \$100 per diem for individuals unless otherwise specified in an appropriation act.

Comment: Permits Secretary to hire consultants and experts. Similar to HUD Act.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative

services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stocks of supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

Comment: Sections 7(E) and (g) are self-explanatory. They are taken from the HUD Act.

ANNUAL REPORT

Sec. 8. The Secretary shall, as soon as practicable after the end of each calendar year, make a report in writing to the President for submission⁷ to the Congress on the activities of the Department during the preceding calendar year.

Comment: Some departments report directly to Congress. Others report to Congress through the President.

SAVINGS PROVISIONS

Sec. 9. (a) No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer of any such department or agency in his official capacity, shall abate by reason of the enactment of this Act. Such causes of action may be asserted by or against the United States or such official of the Department as may be appropriate.

Comment: Self explanatory.

(b) No suit, action, or other proceeding commenced by or against any department or agency, functions of which are transferred by this Act, or by or against any officer of any such department or agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

Comment: Self explanatory

(c) All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any department, agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department, in accordance with applicable law, as may be appropriate. With respect to any function, power, or duty transferred by this Act and exercised hereafter, reference in another Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the Secretary. Any position and agency heretofore established by law, all the functions, powers, and duties of which are so transferred, shall lapse, Provided however, that this sentence shall not apply to uniformed personnel of the Coast Guard.

Comment: The first and second sentences are self explanatory. By last sentence, FAA is abolished and Presidential appointments to that agency lapse, as do other positions in the agency. Personnel would be transferred to the new department under sections 7(a) and (b). This provision would also result in abolishment of the Presidential appointments of Under Secretary of Commerce for Transportation, Maritime Administrator, and Highway Administrator. Legislative history should make this clear as present language is not crystal clear.

SEPARABILITY

Sec. 10. If any provision of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

Comment: Self explanatory.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 11. (a) The provisions of this Act shall take effect ninety days following the date on which this Act is approved by the President, or on such earlier date as the President shall specify by Executive Order published in the Federal Register, except that any of the officers provided for in sections 3 and 4 of this Act may be nominated and appointed, as provided in such sections, at any time after the date of enactment of this Act.

Comment: Sections 3 and 4 refer to Presidential appointees. Note the time period. HUD Act provided 60 days.

(b) In the event that one or more officers required by this Act to be appointed, by and with the advice and consent of the Senate, shall

not have entered upon office on the effective date of this Act, the President may designate any person to act in such office until the office is filled as provided in this Act or until forty-five days after the commencement of the next regular session of the Congress whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Comment: Note the time period. HUD Act provided 60 days from effective date of Act.

Policy + Task Force Members on Dept. of Transp.

Present: Policy Sellers: Sec. Cannon, Charles Schiller, Alan Boyd, Lee White.

Also present: Task Force on DOT members including Bob Giles, DOE Gen. Counsel.

Decisions:

1. Drop provision for HUD-DOT study of urban transportation functions.
2. Include Fitt statement of investment policy.
3. Put in sentence adding Sec of DOT to WRL (subject to later reconsideration)
4. Generally favorable to picking up urban C of E functions. Cons to give further views Monday
5. Put Cost Guard in bill. Schultze to line up a Cost Guard member of the subcommittee by Monday.

Meeting of 21st June. of Test Force
for Police Air Force

6. Agreed to pulling for Service
Functions in new Dept of Transport

7. Put C&E ICC safety functions
in DOT for next draft.

8. Separate Safety Board - This to be
in bill

9. Subsidy - Role of Sec. DOT in Airway
Subsidies.

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23 January 1966

**MEMORANDUM TO HONORABLE CHARLES ZWICK
ASSISTANT DIRECTOR
BUREAU OF THE BUDGET**

SUBJECT: Department of Transportation Draft Bill

1. Attached in duplicate is suggested language bearing on the new Secretary's role in connection with proposed federal investments in Transportation facilities. It is, obviously, shaped with the Corps of Engineers in mind and has the general support of the Chief of Engineers. I do not know enough about the investment activities of other federal agencies to be sure that my draft is adequate for general application.

2. By tomorrow's meeting I will have in hand draft language for effecting transfer of certain Corps functions to DOT. More candidates for transfer keep turning up, and as you can understand, each one requires extremely careful analysis and precise citation.

3. I have two comments on the 21 January 66 Committee draft:

a) The declaration of purpose in Section 2 is rather general in its terms; it needs a more specific Congressional statement with respect to goals, and this is particularly the case if the Secretary is to develop, as we require, standards and criteria for the formulation and economic evaluation of transportation investment proposals. The Murray draft on such standards and criteria did include a goals section, but in my opinion such or similar language is of general application and belongs in the introductory sections of the bill.

b) Should not the Secretary be charged with developing a long range federal transportation program, to be updated annually?

(sgd) Alfred B. Fitt

**Alfred B. Fitt
General Counsel (Army)**

**Attachment
As Stated**

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Memorandum to Hon. Charles Zwick

Copies for

Department of Commerce
Mr. Daniel O'Keefe
Mr. Cecil Mackey

Federal Aviation Agency
✓ **Mr. Alan L. Dean**

Interstate Commerce Commission
Mr. Ernest Weiss

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DRAFT SECTION ON TRANSPORTATION INVESTMENT STANDARDS

a) The Secretary shall develop and from time to time in the light of experience revise standards and criteria, consistent with national transportation policy, for the formulation and economic evaluation of all proposals by federal agencies for the investment of funds of the United States in transportation facilities, ^{and equipment} except such proposals as are concerned with the acquisition of transportation equipment and services ^{primarily for the use of} ~~to be used by~~ such agencies. The standards and criteria for economic evaluation applicable to transportation features of multi-purpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council and shall be compatible with the standards and criteria for economic evaluation applicable to non-transportation features of such projects.

b) Every survey or plan by any federal agency which includes a proposal concerning investment of funds of the United States in transportation facilities as to which the Secretary has promulgated standards and criteria as provided in subsection a) above shall be:

1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with.

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respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed facility on existing modes and on the regional and national economy;

2) coordinated by the proposing agency with the Secretary and with other federal agencies, States, and local units of government, as appropriate, for inclusion of their views and comments; and

3) transmitted thereafter by the proposing agency to the Bureau of the Budget for disposition in accordance with law and procedures established by the President.

Meeting of Task Force on Dept. of Transportation
Jan 23, 1966

Attendance:

BOB - Zurek, Murray, Kallen, Seidman

FHA - Dean, Goodrich

Commerce: Mackey, Bond & O'Keefe

CAB - Adams, Goldsworthy

FCC - Weiss

General

1. Next Task Force meeting after the one this afternoon will be 3:00 p.m. Monday, Jan 31.

Agenda the Fri PM meeting with Major Matters

1. Safety
2. Message handling & schedule
3. Urban Transportation - Polling reporting date in legislation and authority to transfer between the Dept. Secret
4. Coast Guard
5. FCC (or Service)
6. Corps of Engineers & Sec. Dept role

Task Force on Depl. of Transp.
Jan 28, 1956

Friday PM. Agenda 3 hours

7. Other Corps function for transfer
8. Subsidy issue
9. Organization of the Department.
 - a. Transp Safety Board.
 - b. Manner of Appt of Administrators
 - c. Access to info. about transferred anchor functions
 - d. Conduct of Safety investigation, (e) Coassigned member the sub. com.

Schedule for Message & Bill

1. Meetings in White House; President, aided by Connor, etc. to brief Congressional leaders in evening Feb. 7
2. 10 a.m. - Connor leads press briefing Feb. 8
12 a.m. - Pres. sends message and bill to Cong Feb 8
12 a.m. - Connor, etc. leads briefing with the interest groups.

Discussions

1. Org. of Safety and Role of Transp Safety Bd
John Adams would let whole CAB Division and place under the Tr. Safety Bd. Most of TF (including Kern) favors accident investigation in the existing organizations, not under board.

1. Org of Safety Function & Role of Training Sector

1. Board to be small
2. Appt by Pres, semi confid
5. Five members, 5 year terms, overlap
6. Will not make investigations

Memorandum to Sec. of War, etc.
Off. of Prof. 1/2/44

1. Follows HUD Act. / Pol Sec & Under Sec.
Advisors, CC & Sec. Lines
Vice Pres. also present
2. Alaska existing agencies will move functions
to Sec.
3. Administrations headed by Admins, reporting
directly to the ~~Sec~~ Sec. Rep. Would be at
Ex levels authorized by the law. Resumptions
4. Asst Secs not in line
5. Manner of appt of heads of administrations
- * 6. Transp Safety Board
a. Will not do accident invest.
7. Executive level positions, savings clause,
spec. b., PL 91-2, etc.
8. Coast Guard decision. Need to
notify them.

Meeting of Task Force on
Sec. Comm. Dr. Schiller, Inc. relative to the
AGENDA FOR MEETING OF THE TASK FORCE ON NEW DEPARTMENT OF
TRANSPORTATION - FRIDAY, JANUARY 28, 1966 - 2:45 PM

- ✓1. Schedule. *Revised & confirmed.*
- ✓2. Transportation Message. *Copies available for each head.*
- ✓3. The urban function - *Drop*
- ✓4. Coast Guard - *Put in draft bill*
- ✓5. ICC car service activities - *Put in draft.*
- ✓6. Safety functions of ICC and CAB - *Include*
- ✓7. Corps of Engineers navigation activities - *Include in draft*
- ✓8. Other Corps of Engineers transportation activities - *OK if CofE agrees*
- ✓9. CAB subsidy functions -
10. Department of Transportation organizational issues

10
R-1
DOJ
Jan 20, 1956

Department of Transportation development

Associate Administrator for Administration

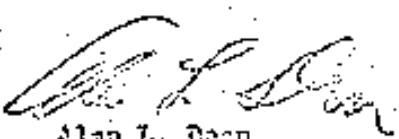
Administrator

The various Task Force meetings on Friday, January 20, resulted in real progress in the development of legislation providing for the Department of Transportation. Developments of particular significance are the following:

1. The schedule of transmitting both the bill and legislation to the Congress at noon February 8 was confirmed. It is now planned that a clearance draft of the legislation will be sent to agency heads Tuesday, February 1.
2. The Policy Group (Schulze, Connor, White (for Califano) accompanied by Alan Boyd and Commerce Department's General Counsel Giles) received a report from the Task Force and gave the following guidance:
 - a. The bill should be drafted with the assumption that the CAB safety function and the Coast Guard will be in the new Department.
 - b. The legislation relating to the role of the Department of Transportation and the Department of Housing and Urban Development in the mass transit and urban highways areas was dropped from the bill. Additional studies in those areas can be initiated by the President without statutory legislation, and any adjustment between the two departments can be effected by a reorganization plan.
 - c. There was agreement that there would be a statutory Transportation Safety Board appointed by the President, but that the Board would not undertake operating safety activities or perform accident investigations.
 - d. The general concept for the organization and management of the Department outlined in the attached paper was approved and the draft bill will reflect these decisions.
 - e. The bill will contain a statement of policy to the effect that operating agencies will not be disrupted. The Secretary will exercise his authority in organizing and administering the Department in a manner which will avoid disruption of essential services to the public. (This was presented and accepted in accordance with your suggestion.)

3. The Task Force will meet again at 3 p.m. Monday to consider the drafting efforts taking place over this weekend. (I will be back from Kings Point in time to attend the Task Force meeting.)
4. There are a lot of difficult salary and pay system questions relating to Executive Level positions, Special Positions, P. L. 313 positions and supersession which need further consideration and review with John May. It is contemplated that Charlie Zwick and certain members of the Task Force will meet with May Tuesday morning. Within the Bureau of Naval and Task Force, there is general agreement that the size and complexity of the Federal Aviation Agency will require a more favorable treatment of the Executive Level of the positions of Administrator and Deputy Administrator than will be the case for other Administrators in the Department. However, in view of the fact that the Under Secretary will be an Executive Level 3, Bureau officials do not believe that the Office of FAA Administrator can be higher than Level 3 in the new Department. As you know, this Office is now a Level 2. There is agreement that no employee or officer of the new Department shall be reduced in compensation if the position which he holds in the new Department has responsibility comparable to that occupied at the time of the reorganization.
5. The decision making in the safety area and the clarifications of the functions of the Transportation Safety Board are largely out of an excellent staff paper prepared by Nate Goodrich. While the CAB members on the Task Force may feel that FAA has contributed to the decision to move the safety function to the Department, the work which Nate did was pursuant to direction from Charlie Zwick and was an objective, constructive piece of staff work.

Nate Goodrich can give you any additional information concerning these developments.


Alan L. Dean

Attachment

ALDean:rr:1/29/66

Notes of discussion with
John Macy, 1/29/65

1. Funds in the Est for Soc, Unesco,
Est Soc's etc. as done in HUD.
2. Cutbacks the Pres, upon recommendation
of the Secretary ^{to submit to the Dept of} a position in
En level 3 and X number in
levels 4 & 5. (similar to section 303(g))
3. cutbacks up to 20 positions
to be used by the Soc. ~~and~~
without regard to Classification
but at salary not to exceed
~~that~~ that of GS-16
4. Include grandfather clause to
protect all holders of En level
positions as long as they hold
reasonably comparable positions
within the Department

5. Increase, by arrival of the
class led the total satisfactory
quote of Eric. Frank was
the next visit of structural
level of the Department

6. Do not add to P.C. 313's but
protect those now existing

7. In testimony book of illustrations
concerning for last December;
e.g. Long range planning, R & D,
Trojan analyses, Estimation
relations.

✓ May will visit with
Aphel people Tuesday a.m.

Discussion with Mary 1/29/66

1. Mode for HUD type land
2. Related points of municipality
3. New Job Hrs. per sec of (3039) Sec. In 48
5. New prog provision
4. Revision for 10 or 20 years with
must not exceed 65-18
5. General Class. land by
varying number of
subgrids by a certain
number related to needs
6. No need for ^{more} move 3132
~~to~~ Transfer these activities

7. Use of Analysis

1. Long range plan
2. K & D
3. Program Analysis
4. External Relationship Categories
 - a. Core
 - b. Industry
 - c. State & Local Govts
 - d. Urban Prop. (HUD)
 - e. Info & Ed.

Plans for John Macy 1/27/66

1. Brief John on work of Task Force on DST
2. Discuss org & conf structure discussion
3. Discuss following:
 - a. Ex level authority
 - b. Savings clause
 - c. PL 313 vs Non Quotas
 - d. Specials
 - e. Meeting Sec's need for super grades.
4. Schedule Tue a.m. meeting
 - Macy + CSC
 - Zwick
 - Dean
 - Jones
 - Seidman
 - Mortimer

Section ____ (a). Within the Department the President shall appoint, by and with the advice and consent of the Senate, the following officers who shall be compensated in accordance with the designated level of the Federal Executive Salary Schedule established in Title III of Public Law 88-426:

Secretary	Level I
Under Secretary	Level III
Assistant Secretaries (4)	Level IV
General Counsel	Level IV

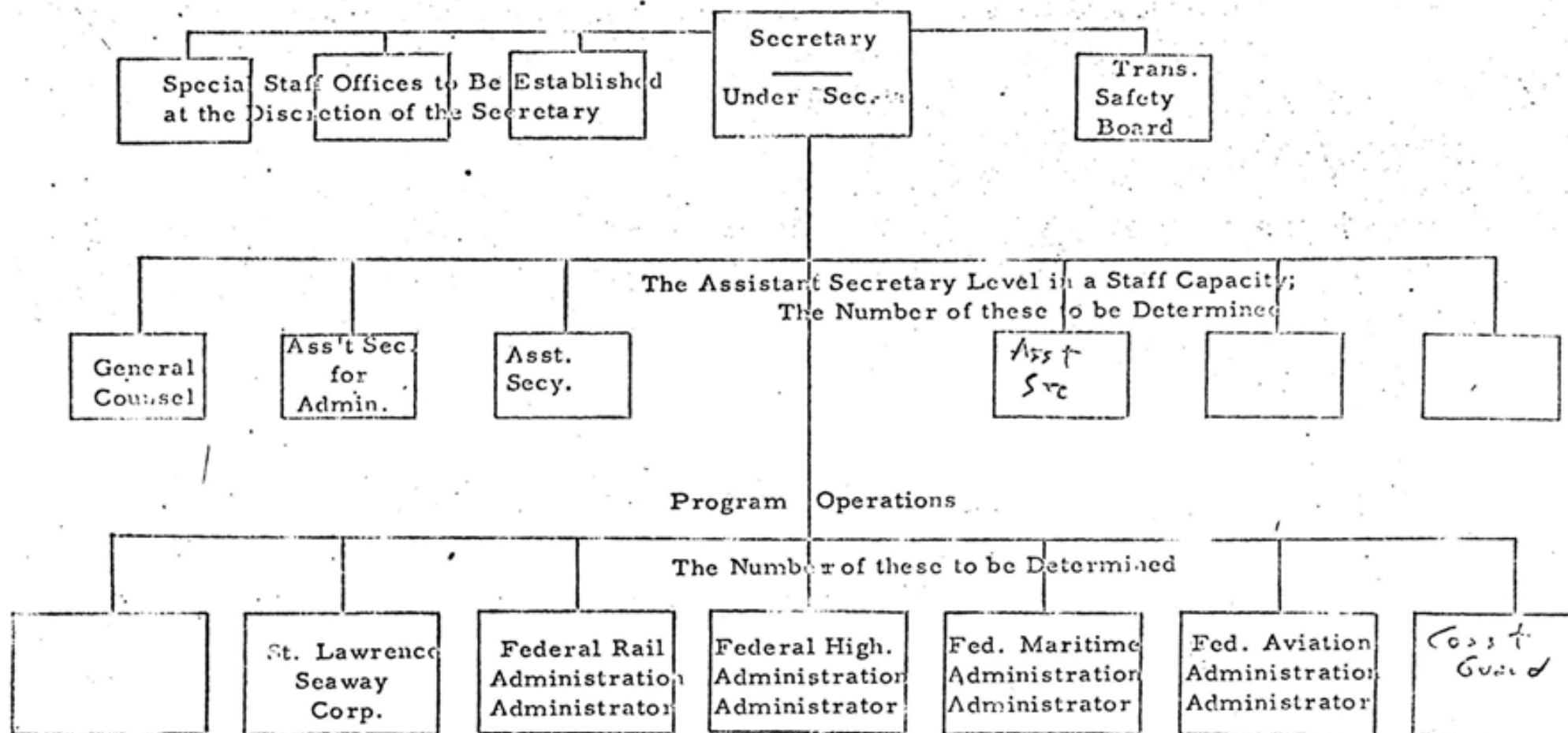
(b). The Secretary shall have authority to appoint and fix compensation in accordance with the designated level of the Federal Executive Salary Schedule not to exceed the following:

In Level III, one position

In Level IV, three positions

In Level V, nine positions, one of which shall have the title "Assistant Secretary for Administration." The Secretary shall designate the title of all other positions authorized by this subsection, and shall cause such titles and any changes therein to be published in the Federal Register.

(c). Any person appointed by the Secretary in accordance with subsection (b) of this section who at the time of appointment shall hold a position which is compensated at a higher level of the Executive Salary Schedule than is authorized in subsection (b) shall continue to be compensated at such higher level for the duration of his appointment.

DEPARTMENT OF TRANSPORTATION

The Preceding Organization Chart Was Suggested By Mr. Alan Dean, And Accepted By The Members Of His Sub-Group At a Meeting 1/25/66.

January 28, 1966

Mr. Dean:

Subject: PL 313 Vs. Non quota supergrades

The coverage of the two types of positions is essentially the same, i.e. scientific and professional positions established to carry out R&D work. Originally agencies were assigned a quota of PL 313 positions by statute. The non quota supergrade device was established so that it would not be necessary to go back to Congress every time an increase in PL 313 positions was required.

The advantages of PL 313 over non quota supergrades are these:

1. Salary levels may be established by the Agency subject to CSC approval. The Agency does not have to follow Class Act procedures. This can be very important when, for example, an agency wishes to hire a renowned scientist to perform "think" type work where he will not be responsible for a program or supervising high grade people but is expected merely to generate ideas. The Dressler case is an example. We were able to establish a PL 313 position with pay at the GS-17 level. We could not have established a GS-17 non quota position because of the absence of program and supervisory responsibilities.
2. Qualifications review is easier on PL 313 cases. On these you need only establish that the nominee is qualified to do the work. Non quota supergrade cases require a letter from the agency head to the Chairman of the Civil Service Commission describing the efforts to identify the best qualified candidate and justifying the selection of the nominee.
3. Non citizens may be given PL 313 appointments. (This was important in the rocket development program of the late 40's).

It looks like DOT should have some PL 313 authority. It would be advantageous for the Secretary to have perhaps 50 such positions authorized. At the very least he ought to be able to utilize the 20 now authorized for FAA plus what ever number may be included in other constituent elements.





UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

*Deferred
2/4
Colly*

FEB 4 - 1966

Dear Mr. Schultze:

This is in response to your request for the views of this Department on the draft bill "To establish a Department of Transportation, and for other purposes."

We recommend the enactment of this bill.

This bill creates a new Department of Transportation within the Federal Government that brings together the transportation activities that are scattered throughout the Government structure and puts them under one leadership.

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In section 5 of the bill, that section dealing with the transfer of authority from various branches of the Government to the new Department, we find included in subsection (a) the United States Fishing Fleet Improvement Act of 1964. The transfer is of the authority of the Secretary of Commerce in relation to this Act and in no way deals with this Department's responsibilities under the Act. We wish to point out that this Act, an extension of the 1960 Act, subsidizes the construction, rebuilding, and modernization of this Nation's commercial fishing fleet. The Act is a necessary part of the function given this Department under the provisions of the Act of August 8, 1956, popularly known as the Fish and Wildlife Act of 1956, to develop, advance, manage, conserve and protect the commercial fishing industry of this country. The fishing fleet subsidy Acts of 1960 and 1964 have been and are being used to make out commercial fishing industry, one of the most obsolete in the world, more competitive.

We should also point out that this Department has been assigned all functions relating to the fishing industry contained in the Merchant Marine Act of 1936. The bill transfers the functions of the Secretary of Commerce under the Merchant Marine Act of 1936 to the new Department, but leaves those functions relating to the fishing industry with this Department.

Investment
Section 6 of the bill gives the new Secretary functions in connection with the planning of multi-purpose water projects after consulting with the Water Resources Council, of which he is made a member. This section also requires that the Government agencies responsible for the preparation of plans for multi-purpose projects, such as our Bureau of Reclamation, take the information furnished by the new Secretary into consideration in the preparation of its plans. This is acceptable to this Department and will just add one more useful feature to the multi-purpose projects for which this Department has the planning responsibility.

*Alaska
RR*
Even though it is not discussed in the bill, we understand that if the new Department is created, the President, by Executive order, will transfer the Alaska Railroad from this Department to the new Department. We have no objection and feel that it is a logical move since the Railroad is a major transportation link for Alaska.

Sincerely yours,



Asst. Secretary of the Interior

Hon. Charles L. Schultze
Director, Bureau of the Budget
Washington, D. C.



The Postmaster General
Washington, D.C. 20260

February 4, 1966

*Referred
of 2/4
CCH*

Dear Mr. Schultze:

This is in reply to the request of the Assistant Director, Legislative Reference for the views of this Department with respect to a draft bill "To establish a Department of Transportation, and for other purposes".

Due to the limited time available, a thorough review of this proposal was not possible. We have, however, reviewed the measure in the light of its possible effect on the operation of the Post Office Department and except for Section 7(a), we would have no objection to its enactment.

Section 7(a) proposes an amendment to Section 406(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 763), relating to the fixing of subsidy mail rates. This amendment would be achieved by adding at the end thereof the following sentence: "In applying clause (3) of this subsection, the Board shall take into consideration any principles and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation, required for the commerce of the United States, the Postal Service, and the national defense."

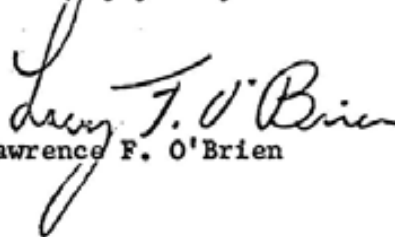
This added provision would require the Civil Aeronautics Board to consider principles and criteria for determining the transportation needs of the Postal Service as prescribed by the Secretary of Transportation. The Board would be empowered to consider or reject, in whole or in part, criteria and principles now relating to the same need put forward by the Postmaster General. Though the new provision relates only to the fixing of subsidy mail rates, we do not believe it would be in the interest of this Department to have another agency given primary responsibility for informing the Civil Aeronautics Board air service requirements for postal needs. We believe this responsibility rests with the Post Office Department.

May we suggest, therefore, that Section 7(a) be revised along lines set out below:

"Sec. 7(a). Section 406(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 763), is amended by adding the following sentence at the end thereof: 'In all proceedings in which rates are fixed pursuant to clause (3) of this subsection, the Board shall afford the Secretary of Transportation an opportunity to present his views on the character and quality of transportation required for the commerce of the United States.'"

Start
"post
service"
from
7a)

Sincerely yours,


Lawrence F. O'Brien

Honorable Charles L. Schultze
Director, Bureau of the Budget
Washington, D. C. 20503

14

NATIONAL CAPITAL TRANSPORTATION AGENCY

WASHINGTON, D. C. 20432

February 4, 1966

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Disposed
of
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Mr. Philip S. Hughes
Assistant Director for
Legislative Reference
Bureau of the Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Hughes:

Your Legislative Referral Memorandum of February 2, 1966 requests this Agency's views respecting the draft bill "To establish a Department of Transportation, and for other purposes".

Please be advised that this Agency agrees with the objectives of the draft bill. Our review indicates that it is in no way incompatible with the program of this Agency.

Additionally, we note with approval that the bill does not propose the transfer to the new department of any of the functions, powers, and duties of this Agency. In our view any such transfer is unnecessary and would be inappropriate within the foreseeable future.

A primary objective of the proposed bill is to bring together for unified direction and administration the transportation programs of the Federal Government that have nationwide and international application and effect. In our view, this Agency's program has been appropriately excluded. Under the National Capital Transportation Acts of 1960 and 1965 (P.L. 86-669, 74 Stat. 537 and P.L. 89-173, 79 Stat. 663) the functions, powers, and duties of this Agency relate solely to the National Capital region. NCTA's mission is to implement a specified transit development program within a single metropolitan area. Its program is not one of "the transportation programs of the Federal Government" within the meaning and intention of section 2 of the draft bill.

Also, NCTA was established as a temporary agency to prepare and initiate the transit development program. The National Capital Transportation Acts of 1960 and 1965 contemplate an increasing measure

Mr. Philip S. Hughes
Asst. Dir. for Legislative Reference.
Bureau of the Budget

Page 2

of local government participation in and financial responsibility for the transit development program. Present policy contemplates the eventual transfer of this Agency's functions, powers and duties to a public corporation created by interstate compact between Maryland, Virginia, and the District of Columbia, or alternatively to a District of Columbia government corporation including local government representation.

The policy of the Congress and of the past three Administrations has been to encourage the development of local mechanisms suitable for relieving the Federal Government of responsibility for and direct involvement in a local transit undertaking. It is our present view that inclusion of a temporary transitional program of this type within the new department would contribute little, if anything, toward accomplishing the objectives of the draft bill. And such a development could well have a discouraging effect on efforts to generate the commitments of local governments that are needed to enable a transfer of the present program to local responsibility.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Owen J. Malone", written in a cursive style.

Owen J. Malone
Acting General Counsel



GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE
WASHINGTON 25, D.C.

February 4, 1966

15
Mr. Phillip S. Hughes
Assistant Director for
Legislative Reference
Bureau of the Budget
Washington, D. C. 20503

Dear Mr. Hughes:

We have reviewed the draft dated 2/2/66 of the bill to create a Department of Transportation.

Attachment I is a revision, recommended by this Department, of section 7(b) of the draft, relating to the Appalachian Regional Development Act of 1965. It also contains an explanation for inclusion in the section-by-section summary.

Attachment II is a revised version of section 5(a) of the draft, relating to transfers from this Department. It incorporates technical corrections and additions to the draft. It also contains a minor conforming amendment.

In addition to the above, this Department has the following comments on the draft bill.

Dcto 1. Section 6 (pages 11-12). Transportation Investment Standards. It appears that there is adequate legal authority in the President to direct the agencies concerned to follow the procedures set forth in this section. We, of course, recognize that inclusion of this language has definite practical advantages for the Executive Branch, if Congress will approve it. However, if the proposed language is stricken from the bill by the Congress, it would seem likely that the President and the new department would be in a worse "practical" position to adopt such a procedure by administrative action than would be the case if the language were not included in the bill submitted to Congress. This point is simply mentioned for such further consideration as is deemed appropriate. In any event, you may wish to consider deletion of subsection 6(c) as not being substantively necessary in order to accomplish the result, for the reason that it may be particularly objectionable to Congress.

No 2. Section 4 (page 4). Perhaps it would be desirable to insert language expressly authorizing the Board to initiate accident investigations on its own motion.

3. Perhaps it would be desirable to include a provision similar to 5 U.S.C. 596(a), relating, for example, to availability of appropriations for special purposes such as furnishing emergency medical services to Department personnel; establishing and operating mess facilities; reimbursing employees for emergency supplies furnished by them to distressed persons; and erecting and maintaining necessary living and working quarters in remote localities.

OK
Already
proposed
by FAA

4. We suggest inclusion of a provision: (1) authorizing the Secretary to accept and utilize gifts and bequests to aid and facilitate the work of the Department. Such gifts would be in the custody of the Treasury and would be gifts to the United States for tax purposes. Further, the Secretary would be authorized to request the Secretary of the Treasury to invest the gifts and bequests in U.S. or U.S. guaranteed securities, with interest to accrue to a fund set up for the Secretary of Transportation. Appropriate language is contained in 5 U.S.C. 603 a, b and c.; (2) authorizing the Secretary to set a schedule of fees or charges for services and publications furnished by the Department. Appropriate language is contained in 5 U.S.C. 606; and (3) authorizing the Secretary to make special statistical studies relating to matters within the province of the Department. Appropriate language is contained in 15 U.S.C. 189(a) and 192.

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put
in

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OK

5. Section 7(a). We believe it would be desirable to include a provision permitting the Secretary of Transportation to reopen subsidy rates. This power presently exists in the Postmaster General. We suggest that it be made clear in the statute that the Postmaster General can reopen service mail rates and that the Secretary of Transportation can open subsidy mail rates. This, of course, would not preclude the Board from exercising its final judgment on the matter.

OK

6. We prefer that the last clause of Section 5(a) of the draft, relating to transfer of specially compensated scientific and professional positions from this Department, be deleted. We suggest the language of Section 6(a) of the January 21, 1965 draft submitted by this Department be included in the bill as a substitute.

Agreed

7. Section 3(b) (page 2). We suggest the words "among his responsibilities" be added at the end of the first line of this subsection to make it clear that the Secretary's authority is not limited to duties listed.

OK

3. Section 5(c) (page 8). We suggest that the word "Administrator"
be substituted for "head".

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert B. Giles". The signature is written in dark ink and is positioned above the printed name.

Robert B. Giles
General Counsel

ATTACHMENT I

Appalachian Regional Development Act

Sec. 7. (b) Section 201 of the Appalachian Regional Development Act is amended as follows:

(1) The first sentence of subsection (a) of that section is amended by striking the words "Commerce (hereafter in this section referred to as the 'Secretary')" and inserting in lieu thereof "Transportation."

(2) The last sentence of subsection (a) of that section is amended by inserting after the word "Secretary", the words "of Transportation".

(3) Subsection (b) of that section is amended by inserting after the word "Secretary", the words "of Commerce".

(4) Subsection (c) of that section is amended by striking the first sentence and inserting in lieu thereof the following sentence:

"Such recommendations as are approved by the Secretary of Commerce shall be transmitted to the Secretary of Transportation for his approval."

(5) The second sentence of subsection (c) of that section is amended by inserting after the word "Secretary" the words "of Transportation".

(6) Subsection (e) of that section is amended by inserting after the word "Secretary" the words "of Transportation".

(7) Subsection (f) of that section is amended by inserting after the word "Secretary", the words "of Commerce and the Secretary of

Transportation". Subsection (f) of that section is further amended by striking the word "determines" and inserting in lieu thereof "determine".

(8) Subsection (g) of that section is amended by striking the period at the end thereof and adding the following:

"to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects approved by both Secretaries."

Comment for Section-by-Section Summary

Sec. 7(b) would amend section 201 of the Appalachian Regional Development Act so as to provide that the Secretary of Transportation, rather than the Secretary of Commerce, would be authorized to assist in the construction of an Appalachian development highway system, and make the determination as to which provisions, if any, of the Federal highway laws are inconsistent with the Appalachian Act. The Appalachian Regional Development Commission would continue to submit for approval its recommendations to one Federal official, the Secretary of Commerce, who would transmit such recommendations as he approves to the Secretary of Transportation for approval. The Secretary of Transportation would be authorized to require participating states to use coal derivatives in the construction of roads. Federal assistance to any construction project could not exceed 50 per centum of the cost, unless both the Secretaries of Commerce and Transportation determine that additional Federal funds are required. Appropriations would be made to the Secretary of Commerce who shall transfer funds to the Secretary of Transportation for administration of approved projects.

ATTACHMENT II

Transfers from Commerce Department

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Sec. 5. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under title 23, United States Code, relating to highways; section 209(e) (1) of the Highway Revenue Act of 1956 (70 Stat. 374), relating to assisting the Secretary of the Treasury in preparing annual reports on the condition of the Highway Trust Fund; the Act of July 14, 1960 (74 Stat. 526), relating to the National Driver Register Service; the Federal-aid Highway Act of 1954 (68 Stat. 70), relating to the Great River Road; the Federal-aid Highway Act of 1956 (70 Stat. 374), relating to dimensions and weights of vehicles on Federal-aid highway systems, standards for the Interstate system, highway safety study; the Highway Revenue Act of 1956 (70 Stat. 367), relating to the highway trust fund, studies and investigations of Federal-aid highways; the Federal-aid Highway Act of 1958 (72 Stat. 89), relating to matching highway funds; the Highway Beautification Act of 1965 (79 Stat. 1028); the Alaska Omnibus Act (73 Stat. 141), relating to transfers of lands, buildings, fixtures and other property used in connection with Bureau of Public Roads activities in Alaska; Senate Joint Resolution 81 (79 Stat. 578), relating to appropriations and reports to Congress; the Act of July 26, 1956 (70 Stat. 669), relating to the Muscatine Bridge Commission; the Act of December 21, 1944 (58 Stat. 846), relating

*Binder
HSGT*

to the City of Clinton Bridge Commission; the Act of April 12, 1944 (55 Stat. 140), relating to the White County Bridge Commission; the Act of April 27, 1962 (76 Stat. 59), relating to the annual audit of bridge commissions; the Act of September 30, 1965, relating to high-speed ground transportation (79 Stat. 893); the Act of September 7, 1957 (71 Stat. 629), and section 410 of the Federal Aviation Act of 1958 (72 Stat. 769), relating to guarantee of loans for the purchase of aircraft and aircraft equipment; title XIII, War Risk Insurance, of the Federal Aviation Act of 1958 (72 Stat. 800); the Great Lakes Pilotage Act of 1960 (74 Stat. 259); the Merchant Marine Act, 1920 (41 Stat. 988); the Merchant Marine Act, 1928 (45 Stat. 689); the Merchant Marine Act, 1936 (49 Stat. 1985); the Shipping Act, 1916 (39 Stat. 728); the Merchant Ship Sales Act of 1946 (60 Stat. 41); the Maritime Academy Act of 1958 (72 Stat. 622); the Act of June 12, 1940 (54 Stat. 346), relating to assistance to maritime schools; the Act of August 30, 1964 (78 Stat. 614), relating to improvement of the fishing fleet; the Act of September 14, 1961 (75 Stat. 514), relating to appointments to the Merchant Marine Academy; the Act of June 13, 1957 (71 Stat. 73) to the extent it relates to operating-differential subsidies; the Act of June 12, 1951 (65 Stat. 39), relating to vessel operations revolving fund; the Act of July 24, 1956 (70 Stat. 605), relating to the grant of medals and decorations for service in the United States Merchant Marine; the Act of August 9, 1954 (68 Stat. 675), relating to emergency foreign merchant vessel acquisition and operation; the Act of May 21, 1920

Subila

(41 Stat. 613), relating to purchases and manufacture of materials and supplies for other agencies; Reorganization Plan No. 21 of 1950 (64 Stat. 1273); Reorganization Plan No. 7 of 1961 (75 Stat. 840); and Reorganization Plan No. 7 of 1949 (63 Stat. 1070)

Conforming Amendment:

Sec. 9. (f) The Act of August 1, 1955 (70 Stat. 897) is amended by striking the word "Secretary of Commerce" where they appear therein, and inserting in lieu thereof "Secretary of Transportation."

Comment: This Act makes the vessel operation revolving fund available to pay activation and deactivation cost of ships chartered out by the Secretary of Commerce and provides that charter hire paid for such ships shall be deposited in the fund.

(g) Title 18, section 1020 is amended by striking the words "Secretary of Commerce" where they appear therein and inserting in lieu thereof "Secretary of Transportation."

Comment: This section prescribes a criminal penalty for false representations relating to construction of highways and related projects submitted to the Secretary of Commerce.

UNITED STATES GOVERNMENT

Memorandum

Mr. Dean
FEDERAL AVIATION AGENCY

DATE: February 3, 1966

SUBJECT: Comments regarding Bill to
Create Department of Transport

FROM : General Counsel

TO : Mr. Thomas
Mr. Basnight
Mr. Blatt
Mr. Dean
Mr. Willey
Mr. Stimpson

Based on our discussions this morning, I have drafted some comments on the bill to create Department of Transport.

It might be simpler to provide this draft for you to focus on as a means of corraling your comments and suggestions on the draft bill.


Nathaniel H. Goodrich

Attachment

Dear Mr. Schultze:

We appreciate the opportunity to comment on the draft bill to establish a Department of Transportation.

We endorse the purposes of the bill and ^{support} ~~favor~~ the establishment of a Department of Transportation. Certain specific changes in the draft are recommended for your consideration which we believe will strengthen the purposes of the legislation and the effectiveness of the Department.

^{As you know}
The Federal Aviation Agency, like the Coast Guard, has extensive national defense-related responsibilities in peace and in war. These responsibilities are identified in the Federal Aviation Act of 1958 and elsewhere.* Provision for their accomplishment in wartime is contained in Executive Order 11161 of July 8, 1964, and in other documents with

which you are familiar. The Agency in all probability will be transferred to the Department of Defense in time of war. It should therefore be ^{kept intact} ~~capable~~ in, state of readiness to effectively discharging its wartime responsibilities at all times ^{immediate} ~~as it will have to function in wartime so as to~~ ~~obviate the need for reorganization in time of emergency.~~

For this reason and also because the basic functions of the Federal Aviation Agency will remain the same notwithstanding their transfer to the Secretary, there appears to be good reason to preserve the organizational integrity of the Agency. The ^{immediate} purpose of the bill is to bring about better coordination of transportation policies and programs rather than to effect

~~radical changes in the operation of individual technological systems,~~ ^{organizational management systems through which} ~~existing transportation programs are administered~~

* (Sections 103(a); 302(c)(1), (c)(3), (d), (e), (g); 303(d); 304; 306; 307(a) (c), (f); 308(b); 312(a), (c); 1002(a); 1202. See also: Executive Orders 9094, 10959, 11003, 11047, 11161; and International Aviation Facilities Act, Sections 7, 8, 9)

~~at least at this time.~~ Since a major reorganization of a number of Government agencies resulting in the creation of the Federal Aviation Agency as a major independent agency occurred ^{AS} recently as 1958, and the status of the Agency was similarly reflected in the level assigned to the Administrator in the Federal Executive Salary Act of 1964 (Public Law 88-426), ^{is not to} the ~~preserve~~ ^{of the} ~~the Agency's status and the~~ integrity of its role and mission should ^{either} be made clear ^{in the bill or in the testimony on its behalf.}

Only in this way can appropriate reassurance be provided to the 44,000 highly qualified and dedicated FAA employees. These men and women are responsible for the operation of a vital and highly integrated safety system and several ancillary and supporting promotional, developmental and defense programs. These systems and programs have a peculiar importance in aviation, which as a technological field continues to have developmental attributes characterized by rapid changes in the state of the art and which, as a result, deserve continuity and integrity of governmental concern.

These requirements do not militate against organizational arrangements for coordination of those features that exist in common with other modes of transportation. They do, however, support the need for very careful consideration of minor changes in the draft bill that will provide such assurance and in the long run produce the integrity of operations that will best serve technological change and developments in the state of the art.

In accordance with the foregoing, we endorse the objective of Section 3(c) and welcome its inclusion. We recommend: (1) The addition of the following language to this subsection in appropriate context: "in addition to their relationship and responsibility to the national defense and security and the need for their availability and responsiveness in fulfilling national defense requirements." This language is taken substantially from Sections 302(e) and 302(g) of the Federal Aviation Act of 1958.

(2) That consideration be given to establishing the post of Under Secretary at Level II of the Executive Level. The Under Secretary will oversee the FAA Administrator whose basic functions and responsibilities remain the same. The Administrator is presently at Level II and, in addition, other major functional responsibilities and organizations will be assigned to the Under Secretary's area of responsibility. We believe the background of circumstances and organizations involved in the creation of this Department justifies Level II rank for the Under Secretary and recognizes the realities of the situation in a manner that provides for their most effective administration in the future.

(3) In order to eliminate any suspicion or basis for a charge that investigation of accidents will lack objectivity, consideration should be given either in Section 3 or in Section 8, in appropriate context, to the inclusion of language that will caution the Secretary to provide for separation of investigative functions from judicial or quasi-judicial functions and operating responsibilities. The following language, for example, could be included in Section 3(c): "to the need for separation of investigative functions from supervision or direction by officials of the Department engaged in operating or adjudicative functions." Alternatively, Section 8 should include a statutory directive for the establishment of an Office of Safety Investigation to which personnel would be transferred who are engaged in those functions in the Civil Aeronautics Board under Title VII of the Federal Aviation Act. Other personnel could be transferred to this office, after the Department is organized, as the Secretary deems appropriate.

(4) Add the following language to Section 5(f): "In adopting such rules, regulations and procedures, the Board shall hold hearings in its discretion and on petition for good cause shown, provide

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appropriate opportunity for any interested party to introduce exhibits, evidence, or data and to question witnesses, make a record of the hearings, and permit interested parties to submit proposed findings of fact, conclusions and determinations of probable cause with opportunity for argument thereon before the full Board on the basis of the record made at investigatory hearings before issuing any final findings and determinations of probable cause."

We got Section 3 C as a compromise. Against policy.

☐ (5) Section 5(c) be amended to add the following: "Provided that there shall be in the Department a Federal Aviation Administrator who shall head a Federal Aviation Agency within the Department and who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the functions vested in the Administrator of the Federal Aviation Agency on the date of the adoption of this Act, by the Congress. The Administrator shall be compensated at Level II of the Federal Executive Salary Act of 1964, or as that Act may be amended in the future." *This language is a direct paraphrase of the language in Section 4(a) of the Act of September 9, 1965, establishing a Department of Housing and Urban Development. Section 4(a) of that Act specifically provides for the continuation within the Department of Housing and Urban Development of one of the agencies transferred to it, retaining its prior title, supervising official, and general responsibilities. Alternatively, appropriate language to the same effect could be included in Section 3 either as a part of or as a new subsection following Subsection (d), with the succeeding Subsections to be renumbered as required. In either event, Section 8(i) should be amended to insert the following language at the beginning thereof: "Except as otherwise provided in this Act,"*

high desirable for

I consider this amendment indispensable maintaining the integrity of FAA operations, FAA responsibilities to operations of the Department of Defense, and to the reassurance that should be provided *for* the employees of the Agency.

I compliment the care and caution that the draft bill reflects for the flexible and helpful administrative provisions contained in Section 8. They will greatly assist the prompt and efficient assumption of responsibilities by the new Department.

The objective of this Administration is to secure the enactment of legislation authorizing the Department of Transportation in a manner that will most readily facilitate its willing acceptance in Congress. It should recognize the realities involved in combining disparate modes of transportation and widely varying technologies in one Department. FAA is primarily a technical, safety and developmental agency. We would serve the Administration's interests best by frankly acknowledging its well recognized and distinctive technological and developmental attributes. We can make ~~some~~ ^{best} progress by constructing the bill and the new Department in a framework that recognizes the practical realities of the problems and operating environments for which the Department will be responsible, and building on these realities instead of appearing to pretend that we are matching identical organizations, responsibilities, systems, and technologies with each other in a common mold. They do not match; they will not fit a common mold; practical management judgment requires that we recognize differences and build the new Department to manage them rather than ignore them.

It is our hope and expectation that the Secretary of the Department will take this approach in carrying out the great responsibilities entrusted to him.

The recommendations noted above are in no sense a criticism of the manner in which the working group has drafted the legislation. They illustrate instead certain areas of policy that require review at this time. The recommendations are completely consistent with the basic purposes of the Department and ~~xxxx~~ its ability to operate effectively and efficiently from the outset. They are also consistent with the form in which, in my opinion, the Congress is more likely to be willing to approve the creation of the Department at this time.

Not
needed

~~In closing I should like to~~

The above comments and suggestions
~~[as presented with]~~ ~~are~~
 are presented ~~[as part of]~~ with the sincere
 conviction that they will result in a
 better bill. ~~and~~ They ~~are not~~
 should not be construed as criticism of the work
~~on the~~ work which ~~[has produced]~~
~~an excellent~~ ~~product~~
~~has been~~ ~~the~~ ~~important and complex draft~~
~~draft is within the~~ ~~author's~~
 has as clearly gone into the draft bill. clearance
 received by the ~~FBI~~ draft of the proposed
 legislation



UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

A.L. Dean

IN REPLY PLEASE REFER TO

YOUR REFERENCE

2/3(1)

Mr. Phillip S. Hughes
Assistant Director for
Legislative Reference
Bureau of the Budget

Dear Mr. Hughes:

This is in response to your request of February 2, 1966, for the Commission's views on a draft bill "To establish a Department of Transportation, and for other purposes."

Since the Commission would not be administratively concerned with the major purposes of the draft bill our comments are limited to its personnel provisions.

Under the provisions in sections 3 and 9 of the draft bill, the top officials of the new department would be appointed in the same way and compensated at the same rates as those in other executive departments. These include a Secretary of Transportation, an Under Secretary, four Assistant Secretaries, a General Counsel, and an Assistant Secretary for Administration.

Subsections 3(g) and 9(d)(5) contain special provisions relating to the authority of the President and the Secretary of Transportation with respect to a limited number of positions in specified levels of the Federal Executive Salary Schedule. Under a proposed amendment to section 303 of the Federal Executive Salary Act, the President would be authorized to place in the Department of Transportation one position in level III, three positions in level IV, and an undetermined number in level V. Appointments to these positions would be made by the Secretary who would designate their titles. The titles of the positions and any changes therein would be published in the Federal Register.

These provisions would be precedent-setting in several respects. This would be the first extension of Presidential authority to place a position in level III; the first such quota of positions for a specific agency; and the first authorization for titles of positions under the Federal Executive Salary Schedule to be changed by action of an agency head.

The Commission recommends that section 3(g) be deleted from the draft bill. There is no apparent necessity for the specific appointment authority in its first sentence. The provisions in the second sentence, permitting the Secretary to designate and change the titles of positions placed by the President in levels III, IV and V under special authority in this bill, are undesirable. Such authority should not be limited to a single agency and should not be granted without appropriate provision for some review of whether or not a title change has been accompanied by a material change in the position involved.

The Commission would not oppose extending the authority of the President to place additional positions in appropriate levels of the executive salary schedule, particularly to meet the needs of this new organization. However, this could be more appropriately accomplished by increasing the quota of level IV and V positions authorized under section 303(f) of the Federal Executive Salary Act. It is therefore recommended that paragraph (5) of section 9(d) in the draft bill be amended to read as follows:

(5) Subsection (f) of that section is amended by striking out "thirty" and inserting in lieu thereof "thirty-nine".

Authority for the President to place one position in level III could be included by adding a new paragraph (6) to section 9(d) of the draft bill to read as follows:

(6) Immediately following subsection (g) of that section, the following new subsection is added:

"(h) Following the effective date of the Department of Transportation Act, the President is further authorized to place one position in level III."

The Commission understands the purpose of this authorization for a level III position is to provide for the future establishment of a position to replace that of the Administrator of the Federal Aviation Agency. It should be noted that this is the only instance in which the President is authorized to place a position in level III.

One of the authorities transferred to the Secretary of Transportation from the Secretary of Commerce under section 5(a) involves that part of Public Law 80-313 which permits a total of 30 scientific and professional positions in the Department of Commerce to be compensated under the special pay provisions in that statute. The proposed

transfer of authority would be "with respect to scientific and professional positions which relate primarily to functions transferred by this Act." While the Commission is opposed to extending or expanding the special pay provisions in Public Law 80-313, there appears no sound reason for not permitting the proposed transfer. No new authorization would be involved. The number of positions transferred under section 5(a) of the bill would be deducted from the quota of 30 such positions now authorized in the Department of Commerce.

Section 8(a) contains authority for appointing and compensating personnel to carry out the functions of the department. The Commission would prefer that the language in the first sentence be amended to read as follows: "The Secretary is authorized to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act."

The Commission strongly opposes the authority contained in the second sentence of section 8(a) which would permit the salaries for positions to be fixed administratively without regard to the Classification Act.

The Commission does not object, in this instance, to the proposal in section 8(b) to raise the quota of GS-16, 17, and 18 positions under section 505(b) of the Classification Act from 2400 to 2445. Should the quota in section 505(b) be increased by the enactment of S. 2393 before the Department of Transportation Act is passed, the Commission would not object to changing the amendment proposed in this draft bill to permit placement of an additional 45 positions in those grades.

In section 8(c) the proposed maximum rate of \$100 per diem for experts and consultants employed under the Administrative Expenses Act is consistent with the authority previously granted certain other agencies.

The Commission suggests clarification of language on the transfer of personnel in the draft bill. Section 8(e) which transfers all personnel of the Federal Aviation Agency is fine. On the other hand section 8(f) transfers only so much of the personnel of other agencies as shall be determined by the Bureau of the Budget. The normal rule in transfers of personnel because of transfers of function from one agency to another is to follow the provisions of section 12 of the Veterans' Preference Act and the Commission's regulations implementing section 12. Under those provisions all employees would be transferred to the new agency, and any reductions in personnel would be accomplished under the reduction-in-force regulations.

We do not believe that application of the normal provisions for transfer of personnel between agencies in a transfer of functions

would present any significant problem in establishing the new department or interfere with determinations as to activities or numbers of jobs that are to be moved.

Accordingly, it is recommended that section 8(f) of the draft bill be amended as follows so as to avoid a different rule in this case from other such transfers:

Strike the word "personnel" in the first line and insert in lieu thereof the word "positions" and add the following sentence at the end of the section:

"Personnel engaged in these functions, powers, and duties shall be transferred in accordance with applicable laws and regulations relating to transfer of functions."

The purpose of the last proviso in section 8(i) is not clear. In effect, the language provides for continuation of salaries paid certain individuals under the Federal Executive Salary Schedule if they are appointed in the new department without a break in service "to a position having duties comparable to those performed at the effective date of this Act." Presumably this is for the benefit of the incumbents of the eight positions covered by the repealers in section 9(e) of the bill. These include the Administrator of the Federal Aviation Agency in level II (\$30,000), his Deputy in level IV (\$27,000), and six other employees in level V (\$26,000). Three of the level V positions are in the competitive service.

By permitting each of these individuals to retain his former rate, the new department could conceivably have an additional number of top salaried positions outside those specifically authorized under the Federal Executive Salary Schedule. This would be most undesirable. If the purpose is to retain the salaries of these incumbents until their new positions can be placed in appropriate levels by the President, this should be clearly spelled out. Salary retention "for the duration of his appointment" is too indefinite. For career employees, the period is limited to two years under the present salary retention act.

Regarding the personnel provisions for the proposed National Transportation Safety Board, the Commission would prefer that the language in section 4(j) be amended to read "The Board is authorized to appoint and fix the compensation of such officers and employees as are necessary to carry out its powers and duties under this Act." Although the Commission is not inclined to oppose the amendment in section 9(d)(4) which places the five members of the proposed board in level V of the Federal Executive Salary Schedule, it should be pointed out that these will undoubtedly be among the weakest positions in that level.

Item (6) in section 14 authorizes payment of allowances and other benefits to employees stationed in foreign countries to the same extent as authorized for members of the Foreign Service of the United States of comparable grade. In addition to authorizing the normal allowances and benefits, this language permits the granting of representation allowances which are not payable to employees of most Federal agencies. However, since this proposed authority is already included in the Federal Aviation Act, the Commission does not oppose its continuation.

By direction of the Commission:

Sincerely yours,

Chairman



CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO:

February 7, 1966

Handwritten initials: "Nob" and "Cly"

Honorable Charles L. Schultze
Director, Bureau of the Budget
Washington, D. C. 20503

Dear Mr. Schultze:

This is in response to your Legislative Referral Memorandum of February 2, 1966, transmitting to the Board a draft bill to establish a Department of Transportation. The Board has considered the draft bill and wishes to offer the following comments.

1. Transfer of safety functions. Under sections 4(a) and 5(d) of the draft bill, the safety appeal and accident investigation functions of the Board would be transferred to a National Transportation Safety Board (NTSB), which would be established in the Department of Transportation. The Board believes that no useful purpose would be served by the transfer of these functions.

a. Accident investigations. For over twenty-five years, the Board has been singularly successful in discharging its responsibilities with respect to aircraft accident investigations and has managed to instill public confidence in its findings and recommendations, despite the sensitivity of its functions from the standpoint of interested air carriers, aircraft manufacturers, private litigants, and the traveling public. Indeed, the Board has established an international reputation as the leading authority on the determination of probable cause in aircraft accidents, and the Board's techniques and procedures have served as the model for numerous foreign countries. There is little prospect for improvement of this record under the draft bill, but there is considerable risk of adverse consequences in terms of (1) public confidence in determinations of probable cause; (2) expense and delay in the completion of investigations; and (3) amount of staff required to perform the functions being transferred.

The Board believes that a primary reason for its success in the conduct of accident investigations has been its independence from those agencies of the Government charged with operational responsibilities in the aviation field. Indeed, it will be recalled that, in connection with the passage of the Federal Aviation Act of 1958, a proposal was introduced which would have placed safety investigation responsibilities with the Federal Aviation Agency, with the Board sitting as judges to sift the evidence

Honorable Charles L. Schultze (2)

developed by the FAA's investigators. This proposal was rejected by the Congress, and the legislative history of that rejection makes clear Congress' concern with the importance of maintaining all aspects of the aircraft accident investigation function within an independent tribunal. After all, the Government itself is often the subject of aircraft accident investigations. Inquiry into the probable cause of an accident often brings into question such matters as the adequacy of the FAA's regulations and standards and the operation of its air traffic control facilities. In addition, aircraft accidents frequently give rise to negligence claims against the United States Government involving millions of dollars. These facts underscore the importance of maintaining the complete independence of the agency entrusted with aircraft accident investigations, both in substance and in form.

It is true that section 4(a) of the draft bill provides that the NTSB "shall be independent of the Secretary and the operating units of the Department." However, the fact remains that the NTSB would be within the Department, and it would be difficult to avoid the suspicion, however ill-founded, that the NTSB was subject to influence by the Department. In this connection, it is our understanding that the investigative staff of the CAB's Bureau of Safety would be transferred to the Department rather than the NTSB. The NTSB will thus be required to rely primarily upon the Department's personnel for the development of the facts and circumstances surrounding any given accident. The result will be that the investigative work will be performed by persons who are subject to the jurisdiction of officials who have the ultimate responsibility for safety rule making, operation of airways and control facilities, etc. While it is true that the ultimate decision on the probable cause would be made by the NTSB, that Board would remain heavily dependent upon the Department for the development of the facts. ✓

This dependence of NTSB upon the Department would probably require major changes in procedures in an effort to insure fairness to all interested parties. Over the years, the Board has employed an ex parte investigation technique rather than a judicial type procedure in the investigation of aircraft accidents. In the great bulk of the cases, the facts are developed by informal investigations without any public hearings. In major accidents, the Board normally utilizes cooperative teams composed of CAB personnel and representatives of interested persons, such as the air carriers, crew member organizations, aircraft manufacturers, and the FAA. The factual evidence developed by these groups is placed in a public file and may be supplemented by additional facts produced at a public hearing which is conducted, insofar as possible, in the form of an investigation rather than an adversary proceeding. The Board's expert staff then proceeds to analyze all of the facts

Honorable Charles L. Schultze (3)

and circumstances so developed. The Board's final accident report is prepared with the assistance of its safety experts.

With the creation of the NTSB and the placing of the investigative staff in a separate component of the Department, the informal investigative approach to aircraft accident investigations would probably be abolished in favor of a more judicialized procedure. This would involve evidentiary hearings and adversary procedures such as proposed findings, formal exceptions, and briefs. Moreover, it would require hearings in a large number of cases which, under present procedures, are handled informally. The inevitable consequence of judicialized procedures would be (1) more delay in the ultimate determination of probable cause and (2) greater expense for all participants in the conduct of the proceeding.

Moreover, lacking its own investigative staff of experts, the NTSB will be without the depth of technical resources now available to the CAB for its ultimate determination of probable cause and for its recommendations for safety improvement. To some extent, the NTSB could arm itself with its own staff of experts, but to the extent that it did so, it would be duplicating staff already performing the investigative function within the Department. We believe this would entail a needless escalation in personnel requirements without any commensurate advantages over the present system.

There is also the risk that the substitution of a more adversary type procedure for the present system would impair the basic effectiveness of the accident investigation function. It could endanger the close cooperation which has been developed over the years between the safety investigators and various segments of industry and the Government. With increasing emphasis on the adversary aspects of the investigation, the parties may be more inclined to safeguard their private interests than to assist in the cooperative development of the full facts and circumstances bearing upon probable cause.

Aside from the many disadvantages involved in transferring the Board's accident investigation responsibilities to the new Department, there do not appear to be any significant benefits that would be derived from such action. Since the technology of aviation is highly specialized, persons engaged in aviation accident investigations would not be useful in other accident investigations. Nor is there reason to believe that uniform accident investigation policies applicable to all forms of transportation need to be developed or that accident investigation experience gained in one form of transportation can usefully be applied to accident investigation in other forms of transportation.

Honorable Charles L. Schultze (4)

While placing all transportation accident investigation functions under one roof may give the appearance of symmetry, we do not believe that it would offer any significant advantages of substance. It would be unfortunate to discard a system which has worked remarkably well for many years and replace it with a more costly system which at best would be full of uncertainties and might jeopardize the effectiveness of aviation safety investigations and the public's confidence therein.

b. Safety appeal functions. Many of the above considerations are also applicable to the proposed transfer of the Board's safety appeal functions. Under Title VI of the Federal Aviation Act, the Board sits as a quasi-judicial tribunal, to hear appeals from adverse actions taken by the Federal Aviation Agency with respect to licenses. In 1958, the Congress took special pains to keep this function in the Board as a safeguard against possible abuse of the vast regulatory authority and enforcement powers entrusted to the Federal Aviation Agency. The Board believes that it has been extremely effective in fulfilling the task assigned to it, and has succeeded in fully protecting the rights of appellants without impairing the ability of the Administrator to discharge his functions properly. The proposed transfer of the Board's Title VI functions to the NTSB, housed within the Department that absorbs the Federal Aviation Agency's functions, cannot help but arouse concern among the various associations of licensees, such as the Air Line Pilots Association and the Aircraft Owners and Pilots Association, that are intensely interested in insuring a full and impartial review by an independent tribunal. Moreover, we are not aware that any useful purpose would be served by a transfer to the NTSB.

c. The Board's views with respect to the transfer of its accident investigation and safety appeals functions to the new Department, are based upon its own experience under Title VI and VII of the Federal Aviation Act. It is recognized that there may be broader considerations of policy and governmental organization not within the purview of the Board that might cause the President or the Congress to reach a different conclusion on the desirability of making the transfers in question.

2. Subsidy provisions

a. Section 406(b) of the Federal Aviation Act provides that in fixing rates for the transportation of mail, the CAB shall take into consideration the carrier's need for compensation sufficient, together with all other revenue, to enable it under honest, economical and efficient management to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and

Honorable Charles L. Schultze (5)

the national defense. Section 7(a) of the draft bill would amend section 406(b) so as to require that the CAB "shall take into consideration any principles and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States, the Postal Service, and the national defense."

As we understand the process, it requires that the Board consider the Secretary's standards and criteria, but leaves the Board with discretion to accept, modify, or reject those criteria subject, of course, to the usual strictures regarding reasonableness, consistency with statutory standards, and the making of appropriate supporting findings based upon the evidence of record. With this understanding, the Board does not object to the proposed amendment.

b. The draft bill leaves unchanged the present provisions of section 406 with regard to who may file petitions to reopen mail rates. At the present time, such power is conferred upon the air carriers, the Postmaster General, and the Board. A proposal to give power to the Secretary of Transportation to reopen subsidy rates, which was contained in earlier drafts, has been eliminated. We concur in the draft bill in this regard.

A determination to institute a subsidy mail rate proceeding and thereby reopen the carrier's rate involves basic questions as to the administration of section 406(b) which the Board believes should be reserved to the Board (subject, of course, to the established right of the carrier to reopen its rates to protect its special interest). The reopening of a mail rate has a substantial impact upon the carrier. Such action immediately casts uncertainty over the balance sheet and profit and loss statement of the carrier, since the carrier's ultimate financial results for the period following the reopening of the rate will depend upon a retroactive determination by the Board as to the amount of subsidy to be paid. Moreover, when a rate is reopened, it cannot be closed again without a thorough screening of the carrier's revenues, expenses, and investment, as well as other factors bearing upon the level of compensation required under section 406(b). Thus subsidy proceedings are apt to be time consuming, involving burdens upon both the carrier and the Board's staff. It is for these reasons that a reopening of a subsidy rate requires careful consideration of all the relevant facts bearing upon the question as to whether the existing rate is likely to be fair and reasonable for a representative future period, as well as an evaluation of the benefits of the reopening of the rate in the light of available Board resources. In making such determinations, the Board has available to it an expert staff familiar with the operations of the individual carriers and qualified to make the necessary preliminary analyses.

Honorable Charles L. Schultze (6)

In brief, a determination to reopen necessarily involves bringing to bear all of the elements of the Board's responsibilities under the statute with respect to over-all subsidy policies, the public interest in a sound air transportation system, the welfare of individual carriers, and the protection of public funds. On the other hand, the Department's basic interest should be in broad principles and criteria. It would lack the information and expertise to make determinations as to particular carriers, and would not be in a position to evaluate the desirability of instituting proceedings in the light of the Board's over-all programs and plans in administering all of its functions under the statute. Accordingly, the Board believes that conferring a power to institute Board proceedings upon the Secretary of Transportation would be inconsistent with the independence of the Board itself and would not be in keeping with sound and orderly administration.

c. Section 6 of the draft bill directs the Secretary of Transportation to develop principles and standards for the formulation and economic evaluation of proposals by Federal departments and agencies for the investment of Federal funds in transportation facilities or equipment. Any proposals to which the Secretary's standards and criteria are applicable must be prepared in accordance therewith, coordinated with the Secretary, and transmitted to the Executive Office of the President for disposition. As the Board understands section 6, it has no applicability with respect to the Board's functions under the Federal Aviation Act. Accordingly, the Board would have no objection to the proposals contained in section 6.

For the Civil Aeronautics Board:



Harold R. Sanderson
Secretary



TREASURY DEPARTMENT
UNITED STATES COAST GUARD

Address reply to:
COMMANDANT
U.S. COAST GUARD
WASHINGTON, D.C. 20226

CL

• 8 FEB 1966

MEMORANDUM TO GENERAL COUNSEL OF THE TREASURY SMITH:

From: Commandant, U. S. Coast Guard

Subj: Proposed bill to create the Department of Transportation

1. I have had an opportunity to review the proposed bill which would transfer the Coast Guard to a new Department of Transportation. I have also examined the Treasury Department report on the bill insofar as it relates to the transfer of the Coast Guard. It is unfortunate that a more realistic time period was not available for evaluation of all factors involved in the transfer of the Coast Guard to the new Department of Transportation. There are some features, however, which require comment; and, in my opinion, revision of the bill in order to insure preservation of the Coast Guard as an entity available to fulfill its wartime tasks, under 14 U.S.C. 3, when it will be transferred to the Navy Department. As you are aware, many statutes under which the Coast Guard exercises authority speak in terms of the Secretary of the Department in which the Coast Guard is operating. This language would require that an organizational entity of the Coast Guard be maintained so that the Secretary of the Department in which the entity is operating can act. In my opinion, several provisions of the bill, as indicated in the 7 February 1966 draft, make possible the fragmentation of functions of the Coast Guard so that an organizational entity would no longer exist.

2. To begin with, I believe that the actual transfer section should, at a minimum, contain the language suggested in the Treasury Department report. I notice that the 7 February draft does not adopt this language. I think it is vital that the existence of the Coast Guard as an armed force subject to transfer to the Department of Defense within the Navy Department be recognized in this proposed bill either by reference to that status in section 5(b) or in a separate section under the administrative provisions in section 8. Further, I believe that all provisions of the bill which would be inconsistent with the recognition of the Coast Guard as an entity should be amended to reflect the existence of the Coast Guard and, in effect, limit authority under the bill in this manner. An attachment to this memorandum indicates specific language proposed both for the recognition of the Coast Guard and for the other provisions of the bill which should be amended.



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3. I note that the bill, outside of establishing the Department and the National Transportation Safety Board, does not deal with the organization of the proposed Department of Transportation. For example, there is nothing in the bill to indicate whether the Department would or would not have bureaus, or whether the functions would be administered by separate offices in dealing with individual areas of transportation. It is recognized that in order to achieve the purpose of the bill, some consolidation is necessary; however, it is to be recognized also that the problems arising in the various areas of transportation will still require separation of functions. Development of the technical and scientific expertise necessary for the regulation and inspection of one segment of the transportation industry simply is not applicable across-the-board to other segments of the transportation industry. It seems appropriate that this fact should be recognized in the proposal and that a section should be added to the bill which would indicate the organization of the Department into bureaus dealing with the various segments of the transportation industry and practices. I might observe here that this approach would be entirely consistent with the concept mentioned in the previous paragraph of preserving the Coast Guard as an organizational entity.

4. Under the section establishing the National Transportation Safety Board, provision is made for the assumption of functions with regard to reporting of facts, conditions, and circumstances relating to transportation accidents and to determinations of cause or probable cause thereof and with regard to the review on appeal of enforcement cases involving certificates or licenses issued by the Secretary. An additional provision would permit the board to delegate to any officer or official of the board or, with the approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate. It appears that it is entirely possible under this section for the National Transportation Safety Board to duplicate technical and scientific expertise available in the various components of the Department in the investigative and fact-finding phases of accident investigation. It does not appear to be intended that a function of the National Transportation Safety Board is the day-to-day conduct of business in the various areas of transportation. I conceive the board to be a forum where uniformity of treatment of the various phases of transportation problems will be treated. In other words, the board would be concerned with problems involving more than one segment of the transportation industry and also would be concerned with the fairness of the various documentation and licensing procedures so that all individuals whether they apply for pilot's license or a mariner's document could expect, in very general parameters, the same consideration and treatment from each component of the Department. I believe, therefore, the section should clearly indicate that the National Transportation Safety Board will not duplicate staffs or existing Department components but will function in the area of review of activities by the various components in the field of accident investigation and the issuance of documents. In this way, one of the purposes of the bill would be enhanced.

5. The bill in its transfer of Coast Guard powers, functions, and duties has failed to recognize the military status of personnel of the Coast Guard with respect to the administration of provisions of the Uniform Code of Military Justice. An additional section will be required which will provide for the exercise of these functions by an official other than the Secretary of Transportation in order that the concept envisioned when the Uniform Code was enacted will be continued. Suggested language is attached.

6. It is noted in section 5(f) that administration of the Oil Pollution Act of 1924 is transferred to the new Department, but no reference is made to the Oil Pollution Act of 1961. The Coast Guard is directly concerned with the enforcement of both of these Acts and invites attention to the omission of the latter Act.

7. Section 8(s) contains authority for the Secretary to maintain and operate common administrative services. The Coast Guard in connection with its requirement to maintain a state of readiness to function as a specialized service in the Navy during time of war or when the President directs has participated formally in supply arrangements and support arrangements with the Department of Defense and the Navy Department. These arrangements are currently in existence, and it would seem appropriate to recognize, in section 8(s), the participation by the Coast Guard in them, particularly as they affect communications and telephone services and general supplies common to the armed forces. Suggested language is attached.

8. There is no provision similar to section 1(c) of Reorganization Plan No. 26 of 1950 which would except from the transfer the functions of the Coast Guard and of the Commandant of the Coast Guard when the Coast Guard is operating as a part of the Navy under section 3 of title 14. It would seem appropriate to include language in the bill which would provide this authority and so give full effect to any transfer of the Coast Guard in accordance with 14 U.S.C. 3. In addition, such a provision would further recognize the necessity for the existence of the Coast Guard as an organizational entity. Suggested language is attached.

9. No mention is made of the medical care provided the Coast Guard by the Public Health Service. A statutory authority for the Public Health Service to provide medical care to the Coast Guard speaks in terms of members of the Coast Guard and their dependents. Provided the Coast Guard is recognized as an entity, there would be no need to mention medical care for the military members of the Coast Guard in the bill. If, however, the identity of the Coast Guard is lost in this proposed transfer, other statutes will require amendment in order to continue the medical care now in existence.



E. J. ROLAND
Admiral U. S. Coast Guard
Commandant

Enclosure

February 8, 1966

DEPARTMENT OF TRANSPORTATION

Notes on Meeting with John Macy, February 5, 1966

At 2:30 p.m. February 5, 1966, certain members of the Task Force on the Department of Transportation (Charles Zwick, Alan Dean, Cecil Mackey, and Art Kallen) met with John Macy to review further certain personnel and compensation features of the draft DOT bill. The items covered and decisions made were as follows:

1. The plan for the general concept of the structure of the Department and the positions of Secretary, Under Secretary, four assistant secretaries, Assistant Secretary for Administration, and General Counsel were again gone over with Mr. Macy, who concurred in them.
2. The plan to provide for one unspecified position at executive Level III, three at Level IV, and six at Level V was presented. Macy was advised that the Level III position would be for the FAA Administrator, the Level IV positions would be used for the heads of other operating major administrations, and the Level Vs would be used for Deputy FAA Administrator, for such other deputy positions as might warrant this level, and for new major organizations or offices established by the Secretary not otherwise provided for in the bill. John Macy specifically concurred in these proposals. The provision authorizing 20 special positions comparable to those now available in the FAA and NASA was discussed at length. The need to place in the hands of the Secretary flexible authority for a small number of top level positions compensated at not to exceed the GS-18 level was reviewed. John Macy expressed some skepticism as for the need for this authority, but at the end of the discussion agreed to the inclusion of the provision in the bill for the time being. This might well be the subject of further discussion and decision making.

3. The authority for additional supergrades was discussed and comparisons with other major executive departments (Treasury, HEW, and Agriculture) were made. It was agreed that considering the need for at least five supergrades for the Transportation Safety Board and its staff that the Classification Act should be amended to increase the number of supergrades available by 25. If the inclusion of authority for 20 special positions is reconsidered, the number of supergrades would have to be adjusted accordingly.
4. The compensation of the chairman and members of the Transportation Safety Board was next considered. It was agreed that with a strong chairman concept the position of chairman should be compensated at executive Level V. The other members of the Board would be in GS-18 positions. John Macy felt that this was reasonable, considering general practice under the Classification Act and executive salary legislation.
5. John Macy was advised that the Task Force favored a general savings clause protecting all employees affected by the establishment of the Department from reductions in grade or compensation for a reasonable period of time. Mr. Macy agreed to a 12-month period of protection for employees after the taking effect of the Act.

Mr. Dean
DRAFT
February 7, 1966

A B I L L

To establish a Department of Transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Transportation Act."

DECLARATION OF PURPOSE

Sec. 2. The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development and implementation of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

The Congress, therefore, finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation of Federal, State and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop

and recommend national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry and labor, and the national defense.

ESTABLISHMENT OF DEPARTMENT

Sec. 3. (a) There is hereby established at the seat of government an executive department to be known as the Department of Transportation (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Secretary in carrying out the purposes of this Act shall, among his responsibilities, exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; develop national transportation policies, programs, and recommendations; promote and undertake development, collection, and dissemination of technological, statistical, economic and other information relevant to domestic and international transportation; and promote and undertake research and development in and among all modes of transportation and types of transportation services and facilities.

(c) In exercising the functions, powers, and duties herein transferred, the Secretary shall give full consideration to the need for operational continuity of the functions transferred, to the need for effectiveness and safety in transportation systems, (and to the needs of the national

defense.

(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(e) There shall be in the Department four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(f) There shall be in the Department an Assistant Secretary for Administration, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(g) The Secretary may appoint persons to such other positions under the Federal Executive Salary Schedule not to exceed one at Level III, three at Level IV and six at Level V as may be placed in the Department by

the President under the Federal Executive Salary Act of 1964 (78 Stat. 416). The Secretary shall designate the title of such positions and shall cause such titles and any changes therein to be published in the Federal Register.

NATIONAL TRANSPORTATION SAFETY BOARD

Sec. 4 (a) There is hereby established within the Department a National Transportation Safety Board. The Board shall exercise the functions transferred to the Secretary by Sections 5 and 7 of this Act with regard to reporting of facts, conditions, and circumstances relating to transportation accidents and to determinations of cause or probable cause thereof, and with regard to the review on appeal of transportation safety enforcement cases involving the suspension, alteration, modification, revocation, or denial of any certificate or license issued by the Secretary. In exercising these functions, powers, and duties, the Board shall be independent of the Secretary and the operating units of the Department.

(b) The Board shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate, and who shall continue in office as designated by the President at time of nomination through the last day of the first, second, third, fourth, and fifth full calendar years, respectively, following the year of enactment of this Act. Their successors shall be appointed for terms of five years, in the same manner as the members originally appointed under this Act. Members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers, and duties vested in and imposed upon

the Board. Members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) Any person appointed to fill a vacancy occurring prior to the expiration of a term for which his predecessor was appointed shall serve only for the remainder of such term. Upon the expiration of his term of office, except in the case of a member removed for cause under section 4(b), a member shall continue to serve until his successor is appointed and shall have qualified.

(d) The President shall designate from time to time one of the members of the Board as Chairman and one of the members as Vice-Chairman, who shall act as chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman. The Chairman shall be the chief executive and administrative officer of the Board and shall exercise the responsibility of the Board with respect to

(1) the appointment and supervision of personnel employed by the Board, (2) the distribution of business among the Board's personnel, and (3) the use and expenditure of funds. In executing and administering the functions of the Board on its behalf, the Chairman shall be governed by the general policies, decisions, findings, and determinations of the Board.

(e) The Chairman of the Board shall be compensated at the rate provided for at level V of the Federal Executive Salary Act of 1964 (78 Stat. 416), as provided in section 9(d) (4) of this Act. Members of the Board shall be compensated at the rate now or hereafter established for grade 18 of the General Schedule of the Classification Act of 1949 (63 Stat. 954).

(f) The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, including rules, regulations, and procedures for the conduct of accident investigations.

(g) The Board, any member thereof or any hearing examiner assigned to the Board shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

(h) The Board may delegate to any officer or official of the Board or, with the approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate.

(i) The Board is further authorized to make such recommendations concerning transportation safety to the Secretary as it may deem appropriate, including recommendations for the conduct of special safety studies on matters pertaining to safety in transportation and the prevention of accidents, and the initiation of accident investigations.

(j) Subject to the Civil Service and classification laws, the Board is authorized to select, appoint, employ and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this Act.

(k) The Secretary shall provide to the Board financial and administrative services, the cost of which shall be paid in advance, or by reimbursement, from funds of the Board.

(1) There is hereby authorized to be appropriated to the Board, such sums as may be necessary to carry out its functions.

TRANSFERS TO DEPARTMENT

Sec. 5. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under title 23, United States Code, relating to highways; section 209 (e) (1) of the Highway Revenue Act of 1956 (70 Stat. 374), relating to assisting the Secretary of the Treasury in preparing annual reports on the condition of the Highway Trust Fund; the Act of July 14, 1960 (74 Stat. 526), relating to the National Driver Register Service; the Federal-aid Highway Act of 1954 (68 Stat. 70), relating to the Great River Road; the Federal-aid Highway Act of 1956 (70 Stat. 374), relating to dimensions and weights of vehicles on Federal-aid highway systems, standards for the Interstate system, highway safety study; the Highway Revenue Act of 1956 (70 Stat. 387), relating to the highway trust fund, studies and investigations of Federal-aid highways; the Federal-aid Highway Act of 1958 (72 Stat. 89), relating to matching highway funds; the Highway Beautification Act of 1965 (79 Stat. 1028); the Alaska Omnibus Act (73 Stat. 141), relating to transfers of lands, buildings, fixtures and other property used in connection with Bureau of Public Roads activities in Alaska; Senate Joint Resolution 81 (79 Stat. 578), relating to appropriations and reports to Congress; the Act of July 26, 1956 (70 Stat. 669), relating

to the Muscatine Bridge Commission; the Act of December 21, 1944 (58 Stat. 846), relating to the City of Clinton Bridge Commission; the Act of April 12, 1944 (55 Stat. 140), relating to the White County Bridge Commission; the Act of April 27, 1962 (76 Stat. 59), relating to the annual audit of bridge commissions; the Act of September 30, 1965, relating to high-speed ground transportation (79 Stat. 893); the Urban Mass Transportation Act of 1964 (78 Stat. 302); the Act of September 7, 1957 (71 Stat. 629), and section 410 of the Federal Aviation Act of 1958 (72 Stat. 769), relating to guarantee of loans for the purchase of aircraft and aircraft equipment; title XIII, War Risk Insurance, of the Federal Aviation Act of 1958 (72 Stat. 800); the Great Lakes Pilotage Act of 1960 (74 Stat. 259); the Merchant Marine Act, 1920 (41 Stat. 988); the Merchant Marine Act, 1928 (45 Stat. 689); the Merchant Marine Act, 1936 (49 Stat. 1985); the Shipping Act, 1916 (39 Stat. 728); the Merchant Ship Sales Act of 1946 (60 Stat. 41); the Maritime Academy Act of 1958 (72 Stat. 622); the Act of June 12, 1940 (54 Stat. 346), relating to assistance to maritime schools; the Act of August 30, 1964 (78 Stat. 614), relating to the fishing fleet; the Act of September 14, 1961 (75 Stat. 514), relating to appointments to the Merchant Marine Academy; the Act of June 13, 1957 (71 Stat. 73) to the extent it relates to operating-differential subsidies; the Act of June 12, 1951 (65 Stat. 59), relating to vessel operations revolving fund; the Act of July 24, 1956 (70 Stat. 605), relating to the grant of medals and decorations for service in the United States Merchant Marine; the Act of August 9, 1954 (68 Stat. 675), relating to emergency foreign merchant vessel acquisition and operation;

the Act of May 21, 1920 (41 Stat. 613), relating to purchases and manufacture of materials and supplies for other agencies; Reorganization Plan No. 21 of 1950 (64 Stat. 1273); Reorganization Plan No. 7 of 1961 (75 Stat. 840); Reorganization Plan No. 7 of 1949 (63 Stat. 1070); and the Act of August 1, 1947 (61 Stat. 715), to the extent that it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection.

(b) There are hereby transferred to and vested in the Secretary all functions, powers, and duties relating to the Coast Guard, of the Secretary of the Treasury, and of other officers and offices of the Department of the Treasury.

(c) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the administrator and other officers and offices thereof.

(d) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, Members, officers and offices thereof under titles VI (72 Stat. 775) and VII (72 Stat. 781) of the Federal Aviation Act of 1958, relating to safety.

(e) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission under the Act of March 2, 1893 (27 Stat. 531), as amended by the Act of

August 14, 1957 (71 Stat. 352), the Act of March 2, 1903 (32 Stat. 943), as amended by the Act of April 11, 1958 (72 Stat. 86), and the Act of April 14, 1910 (36 Stat. 298), as amended by the Act of August 14, 1957 (71 Stat. 352), relating to safety appliances; the Act of May 30, 1908 (35 Stat. 476), relating to ash pans; the Act of February 17, 1911 (36 Stat. 913), the Act of March 4, 1915 (38 Stat. 1192), the Act of June 26, 1918 (40 Stat. 616), the Act of June 7, 1924 (43 Stat. 659), the Act of June 27, 1930 (46 Stat. 822) and the Act of April 22, 1940 (54 Stat. 148), the Act of May 27, 1947 (61 Stat. 120), the Act of June 25, 1948 (62 Stat. 909), the Act of October 28, 1949 (63 Stat. 972), the Act of August 14, 1957 (71 Stat. 352), relating to boiler inspection; Reorganization Plan No. 3 of 1965 (79 Stat. 1320), relating to locomotive inspection; the Resolution of June 30, 1906 (34 Stat. 838), relating to block signals; the Act of May 27, 1908 (35 Stat. 325), the Act of March 4, 1909 (35 Stat. 965), relating to investigation and testing of appliances and inspection of mail cars; the Act of May 6, 1910 (36 Stat. 350); the Act of September 13, 1960 (74 Stat. 903), relating to accident reports; the Act of March 4, 1907 (34 Stat. 1415), the Act of May 4, 1916 (39 Stat. 61), the Act of June 25, 1948 (62 Stat. 909), the Act of August 14, 1957 (71 Stat. 352), relating to hours of service of employees; the Act of February 23, 1905 (33 Stat. 743), the Act of June 13, 1957 (71 Stat. 69), relating to awards; title 18, United States Code, sections 831-835, relating to explosives and combustibles; the Act of March 19, 1918 (40 Stat. 450), the Act of March 4, 1921 (41 Stat. 1446), and the Act of March 3, 1923 (42 Stat. 1434), relating to the Standard Time Act; and the following sections of the Interstate Commerce

Act (24 Stat. 379):

sections 1(10), 1(11), 1(12), 1(13), 1(14)(a) (but not including establishment of the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it), 1(15), 1(16), 1(17), 6(8) the final sentence of 15(4), 15(10), and 420, relating to car service; section 25, relating to safety appliances, methods and systems; section 226, relating to investigation of motor vehicle sizes and weights; section 1(21) except to the extent that it relates to the extension of line or lines of common carriers; section 204(a)(1) and (2) to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment; and section 204(a)(3), (3a), and (5), relating to safety.

Nothing in this subsection shall diminish the functions, powers, and duties of the Interstate Commerce Commission under any section of the Interstate Commerce Act not specifically referred to in the first paragraph of this subsection, including but not limited to sections 1(6), 206, 207, 209, 210a, 212, and 216.

(f) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053), and the Act of April 22, 1940 (54 Stat. 150), relating to water vessel anchorages; section 5 of the Act of August 18, 1894 (28 Stat. 362), relating to drawbridge operating regulations; the Act of June 21, 1940 (54 Stat. 497), relating to obstructive bridges; section 4 of the Act of March 23, 1906

(34 Stat. 85), section 503 of the General Bridge Act (60 Stat. 847), section 17 of the Act of June 10, 1930 (46 Stat. 552), the Act of June 27, 1930 (46 Stat. 821), and the Act of August 21, 1935 (49 Stat. 670), relating to the reasonableness of tolls; the Oil Pollution Act, 1924 (43 Stat. 604), relating to the detection of oil pollution and enforcement of measures against same; and section 9 of the Act of March 3, 1899 (30 Stat. 1151), the Act of March 23, 1906 (34 Stat. 84), and the General Bridge Act (60 Stat. 847), insofar as they relate to the location and clearances of bridges in the navigable waters of the United States.

TRANSPORTATION INVESTMENT STANDARDS

Sec. 6. (a) The Secretary shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use, (2) an interoceanic canal located outside the contiguous United States, (3) defense features included in the design and development of civil air, sea and land transportation and funded through appropriations to the Department of Defense or (4) programs of foreign assistance. The standards and criteria for economic evaluation of the transportation features of multi-purpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council, and shall be compatible with the standards and criteria for economic evaluation applicable to non-transportation features of such projects. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the President.

(b) Every survey, plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall ^{be} prepared

in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and with other Federal agencies, States, and local units of government, as appropriate, for inclusion of their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him.

AMENDMENTS TO OTHER LAWS

Sec. 7. (a). Section 406(b) of the Federal Aviation Act of 1958, as amended, (72 Stat. 763) is amended by adding the following sentence at the end thereof: "In applying clause (3) of this subsection, the Board shall take into consideration any principles and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense."

(b) Section 201 of the Appalachian Regional Development Act (79 Stat. 10) is amended as follows:

(1) The first sentence of subsection (a) of that section is amended by striking the words "Commerce (hereafter in this section referred to as the 'Secretary')" and inserting in lieu thereof "Transportation."

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(2) The last sentence of subsection (a) of that section is amended by inserting after the word "Secretary", the words "of Transportation".

(3) Subsection (b) of that section is amended by inserting after the word "Secretary", the words "of Commerce".

(4) Subsection (c) of that section is amended by striking the first sentence and inserting in lieu thereof the following sentence:

"Such recommendations as are approved by the Secretary of Commerce shall be transmitted to the Secretary of Transportation for his approval."

(5) The second sentence of subsection (c) of that section is amended by inserting after the word "Secretary" the words "of Transportation".

(6) Subsection (e) of that section is amended by inserting after the word "Secretary" the words "of Transportation".

(7) Subsection (f) of that section is amended by inserting after the word "Secretary", the words "of Commerce and the Secretary of Transportation". Subsection (f) of that section is further amended by striking the word "determines" and inserting in lieu thereof "determine".

(8) Subsection (g) of that section is amended by striking the period at the end thereof and adding the following:

"to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects by both Secretaries."

(c) Section 206(c) of the Appalachian Regional Development Act of 1965 (79 Stat. 15) is amended by inserting after "Interior," the words "Secretary of Transportation,".

(d) Sections 12, 13(1), 13(2), 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (except clauses 4 and 4a thereof), 204(c), 205(d), 205(f), 220 (except subsection (c) thereof) and 222 (except subsections (b)(2) and (b)(3) thereof) of the Interstate Commerce Act (27 Stat. 379) are amended by inserting "(Secretary of Transportation with respect to the establishment and enforcement of reasonable requirements with respect to qualifications and maximum hours of service of employees, safety of operation and equipment, and car service)" immediately after "Commission" where it first occurs in each such section, and by inserting "or Secretary of Transportation, as the case may be" after Commission in every other place where it occurs in each such section, except where it occurs in the proviso of section 220(a) and the last line in section 222(h).

(e) Section 212(a) of the Interstate Commerce Act (49 Stat. 555) is amended by striking "of the Commission" the second, third, and fourth times those words occur.

(f) Section 13(b) of the Fair Labor Standards Act of 1938 (52 Stat. 1067) is amended by striking the words "Interstate Commerce Commission" and inserting in lieu thereof "Secretary of Transportation."

(g) Section 18(1) of the Interstate Commerce Act (27 Stat. 386) is amended by inserting "or Secretary of Transportation with respect to the establishment and enforcement of reasonable requirements with respect to qualifications and maximum hours of service of employees, safety of operation and equipment, and car service" after "Commission" where it last occurs therein.

(h) Section 101 of the Water Resources Planning Act (79 Stat. 245) is amended by adding "the Secretary of Transportation" after the words "Secretary of Health, Education, and Welfare,".

ADMINISTRATIVE PROVISIONS

Sec. 8(a). In addition to the authority contained in any other act which is transferred to and vested in the Secretary, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to carry out the provisions of this Act and to prescribe their authority and duties. The Secretary may fix the compensation for not more than twenty positions in the Department at an annual rate not to exceed the highest rate now or hereafter established for grade 18 of the General Schedule of the Classification Act of 1949 (63 Stat. 954).

(b) Subsection b of section 505 of the Classification Act of 1949, (63 Stat. 964), relating to the maximum number of positions authorized at any one time for grade 16, 17, and 18 of the General Schedule of such act, is further amended by striking the number "twenty-four hundred" and by inserting in lieu thereof "twenty-four hundred and twenty five."

(c) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810), but at rates not to exceed \$100 per diem for individuals unless otherwise specified in an appropriation act.

(d) In addition to the authority to delegate and redelegate contained in any other act in the exercise of the functions transferred to or vested in the Secretary in this Act, the Secretary may delegate any of his functions, powers, and duties, to such officers and employees of the Department as he may designate, may authorize such successive re-delegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(e) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Federal Aviation Agency, and of the head and other officers and offices thereof, are hereby transferred to the Secretary.

(f) So much of the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by sections 5 (except section 5(c)) and 7(d), (e), (f) and (g) of this Act as the Director of the Bureau of the Budget shall determine shall be transferred to the Secretary.

(g) The transfer of personnel pursuant to subsections (e) and (f) of this section shall be without reduction in classification and compensation, except that this requirement shall not operate after one year from the date such transfers are made. ✓

(h) Any offices and any agency heretofore established by law, all the functions, powers, and duties of which are transferred pursuant to this Act shall lapse; Provided, however, that this sentence shall not apply to uniformed personnel of the Coast Guard; and Further Provided, that any person holding a position compensated in accordance with the Federal Executive Salary Schedule who, without a break in service, is appointed in the Department to a position having duties comparable to those performed at the effective date of this Act shall continue to be compensated at the rate provided for such level for the duration of his appointment.

(i) As necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

- (1) Emergency medical services and supplies;
- (2) Food and other subsistence supplies;
- (3) Messing facilities;
- (4) Motion picture equipment and film for recreation and training;
- (5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons; and
- (6) Living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(j) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of Transportation. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary of Transportation. Property accepted pursuant to this provision, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(k) For the purpose of Federal income, estate, and gift taxes, property accepted under section 8(j) of this Act shall be considered as a gift or bequest to or for the use of the United States.

(l) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any monies contained in the fund authorized herein. Income accruing from such securities, and from any other property pursuant to section 8(j) of this Act, shall be deposited to the credit of the fund authorized herein, and shall be disbursed upon order of the Secretary of Transportation.

(m) The Secretary is authorized to establish, from time to time, a schedule or schedules of reasonable fees or charges for services performed or for any publications furnished by the Department of Transportation or any of the agencies thereof, to, for, or on behalf of individuals, cooperations, associations, or others, at their request, or as required by law, except those services performed for or publications furnished to the Government of the United States, its Territories or possessions, and the governments of the several States and the District of Columbia. All charges or fees authorized shall be collected by the Secretary of Transportation or his representatives from the aforesaid individuals, cooperations, associations, or others, and the proceeds thereof shall be covered into the Treasury of the United States as miscellaneous receipts; Provided That nothing in this subsection shall alter, amend, modify, or repeal any existing law prescribing fees or charges or authorizing the prescribing of fees or charges for the services performed or for any publications furnished by the Department of Transportation, or any of its several agencies.

(n) The Secretary is authorized, upon the written request of any person, firm, or cooperation, to make special statistical studies relating to foreign and domestic transportation, and other matters falling within the province of the Department of Transportation, to prepare from its records special statistical compilations, and to furnish transcripts of its studies, tables, and other records upon the payment of the actual cost of such work by the person, firm, or cooperation requesting it.

(o) All monies received by the Department of Transportation in payment of the cost to work under sub-section (o) of this section shall be deposited in a special account to be administered under the direction of the Secretary of Transportation. These monies may be used, in the discretion of the Secretary of Transportation, and notwithstanding any other provisions of law, for the ordinary expenses incidental to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States.

(p) The Secretary is authorized to appoint such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees shall be entitled to travel expenses per diem as authorized by the Administrative Expenses Act of 1946 (60 Stat. 808), for all persons employed intermittently as consultants or experts receiving compensation on a per diem basis.

—(q) Orders of the Secretary in the exercise of powers transferred to him from the Interstate Commerce Commission shall be subject to judicial review to the same extent and in the same manner as if such orders had been issued by the Commission.

(r) In the exercise of the functions transferred to or vested in the Secretary in this Act, the Secretary is authorized the same authority vested in the Civil Aeronautics Board in Section 1004 of the Federal Aviation Act of 1958 (72 Stat. 792), and his actions in exercising that authority shall have the same force and effect as when exercised by the Civil Aeronautics Board.

(s) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction and for graphics and visual aids; and a central library service. The capital of the fund shall consist of the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital, which appropriations are hereby authorized. Such funds shall be reimbursed from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund.

(t) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

CONFORMING AMENDMENTS TO OTHER LAWS

Sec. 9. (a) Section 19(d)(1) of title 3, United States Code, is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Transportation."

(b) Section 158 of the Revised Statutes (5 U.S.C. 1) is amended by adding at the end thereof:

"Twelfth. The Department of Transportation."

(c) The amendment made by subsection (b) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

(d) Section 303 of the Federal Executive Salary Act of 1964 (78 Stat. 416) is amended as follows:

(1) subsection (a) of that section is amended by adding at the end thereof the following:

"(11) Secretary of Housing and Urban Development.

"(12) Secretary of Transportation."

(2) subsection (c) of that section is amended by striking "(6) Under Secretary of Commerce for Transportation" and inserting in lieu thereof, "(6) Under Secretary of Transportation".

(3) subsection (d) of that section is amended by adding the following:

"(22a) Assistant Secretaries, Department of Transportation (4)".

"(47a) General Counsel, Department of Transportation".

(4) subsection (e) of that section is amended by adding the following:

"(27a) Assistant Secretary for Administration, Department of Transportation".

"(101) Chairman, National Transportation Safety Board, Department of Transportation".

(5) Subsection (g) of that section is amended by adding at the end thereof the following new subsection:

"Following the effective date of the Department of Transportation Act, the President is further authorized to place in the Department of Transportation, one position in level III, three positions in level IV, and six positions in level V.

(e) Subsections (b)(7), (d)(2), and (e)(12) (13) (14) (76) (82) (89) of section 303 of the Federal Executive Salary Act of 1964 (78 Stat. 415) are repealed, subject to the provisions of section 8 of the Department of Transportation Act.

(f) The Act of August 1, 1956 (70 Stat. 897) is amended by striking the word "Secretary of Commerce" where they appear therein and inserting in lieu thereof "Secretary of Transportation."

(g) Title 18, United States Code, section 1020 is amended by striking the words "Secretary of Commerce" where they appear therein and inserting in lieu thereof "Secretary of Transportation."

ANNUAL REPORT

Sec. 10. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

Sec. 11. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges which have been issued, made, granted, or allowed to become effective by any department or agency, functions of which are transferred by this Act, or by any court of competent jurisdiction, or under any provision of law repealed or amended by this Act, or in the exercise of duties, powers, or functions which, under this Act are vested in the Secretary, and which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, or by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department, agency or component thereof, functions of which are transferred by this Act; but any such proceedings involved in such transfer shall be continued before the Department of Transportation, orders therein issued, appeals therefrom taken, and payments made pursuant to such orders, as if this Act had not been enacted; and orders issued in

any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary or by operation of law.

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this section takes effect; and all such suits shall be continued by the Department of Transportation, proceedings therein had, appeals therein taken and judgments therein rendered, in the same manner and effect as if this Act had not been enacted. No suit, action, or other proceeding commenced by or against any officer in his official capacity of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this section.

(d) With respect to any function, power, or duty transferred by this Act and exercised hereafter, reference in any other Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the Secretary.

SEPARABILITY

Sec. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

Sec. 13. The President is authorized to nominate and appoint any of the officers provided for in sections 3 and 4 of this Act, as provided in such sections, at any time after the date of enactment of this Act. All other provisions of this Act shall take effect 90 days after the Secretary first takes office, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register, and such date shall be the effective date of this Act.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 14. The Secretary is empowered to make such expenditures at the seat of government and elsewhere as may be necessary for the exercise and performance of the powers and duties vested in and imposed upon him by law, and as from time to time may be appropriated for by Congress, including expenditures for (1) rent and personal services at the seat of government and elsewhere; (2) travel expenses; (3) office furniture, equipment and supplies, lawbooks, newspapers,