

ESTABLISHING A DEPARTMENT OF TRANSPORTATION, AND FOR OTHER PURPOSES

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Mr. McCLELLAN, from the Committee on Government Operations,
submitted the following

REPORT together with ADDITIONAL VIEWS

[To accompany S. 3010]

The Committee on Government Operations, to which was referred the bill (S. 3010) to establish a Department of Transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

The purpose of S. 3010 as amended, is to centralize in one new Cabinet-level department the responsibility for leadership in the development, direction, and coordination of the principal transportation policies, functions, and operations of the Federal Government which are now carried on by some 100,000 Federal employees in several departments, agencies, and independent regulatory agencies and elements thereof, involving annual expenditures approximating \$6 billion; and to provide within the Federal Government a focal point of responsibility for transportation safety.

The bill as amended seeks to accomplish this objective by establishing a Department of Transportation to which would be transferred the major transportation agencies and functions of the Federal Government, other than the economic regulatory functions of the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and the Federal Power Commission; and

by transferring to the Secretary, modal Administrators, and a newly created National Transportation Safety Board all of the transportation safety responsibilities which are now vested in agencies throughout the Government. Although some 35 Federal agencies currently have transportation responsibilities, only those agencies or functions would be transferred which are more closely related to the major purpose of the Department of Transportation than they are to their principal organizational bases.

S. 3010 was introduced by Senator Warren G. Magnuson at the request of the President of the United States, in order to implement one of the principal proposals contained in the President's transportation message, dated March 2, 1966, proposing, among other things, the establishment of a Department of Transportation and a National Transportation Safety Board.

SUMMARY OF PRINCIPAL PROVISIONS OF S. 3010, AS AMENDED

ORGANIZATION OF DEPARTMENT

S. 3010, as amended, would establish a Department of Transportation, headed by a Secretary of Transportation, an Under Secretary, four Assistant Secretaries, a General Counsel, and an Assistant Secretary for Administration. The four Assistant Secretaries have no specified statutory duties but would perform such duties and functions as the Secretary may direct.

The principal operating agencies within the Department would be a Federal Aviation Administration, a Federal Highway Administration, a Federal Maritime Administration, a Federal Railroad Administration, and the U.S. Coast Guard. Each of these operating agencies would be headed by an Administrator, except for the Coast Guard which would continue to be headed by the Commandant; and all of the principal officers named above, including the modal Administrators, and a Deputy Administrator in the case of aviation, along with the Commandant, would be appointed by the President, subject to Senate confirmation.

The committee amendment further establishes within the Department an independent bipartisan National Transportation Safety Board, composed of five Presidentially appointed members, subject to Senate approval, with tenure. Finally, there is established within the Department an independent, bipartisan Maritime Board, with the Federal Maritime Administrator serving as Chairman, and two other Presidentially appointed members, to handle maritime subsidy matters.

AGENCIES AND FUNCTIONS TRANSFERRED

S. 3010, as amended, would transfer to the new Department the following agencies and functions:

1. *The Federal Aviation Agency*, in its entirety, with all of its functions. It will continue to carry out all of its present functions in the new Department.
2. *The Bureau of Public Roads, Department of Commerce*, together with the Federal-aid highway program which it administers, as well as its numerous other highway activities.
3. *The Office of the Under Secretary of Commerce for Transportation*, together with all of the transportation functions now vested in the

Secretary of Commerce and other officers and offices of the Department of Commerce under various statutes, including the high-speed ground transportation program.

4. *The Federal Maritime Administration, Department of Commerce*, with its operating-differential and construction, differential subsidy programs for the U.S. merchant Marine and shipping industry.

5. *The U.S. Coast Guard, Department of the Treasury*, together with the functions of the Secretary of the Treasury which relate to the Coast Guard.

6. *The Great Lakes Pilotage Administration, Department of Commerce*, together with its functions of administering the Great Lakes Pilotage Act of 1960 which provides for the establishment of an effective system of regulated pilotage on the Great Lakes.

7. *The safety functions of the Civil Aeronautics Board*, including the responsibility for investigating and determining the probable cause of aircraft accidents and its appellate safety functions involving review on appeal of the suspension, modification, or denial of certificates or licenses.

8. *Interstate Commerce Commission functions* relating to railroad safety laws, and hours of service of employees; motor carrier safety laws; transportation of explosives; and, standard time zones and daylight saving time.

9. *Those functions of the Secretary of the Army, performed by the Corps of Engineers, which relate to anchorages, bridges, and tolls.*

10. *The St. Lawrence Seaway Development Corporation*, which would be under the direction and supervision of the Secretary of Transportation instead of the Secretary of Commerce.

11. *The Alaska Railroad*, now under the direction and supervision of the Secretary of the Interior.

12. *The functions, powers, and duties vested in the Secretary of Commerce by the National Traffic and Motor Vehicle Safety Act of 1966 and the Highway Safety Act of 1966.*

HEARINGS

The committee held 9 days of hearings on S. 3010, receiving testimony from 58 witnesses representing the executive branch, independent regulatory agencies, industry, labor, and the public. In addition, 36 exhibits and 50 statements and communications were incorporated into the hearing record which is contained in 4 volumes totaling 743 pages.

The principal issues which emerged from the hearings related primarily to (1) clarification of the respective roles of the Secretary and the Department of Transportation and the Congress with respect to national transportation policy; (2) assurance of the operational continuity and integrity of the agencies transferred; (3) provision for Presidential appointment with Senate confirmation of the heads of the modal operating agencies within the Department; (4) assurance of complete independence of the National Transportation Safety Board with respect to its adjudicatory and appellate functions; (5) the continued separation of accident investigations and determination of probable cause in major air accidents from the operating agency; (6) assurance of the application of the Administrative Procedures Act to the issuance of safety regulations and other quasi-legislative and quasi-judicial actions by the Secretary of Transportation, the

Administrators, the Maritime Board, and the National Transportation Safety Board, as provided in existing law; (7) transfer of all urban mass transit functions and responsibilities from the Department of Housing and Urban Development to the Department of Transportation; (8) the retention by the Interstate Commerce Commission of all of its car-service functions including those relating to the supply of freight cars, distribution and fixing of per diem and demurrage rates; and (9) the effect of transportation investment standards on certain programs, such as the multipurpose water resource projects of the Corps of Engineers.

In addition to the broader issues listed above, there was a substantial amount of testimony in favor of (1) Assistant Secretaries for each of the principal modes of transportation; (2) retention of the present independent status of the Federal Aviation Agency as well as retention by the Civil Aeronautics Board of all of its present safety functions; (3) retention by the Federal Highway Administrator of his present responsibilities and functions; (4) elimination of the multipurpose water resource projects from the requirements of section 7; (5) retention by the Interstate Commerce Commission of all of its present safety functions; and (6) establishment of a Federal Maritime Administration as an independent agency outside of and apart from the Department of Transportation.

COMMITTEE ACTION AND COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Following an analysis of the testimony, statements, communications and exhibits received at the hearings, the committee adopted numerous amendments which have been incorporated in the bill. In general, the committee amendment is designed to (1) clarify provisions relative to policy and purpose; (2) incorporate recommendations made at the hearings which were deemed to have merits; (3) insure operational continuity and the integrity of the transferred agencies; (4) insure that transportation safety functions will be handled exclusively by qualified professionals, experts and technicians; (5) reorganize certain sections of the bill in order to achieve an orderly arrangement; (6) incorporate certain necessary technical amendments; and (7) to conform, wherever possible, the language of the Senate bill with that of the House-passed act.

POLICY AND PURPOSE

Policy and purpose are set forth in sections 2 and 4 of S. 3010. During the hearings, considerable testimony was received which raised questions concerning the respective roles of the Secretary of Transportation and the Congress relative to national transportation policy. Particular concern was expressed with regard to the impact of the provisions of these sections on existing transportation policy, and suggestions were made that language be included which would make certain that the Secretary would be required to function within the framework of the very considerable body of such policy enacted by the Congress over a period of many years.

In order to clarify the respective roles of the Secretary of Transportation and the Congress with respect to national transportation policies, language was added to section 2 requiring the Secretary to

make recommendations with respect to national transportation policies and their implementation to the President and the Congress. S. 3010, as introduced, was silent as to the recipients of these recommendations.

An additional amendment was added to section 2 declaring it to be national policy that, in carrying out the provisions of this act, special effort be made to preserve the national beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges and historic sites.

Subsection 4(a) of S. 3010, as introduced, details the specific duties and areas of responsibility of the Secretary with respect to various transportation policies and programs and requires him to *develop* such policies and programs and make recommendations for their implementation. In order to clarify the respective roles of the Secretary and the Congress, the committee amended this language so as to require the Secretary to *provide leadership* in the development of such policies and programs, and to make recommendations for their implementation to the President and the Congress.

Additional amendments to subsection 4(a) require the Secretary to (1) include noise abatement, with particular reference to aircraft noise, in connection with his responsibility for the promotion and undertaking of research and development in all modes and types of transportation services and facilities; and (2) to consult with the heads of other Federal departments and agencies engaged in the procurement of transportation or the operation of their own transport services to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system operated by private enterprise.

The noise abatement provision was deemed necessary in view of the increasing use of jet aircraft in and around urban and suburban areas, resulting in a large volume of complaints concerning the noise from local residents. The consultation amendment was added in order to insure maximum coordination with respect to transportation policies among Government agencies.

A new subsection 4(b)(1) has been added which requires that the Secretary, in carrying out his duties and responsibilities under this act, be governed by all applicable statutes, including the policy standards set forth in all of the principal transportation statutes, each of which is specifically referred to. This was intended to eliminate any possible doubt concerning the effect of S. 3010 on existing transportation law, to clarify the role of the Congress with respect to such law, and to make certain that the Secretary will be required to perform his duties within the framework of, and subject to, all of the national transportation policies already enacted by the Congress.

A new subsection 4(b)(2) has been added which provides that nothing in the act shall be construed to authorize the adoption, revision or implementation of any transportation policy or investment standards or criteria contrary to or inconsistent with any act of Congress. This was intended as a further safeguard against possible action by the Secretary which might contravene policies and programs provided for in existing law.

A new subsection 4(f) was added which requires the Secretary of Transportation to cooperate and consult with the Secretaries of the Interior; Health, Education, and Welfare; Agriculture and with the States in all transportation plans and programs; and, after the effective date of the act, the Secretary would not be permitted to approve

any project or plan requiring the use of land from a public park, recreational area, wildlife and waterfowl refuges, historical sites, unless there is no feasible alternative to the use of such land and such plans include all possible planning to minimize harm to such area. This, and the policy statement in section 2, are designed to insure that in planning highways, railroad rights-of-way, airports and other transportation facilities, care will be taken, to the maximum extent possible, not to interfere with or disturb established recreational facilities and refuges.

OPERATIONAL CONTINUITY AND INTEGRITY OF TRANSFERRED AGENCIES—AVIATION, HIGHWAY, RAILROAD, AND MARITIME

Following an examination of testimony at the hearings, the committee was convinced of the need to maintain the integrity and operational continuity of the transferred agencies. In order to accomplish this, the committee added several amendments to section 3, which deals with the establishment and organization of the Department, and to section 6, which deals with transferred functions.

A new subsection 3(e)(1) was added which directs the Secretary to establish four modal operating Administrations (Aviation, Highway, Railroad, and Maritime), each headed by an Administrator appointed by the President, subject to Senate confirmation, and, in the case of aviation, the present Presidentially appointed Deputy Administrator was retained.

In a new subsection 3(e)(2), it was provided that all of the existing technical qualifications which are required of the present Administrator and Deputy Administrator of the Federal Aviation Agency will apply to the newly established office of Federal Aviation Administrator and his Deputy.

In subsection 3(e)(3), it was provided that the Administrators and the commandant of the Coast Guard shall report directly to the Secretary and that they were to carry out such functions, powers, and duties as the Secretary may prescribe and such additional functions as specified in this act; and in a new subsection 3(e)(4), it was provided that the functions, powers, and duties specified in this act to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan or by statute; and by a new subsection 9(f)(3), the modal Administrators may not delegate any of the statutory duties and responsibilities specifically assigned to them by this act outside of their respective administrations.

By amendments to subsection 6 (c), (d) and (e), all of the statutory functions, powers and duties transferred to the Secretary pertaining to safety are to be exercised by the Federal Aviation, Railroad and Highway Administrators, and their decisions regarding safety are made administratively final and not subject to Secretarial review; they are appealable, however, directly to the National Transportation Safety Board, the courts, or both, as appropriate. In the case of the Federal Aviation Administrator, it is provided, in subsection 6(c), that certain functions, powers, and duties of the Federal Aviation Agency and its Administrator are further transferred to, and are to be exercised by the Federal Aviation Administrator.

With respect to maritime matters, the committee heard considerable testimony in support of an independent Maritime Adminis-

tration. On the other hand, there were compelling reasons to retain this important mode of transportation within the Department. Accordingly, in order to strike a balance between these positions, the committee adopted several amendments to subsection 6(a).

Subsection 6(a)(5) (C) and (D) established an independent, bipartisan Maritime Board composed of the Federal Maritime Administrator and two other members, appointed by the President, subject to Senate confirmation, to serve 4-year terms. The Board would be responsible for maritime subsidy and related matters, including ship construction-differential subsidy. The Board members would be placed at level IV of the Federal Executive Salary Act of 1964; the decisions of the Board, made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection, are made administratively final and appeals authorized by law would be taken directly to the courts. The committee also adopted a conforming amendment to subsection 3(e)(4) to include the Maritime Board among the agencies whose functions, powers, and duties cannot be transferred elsewhere in the Department, unless specifically provided for by reorganization plan or by statute.

Thus, with respect to maritime matters, all of the functions, powers, and duties of the Secretary of Commerce, pertaining to maritime matters, now handled by the Maritime Administration of the Department of Commerce, would be transferred to the Secretary of Transportation. These functions, powers, and duties would be transferred within the Department to the Federal Maritime Administrator who would exercise certain functions, while the Maritime Board would carry out those quasi-judicial functions pertaining to maritime subsidies and related matters. The Board's decision with respect to these matters would be administratively final, subject only to judicial review.

S. 3010, as introduced, provided in subsection 4(j) that orders and actions of the Secretary or the National Transportation Safety Board, in the exercise of functions, powers, and duties transferred under this act, would be subject to judicial review to the same extent and in the same manner as if such orders and actions had been issued and taken by the agency from which the functions were transferred. In order to preserve existing legal rights, this provision, which now appears in subsection 4(c), has been amended to include judicial review of orders and actions of the Administrators, and Maritime Board taken pursuant to functions specifically assigned to them by this act.

The bill further provided, in subsection 4(k), that the Secretary, in the exercise of the functions transferred to him under this act, shall have the same powers that are vested in the agency originally exercising such functions, immediately preceding the transfer. In a further effort to achieve operational continuity, this provision, which now appears in subsection 4(c), has been amended to include continuity of authority for the Administrators, the National Transportation Safety Board and the Maritime Board, with respect to the functions, powers and duties transferred to them, in view of the important functions they will have under the committee amendment.

Any office or agency, other than the Coast Guard, all of whose functions, powers, and duties are transferred pursuant to this act, will lapse and cease to exist. However, provision is made to safeguard the positions of those holding positions in such offices or agencies on the effective date of the act, who are compensated under the Federal

executive salary schedule. Any such person, if appointed, without a break in service to a position having comparable duties to those performed immediately preceding his appointment, will continue to be compensated at not less than the rate provided for his previous position, for the duration of his service in his new position.

THE NATIONAL TRANSPORTATION SAFETY BOARD

Section 5 of S. 3010, as introduced, provided that the Board shall exercise those functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this act with regard to (1) determining the probable cause of transportation accidents and reporting the facts, conditions, and circumstances of each accident; and (2) review on appeal of the suspension, amendment, modification, revocation or denial of any certificate or license issued by the Secretary.

According to the language of the bill, as well as the testimony of administration witnesses, it was intended that the Board would function within the Department, but independently of the Secretary and the Department. Numerous witnesses, as well as committee members, expressed serious doubt as to the ability of the Board to maintain its independence, since it would be dependent upon the Secretary for funds, personnel and administrative support, and the primary operating functions which it would exercise would be those which had been transferred to the Secretary.

In order to insure the complete independence of the National Transportation Safety Board, at least with respect to its functions of determining probable cause in transportation accidents and reviewing on appeal denials, suspensions, revocations, etc., of certificates or licenses issued by the Secretary, the committee adopted an amendment to subsection 5(b) which provides that the powers, functions, and duties transferred to the Secretary by sections 6 and 8 of the act would be further transferred to the Board to exercise the same with regard to determinations of probable cause and review on appeal of licensing and certificate denials.

With respect to transportation safety, in general, and accident investigations, in particular, S. 3010, as introduced, limited the authority of the Board to *making recommendations to the Secretary* concerning (1) transportation safety, (2) the conduct of special studies pertaining to safety in transportation and the prevention of accidents, (3) the initiation of accident investigations, and (4) rules, regulations and procedures for the conduct of accident investigations. The actual conduct of such investigations was vested in the Secretary who was expected to delegate the exercise of this authority to the modal Administrators, except in aviation accidents which were to be handled by an Office of Accident Investigations, to be established by the Secretary by departmental action, as part of his Office.

The committee took the view that if the Board was to play a significant and meaningful role in, and serve as the focal point in the Federal establishment for, transportation safety, its powers, functions and duties would have to be strengthened considerably. Accordingly, the committee added a new subsection 5(d) which would authorize the Board to (1) make such recommendations to the Secretary or administrators on the basis of the exercise of its functions, powers and duties which will tend to prevent transportation accidents to promote transportation safety; (2) conduct special studies on matters pertain-

ing to safety in transportation and the prevention of accidents; (3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the accident involved; (4) initiate, on its own motion, or conduct rail, highway or pipeline accident investigations as it deems necessary or appropriate; (5) make recommendations to the Secretary or appropriate administrator concerning rules, regulations, and procedures for the conduct of accident investigations; (6) request the Secretary or appropriate administrator to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate; (7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or appropriate administrator in such cases as it deems appropriate; and (8) request from the Secretary or appropriate administrator notification of transportation accidents and reports of such accidents as the Board deems necessary.

It is expected, however, that the Board will exercise its authority to conduct its own investigations sparingly, and only in unusual situations, such as accidents involving unique equipment, catastrophic accidents when there is great loss of life, or accidents in which there is a special public interest.

A new subsection 5(e) was adopted requiring that the Board, except as otherwise provided by statute, make public all reports, orders, decisions, rules and regulations that it issues as well as every recommendation it makes to the Secretary or an administrator, every special study it conducts and every action of the Board requiring the Secretary or an Administrator to take action pursuant to subsection 5(d) of the act.

AVIATION SAFETY

One of the most troublesome problems facing the committee was the organization within the Department, and the assignment of functions, for aviation safety. Since the enactment of the Federal Aviation Act of 1958, the FAA has been responsible for operating the air navigation system, regulating air commerce so as to promote its safety, and prescribing minimum standards for the certification of airmen and for design, materials and workmanship of aircraft construction and maintenance, among other things; the CAB has statutory responsibility for investigating accidents involving civil aircraft, determining the cause or probable cause of such accidents and making public reports thereon. The FAA may, and often does, participate in such investigations at the request of the CAB, by furnishing technical field staffs. The CAB has delegated its accident investigation function in nonfatal accidents involving small aircraft to the FAA, although the probable cause in such cases is determined by the CAB. However, the statutory responsibility for air accident investigations is vested by law in the CAB.

This arrangement was deliberately and carefully developed as a legislative formula and incorporated in the 1958 act so as to place the responsibility for accident investigations and the determination of probable cause functions in an agency (CAB) which is separate and apart from the agency charged with operating the air navigation system and maintaining air safety (FAA). In addition, the 1958 act vested in the CAB the function of reviewing on appeal the sus-

pension, amendment, modification, or denial of any certificate or license issued by the FAA.

S. 3010, as introduced, would have transferred to the Secretary of Transportation all of the safety functions, powers, and duties now vested in the FAA and the CAB; the National Transportation Safety Board was to exercise the CAB's functions of determining probable cause and reviewing on appeal certificate and licensing actions. The accident investigation functions of the CAB were to be transferred to the Secretary who was to assign them to an Office of Accident Investigations, to be established by departmental order, separate and apart from the operating component responsible for carrying out the Secretary's aviation safety functions.

At the hearings on S. 3010, considerable concern was expressed regarding the advisability of altering the present accident investigation and safety procedures followed by the FAA and the CAB in aviation accidents, particularly in view of the fact that the statutory scheme established in the 1958 act has been successful. The consensus of the testimony was that the public interest would be furthered by eliminating these transfers and agencies from the Department, or by permitting the CAB to retain the accident investigation and determination of probable cause functions which it now performs pursuant to title VII of the Federal Aviation Act of 1958, as amended. Particular emphasis was placed upon the established tradition of having a separate accident investigation staff for certain types of aviation accidents.

The administration contended that under S. 3010, the present arrangement with respect to accident investigations and aviation safety would be preserved by (1) those provisions of section 5 which provide that the National Transportation Safety Board, an independent agency within the Department, would be required to exercise those functions now performed by the CAB with respect to probable cause and review on appeal; and (2) the planned separation of the accident investigation functions which would be vested in an Office of Accident Investigations, a proposed staff agency, completely independent of the operating unit, the Federal Aviation Administration.

The committee concluded that S. 3010 should be amended to (1) make absolutely certain that the present statutory scheme which separates the accident investigation functions from the operating agency be continued by statute; and (2) insure the complete independence of the National Transportation Safety Board in connection with the exercise of the probable cause and certification and licensing appeals functions, now vested in the CAB.

In order to accomplish this objective, the committee amended subsection 5(b) so as to provide that the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of the act be further transferred to the Board which is to exercise them with respect to the determination of probable cause and review on appeal in licensing and certification cases. A new subsection 5(c) was added which provides that the Board shall exercise the aviation accident investigation functions, powers, and duties transferred to the Secretary by subsection 6(d) of the act. As a further safeguard, subsection 6(c) was amended to provide that the functions, powers, and duties of the FAA and its Administrator transferred to and vested in the Secretary, would then

be further transferred to the Federal Aviation Administrator who would be required to exercise specific functions, powers, and duties relating to aviation safety; and that his decisions, made pursuant to the exercise of those functions, would be administratively final and appeals as authorized by law or this act shall be taken directly to the National Transportation Safety Board, or the courts, as appropriate.

The committee amended subsection 6(d) to provide that the accident investigation functions of the CAB, which are transferred to and vested in the Secretary, would then be further transferred to the National Transportation Safety Board which would be required to exercise them. Decisions of the Board, made pursuant to the exercise of the functions enumerated in this subsection, shall be administratively final; and appeals therefrom as authorized by law or this act shall be taken directly to the courts.

The effect of these amendments is that all of the functions, powers, and duties of the CAB, with respect to aviation safety and accident investigations, will be transferred to and exercised by the National Transportation Safety Board, thus insuring, by statute, that all of the CAB's aviation safety functions will be exercised by an independent agency; and that the accident investigation functions will be performed by a component within the Department which is separate and apart from the operating unit—the Federal Aviation Administration.

Concerning aviation accidents, this arrangement would continue the traditional separation between the FAA and the CAB by assigning the CAB's probable cause and accident investigation functions to the National Transportation Safety Board. It would also enable the continuation of the existing practice whereby the CAB delegates to the FAA responsibility for certain categories of investigations, particularly nonfatal accidents, involving small aircraft.

MAJOR RESPONSIBILITIES OF THE SECRETARY

The committee amendment vests in the Secretary of Transportation the responsibility for providing general leadership in the development of national transportation policies and programs; making recommendations to the President and the Congress for their implementation; promoting and undertaking the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; promoting and undertaking research and development in and among all modes and types of transportation services and facilities, including noise abatement, with particular attention to aircraft noise; the development of standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation, with certain stated exceptions, including water resource projects; and the coordination of all of the farflung transportation activities of the Federal Government. In addition, as noted above, he will also be vested with all of the administrative and promotional functions, powers, and duties transferred to the Department, including those relative to all modes of transportation which do not related to safety and maritime subsidy.

In view of the vast area of heavy responsibilities and functions which will be vested in the Secretary, the committee deemed it in the public interest to vest sole authority for all transportation safety decisions in the modal Administrators and in the National Transporta-

tion Safety Board. Safety is highly technical in nature and requires the knowledge, experience and judgment of highly trained and experienced technical specialists. By vesting sole authority for safety matters in trained experts, the committee believes that any possible semblance of political influence will be eliminated, and the Secretary will be free to devote his efforts to the numerous other duties, functions, and responsibilities which would be vested in him. Furthermore, this action would be entirely consistent with the administration's proposal to vest primary overall responsibility for transportation safety in the National Transportation Safety Board.

Although the safety functions pertaining to rail, pipeline, and highway safety would not be further transferred from the Secretary to the respective Administrators, as is the case with the FAA, the committee amendment would require that they be carried out by these Administrators.

Under the provisions of section 6, all authority for the Coast Guard to conduct casualty and personnel investigations is transferred to the Secretary. It is expected that the authority will be delegated to the Commandant of the Coast Guard under authority granted the Secretary by this bill. Investigations of marine casualties and procedures will be carried out by Coast Guard personnel, as is now the case.

As noted earlier, the four Assistant Secretaries have no specific statutory duties, but would perform such functions as the Secretary may direct. Senator Magnuson and other witnesses suggested that consideration be given to an Office of Passenger Transportation, headed by an Assistant Secretary, and an Office of Transport Mergers in the new Department. While the committee recognizes that the needs of the traveling public, and transport merger policy, should be a prime concern of the new Department, it does not appear that this should be tied for the indefinite future to any particular organizational structure in the enabling legislation. The committee strongly urges the Secretary of Transportation to make promotion of passenger service and representation of the public in passenger merger proceedings a prime concern, and to that end to assign to an Assistant Secretary or other appropriate official in the new Department these important duties.

TRANSPORTATION INVESTMENT STANDARDS

Subsection 7(a) of S. 3010, as introduced, would have required the Secretary of Transportation to develop standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, with certain stated exceptions (purchase of transportation facilities for agency use, an interoceanic canal, defense features included at the direction of the Department of Defense and foreign aid). The standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects were to be developed by the Secretary after consultation with the Water Resources Council, and were required to be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of such projects. Standards and criteria developed pursuant to this subsection were to be promulgated by the Secretary upon their approval by the President.

Subsection 7(b) required that every survey, plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has issued standards and criteria pursuant to subsection (a), be prepared in accordance with those standards and criteria and on the basis of transportation data furnished by the Secretary of Transportation and coordinated by the proposing agency with the Secretary and other Government agencies before transmission to the President for appropriate disposition.

During the hearings, considerable concern was expressed by witnesses, as well as by committee members, regarding the effect of this section on congressionally-approved transportation investment projects, in general, and upon the future of multipurpose water resource projects, in particular. Questions were also raised as to the effect of section 7 on the present role of the Corps of Engineers in the planning and development of multipurpose water resource projects. Finally, the committee received testimony to the effect that the authority to establish standards and criteria for the evaluation of water resources projects has been placed by the Congress in the Water Resources Council, when it enacted Public Law 89-80; and that since November 1964, when the Bureau of the Budget changed the criteria for the economic evaluation of water resources projects from the current rates to water-compelled rates, not a single project has been approved.

The committee recognizes that there is a need for orderly procedures within the Federal Government in the determination of allocations of Federal funds for investment in transportation facilities and equipment. Therefore, it was decided to retain this section, after amending it so as to correct its defects and omissions, despite the fact that the House of Representatives eliminated it from the House-passed act. Accordingly, the committee adopted amendments to subsection 7(a) which (1) added water resource projects as a fifth exemption from the Secretary's authority to establish standards and criteria for the economic evaluation of Federal transportation investments; (2) provided for approval by the Congress, instead of by the President, of standards and criteria developed by the Secretary prior to their promulgation; (3) provided for the development by the Water Resources Council of standards and criteria for the economic evaluation of water resource projects; (4) established a definition of primary direct navigation benefits of water resource projects, thus restoring the criteria followed by the Corps of Engineers prior to November 1964, when the Bureau issued new criteria for the evaluation of such projects; and (5) includes the Secretary of Transportation as a member of the Water Resources Council on matters pertaining to navigation features of water resource projects.

By way of explanation, the committee adopted the first amendment, exempting water resource projects from the criteria to be established by the Secretary of Transportation because navigation is a major function of any total concept of water resource development and, therefore, other phases of water resource development should not be influenced by standards and criteria established for application to problems related solely to transportation. The second amendment struck out the specific language relating to the transportation features of multipurpose water resource projects, since the previous amendment exempted water resource projects from the Secretary's authority.

The third amendment, requiring congressional instead of Presidential approval of the standards and criteria developed or revised pursuant to this subsection, prior to their promulgation by the Secretary, was intended to retain within the Congress its constitutional authority to regulate commerce among the several States. A blanket delegation of such widespread authority to the executive branch of the Government is considered unwise. The result of this amendment is to place upon the Secretary of Transportation the responsibility for developing the standards and criteria, but the final responsibility for their approval is retained in the Congress.

The fourth amendment would continue the authority of the Water Resources Council to establish standards and criteria for the evaluation of water resource projects where it was placed by the Congress last year when the Council was established by section 101 of Public Law 89-80. In addition, it would set forth a definition of primary navigation benefits which the committee deemed necessary in order to insure that future projects will be evaluated on the same basis as those which have resulted in the development of this Nation's outstanding system of inland navigation which has served so well in peace and war. After providing that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council, the amended language provides:

For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The fifth amendment which merely expands the membership of the Water Resources Council to include the Secretary of Transportation in matters pertaining to navigation features of water resource projects, is entirely consistent with the intent of section 101 of Public Law 89-80, which established the Council.

In connection with the definition of primary direct benefits, contained in the fourth amendment and set forth above, the committee desires to make it abundantly clear that in estimating navigation benefits, the Corps of Engineers is to use the rates prevailing in the area under consideration in the survey report and is not to introduce a freight rate applied in some other area, even though it may have limited application in the transportation of commodities from other regions to an area that could be served by the proposed development.

INTERSTATE COMMERCE COMMISSION

Car service

S. 3010, as introduced, provided for the transfer from the Interstate Commerce Commission to the Secretary of Transportation of all car service functions, except those relating to per diem and demurrage charges. Strong sentiments were expressed at the hearings that these

functions are regulatory in nature, and should remain with the ICC. The committee agreed with this position and amended subsections 6(e) and 8(d) by deleting the language relating to the proposed transfer, leaving all of these functions with the ICC where they are under existing law.

Safety information

During the hearings on S. 3010, a question was raised concerning the effect of the transfer of the safety functions of the ICC to the Department of Transportation on the ICC's responsibility to determine the safety fitness of applicants for operating rights. It was noted that since the ICC would no longer have a safety investigating staff of its own, it would have to depend upon information developed by personnel of the Department and furnished by the Secretary. In order to insure that such information would be forthcoming promptly, a provision has been added as *subsection 4(e)* which requires the Secretary to investigate the safety compliance record of each carrier on person seeking authority from the ICC and to report their finding to the Commission. In addition, the Secretary would be required to (1) intervene and present evidence of the applicant's fitness in ICC application proceedings for permanent authority or for approval of proposed transactions when the applicant's safety record fails to satisfy the Secretary; (2) furnish promptly upon request of the ICC a statement regarding the safety record of any carrier or person seeking temporary operating authority from the ICC; and (3) furnish upon request of the ICC a complete report of the safety compliance surveys which thereafter the ICC deems necessary or desirable in order to process an application or to determine the fitness of a carrier, including intervention and presentation of evidence upon request of the Commission.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION AND THE ALASKA RAILROAD

S. 3010, as introduced, made no provision for the transfer of either the St. Lawrence Seaway Development Corporation or the Alaska Railroad to the Department of Transportation. However, in his testimony before this committee, the Director of the Bureau of the Budget stated that the Corporation, now in the Department of Commerce, and the Railroad, now in the Department of the Interior, will be transferred to the Department of Transportation, by Executive order, to function under the direction and supervision of the Secretary of Transportation. He explained that the statutes establishing these agencies allow the President to designate their location and to transfer them as he deems necessary. He stated further that he saw no objection to their legislative transfer, although it was not necessary to do so.

Subsequently, 12 Senators requested the committee to consider amending S. 3010 to provide for the transfer of the St. Lawrence Seaway Development Corporation to the Department of Transportation, since it was their belief that the Corporation should be transferred by statute. In support of their request they noted that a reaffirmation of the original intent of the Congress in creating the Corporation is essential at the time when the Department is created and organized, and that the matter should not be resolved by an Executive order following the establishment of the new Department.

Finally, they stated that past experience indicates that the transfer of the Corporation by Executive order will not provide an adequate remedy for the organizational "downgrading" of an agency which must play an important role in national as well as international transportation policy. Based upon these considerations, the committee added a new subsection 8(g), providing for the establishment of the Corporation, subjecting it to the direction and supervision of the Secretary of Transportation, and providing that the Administrator of the Corporation shall report directly to the Secretary.

With respect to the Alaska Railroad, the committee was advised that it forms the central transportation link for the distribution of commodities and supplies throughout the most heavily populated areas of Alaska; that efficient management of the Railroad is of the greatest possible importance to intrastate transportation in Alaska; and that to achieve this, the Railroad should be transferred to the Department of Transportation which will be staffed by transportation specialists.

The committee agreed that the Railroad should be under the direction, administration, and supervision of the Secretary and Department of Transportation, and that its location within the Department is likely to increase the efficiency of the Railroad, since it will now be in a mission-oriented department, staffed by transportation specialists. However, the contemplated transfer presented some technical difficulties. The Alaska Railroad was established pursuant to the act of March 12, 1914, which authorized the President to locate, construct, and operate railroads in the Territory of Alaska. The Railroad was subsequently established by the President, pursuant to Executive order. The current Executive Order No. 11107, April 25, 1963, placed general responsibility for the operation of the Railroad in the Secretary of the Interior, and the Interstate Commerce Commission was given certain responsibilities with respect to the rates. In order to maintain the existing balance, the committee added a new subsection 6(i) which transfers and vests in the Secretary of Transportation all of the functions vested in the Secretary of the Interior by Executive Order No. 11107.

APPALACHIAN REGIONAL DEVELOPMENT COMMISSION

Section 8(b) of the committee amendment provides 'that the recommendations of the Appalachian Regional Development Commission must first go to the Secretary of Commerce, and, upon his approval, to the Secretary of Transportation for final approval.

The committee strongly urges that the Secretaries jointly consult and cooperate on the handling of these projects in order to expedite action. To this end, the committee believes that expeditious action would be furthered if each Secretary would place a designated official in charge of matters relating to Appalachian projects.

FEDERAL EXECUTIVE SALARY ACT AMENDMENTS

In S. 3010, as introduced, the compensation for the principal officers of the Department of Transportation was as follows: The Secretary, level I (\$35,000); Under Secretary, level III (\$28,500); 4 Assistant Secretaries and the General Counsel, level IV (\$27,000); the Assistant Secretary for Administration, and the Chairman of the National

Transportation Safety Board, level V (\$26,000); and the other Board Members, GS-18 (\$25,890).

Since no provision was made in the bill, as introduced, for model administrators, no salary levels were indicated.

As enacted by the House of Representatives, the Secretary would remain at level I, the Under Secretary at level III, 4 Assistant Secretaries and the General Counsel, at level IV, and the Assistant Secretary for Administration, at level V. However, the Chairman of the National Transportation Safety Board would be at level IV and the Members of the Board at level V. No action was taken with respect to the modal administrators, but in its report, the House Committee on Government Operations stated that it was the committee's understanding that the Federal Aviation Administrator would be placed at level III and the other modal administrators at level IV.

Following due consideration, the committee concluded that the principal officials of the new Department should be placed at salary levels commensurate with their responsibilities, and that appropriate statutory recognition be given to the modal administrators, regarding salary levels, in view of the major responsibilities and functions which they will have, and the importance of attracting fully competent personnel.

Accordingly, the committee adopted an amendment which would raise the salaries of the principal officers below the Secretary (except the General Counsel who would remain at level IV) one level above that established in the House act. Thus, the Under Secretary and the Federal Aviation Administrator would be raised to level II (\$30,000); the four Assistant Secretaries, the Chairman of the National Transportation Safety Board and the other modal administrators would be raised to level III (\$28,500) and the Assistant Secretary for Administration and the members of the National Transportation Safety Board would be raised to level IV (\$27,000). The position of Deputy Federal Aviation Administrator, not provided for in the House version, would also be placed at level IV.

It may be noted that the current levels of the officers holding positions which would be transferred to the Department of Transportation are Federal Aviation Administrator, level II; Federal Highway Administrator, level IV and Federal Maritime Administrator, level V. There is presently no Federal railroad administrator.

URBAN MASS TRANSIT

In his transportation message, the President stated that although the Department of Housing and Urban Affairs bears the principal responsibility for a unified Federal approach to urban problems, it cannot perform this task without the counsel, support and cooperation of the Department of Transportation. Accordingly, he stated further that he would ask the Secretary of Housing and Urban Development and the Secretary of Transportation to recommend to him, within 1 year after the creation of the new Department, the means and procedures by which this cooperation can best be achieved—not only in principal, but in practical effect.

At the hearings, several members of the committee, as well as public witnesses, expressed concern with respect to the failure of

S. 3010 to provide for the inclusion of the urban mass transportation program in the Department. Representatives of the administration opposed any transfer of these activities to the Department of Transportation, pending an analysis of the study referred to.

The committee added a new subsection 4(g), which requires the Secretary of Transportation and the Secretary of Housing and Urban Development to (1) consult and exchange information regarding their respective policies and activities with respect to transportation; (2) carry on joint planning, research and other activities; (3) jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas; and (4) requiring the two Secretaries, within 1 year after enactment of the act, and annually thereafter, to report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable.

RESEARCH AND DEVELOPMENT

S. 3010, as introduced, requires the Secretary, in carrying out the purposes of this act, to promote and undertake research and development in and among all modes and types of transportation services, among his other responsibilities. However, it contained no specific language or authority authorizing him to do so. Accordingly, the committee added a new subsection 9(r) which gives the Secretary clear-cut, direct authority to make use of the expertise, know-how, and facilities of qualified nongovernmental organizations and individuals for the conduct of scientific and technological research in connection with authorized programs of the Department.

TECHNICAL PERFECTING AND CONFORMING AMENDMENTS

Highway and traffic safety

In order to insure the carryover to the Department of Transportation of the provisions of the recently enacted National Traffic and Motor Vehicle Act of 1966 and the Highway Safety Act of 1966, the committee adopted amendments to section 3, 6, and 8.

New subsection 3(f) and subsection 6(a)(7) provide for the transfer to the Secretary of Transportation of all of the functions, power and duties vested in the Secretary and other offices and officers of the Department of Commerce, under the National Traffic and Motor Vehicle Act of 1966 and the Highway Safety Act of 1966. Under both of these acts the functions provided for therein were to be carried out through a National Traffic Safety Agency and a National Highway Safety Agency, each of which was to be headed by a Presidentially appointed, Senate-confirmed Administrator.

In order to avoid confusion with the Federal Highway Administrator, established in section 3(e)(1) of the committee amendments, the titles of the National Traffic Safety Agency and the National Safety Agency have been changed to National Traffic Safety Bureau and National Highway Bureau and each will be headed by a Director instead of an Administrator.

The committee amended the bill to authorize the President to carry out the provisions of both the National Traffic and Motor

Vehicle Safety Act and the Highway Safety Act through a single Bureau and Director, which is consistent with section 201 of the Highway Safety Act of 1966. All provisions of these acts, including those relating to the National Motor Vehicle Safety Council and the National Highway Safety Advisory Committee would be transferred intact to the new Department.

A further amendment was added to transfer the present office of Federal Highway Administrator to the Department of Transportation under the title of Director of Public Roads.

Additional technical implementing amendments have been made in subsections 6(a)(1)(B), 8(h), and 8(i). The amendment in subsection 6(a)(1)(B) transfers to the Department of Transportation the recently enacted Federal-Aid Highway Act of 1966.

Advisory committees

S. 3010, as introduced, in subsection 4(i) authorized the Secretary to appoint advisory committees for the purpose of consultation with and advice to the Department in the performance of its functions. In an attempt to avoid any conflict-of-interest problems on the part of those serving on such committees, the committee amended this subsection, now 9(p), to provide that payments made to members of such committees shall not render them employees or officials of the United States for any purpose.

Working capital fund

S. 3010, as introduced, in subsection 9(k), would have authorized the Secretary to establish a working capital fund, for operating various common administrative services in the Department. A committee amendment provides for an annual audit of such fund by the Comptroller General at the end of each fiscal year; and requires that there shall be covered into the Treasury as miscellaneous receipts any surplus found therein.

SECTION-BY-SECTION ANALYSIS OF S. 3010

SECTION 1. SHORT TITLE

This section provides that the act may be cited as the "Department of Transportation Act."

SECTION 2. DECLARATION OF PURPOSE

The first paragraph of this section declares the need for *development* of national transportation policies and programs. Such policies are to be evolved to provide a coordinated transportation system, permitting travelers and goods to move conveniently and efficiently from one means of transportation to another, consistent with national transportation policy standards, conservation, and efficient utilization of our national resources.

The second paragraph of this section finds a need for the establishment of a Department of Transportation in order to assure coordination of Federal transportation programs; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation in achieving national transportation objectives by Federal, State, and local governments, carriers, labor and other

interested parties; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress changes in national transportation policies and programs to accomplish these objectives.

The third paragraph of this section declares as a national policy that in implementing the provisions of this act, special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

SECTION 3. ESTABLISHMENT OF DEPARTMENT

Paragraph (a) of this section establishes a new executive department to be known as the Department of Transportation; headed by a Secretary of Transportation to be appointed by the President, with Senate confirmation.

Paragraph (b) and (c) provide that the President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Transportation, four Assistant Secretaries, and a General Counsel. These officers of the Department shall have such duties as the Secretary may prescribe. In the event of the absence, disability, or vacancy in the office of the Under Secretary, an Assistant Secretary or the General Counsel, determined according to the order prescribed by the Secretary, shall act for, and exercise his powers.

Paragraph (d) provides that the Secretary shall appoint under the classified civil service, with the approval of the President, an Assistant Secretary for Administration, who shall perform such duties as the Secretary may prescribe.

Subsection (e)(1) directs the Secretary to establish within the Department four modal administrations—highway, railroad, maritime, and aviation—each of which is to be headed by an Administrator (and in the case of aviation, there shall also be a Deputy Aviation Administrator). The four Administrators and the Deputy Aviation Administrator are to be appointed by the President, by and with the advice and consent of the Senate. Subsection (e)(2) provides that the qualifications of the Federal Aviation Administrator and Deputy Administrator shall be those specified in section 302(b) of the Federal Aviation Act of 1958, except that the present Administrator of the Federal Aviation Agency is not precluded from appointment as Administrator of the Federal Aviation Administration.

Subsection (e)(3) provides that Administrators and the Commandant of the Coast Guard shall report directly to the Secretary, and they shall carry out the functions, powers, and duties specified in this act, together with such additional duties as may be prescribed by the Secretary.

Subsection (e)(4) provides that the functions, powers, and duties specified in this act to be carried out by each Administrator and by the Maritime Board shall not be transferred elsewhere in the Department, except pursuant to reorganization plan submitted to the Congress, or by statute.

Subsection (f)(1) directs the Secretary to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through a National Traffic Safety Bureau, which the Secretary shall establish within the Department. The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of

the Senate, who shall be compensated at level V (\$26,000) of the Federal executive salary schedule. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 are made applicable.

Subsection (f)(2) directs the Secretary to carry out the provisions of the Highway Safety Act of 1966 through the National Highway Safety Bureau. The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. All other provisions of the Highway Safety Act of 1966 are made applicable.

Subsection (f)(3) authorizes the President to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

Subsection (f)(4) provides that the office of Federal Highway Administrator, created by 23 U.S.C. 303, is transferred to and continued within the Department under the title "Director of Public Roads." The Director shall be the operating head of the Bureau of Public Roads (or any successor agency carrying out its primary functions within the Department), and shall be compensated at level V (\$26,000) of the Federal executive salary schedule.

SECTION 4. GENERAL PROVISIONS

This section enumerates specific duties of the Secretary in carrying out the purposes of this act. Subsection (a) directs the Secretary to exercise leadership under the direction of the President in transportation matters, including those affecting the national or regional emergencies; provide general leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic and other transportation information; promote and undertake research and development in and among all modes and promote and undertake the research and development with respect to types of transportation services and facilities; noise abatement, with particular attention to aircraft noise; and, consult with the heads of other departments and agencies engaged in the transportation of Government goods and personnel or operating their own transport services, to encourage these departments and agencies to establish and observe transportation policies consistent with the objectives of this act.

Subsection (b)(1) contains a congressional mandate to the Secretary in the carrying out of his duties and responsibilities under this act and requires that he be governed by the declarations of policy contained in the Federal Aviation Act, the Interstate Commerce Act, the Merchant Marine Acts, the Highway Acts, and the Coast Guard statutes.

Subsection (b)(2) states congressional intent that nothing in this act shall be construed to authorize the adoption, revision, or implementation of any national transportation policy, or investment standards or criteria contrary to or inconsistent with any act of Congress.

Subsection (c) preserves the same rights to judicial review of orders and actions of the Secretary, the National Transportation Safety Board, Maritime Board, and the Administrators, and in the same

manner, as if such orders and actions had been taken by the department or agency exercising such functions, powers, and duties immediately preceding their transfer.

Subsection (d) gives the Secretary, the National Transportation Safety Board, Maritime Board, and the Administrators the same authority in the exercise of their functions, powers, and duties under this act, and their actions the same force and effect, as when exercised by the department or agency from which these functions, powers, and duties were transferred.

Subsection (e) provides that it shall be the duty of the Secretary to investigate the safety compliance record of applicants for Interstate Commerce Commission ("Commission") authority and to report the findings thereon to the Commission. In addition, the Secretary shall (1) intervene and present evidence as to applicant's fitness in Commission application proceedings for permanent authority or for approval of proposed transactions when applicant's safety record fails to satisfy the Secretary; (2) furnish promptly upon Commission request a statement of the safety record of an applicant seeking Commission temporary operating authority; and (3) furnish upon Commission request a complete report of the safety compliance of any carrier and also make such additional inspections or safety compliance surveys which the Commission deems necessary or desirable in order to process an application or to determine the fitness of a carrier, including intervention and presentation of evidence upon request of the Commission.

Subsection (4)(f) directs the Secretary to cooperate and consult with the Secretaries of the Interior, Housing and Urban Development and Agriculture, and with the States, and to include all transportation plans and programs measures to maintain or enhance the natural beauty of the lands traversed by transportation agencies. The Secretary shall not approve any program or project after the effective date of this act requiring the use of such lands or sites unless (1) there is no feasible alternative to the use of such land and (2) such program includes all possible planning to minimize harm to such areas resulting from such use.

Subsection (g) directs the Secretary and the Secretary of Housing and Urban Development to consult and exchange information on their respective transportation policies and activities; to carry on joint planning, research, and other activities; and, to coordinate assistance for local transportation projects. They are to undertake joint studies to determine how Federal policies and programs can best assure that urban transportation systems serve both national transportation and urban development needs. Within 1 year after the act, and annually thereafter, they shall report their studies and activities to the President, for submission to the Congress, along with any legislative recommendations they deem desirable.

SECTION 5. NATIONAL TRANSPORTATION SAFETY BOARD

Section 5(a) establishes within the Department a National Transportation Safety Board.

Subsection (b) transfers to the Board, and makes it the duty of the Board to exercise the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this act with regard to (1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents, and

(2) reviewing on appeal the suspension, amendment, modification, revocation or denial of any certificate or license issued by the Secretary or by an Administrator.

Subsection (c) provides that the Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary from the Civil Aeronautics Board.

Under subsection (d) the Board is further authorized to: (1) make recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety; (2) conduct special transportation safety and accident prevention studies; (3) insure that in cases in which it is required to determine the cause or probable cause of accidents, that accident investigation reports adequately state the circumstances of the accident involved; (4) initiate or conduct on its own motion rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate; (5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations; (6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate; (7) arrange for its members or Board personnel to participate in accident investigations conducted by the Secretary or Administrators; (8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

Subsection (e) requires the Board, except as otherwise provided by statute, to make public all reports, orders, decisions, rules and regulations issued under sections 5(b) (1), (2), and (3); every recommendation made to the Secretary or an Administrator; every special study conducted; and, every action of the Board requesting the Secretary or Administrator to take action under this section.

Subsection (f) provides that the Board shall be independent of the Secretary and other offices and officers of the Department in the exercise of its functions, powers, and duties;

Subsection (g) requires the Board to report annually to the Congress on the conduct of its functions and the effectiveness of accident investigations in the Department, together with such legislative recommendations as it deems appropriate.

Subsection (h) provides that the Board shall consist of five Presidentially appointed members with Senate confirmation. The membership of the Board shall be bipartisan. The President shall appoint the members with due regard to their fitness, and may not be removed by the President except for cause.

Subsection (i) establishes a 5-year term of office for the members of the Board, and makes provision for staggered terms of office and continuance in service until a successor is appointed and qualified.

Subsection (j) provides for Presidential designation of members of the Board as Chairman and Vice Chairman. The Chairman shall be the chief executive and administrative officer of the Board, and shall have authority to (1) appoint and supervise Board personnel; (2) distribute business among Board personnel; and (3) control the use and expenditure of funds. The Chairman, in exercising this authority shall be governed by the general policies of the Board and

by its decision, findings, and determinations. Three of its members shall constitute a Board quorum.

Subsection (k) empowers the Board to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

Subsection (l) provides that the Board, or authorized member or hearing examiner thereof, in carrying out Board functions, shall have the same powers, as vested in the Secretary to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence anywhere in the United States.

Subsection (m) authorizes the Board to delegate to any of its officers or officials, or to those of the Department, with the approval of the Secretary, such of its functions as it deems appropriate. A proviso limits such delegation to forbid the Secretary and his representatives, including Federal Aviation Administration officers and representatives, from participating in the determination of probable cause of aviation accidents. A further proviso forbids the delegation of appellate functions transferred from the Civil Aeronautics Board to the Board under section 6(d) of this act.

Subsection (n) authorizes the Board, subject to the civil service and classification laws, to employ necessary officers and employees, including investigators, attorneys, and hearing examiners.

Subsection (o) authorizes the Board, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department, and of other civilian or military agencies and instrumentalities, and to cooperate in such use. The Board is also authorized to confer with the avail itself of the cooperation, services, records, and facilities of State, and other local bodies.

SECTION 6. TRANSFERS TO DEPARTMENT

This section provides for the transfer of transportation functions from various departments and agencies to the Secretary. In addition, this section provides for the further transfer of certain specified functions within the Department to the Federal Aviation and Federal Maritime Administrators and to the National Transportation Safety Board, and sets forth the duties to be exercised by the modal Administrators.

Subsection (a) transfers from the Secretary of Commerce to the Secretary of Transportation various provisions of law relating generally to (1) highways; (2) ground transportation; (3) aircraft; (4) pilotage; (5) the merchant marine; (6) the Act of August 1, 1947, as amended to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection; and (7) the National Traffic Motor Vehicle Safety Act of 1966, and the Highway Safety Act of 1966.

Subsection (a)(5)(A) transfers to the Federal Maritime Administrator and makes it his duty to exercise those functions, powers, and duties of the Secretary relating to the merchant marine laws transferred from the Department of Commerce, except such functions, powers, and duties as the Maritime Board shall exercise in accordance with the provisions of subsection (a)(5)(B).

Subsection (a)(5)(C) establishes within the Department a Maritime Board, which shall exercise the functions, powers, and duties in the merchant marine laws pertaining to operating-differential and construction subsidy, and other allied matters.

Subsection (a)(5)(D) provides that the Maritime Board shall be composed of three members: the Federal Maritime Administrator, shall be Chairman of the Board, and two additional members appointed by the President, by and with the advice and consent of the Senate. The Board shall be bipartisan. The two additional Board members shall be appointed for staggered terms of 4 years, and compensated at the rate of level IV (\$27,000) of the Federal executive salary schedule. The members continue to serve until their successor is qualified, and no member shall engage in any other business, vocation or employment. Any two members of the Board shall constitute a quorum, and the concurring votes of any two members shall be sufficient for the disposition of any matter before the Board. The Federal Maritime Administrator, the members, and officers and employees of the Board are forbidden to have any pecuniary relationship with persons, et cetera with whom the Board may have business relationships. The members of the Board shall be appointed with due regard to their fitness, and the two additional board members may be removed by the President only for cause. The Board is authorized to establish necessary rules, regulations, and procedures, and to delegate to any of its officers or officials or those of the Federal Maritime Administration such of its functions as it deems appropriate. It is further provided that nothing in this act shall be deemed to affect the Federal Maritime Commission, or any of the functions of that Commission.

Subsection (a)(5)(E) provides that decisions of the Maritime Board, made pursuant to the exercise of its enumerated functions, shall be administratively final, and appeals as authorized by law or this act shall be taken directly to the courts.

Subsection (b)(1) transfers the Coast Guard to the Department, and transfers to and vests 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. Subsection (b)(2) provides that notwithstanding this transfer, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President so directs in accordance with law. Subsection (b)(3) provides that, notwithstanding any other provisions of this act, the functions, powers, and duties of the General Counsel of the Department of the Treasury, with respect to review and final action concerning courts-martial under the Uniform Code of Military Justice, are transferred to and vested in the General Counsel of the Department.

Subsection (c) transfers from the Federal Aviation Agency and vests in the Secretary all functions, powers, and duties of that Agency, including the development and construction of a civil supersonic aircraft. The functions, powers and duties of the Secretary set forth in certain specified sections and titles of the Federal Aviation Act of 1958, which concern aviation safety, are further transferred, within the Department, to the Federal Aviation Administrator, and it shall be the Administrator's duty to exercise these functions, powers, and duties guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958. The Federal Aviation Administrator's decisions as to these matters are administratively final, and authorized appeals shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

Subsection (d) transfers from the Civil Aeronautics Board and vests in the Secretary all functions, powers, and duties relating to the determination of cause or probable cause of aviation accidents; aircraft accident investigation; and, the determination on appeal of certificate and licensing actions. These functions, powers, and duties of the Secretary are further transferred, within the Department, to the National Transportation Safety Board, and it shall be the duty of the Board to exercise these functions transferred from the CAB. The decisions of the Safety Board as to these matters are administratively final, and authorized appeals are to be taken directly to the courts.

Subsection (e) transfers from the Interstate Commerce Commission and vests in the Secretary all functions, powers, and duties relating generally to (1) safety appliances and equipment on railroad engines and cars, and protection of employees and travelers; (2) hours of service of employees; (3) medals for heroism; (4) explosives and other dangerous articles; (5) standard time zones and daylight saving time; and (6) the following provisions of the Interstate Commerce Act: (A) Section 25, relating generally to safety appliances methods and systems; (b) section 226, relating generally to investigation of motor vehicle sizes and weights, and service of employees; (C) sections 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 sections 204(a) (3), (3a), and (5); and (D) sections 221 (a) and (c), and 224, to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers.

Subsection (f)(1) states congressional intent that nothing in subsection (e) of this section shall diminish the functions, powers and duties of the Interstate Commerce Commission under certain specified sections of the Interstate Commerce Act, or under any other section of that act not specifically referred to in subsection (e).

Subsection (f)(2) provides that with respect to any function, power, and duty which is transferred to the Secretary by subsection (e), and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect thereto. The Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those functions, powers, and duties not transferred by subsection (e). The term administrative powers under the Interstate Commerce Act is defined to mean any functions under certain specified provisions of the Interstate Commerce Act.

Subsection (f) also provides that the Federal Railroad Administrator shall have the duty of exercising the functions, powers, and duties of the Secretary as to railroad safety (safety devices, appliances, and equipment on railroad engines and cars, accident reporting and protection of employees and travelers, including hours of service of employees) and pipeline safety. The Federal Highway Administrator shall have the duty of exercising the functions, powers, and duties of the Secretary as to motor carrier safety (qualifications and maximum hours of service of employees, and safety of operation and equipment). Their decisions are to be administratively final as to such matters, and appeals as authorized by law are to be taken directly to the courts.

Subsection (g) transfers to and vests 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 as to certain laws and provisions of law relating generally to (1) water vessel anchorages; (2) drawbridge operating regulations; (3) obstructive bridges; (4) the reasonableness of tolls; (5) the prevention of pollution of the sea by oil; and (6) the location and clearance of bridges and causeways in the navigable waters of the United States.

Subsection (h) states the intent of Congress that, notwithstanding any other provision of this act, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by the Administrative Procedure Act in hearing examiners employed by any department, agency, or components thereof whose functions are transferred under the provisions of this act.

Subsection (i) transfers to and vests in the Secretary of Transportation the administration of the Alaska Railroad, and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order 11107, and provides that the Secretary of Transportation shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to Executive order.

SECTION 7. TRANSPORTATION INVESTMENT STANDARDS

Subsection (a) directs the Secretary to develop and, in the light of experience, to revise standards and criteria consistent with the national transportation policies, for the formulation and economic evaluation of all proposals except such proposals as are concerned with (1) the investment of Federal funds in 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 at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; or (5) water resource projects. These standards or criteria as developed or revised shall be promulgated by the Secretary upon their approval by the Congress.

Subsection (a) also provides that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council. The Water Resources Council is expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resources projects. For the purpose of such standards and criteria, this subsection defines "the primary direct navigation benefits of a water resource project as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway." The term "savings to shippers" is construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway. The estimate of traffic that would use the waterway is to be based on such freight rates, taking into account projections of the economic growth of the area.

Subsection (b) directs that every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secre-

tary 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 (1) projected growth of transportation needs and traffic in the affected area; (2) the relative efficiency of various modes of transport; (3) the available transportation services in the area; and (4) the general effect of the proposed investment on existing modes, and on the regional and national economy. Every such survey, plan, or report shall also be coordinated by the proposing agency with the Secretary and appropriate Federal agencies, States, and local units of government for inclusion of their comments; and, thereafter, transmitted by the proposing agency to the President for disposition in accord with law and procedures established by him.

SECTION 8. AMENDMENTS TO OTHER LAWS

Subsection (a) amends section 406(b) of the Federal Aviation Act by adding a provision requiring the Civil Aeronautics Board in fixing subsidies to take into consideration any standards 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.

Subsection (b) amends section 201 of the Appalachian Regional Development Act of 1965. The amendment transfers the Secretary of Commerce's functions under this section to the Secretary of Transportation, except that (1) the Appalachian Regional Commission's recommendations first to go to the Secretary of Commerce and, upon his approval, to the Secretary of Transportation for final approval; (2) the two Secretaries jointly determine whether more than 50 percent of the cost of construction will be paid by the United States; and (3) appropriations would be made to the Secretary of Commerce, who would transfer the necessary highway funds to the Secretary for administration of approved projects.

Subsection (c) amends section 206 of the Appalachian Regional Development Act of 1965 to require the Secretary of the Army in formulating the water resource plan called for under that section to consult with the Secretary of Transportation.

Subsection (d) makes a conforming amendment to section 212(a) of the Interstate Commerce Act to authorize the Interstate Commerce Commission to suspend, change, or revoke, in whole or in part, motor carrier certificates, permits, and licenses for failure to obey any lawful order, rule, or regulation of the Secretary made pursuant to functions transferred to him from the Interstate Commerce Commission by this act.

Subsection (e) is a conforming amendment to the Fair Labor Standards Act of 1938 to reflect the transfer from the Interstate Commerce Commission to the Secretary of the power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Interstate Commerce Act.

Subsection (f) is a conforming amendment to the Federal Explosives Act to reflect the transfer to the Secretary of Transportation of the authority to make regulations with respect to the transportation of explosives.

Subsection (g) places within the Department, subject to the direction and supervision of the Secretary, the St. Lawrence Seaway

Development Corporation, and provides that the Administrator of the Seaway Development Corporation shall report directly to the Secretary.

Subsection (h) is a conforming amendment to the Highway Safety Act of 1966 to reflect that the provisions of that act shall be carried out by the Secretary through a National Highway Safety Bureau headed by a Director.

Subsection (i) is a conforming amendment to the National Traffic and Motor Vehicle Safety Act of 1966 to reflect that the provisions of that act shall be carried out by the Secretary through a National Highway Safety Bureau headed by a Director.

Subsection (j) is a conforming amendment to the Marine Resources and Engineering Development Act of 1966. The Secretary of Transportation, because of the transfer of the Coast Guard to the Department, is made a member of the National Council on Marine Resources and Engineering Development in place of the Secretary of the Treasury.

Subsection (k) is a conforming amendment substituting the Secretary of Transportation for the Secretary of Commerce in the act granting the consent of the Congress to a compact between the States of Missouri and Kansas establishing the Kansas City Area Transportation District and the Kansas City Transportation Authority.

SECTION 9. ADMINISTRATIVE PROVISIONS

Subsection (a) authorizes the Secretary, subject to the civil service and classification laws, to employ personnel, including necessary investigators, attorneys, and hearing examiners.

Subsection (b) would amend title V of the United States Code to increase the maximum number of positions authorized for grade 16, 17, and 18 positions with the Federal Government from 2,577 to 2,622.

Subsection (c) authorizes the Secretary to hire experts and consultants at rates not to exceed \$100 per day.

Subsection (d) authorizes the Secretary to provide for participation of military personnel in carrying out the functions of the Department. Members of the Armed Forces could be assigned to the Department pursuant to cooperative agreements between the Secretary of Transportation and the military departments.

Subsection (e) provides that members of the Armed Forces so detailed would not be charged against statutory limitations on grades or strengths applicable to the Armed Forces, and appointment would in no way affect the status of the military personnel so assigned. Persons so assigned would not be subject to the direction or control of the Armed Forces with respect to the responsibilities exercised by such persons in the Department of Transportation. The Secretary would be required to report annually to the Congress on personnel appointed under subsection (d) of this section.

Subsection (f)(1) authorizes the Secretary to delegate any of his functions, powers, and duties, and permits successive redelegation with his approval. The Secretary is also authorized to issue appropriate rules and regulations to carry out his functions, powers, and duties. Subsection (f)(2) authorizes any officer of the Department in the exercise of functions transferred to or specified to be carried out by such an officer of the Department to delegate, and successive redelegations are also authorized. Such officers in the exercise of

such functions transferred to them or to be carried out by them under this act may make such rules and regulations as may be necessary to carry out their statutorily assigned duties. Subsection (f)(3) provides that the modal Administrators may not delegate any of the statutory duties and responsibilities specifically assigned to them by this act outside of their respective administrations.

Subsection (g) transfers to the Secretary the personnel, assets, unexpended balances of appropriations, etc., of the Federal Aviation Agency, and provides that the personnel, funds, etc., employed in carrying out the duties transferred to the Federal Aviation Administrator by this act shall be assigned by the Secretary to the Administrator for these purposes.

Subsection (h) transfers to the Secretary the positions, assets, unexpended balances of appropriations, etc., in connection with the functions, powers, and duties transferred under section 6 (except for the Federal Aviation Agency, which is covered in subsection (g) above), 8(d) and (e) of this act, as the Director of the Bureau of the Budget determines is related to such functions transferred. Personnel engaged in transferred functions will be transferred in accordance with applicable laws and regulations. This subsection further provides that the personnel, personnel funds, etc., employed by the CAB in carrying out the duties transferred by this act to the National Transportation Safety Board, shall be transferred to the Safety Board.

It is further provided that the personnel, positions, funds, etc., employed in carrying out the functions, powers, and duties to be exercised by the Federal Maritime Administrator or the Maritime Board shall be assigned to them by the Secretary for these purposes.

Subsection (i) provides that personnel transferred pursuant to the provisions of subsections (g) and (h) of this section shall not suffer reduction in classification or compensation for 1 year after such transfer.

Subsection (j) provides that any agency all of the functions of which are transferred by this act shall lapse, except for the Coast Guard, which will continue in the Department. This subsection also provides that employees compensated under the Federal executive salary schedule, who without a break in service, are appointed in the Department to a comparable position shall continue to be compensated at not less than the rate provided for in their previous position, for the duration of their service in the new position.

Subsection (k) authorizes the establishment of a working capital fund for the Department. The Comptroller General is directed to make an annual audit of the working capital fund at the end of each fiscal year, and to report to the Congress annually the results of the audit, together with such recommendations as he may have regarding the status and operations of the fund.

Subsection (l) directs the Secretary to adopt a departmental seal, and provides for judicial notice of such seal.

Subsection (m) authorizes the Secretary to provide certain facilities, services, and supplies to employees and their dependents stationed at remote localities.

Subsection (n) authorizes the Secretary to accept gifts and bequests of real and personal property, and for the purpose of Federal income, estate and gift taxes such property accepted shall be considered as a gift or bequest for the use of the United States.

Subsection (o) authorizes the Secretary, upon the payment of the actual cost of the work, to make special statistical studies and to prepare from its records special statistical compilations and other records for private persons and State and local governments. Payments received for work under this subsection would be deposited in a special account from which payment could be made for the ordinary expenses incidental to the work and to secure the services of persons who are not officers or employees of the United States.

Subsection (p) authorizes the Secretary to appoint advisory committees, and provides for compensation of members of such committees in accordance with the provisions of section 5703 of title V of the United States Code. Such payments to members of advisory committees shall not make them employees or officials of the United States for any purpose.

Subsection (q)(1) permits the appointment, detail, or assignment to positions in the Department (without regard to the civil service and classification acts) of members of the Coast Guard on active duty, except for the positions of Secretary, Under Secretary, and Assistant Secretary for Administration. Subsection (q)(2) makes clear that subsection (q)(1) is not intended to exclude retired members of the Coast Guard from employment in any position in the Department (subject to the provisions of title V of the United States Code).

Subsection 9(r) gives the Secretary direct authority to make use of the expertise, know-how, and facilities of qualified nongovernmental organizations and individuals for the conduct of scientific and technological research in connection with authorized programs of the Department.

SECTION 10. CONFORMING AMENDMENTS TO OTHER LAWS

Subsections (a) and (b) places the Secretary of Transportation in the line of succession to the office of the President of the United States:

Subsection (c) is a technical provision which would extend to the Department the provisions of title IV of the Revised Statutes, except to the extent inconsistent with the bill. These provisions deal with such matters as departmental vacancies, regulations, duties of clerks, details, and employment of personnel, oaths, subpoenas, and witness fees.

Subsection (d) amends subchapter II of chapter 3 of title V of the United States Code (relating to executive schedule pay rates) to conform to the establishment of the Department of Transportation by this act; to delete the positions of Under Secretary of Commerce for Transportation and Administrator of the Federal Aviation Agency; and to insert the new positions established by this act. Under this subsection, the officers of the new Department would be placed at the following levels of the Federal executive salary schedule: the Secretary of Transportation, level I (\$35,000); the Under Secretary and the Federal Aviation Administrator, level II (\$30,000); the four Assistant Secretaries, the Chairman of the National Transportation Safety Board and the other Federal highway, railroad and Maritime Administrators, level III (\$28,500); the General Counsel, the Assistant Secretary for Administration, the members of the National Transportation Safety Board, the Director of Public Roads, and the Deputy Federal Aviation Administrator, level IV (\$27,000). This subsection also

authorizes the President to place a total of nine additional positions in levels IV and V, and one additional position in level III.

Subsection (e) removes from the Federal Executive Salary Schedule reference to the Federal Highway Administrator; the Maritime Administrator; and the following officers of the Federal Aviation Agency: the Administrator, Deputy Administrator, Associate Administrator for Administration, Associate Administrator for Development, Associate Administrator for Programs, and General Counsel.

Subsection (f) amends an act which makes the vessel operation revolving fund available to pay activation and deactivation cost of ships chartered out by the Secretary of Commerce, so as to make the act applicable to ships chartered out by the Secretary of Transportation.

Subsection (g) amends the act which prescribes a criminal penalty for false representations relating to highway projects submitted to the Secretary of Commerce so as to make it applicable to such projects submitted to the Secretary of Transportation.

Subsection (h) is a conforming amendment to the Uniform Code of Military Justice to implement the provisions of section 6(b)(3) of this act.

SECTION 11. ANNUAL REPORT

This section directs the Secretary to make an annual report.

SECTION 12. SAVINGS PROVISIONS

This section contains savings provisions, designed in general to insure that transfers of functions to the Department do not affect either rights and privileges existing before the transfer, or administrative or judicial proceedings pending at the time of transfer, except to the extent necessary to permit the Department to act in the place of the officer or agency from which the functions were transferred.

Subsection (a) provides that orders, regulations, certificates, etc., to which transferred functions relate and which are in effect at the time of transfer, will remain in effect until modified by the appropriate officer or agency of the Department, by the courts, or by operation of law.

Subsection (b) provides that this act will not affect administrative proceedings pending on the act's effective date, except that certain proceedings involving transferred functions will be continued before the new Department.

Subsection (c) provides that no cause of action will abate by reason of this act's enactment, and that judicial proceedings pending when this act takes effect will not be affected by this act, with the exception of certain proceedings involving transferred functions, which will be continued by the Secretary.

Subsection (d) provides that with respect to a transferred function exercised after the effective date of this act, any reference in any Federal law to the agency or officer from which the function was transferred will be deemed to mean the officer or agency in which this act vests such function after its transfer.

SECTION 13. SEPARABILITY

This section provides that 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.

SECTION 14. CODIFICATION

This section directs the Secretary to submit to the Congress within 2 years from the effective date of this act a proposed codification of all laws that contain functions transferred to or vested in the Secretary or the Department by this act.

SECTION 15. EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

Subsection (a) of this section provides that this act shall take effect 90 days after the Secretary first takes office, or on such prior date after the enactment of this act as the President shall prescribe and publish in the Federal Register. Subsection (b) provides that the principal officers of the Department may be appointed at any time after the date of enactment of this act, and that they will be compensated from the date they first take office. Their compensation and the related expenses of their offices will be paid from funds available for the functions to be transferred to the Department.

CHANGES IN EXISTING LAW

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

SECTION 406(b) OF THE FEDERAL AVIATION ACT OF 1958

(72 Stat. 763)

RATE MAKING ELEMENTS

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carriers or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient man-

agement, 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 the national defense. *In applying clause (3) of this subsection, the Board shall take into consideration any standards 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.*

SECTIONS 201 AND 206(c) OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

(79 Stat. 10 and 15)

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

SEC. 201. (a) The Secretary of [Commerce (hereafter in this section referred to as the "Secretary")] *Transportation* is authorized to assist in the construction of an Appalachian development highway system serving the Appalachian region (the length of which shall not exceed two thousand three hundred and fifty miles. In addition thereto, there are authorized to be constructed not in excess of one thousand miles of local access roads, that will serve specific recreational, residential, commercial, industrial, or other like facilities or will facilitate a school consolidation program). The system, in conjunction with the Interstate System and other Federal-aid highways in the region will provide a highway system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access. The provisions of title 23, United States Code, that are applicable to Federal-aid primary highways, and which the Secretary of *Transportation* determines are not inconsistent with this Act, shall apply to the Appalachian development highway system, and the local access roads.

(b) As soon as feasible, the Commission shall submit to the Secretary of *Commerce* its recommendations with respect to (1) the general corridor location and termini of the development highways, (2) the designation of local access roads to be constructed, (3) priorities for construction of the local access roads and of the major segments of the development highways, and (4) other criteria for the program authorized by this section. Before any State member participates in or votes on such recommendations, he shall have obtained the recommendations of the State highway department of the State which he represents.

(c) [The Secretary shall have authority to approve in whole or in part such recommendations or to require modifications or revisions thereof.] *Such recommendations as are approved by the Secretary of Commerce shall be transmitted to the Secretary of Transportation for his approval. In no event shall the Secretary of Transportation approve any recommendations for any construction which would require for its completion the expenditure of Federal funds (other than funds*

available under title 23, United States Code) in excess of the appropriation authorizations in subsection (g). On its completion each development highway not already on the Federal-aid primary system shall be added to such system and shall be required to be maintained by the State.

(d) In the construction of highways and roads authorized under this section, the States may give special preference to the use of mineral resource materials indigenous to the Appalachian region.

(e) For the purposes of research and development in the use of coal and coal products in highway construction and maintenance, the Secretary of *Transportation* is authorized to require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not to exceed 10 per centum of the roads authorized under this Act.

(f) Federal assistance to any construction project under this section shall not exceed 50 per centum of the costs of such project, unless the Secretary of *Commerce* and the Secretary of *Transportation* [determines] *determine*, pursuant to the recommendation of the Commission, that assistance in excess of such percentage is required in furtherance of the purposes of this Act, but in no event shall such Federal assistance exceed 70 per centum of such costs.

(g) To carry out this section, there is hereby authorized to be appropriated \$840,000,000 to the Secretary of *Commerce*, who shall transfer funds to the Secretary of *Transportation* for administration of projects approved by both Secretaries.

WATER RESOURCE SURVEY

SEC. 206. (a) * * *

(c) To insure that the plan prepared by the Secretary of the Army shall constitute a harmonious component of the regional program, he shall consult with the Commission and the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, *Secretary of Transportation*, the Tennessee Valley Authority, and the Federal Power Commission.

SECTION 212(a) OF THE INTERSTATE COMMERCE ACT

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND LICENSES

SEC. 212. (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this part, or with any lawful order, rule, or regulation [of the Commission] promulgated thereunder, or with any term, condition, or

limitation of such certificate, permit, or license: *Provided, however*, That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order [of the Commission], made as provided in section 204(c), commanding obedience to the provision of this part, or to the rule or regulation [of the Commission] thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder: *And provided further*, That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of sections 206, 209, or 211, or by virtue of the second proviso of section 206(a) or temporary authority under section 210a, may be suspended by the Commission, upon reasonable notice of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of sections 211(c), 217(a), or 218(a) or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

SECTION 13(b)(1) OF THE FAIR LABOR STANDARDS ACT OF 1938

(52 Stat. 1067)

- (b) The provisions of section 7 shall not apply with respect to—
 (1) any employee with respect to whom the [Interstate Commerce Commission] *Secretary of Transportation* has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

SECTION 3 OF THE FEDERAL EXPLOSIVES ACT

(40 Stat. 385)

SEC. 3. The purchase or possession of ingredients when purchased or held in small quantities and not used or intended to be used in the manufacture of explosives shall not be subject to the provisions of this Act. [This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, or conveyances in conformity with the statutory provisions or rules and regulations of the Interstate Commerce Commission, or regulations of the Secretary of Commerce.] *This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, aircraft, or other conveyances in conformity with statutory law or with the rules and regulations of the Secretary of Transportation.* This Act shall not be construed to prevent the manufacture under the authority of the United States of explosives for, or their sale to or possession by, the military or naval service of the United States or the Federal Bureau of Investigation. This Act shall

not apply to arsenals, navy yards, depots or other establishments owned by, or operated by or on behalf of, the United States. The Director may, however, cooperate with the heads of departments having jurisdiction over such establishments. Nothing in this Act shall be construed to modify or otherwise affect in any way the authority of the Federal Bureau of Investigation with respect to the investigation of explosions, accidents, or fires.

SECTION 1 OF THE ACT OF MAY 13, 1954

(68 Stat. 92)

[Section 1. There is hereby created, subject to the direction and supervision of the President, or the head of such agency as he may designate, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation").]

SECTION 1. *There is hereby created, subject to the direction and supervision of the Secretary of the Department of Transportation, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation").*

SECTION 201 OF THE HIGHWAY SAFETY ACT OF 1966

(80 Stat. 731)

SEC. 201. The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (including chapter 4 of title 23 of the United States Code) through a National Highway Safety [Agency] Bureau (hereinafter referred to as the ["Agency"] Bureau), which he shall establish in the Department of Commerce. The [Agency] Bureau shall be headed by [an Administrator] a Director who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The [Administrator] Director shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him. The [Administrator] Director shall have no pecuniary interest in or own any stock in or bonds of any enterprise involved in (1) manufacturing motor vehicles or motor vehicles equipment, or (2) constructing highways, nor shall he engage in any other business, vocation, or employment. The [Administrator] Director shall perform such duties as are delegated to him by the Secretary. On highway matters the [Administrator] Director shall consult with the [Federal Highway Administrator] Director of Public Roads. The President is authorized to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the [Agency] Bureau and [Administrator] Director authorized by this section.

SECTION 115 OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 (80 STAT. 718)

SEC. 115. The Secretary shall carry out the provisions of this Act through a National Traffic Safety [Agency] Bureau (hereinafter referred to as the ["Agency"] Bureau, which he shall establish in the Department of Commerce. The Bureau shall be headed by a Traffic Safety [Administrator] Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The [Administrator] Director shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this Act. The [Administrator] Director shall perform such duties as are delegated to him by the Secretary.

SECTION 3(a) OF THE MARINE RESOURCES AND ENGINEERING DEVELOPMENT ACT OF 1966

(80 Stat. 204)

SEC. 3. (a) There is hereby established, in the Executive Office of the President, the National Council on Marine Resources and Engineering Development (hereinafter called the "Council") which shall be composed of—

- (1) The Vice President, who shall be Chairman of the Council.
- (2) The Secretary of State.
- (3) The Secretary of the Navy.
- (4) The Secretary of the Interior.
- (5) The Secretary of Commerce.
- (6) The Chairman of the Atomic Energy Commission.
- (7) The Director of the National Science Foundation.
- (8) The Secretary of Health, Education, and Welfare.
- (9) The Secretary of [the Treasury] Transportation.

SECTION 2(e) OF THE ACT OF SEPTEMBER 22, 1966, PUBLIC LAW 89-599

SEC. 2.

(e) The consent of Congress to this compact is granted subject to the further condition that the Kansas City Area Transportation District and the Kansas City Area Transportation Authority shall not acquire, construct, maintain, operate, or lease to others for maintenance and operation any interstate toll bridge or interstate toll tunnel without prior approval of the Secretary [of Commerce] of Transportation.

SECTION 5108(a) OF TITLE 5, UNITED STATES CODE

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of [2,577] 2,622, in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 240 hearing examiner positions under section 3105 of this title which may be placed in GS-16 and 9 such positions which may be placed in GS-17) which may be placed in GS-16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS-17 and not to exceed 12 percent of the aggregate number may be placed in GS-18. A position may be placed in GS-16, 17, or 18 only by action of, or after prior approval by, a majority of the Civil Service Commissioners.

SECTION 19(d)(1) OF TITLE 3, UNITED STATES CODE

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Postmaster General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development[.], Secretary of Transportation.

SECTION 101 OF TITLE 5, UNITED STATES CODE

§ 101. Executive departments

The Executive departments are:

The Department of Housing and Urban Development. The Department of Transportation.

SUBCHAPTER II OF CHAPTER 53 OF TITLE V, UNITED STATES CODE

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$35,000:

- (11) Secretary of Housing and Urban Development.
- (12) Secretary of Transportation.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$30,000:

• • • • •
 [(7) Administrator of the Federal Aviation Agency.]

(7) *Under Secretary of Transportation.*

• • • • •
 (19) *Administrator, Federal Aviation Administration.*

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$28,500:

• • • • •
 [(6) Under Secretary of Commerce for Transportation.]

(46) *Assistant Secretaries of Transportation (4).*

(47) *Administrator, Federal Highway Administration.*

(48) *Administrator, Federal Railroad Administration.*

(49) *Administrator, Federal Maritime Administration.*

(50) *Chairman, National Transportation Safety Board.*

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$27,000:

• • • • •
 [(2) Deputy Administrator of the Federal Aviation Agency.]

• • • • •
 (78) *Members, National Transportation Safety Board.*

(79) *General Counsel, Department of Transportation.*

(80) *Deputy Administrator, Federal Aviation Administration.*

(81) *Assistant Secretary for Administration, Department of Transportation.*

(82) *Director of Public Roads.*

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$26,000:

• • • • •
 [(12) Associate Administrator for Administration, Federal Aviation Agency.]

[(13) Associate Administrator for Development, Federal Aviation Agency.]

[(14) Associate Administrator for Programs, Federal Aviation Agency.]

• • • • •
 [(76) Federal Highway Administrator, Department of Commerce.]

• • • • •
 [(82) General Counsel of the Federal Aviation Agency.]

• • • • •
 [(89) Maritime Administrator, Department of Commerce.]

(117) *Director, National Traffic Safety Bureau.*

(118) *Director, National Highway Safety Bureau.*

§ 5317. Presidential authority to place positions at levels IV and V

In addition to the positions listed in sections 5315 and 5316 of this title, the President, from time to time, may place in levels IV and V of the Executive Schedule positions held by not to exceed [30] 39 individuals when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in an Executive agency. Such an action with respect to a position to which appointment is made by the President by and with the advice and consent of the Senate is effective only at the time of a new appointment to the position. Notice of each action taken under this section shall be published in the Federal Register, except when the President determines that the publication would be contrary to the interest of national security. The President may not take action under this section with respect to a position the pay for which is fixed at a specific rate by this subchapter or by statute enacted after August 14, 1964.

§ 5318. Presidential authority to place a position at level III

The President is further authorized to place one position in level III.

ACT OF AUGUST 1, 1956

(70 Stat. 897)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vessel operations revolving fund created by the Third Supplemental Appropriations Act, 1951, approved June 2, 1951 (Public Law 45, Eighty-second Congress; 65 Stat. 52, at 59), shall, beginning July 1, 1956, be available for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the [Secretary of Commerce] Secretary of Transportation. There shall be credited to such fund all receipts on account of operations after July 1, 1956, under charters of Government-owned ships under the jurisdiction of the [Secretary of Commerce] Secretary of Transportation.

SECTION 1020 OF TITLE 18, UNITED STATES CODE**§ 1020. Highway projects.**

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the [Secretary of Commerce] Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the [Secretary of Commerce] *Secretary of Transportation*; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SECTION 801(1) OF TITLE 10, UNITED STATES CODE

§ 801. Article 1. Definitions.

In this chapter:

(1) "Judge Advocate General" means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, [the General Counsel of the Department of the Treasury] *the General Counsel of the Department of Transportation*.

ADDITIONAL VIEWS OF SENATOR JAVITS

I have for some years advocated the creation of a Department of Transportation and accordingly am pleased to lend my support to legislation for this purpose. I would be remiss, however, if I did not call attention to one item which I believe the committee has erroneously failed to provide for in the new Department; to wit, an Office of Noise Abatement. There are few problems that the American public has been made more forcefully aware of than the problem of noise. The sound of the airplane as it makes its way in and out of our modern airports, the constant hum of the automobile, bus, and truck in our urban environment, the thunder of the train in the night as it rushes through rural communities are factors which affect all our lives. And yet the Federal Government has reacted to periodic public outcries with the ineffective palliative of token funds to miscellaneous agencies for research and development. This half-hearted, diffusive effort has failed to give this critical problem the attention it necessarily requires.

Last year an amendment which I introduced to deal with the noise problem was included in the 1965 Housing and Urban Development Act. The amendment called upon the then HHFA Administrator to undertake a study to determine feasible methods of reducing the economic loss and hardship suffered by homeowners as the result of the construction of airports in the vicinity of their homes, including a study of feasible methods of insulating such homes from the noise of aircraft. Findings from that study were to be made to the Congress at the *earliest* practicable date, but in *no* event later than 1 year after the date of the enactment of that law—August 10, 1965. August 10, 1966, has come and gone. I am finally informed—over a year later—that after long delays to determine who had the responsibility for noise studies, the study provided for in the 1965 Housing Act has only recently been *begun*.

I am convinced it is time the Congress specifically designated an office to conduct and coordinate all anti-noise activities. Accordingly, I offered an amendment in committee to establish an office in the new Department which would be directly responsible for conducting research and designating standards to reduce the noise when it is a nuisance. However, the committee did not accept my proposal. Instead it was agreed that the duties of the Secretary in section 4 should provide that, among other duties, he should conduct research on the problem. I sincerely regret this decision, for I feel that it does not provide for the concentrated and specific effort under the direction of a special consultant and coordinator needed to effectively eliminate the problem of noise.

But, I file these views to emphasize that the Secretary will have the broad authority to deal with the subject and hopefully will take the initiative in this area on his own.

JACOB K. JAVITS.

DEPARTMENT OF TRANSPORTATION ACT

OCTOBER 12, 1966.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 15963]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

That this Act may be cited as the "Department of Transportation Act".

DECLARATION OF PURPOSE

SEC. 2. (a) *The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development 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.*

(b)(1) *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 to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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 (hereafter referred to in this Act as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereafter referred to in this Act as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) 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 or the General Counsel, 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.

(c) 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.

(d) 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.

(e)(1) There is hereby established within the Department a Federal Highway Administration; a Federal Railroad Administration; and a Federal Aviation Administration. Each of these components shall be headed by an Administrator, and in the case of the Federal Aviation Administration there shall also be a Deputy Administrator. The Administrators and the Deputy Federal Aviation Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The qualifications of the Administrator of the Federal Aviation Agency specified in section 301(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 744; 49 U.S.C. 1341), and the qualifications and status of the Deputy Administrator specified in section 302(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 744; 49 U.S.C. 1342), shall apply, respectively, to the Administrator and Deputy Administrator of the Federal Aviation Administration. However, nothing in this Act shall be construed to preclude the appointment of the present Administrator of the Federal Aviation Agency as Administrator of the Federal Aviation Administration in accordance with the provisions of the Act of June 22, 1965, as amended (79 Stat. 171).

(3) In addition to such functions, powers, and duties as are specified in this Act to be carried out by the Administrators, the Administrators and the Commandant of the Coast Guard shall carry out such additional functions, powers, and duties as the Secretary may prescribe. The Administrators and the Commandant of the Coast Guard shall report directly to the Secretary.

(4) The functions, powers, and duties specified in this Act to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan submitted pursuant to provisions of chapter 9 of title 5, United States Code, or by statute.

(f)(1) The Secretary shall carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) through a National Traffic Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Executive Schedule. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 shall apply.

(2) The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (80 Stat. 731) (including chapter 4 of title 23 of the United States Code) through a National Highway Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate prescribed for level V of the Executive Schedule. All other provisions of the Highway Safety Act of 1966 shall apply.

(3) The President is authorized, as provided in section 201 of the Highway Safety Act of 1966, to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

(4) The office of Federal Highway Administrator, created by section 303 of title 23, United States Code, is hereby transferred to and continued within the Department under the title Director of Public Roads. The Director shall be the operating head of the Bureau of Public Roads, or any other agency created within the Department to carry out the primary functions carried out immediately before the effective date of this Act by the Bureau of Public Roads.

GENERAL PROVISIONS

SEC. 4. (a) 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; provide leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their consideration and implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; consult and cooperate with the Secretary of Labor in gathering information regarding the status of

labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation; promote and undertake research and development relating to transportation, including noise abatement, with particular attention to aircraft noise; consult with the heads of other Federal departments and agencies on the transportation requirements of the Government, including the procurement of transportation or the operation of their own transport services in order to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system; and consult and cooperate with State and local governments, carriers, labor, and other interested parties, including, when appropriate, holding informal public hearings.

(b) (1) In carrying out his duties and responsibilities under this Act, the Secretary shall be governed by all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.); the national transportation policy of the Interstate Commerce Act, as amended (49 U.S.C., preceding §§ 1, 301, 901, and 1001); title 23, United States Code, relating to Federal-aid highways; and title 14 U.S.C., titles LII and LIII of the Revised Statutes (46 U.S.C., chs. 2A, 7, 11, 14, 15, and 18), the Act of April 25, 1940, as amended (54 Stat. 163; 46 U.S.C. 526-526u), and the Act of September 2, 1958, as amended (72 Stat. 1754; 46 U.S.C. 527-527h), relating to the United States Coast Guard.

(2) Nothing in this Act shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

(A) any transportation policy, or

(B) any investment standards or criteria.

(3) In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this Act, 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.

(c) Orders and actions of the Secretary or the National Transportation Safety Board in the exercise of functions, powers, and duties transferred under this Act, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this Act, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such functions by the Secretary, the Administrators, or the National Transportation Safety Board.

(d) In the exercise of the functions, powers, and duties transferred under this Act, the Secretary, the Administrators, and the National Transportation Safety Board shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

(e) It shall be the duty of the Secretary—

(1) to promptly investigate the safety compliance records in the Department of each applicant seeking operating authority from

the Interstate Commerce Commission (referred to in this subsection as the "Commission") and to report his findings to the Commission;

(2) when the safety record of an applicant for permanent operating authority, or for approval of a proposed transaction involving transfer of operating authority, fails to satisfy the Secretary, to intervene and present evidence of such applicant's fitness in Commission proceedings;

(3) to furnish promptly upon request of the Commission a statement regarding the safety record of any applicant seeking temporary operating authority from the Commission; and

(4) (A) to furnish upon request of the Commission a complete report of the safety compliance of any carrier, (B) to have made such additional inspections or safety compliance surveys which the Commission deems necessary or desirable in order to process an application or to determine the fitness of a carrier, and (C) if the Commission so requests, to intervene and present evidence in any proceeding in which a determination of fitness is required.

(f) The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(g) The Secretary and the Secretary of Housing and Urban Development shall consult and exchange information regarding their respective transportation policies and activities; carry on joint planning, research and other activities; and coordinate assistance for local transportation projects. They shall jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas. They shall, within one year after the effective date of this Act, and annually thereafter, report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable. The Secretary and the Secretary of Housing and Urban Development shall study and report within one year after the effective date of this Act to the President and the Congress on the logical and efficient organization and location of urban mass transportation functions in the Executive Branch.

NATIONAL TRANSPORTATION SAFETY BOARD

SEC. 5. (a) There is hereby established within the Department a National Transportation Safety Board (referred to hereafter in this Act as "Board").

(b) There are hereby transferred to, and it shall be the duty of the Board to exercise, the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this Act with regard to—

(1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents; and

(2) reviewing on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary or by an Administrator.

(c) The Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary by section 6(d) of this Act.

(d) The Board is further authorized to—

(1) make such recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety;

(2) conduct special studies on matters pertaining to safety in transportation and the prevention of accidents;

(3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the accident involved;

(4) initiate on its own motion or conduct rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate;

(5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations;

(6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate;

(7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or Administrators in such cases as it deems appropriate; and

(8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

(e) Except as otherwise provided by statute, the Board shall make public all reports, orders, decisions, rules, and regulations issued pursuant to sections 5(b)(1) and 5(b)(2), and the Board shall also make public—

(1) every recommendation made to the Secretary or an Administrator;

(2) every special study conducted; and

(3) every action of the Board requesting the Secretary or an Administrator to take action, pursuant to section 5(d) (1), (2), (3), (5), (6), or (8).

(f) In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(g) The Board shall report to the Congress annually on the conduct of its functions under this Act and the effectiveness of accident investigations in the Department, together with such recommendations for legislation as it may deem appropriate.

(h) The Board shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. 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, and may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(i) Members of the Board shall be appointed for terms of five years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) the five members first appointed shall serve for terms (designated by the President at the time of appointment) ending on the last day of the first, second, third, fourth, and fifth calendar years beginning after the year of enactment of this Act. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(j) 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 of the Board and by its decisions, findings, and determinations. Three of the members shall constitute a quorum of the Board.

(k) The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

(l) In carrying out its functions, the Board (or, upon the authorization of the Board, any member thereof or any hearing examiner assigned to or employed by 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.

(m) 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, except that—

(1) with respect to aviation, the proviso in section 701(g) of the Federal Aviation Act of 1958, as amended (72 Stat. 782; 49 U.S.C. 1441(g)) shall apply to the Secretary, the Federal Aviation Administrator and their representatives, and

(2) the Board shall not delegate the appellate or determination of probable cause functions transferred to it by section 6(d) of this Act.

(n) Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix compensation of such officers and employees, including investigators, attorneys and hearing examiners, as shall be necessary to carry out its powers and duties under this Act.

(o) The Board is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department and such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board. The Board is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

TRANSFERS TO DEPARTMENT

SEC. 6. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23, United States Code, as amended.

(B) The Federal-Aid Highway Act of 1966 (80 Stat. 766).

(C) The Federal-Aid Highway Act of 1962, as amended (76 Stat. 1145; 23 U.S.C. 307 note).

(D) The Act of July 14, 1960, as amended (74 Stat. 526; 23 U.S.C. 313 note).

(E) The Federal-Aid Highway Act of 1954, as amended (68 Stat. 70).

(F) The Act of September 26, 1961, as amended (75 Stat. 670).

(G) The Highway Revenue Act of 1956, as amended (70 Stat. 387; 23 U.S.C. 120 note).

(H) The Highway Beautification Act of 1965, as amended (79 Stat. 1028; 23 U.S.C. 131 et seq. notes).

(I) The Alaska Omnibus Act, as amended (73 Stat. 141; 48 U.S.C. 21 note prec.).

(J) The Joint Resolution of August 28, 1965, as amended (79 Stat. 578; 23 U.S.C. 101 et seq. notes).

(K) Section 502(c) of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525(c)).

(L) The Act of April 27, 1962, as amended (76 Stat. 59).

(M) Reorganization Plan No. 7 of 1949 (63 Stat. 1070; 5 U.S.C. 1332-15 note).

(2) the following laws and provisions of law relating generally to ground transportation:

(A) The Act of September 30, 1965, as amended (79 Stat. 893; 49 U.S.C. 1631 et seq.).

(B) The Urban Mass Transportation Act of 1964, as amended (78 Stat. 306; 49 U.S.C. 1607).

(3) the following laws and provisions of law relating generally to aircraft:

(A) The Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 note).

(B) Section 410 of the Federal Aviation Act of 1958, as amended (72 Stat. 769; 49 U.S.C. 1380).

(C) Title XIII of the Federal Aviation Act of 1958, as amended (72 Stat. 800; 49 U.S.C. 1531 et seq.).

(4) the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended (74 Stat. 259; 46 U.S.C. 216 et seq.).

(5) the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended (61 Stat. 715; 5 U.S.C. 1161).

(6) the following laws relating generally to traffic and highway safety:

(A) The National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718).

(B) The Highway Safety Act of 1966 (80 Stat. 731).

(b)(1) The Coast Guard is hereby transferred to the Department, and 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.

(2) Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the 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, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of title 14, United States Code, as amended.

(3) Notwithstanding any other provision of this Act, the functions, powers, and duties of the General Counsel of the Department of the Treasury set out in chapter 47 of title 10, United States Code, as amended (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

(c)(1) 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, including the development and construction of a civil supersonic aircraft: Provided, however, That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this Act shall affect the power of the President under section 302(e) of the Federal Aviation Act of 1958 (72 Stat. 746, 49 U.S.C. 1343(c)) to transfer, to the Department of Defense in the event of war, any functions transferred by this Act from the Federal Aviation Agency.

(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; 5 U.S.C. 1421 et seq.) and VII (72 Stat. 781; 49 U.S.C. 1441 et seq.) of the Federal Aviation Act of 1958, as amended: Provided, however, That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the

exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the courts.

(e) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

(1) the following laws relating generally to safety appliances and equipment on railroad engines and cars, and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended (27 Stat. 531; 45 U.S.C. 1 et seq.).

(B) The Act of March 2, 1903, as amended (32 Stat. 943; 45 U.S.C. 8 et seq.).

(C) The Act of April 14, 1910, as amended (36 Stat. 298; 45 U.S.C. 11 et seq.).

(D) The Act of May 30, 1908, as amended (35 Stat. 476; 45 U.S.C. 17 et seq.).

(E) The Act of February 17, 1911, as amended (36 Stat. 913; 45 U.S.C. 22 et seq.).

(F) The Act of March 4, 1915, as amended (38 Stat. 1192; 45 U.S.C. 30).

(G) Reorganization Plan No. 3 of 1965 (79 Stat. 1320).

(H) Joint Resolution of June 30, 1906, as amended (34 Stat. 838; 45 U.S.C. 35).

(I) The Act of May 27, 1908, as amended (35 Stat. 325; 45 U.S.C. 36 et seq.).

(J) The Act of March 4, 1909, as amended (35 Stat. 965; 45 U.S.C. 37).

(K) The Act of May 6, 1910, as amended (36 Stat. 350; 45 U.S.C. 38 et seq.).

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended (34 Stat. 1415; 45 U.S.C. 61 et seq.).

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended (33 Stat. 743; 49 U.S.C. 1201 et seq.).

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831–835 of title 18, United States Code, as amended.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended (40 Stat. 450; 15 U.S.C. 261 et seq.).

(B) The Act of March 4, 1921, as amended (41 Stat. 1446; 15 U.S.C. 265).

(C) The Uniform Time Act of 1966, as amended (80 Stat. 107).

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) relating generally to safety appliances methods and systems: Section 25 (49 U.S.C. 26).

(B) relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 226 (49 U.S.C. 325).

(C) relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment: Sections 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 sections 204(a) (3), (3a), and (5) (49 U.S.C. 304).

(D) to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 221(a), 221(c), and 224 (49 U.S.C. 321 et seq.).

(f)(1) Nothing in subsection (e) shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended (49 U.S.C. 1(6), 306 et seq.), or under any other section of that Act not specifically referred to in subsection (e).

(2)(A) With respect to any function which is transferred to the Secretary by subsection (e) and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e).

(B) For purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following provisions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (b) and (7), 204(c), 204(d), 205(d), 205(f), 220 (except subsection (c) and the proviso of subsection (a) thereof), 222 (except subsections (b)(2) and (b)(3) thereof), and 417(b)(1) (49 U.S.C. 12 et seq., 304 et seq., and 1017).

(3)(A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involve notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or the courts, as appropriate.

(g) 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—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended (34 Stat. 85; 33 U.S.C. 494).

(B) Section 503 of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 526).

(C) Section 17 of the Act of June 10, 1930, as amended (46 Stat. 552; 33 U.S.C. 498a).

(D) The Act of June 27, 1930, as amended (46 Stat. 821; 33 U.S.C. 498b).

(E) The Act of August 21, 1935, as amended (49 Stat. 670; 33 U.S.C. 503 et seq.).

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.).

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended, (30 Stat. 1151; 33 U.S.C. 401).

(B) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.).

(C) The General Bridge Act of 1946; as amended (60 Stat. 847; 33 U.S.C. 525 et seq.).

(h) The provisions of subchapter II of chapter 5 and of chapter 7 of title 5, United States Code, shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this Act except that notwithstanding this or any other provision of this Act, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of title 5, United States Code, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this Act.

(i) The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended (38 Stat. 308), and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order.

TRANSPORTATION INVESTMENT STANDARDS

SEC. 7. (a) The Secretary, subject to the provisions of section 4 of this Act, 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 at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89-80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 101 of Public Law 89-80 is hereby expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects.

(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 (1) 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, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and 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. 8. (a) Section 406(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 763; 49 U.S.C. 1376(b)), 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 standards 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 of 1965, as amended (79 Stat. 10; 40 U.S.C. App. 206) 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."

(c) Section 206(c) of the Appalachian Regional Development Act of 1965, as amended (79 Stat. 15; 40 U.S.C. App. 206), is amended by inserting after "Interior," the words "Secretary of Transportation,".

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

(e) Section 13(b)(1) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1067), is amended by striking the words "Interstate Commerce Commission" and inserting in lieu thereof "Secretary of Transportation".

(f) The second sentence of section 3 of the Federal Explosives Act, as amended (40 Stat. 386; 50 U.S.C. 123) is amended to read as follows: "This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, aircraft, or other conveyances in conformity with statutory law or with the rules and regulations of the Secretary of Transportation."

(g)(1) Section 1 of the Act of May 13, 1954, as amended (68 Stat. 93; 33 U.S.C. 981), is amended to read as follows:

"SECTION 1. There is hereby created, subject to the direction and supervision of the Secretary of Transportation, a body corporate to be

known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the 'Corporation')."

(2) Notwithstanding any other provision of this Act, the Administrator of the Saint Lawrence Seaway Development Corporation shall report directly to the Secretary.

(h) Section 201 of the Highway Safety Act of 1966 (80 Stat. 731) is amended by striking the words "Federal Highway Administrator" and inserting in lieu thereof the words "Director of Public Roads", by striking the word "Agency" wherever it occurs in such section and inserting in lieu thereof the word "Bureau", and by striking "an Administrator" or "Administrator", wherever appearing therein, and inserting in lieu thereof "a Director" or "Director", respectively.

(i) Section 115 of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) is amended by striking the word "Agency" wherever it occurs in such section and inserting in lieu thereof the word "Bureau", and by striking the word "Administrator" wherever it occurs in such section and inserting in lieu thereof the word "Director".

(j) Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (80 Stat. 204) is amended by striking the words "the Treasury" and inserting in lieu thereof "Transportation".

(k) Section 2(e) of the Act of September 22, 1966, Public Law 89-599, is amended by striking the words "of Commerce" and inserting in lieu thereof the words "of Transportation".

ADMINISTRATIVE PROVISIONS

Sec. 9. (a) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department, 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 investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this Act and to prescribe their authority and duties.

(b) The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed \$100 per diem for individuals unless otherwise specified in an appropriation Act.

(c) The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation.

(d)(1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of section 9(c) and section 9(p) shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

(e)(1) Except where this Act vests in any administration, agency or board, specific functions, powers, and duties, the Secretary may, 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, delegate any of his residual 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.

(2) In addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to or specified by this Act to be carried out by any officer in the Department, such officer may delegate any of such functions, powers, and duties to such other 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 such functions, powers, and duties.

(3) The Administrators established by section 3(e) of this Act may not delegate any of the statutory duties and responsibilities specifically assigned to them by this Act outside of their respective administrations.

(f) 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: Provided, however, That 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 carrying out the duties and functions transferred by this Act to the Secretary which are specified by this Act to be carried out by the Federal Aviation Administrator shall be assigned by the Secretary to the Federal Aviation Administrator for these purposes.

(g) So much of the positions, 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 6 (except section 6(c)) and 8 (d) and (e) of this Act as the Director of the Bureau of the Budget shall determine shall be transferred to the Secretary: Provided, however, That the positions, 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, by the Civil Aeronautics Board in carrying out the duties transferred by this Act to be exercised by the National Transportation Safety Board shall be transferred to the National Transportation Safety Board. Except as provided in subsection (h), personnel engaged in functions, powers, and duties transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(h) The transfer of personnel pursuant to subsections (f) and (g) of this section shall be without reduction in classification or compensation for one year after such transfer.

(i) In any case where all of the functions, powers, and duties of any office or agency, other than the Coast Guard, are transferred pursuant to this Act, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

(j) 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 any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and 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. Such funds shall be reimbursed in advance 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. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

(k) 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.

(l) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or other officer in the Department, 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.

(m)(1) 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. 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. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) 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 moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(n)(1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to foreign and domestic transportation, and special statistical studies relating to other matters falling within the province of the Department, 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 or body requesting it.

(2) All moneys received by the Department in payment of the cost of work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. These moneys may be used, in the discretion of the Secretary, 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.

(o) The Secretary is authorized to appoint, without regard to the civil service laws, 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, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(p)(1) Notwithstanding any provision of this Act or other law, a member of the Coast Guard on active duty may be appointed, detailed, or assigned to any position in the Department other than Secretary, Under Secretary, and Assistant Secretary for Administration.

(2) Subject to the provisions of title 5, United States Code, a retired member of the Coast Guard may be appointed to any position in the Department.

(g)(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this section.

(4) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research.

CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 10. (a) Section 19(d)(1) of title 3, United States Code, as amended, is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Transportation."

(b) Section 101 of title 5 of the United States Code is amended by inserting at the end thereof the following:

"The Department of Housing and Urban Development.

"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) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title 5 of the United States Code is amended as follows:

(1) Section 5312 is amended by adding at the end thereof the following:

"(11) Secretary of Housing and Urban Development.

"(12) Secretary of Transportation."

(2) Section 5313 is amended by striking out "(7) Administrator of the Federal Aviation Agency" and inserting in lieu thereof "(7) Under Secretary of Transportation", and by adding at the end thereof the following:

"(19) Administrator, Federal Aviation Administration."

(3) Section 5314 is amended by adding at the end thereof the following:

"(46) Administrator, Federal Highway Administration.

"(47) Administrator, Federal Railroad Administration.

"(48) Chairman, National Transportation Safety Board."

- (4) Section 5315 is amended by adding at the end thereof the following:
- "(78) Members, National Transportation Safety Board.
 - "(79) General Counsel, Department of Transportation.
 - "(80) Deputy Administrator, Federal Aviation Administration.
 - "(81) Assistant Secretaries of Transportation (4).
 - "(82) Director of Public Roads.
 - "(83) Administrator of the St. Lawrence Seaway Development Corporation."
- (5) Section 5316 is amended by adding at the end thereof the following:
- "(117) Assistant Secretary for Administration, Department of Transportation."
- (6) Section 5317 is amended by striking out "thirty" and inserting in lieu thereof "thirty-four".
- (e) Subsections 5314(6), 5315(2), and 5316 (10), (12), (13), (14), (76), and (82) of title 5 of the United States Code are repealed, subject to the provisions of section 9 of this Act.
- (f) Title 18, United States Code, section 1020, as amended, is amended by striking the words "Secretary of Commerce" where they appear therein and inserting in lieu thereof "Secretary of Transportation".
- (g) Subsection (1) of section 801, title 10, United States Code, as amended, is amended by striking out "the General Counsel of the Department of the Treasury" and inserting in lieu thereof "the General Counsel of the Department of Transportation".

ANNUAL REPORT

SEC. 11. 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. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this Act, or

(B) in the exercise of duties, powers, or functions which are transferred under this Act,

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), 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 or agency (or component thereof), functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before

the department or agency before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments 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 as an officer 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 subsection.

(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency is transferred to the Secretary, or

(B) any function of such department, agency, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the department, agency, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, 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 officer or agency in which this Act vests such function after such transfer.

SEPARABILITY

SEC. 13. 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.

CODIFICATION

SEC. 14. The Secretary is directed to submit to the Congress within two years from the effective date of this Act, a proposed codification of all laws that contain the powers, duties, and functions transferred to or vested in the Secretary or the Department by this Act.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 15. (a) This Act shall take effect ninety 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.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

And the Senate agree to the same.

CHET HOLIFIELD,
JACK BROOKS,
PORTER HARDY, Jr.,
HENRY S. REUSS,
JOHN N. ERLBORN,
CLARENCE J. BROWN, Jr.,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
HENRY M. JACKSON,
ABRAHAM RIBICOFF,
FRED R. HARRIS,
KARL E. MUNDT,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment strikes out all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for clerical corrections, incidental changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

Declaration of purpose

Section 2 of the Senate amendment contained a paragraph not included in the House bill which declared it to be the national policy that in carrying out the provisions of the act, special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

The conference substitute conforms to the Senate amendment with a minor drafting change.

Establishment of department

In section 3 the Senate amendment provided that the act itself establishes within the Department a Federal Highway Administration, a Federal Railroad Administration, a Federal Maritime Administration, and a Federal Aviation Administration. The House bill did not provide for the establishment of a Federal Maritime Administration. The Senate amendment also contained language providing for a Deputy Administrator of the Federal Aviation Administration which was not in the House bill. The Senate amendment further contained provisions, not in the House bill, continuing the existing qualifications for the Administrator and Deputy Administrator of the Federal Aviation Administration, specifically preserving the possibility of appointing the present Federal Aviation Administrator; providing that the Administrators and Commandant of the Coast Guard shall carry out functions, powers, and duties specified in the act and additional duties prescribed by the Secretary and prohibiting the redistribution of statutorily assigned functions, powers, and duties within the Department otherwise than by reorganization plan or statute. The Senate amendment deleted the provision of the House bill establishing an Office of Accident Investigation within the Department, instead elsewhere in the bill retransferring

the aviation investigation functions of the Civil Aeronautics Board to the National Transportation Safety Board. The Senate amendment contained language not in the House bill providing that the Secretary shall carry out the provisions of the National Traffic and Motor Vehicles Safety Act of 1966 through a National Safety Traffic Bureau headed by a director at executive salary level V.

The conference substitute amendment omits the provision for a Federal Maritime Administration and restores the provisions of the House bill, stricken in the Senate amendment, which provide that the Administrators and Commandant of the Coast Guard report directly to the Secretary. Otherwise the conference substitute conforms to the Senate amendment.

General provisions

In section 4(a) the Senate amendment deleted language giving the Secretary the responsibility of gathering, maintaining, and keeping the President fully advised of information regarding the status of labor-management contracts and other labor-management problems and assisting in promoting industrial harmony and stable employment conditions in all modes of transportation. The Senate amendment provided that in consulting with heads of other Federal departments and agencies engaged in the procurement of transportation or the operation of their own transport services, the Secretary should encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system operated by private enterprise.

The conference substitute amendment provides that the Secretary shall consult and cooperate with the Secretary of Labor in gathering information on the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation, and includes the Senate language on consultation with the heads of other Federal departments and agencies, but deletes the phrase "operated by private enterprise" to avoid possible conflicts with the Military Transportation Services.

In section 4(b) the Senate amendment added language stating that the Secretary shall be governed in carrying out his duties and responsibilities under the act, by all applicable statutes including the policy standards set forth in several specifically listed existing laws relating to various phases of transportation.

The conference substitute adopts the language of the Senate amendment, with conforming change to reflect the deletion of the maritime functions.

In section 4(c) the Senate amendment limited the House language preserving the right of judicial review over decisions in the Department by adding the clause "except as otherwise provided in this Act."

The conference substitute amendment deletes the quoted phrase and returns to the provisions of the House bill which are intended to preserve all rights of judicial review which now exist.

In section 4(d) which preserves the authority of the officials of the new Department to exercise the same authority as that vested in the predecessor agencies, the Senate amendment added the language, "except as provided in this Act."

The conference substitute amendment deletes the language quoted. The conferees believe that other provisions of the act adequately spell

out the internal organization of the new Department and the extent of the authority of each of the officials as well as the finality of their decisions. The excepting clause is deleted to avoid the possibility of the loss of any authority in the course of the transfer of functions, powers, and duties to the new Department.

In section 4(e) the Senate amendment added language requiring the Secretary to present to the Interstate Commerce Commission information on the safety fitness of applicants for operating authority. This was intended to assure the continuance of the Commission's ability to determine the fitness of applicants in appropriate cases.

The conference substitute amendment clarifies the Senate amendment.

In section 4(f) the Senate amendment contained language requiring the Secretary of Transportation to cooperate and consult with the Secretaries of Interior, Housing and Urban Development, and Agriculture and with the States in developing transportation plans and programs that carry out the policy of preserving the natural beauty of the countryside and public park and recreation land, wildlife and waterfowl refuges, and historic sites. The Secretary was prohibited from approving programs or projects requiring the use of any such land unless there is no feasible alternative and all possible planning to minimize harm is taken.

The conference substitute amendment adopts the Senate amendment language except for adding the words "and prudent" after the word "feasible".

In section 4(g) the Senate amendment required the Secretary and the Secretary of Housing and Urban Development to consult and exchange information regarding their transportation policies and activities and to carry on the joint planning, research, and other activities and coordinate assistance for local projects. The amendment required the two Secretaries to study Federal policies and programs, to see how they can assure that urban transportation systems will effectively serve both local and national needs and to report within 1 year and annually thereafter to the President for submission to Congress on their studies and other activities, including legislative recommendations.

The conference substitute amendment conforms to the Senate amendment and adds thereto the clause previously deleted by the Senate which would require the two Secretaries to report within 1 year on the logical and efficient organization and location of urban mass transportation functions in the executive branch.

National Transportation Safety Board

In section 5 the Senate amendment placed in the National Transportation Safety Board the aircraft accident investigation functions now carried on by the Civil Aeronautics Board; provided specifically that decisions of the Board shall be administratively final; gave the NTSB authority to initiate or conduct rail, highway and pipeline accident investigations and specific authority to hire investigators; and prohibited the Board from delegating its functions of hearing certain appeals and of determining probable cause of accidents.

The conference substitute amendment conforms to the Senate amendment.

Transfers to the Department

In section 6(a)(5) the Senate amendment contained language not found in the House bill which transfers to the new Secretary, merchant marine and maritime functions and provides for their exercise by a Federal Maritime Administrator and a Maritime Board.

The conference substitute amendment deletes all reference to maritime functions, a Federal Maritime Administrator and the Maritime Board.

In section 6(c) which transfers to the Secretary all functions, powers and duties of the Federal Aviation Agency and of the Administrator and other officers thereof, the Senate amendment added the language "including the development and construction of a civil supersonic aircraft." The Senate amendment also further transferred to the Federal Aviation Administrator the duties of the Secretary under section 6(c) pertaining to aviation safety as set forth in certain sections of the Federal Aviation Act of 1958. The Senate amendment made decisions of the Federal Aviation Administrator in exercising these functions administratively final with appeals as authorized by law and this act to be taken directly to the National Transportation Safety Board or to the courts as appropriate. The Senate amendment deleted a provision specifically reserving the power of the President to transfer any of the aviation functions to the Department of Defense in time of war.

The substitute conference amendment restores the wartime transfer power of the President as provided in the House bill and otherwise conforms to the Senate amendment.

In section 6(d) the Senate amendment retransfers to the National Transportation Safety Board all of the Civil Aeronautics Board safety functions which are transferred by the act to the Secretary under section 6(d) and provides that decisions of the National Transportation Board made pursuant to the exercise of these functions, powers, and duties shall be administratively final and appeals taken directly to the courts.

The conference substitute amendment conforms to the Senate amendment.

In section 6(f) the Senate amendment provided that the Federal Railroad Administrator and the Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety and to motor carrier safety which were transferred from the Interstate Commerce Commission to the Secretary. The decisions of the two Administrators pursuant to the exercise of these functions were made administratively final, with appeals to be taken to the National Transportation Safety Board or the courts.

The substitute conference amendment specifically limits the administrative finality of the two Administrators' decisions to proceedings which involve notice and hearings required by law, and otherwise conforms to the Senate amendment.

In section 6(h) the Senate amendment provides that the Administrative Procedure Act shall be applicable to proceedings by the Departments and its subordinate units.

The substitute conference amendment conforms to the Senate amendment. Complementary House language was restored in section 4(c).

In section 6(i) the Senate amendment transferred the administration of the Alaska Railroad to the new Department. The House report had contemplated that this would be accomplished by Executive order.

The substitute conference amendment conforms to the Senate amendment.

Transportation investment standards

The Senate amendment contains language in section 7 which was not in the House bill. This requires the Secretary to develop standards and criteria for the formulation and economic evaluation and proposals for the investment of Federal funds in transportation facilities or equipment. The Senate amendment contains six major exceptions to this authority among which were water resources projects and grant-in-aid programs authorized by law. The Senate amendment requires approval by the Congress before the Secretary may promulgate standards and criteria. It makes the Secretary a member of the Water Resources Council on matters pertaining to navigation features of water resource projects and provides that all surveys, plans, and reports involving projects formulated by the various Federal agencies must conform to the standards and criteria, must utilize certain types of information relating to transportation supplied by the Secretary and must be coordinated by the Secretary. The Senate amendment also contained a formula to govern the determination of the navigation benefits of water resources projects.

The conference substitute amendment conforms to the Senate amendment.

AMENDMENTS TO OTHER LAWS

In section 8 the conference substitute amendment retains the Senate amendment language transferring the St. Lawrence Seaway Development Corporation to the new Department, making the Secretary of Transportation a member of the Marine Resources and Engineering Development Board and transferring to him the authority of the Secretary of Commerce with respect to the Missouri-Kansas compact on the Kansas City area transportation district.

ADMINISTRATIVE PROVISIONS

In section 9 the conference substitute amendment retains the language of the Senate amendment which authorizes officials below the Secretary in the Department who receive direct statutory authority to redelegate that authority within their own administrations and which modifies the Secretary's authority to redelegate in recognition of the statutory transfers heretofore made to subordinate officials. The conference substitute also retains the Senate language earmarking personnel, assets and unexpended balances of appropriations for the Federal Aviation Administration and the National Transportation Safety Board, to enable them to carry out the functions directly transferred to them by the act. Language of the Senate amendment requiring reimbursement of the working capital fund in advance and providing for the transfer of surpluses in that fund to the miscellaneous receipts in the Treasury are also retained.

The conference substitute amendment deletes language added by the Senate which would have provided that payments to members of

the Advisory Boards in the Department shall not render members of the Board's employees or officials of the United States for any purpose. So far as the conferees are aware, this language now applies in only one situation, i.e., in the case of the National Motor Vehicle Safety Advisory Council and was included there for a particular purpose. The exemption in this one instance is retained by other language in the act; it should not be extended to other Advisory Boards without clear and specific justification.

The conference amendment also retains Senate language, not in the House bill, specifically authorizing the Secretary to enter into research contracts with educational institutions, public or private agencies or organizations, or persons, and language which governed the Secretary in administering the Department and authorizing him to publish information resulting from such research. Of course, the provisions of Public Law 89-487 relating to the availability of information will apply to this and other activities of the Department.

CONFORMING AMENDMENTS

Section 10 deals primarily with the pay levels. In the following table the House bill placed the executive schedule positions of the officers of the Department at the levels shown in column A. The Senate amendment added a number of positions and placed them in the levels shown in column B. The conferees are agreed on the positions and levels shown in column C.

Level	House bill (a)	Senate amendment (b)	Conference substitute (c)
I.....	Secretary of Transportation.....	Secretary of Transportation.....	Secretary of Transportation.....
II.....	Under Secretary of Transportation.....	Under Secretary of Transportation.....	Under Secretary of Transportation.....
III.....	Plus 1 position to be placed by President.....	Plus 1 position to be placed by President.....	Plus 1 position to be placed by President.....
IV.....	Assistant Secretaries (4); General Counsel; Chairman, National Transportation Safety Board; Director of Public Roads.....	Assistant Secretaries (4); General Counsel; Deputy Administrator; Federal Aviation Administration; Assistant Secretaries (4); Director of Public Roads.....	Assistant Secretaries (4); General Counsel; Deputy Administrator; Federal Aviation Administration; Assistant Secretaries (4); Director of Public Roads; Administrator, National Transportation Safety Board.....
IV or V.....	9 positions placed by President.....	9 positions placed by President.....	9 positions placed by President.....
V.....	Assistant Secretary for Administration; Members, National Transportation Safety Board (4); Highway Safety Administrator.....	Assistant Secretary for Administration; Traffic Safety Director; Highway Safety Director.....	Assistant Secretary for Administration; Traffic Safety Director; Highway Safety Director.....

CHET HOLIFIELD,
JACK BROOKS,
PORTER HARDY, Jr.,
HENRY S. REUSS,
JOHN N. ERLBORN,
CLARENCE J. BROWN, Jr.
Managers on the Part of the House.



Public Law 89-670
89th Congress, H. R. 15963
October 15, 1966

An Act

80 STAT. 931

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".

Department of
Transportation
Act.

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development 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.

(b) (1) 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 to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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 (hereafter referred to in this Act as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereafter referred to in this Act as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

Secretary.

(b) 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 or the General Counsel, 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.

Under Secretary.

(c) There shall be in the Department four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by

Assistant Secretaries, General Counsel.

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.

Assistant Secretary for Administration.

(d) 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.

Administrations.

(e) (1) There is hereby established within the Department a Federal Highway Administration; a Federal Railroad Administration; and a Federal Aviation Administration. Each of these components shall be headed by an Administrator, and in the case of the Federal Aviation Administration there shall also be a Deputy Administrator. The Administrators and the Deputy Federal Aviation Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

Federal Aviation Administrator, qualifications.

(2) The qualifications of the Administrator of the Federal Aviation Agency specified in section 301(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 744; 49 U.S.C. 1341), and the qualifications and status of the Deputy Administrator specified in section 302(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 744; 49 U.S.C. 1342), shall apply, respectively, to the Administrator and Deputy Administrator of the Federal Aviation Administration. However, nothing in this Act shall be construed to preclude the appointment of the present Administrator of the Federal Aviation Agency as Administrator of the Federal Aviation Administration in accordance with the provisions of the Act of June 22, 1965, as amended (79 Stat. 171).

49 USC 1341 note. Coast Guard.

(3) In addition to such functions, powers, and duties as are specified in this Act to be carried out by the Administrators, the Administrators and the Commandant of the Coast Guard shall carry out such additional functions, powers, and duties as the Secretary may prescribe. The Administrators and the Commandant of the Coast Guard shall report directly to the Secretary.

Transfer of powers prohibited.

(4) The functions, powers, and duties specified in this Act to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan submitted pursuant to provisions of chapter 9 of title 5, United States Code, or by statute.

Ante, p. 393. National Traffic Safety Bureau.

(f) (1) The Secretary shall carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) through a National Traffic Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Executive Schedule. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 shall apply.

Ante, p. 463.

National Highway Safety Bureau.

(2) The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (80 Stat. 731) (including chapter 4 of title 23 of the United States Code) through a National Highway Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate prescribed for level V of the Executive Schedule. All other provisions of the Highway Safety Act of 1966 shall apply.

(3) The President is authorized, as provided in section 201 of the Highway Safety Act of 1966, to carry out the provisions of the

National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

Ante, p. 718.

(4) The office of Federal Highway Administrator, created by section 303 of title 23, United States Code, is hereby transferred to and continued within the Department under the title Director of Public Roads. The Director shall be the operating head of the Bureau of Public Roads, or any other agency created within the Department to carry out the primary functions carried out immediately before the effective date of this Act by the Bureau of Public Roads.

Ante, p. 731.

Director of Public Road. 75 Stat. 822; 78 Stat. 425.

GENERAL PROVISIONS

SEC. 4. (a) 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; provide leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their consideration and implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; consult and cooperate with the Secretary of Labor in gathering information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation; promote and undertake research and development relating to transportation, including noise abatement, with particular attention to aircraft noise; consult with the heads of other Federal departments and agencies on the transportation requirements of the Government, including the procurement of transportation or the operation of their own transport services in order to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system; and consult and cooperate with State and local governments, carriers, labor, and other interested parties; including, when appropriate, holding informal public hearings.

Duties of Secretary.

(b) (1) In carrying out his duties and responsibilities under this Act, the Secretary shall be governed by all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.); the national transportation policy of the Interstate Commerce Act, as amended (49 U.S.C., preceding §§ 1, 301, 901, and 1001); title 23, United States Code, relating to Federal-aid highways; and title 14 U.S.C., titles LII and LIII of the Revised Statutes (46 U.S.C., chs. 2A, 7, 11, 14, 15, and 18), the Act of April 25, 1940, as amended (54 Stat. 163; 46 U.S.C. 526-526u), and the Act of September 2, 1958, as amended (72 Stat. 1754; 46 U.S.C. 527-527h), relating to the United States Coast Guard.

72 Stat. 731.

24 Stat. 379. 72 Stat. 885. 23 USC 101-136. 63 Stat. 495.

(2) Nothing in this Act shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

- (A) any transportation policy, or
- (B) any investment standards or criteria.

(3) In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this Act, 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.

(c) Orders and actions of the Secretary or the National Transportation Safety Board in the exercise of functions, powers, and duties

Judicial review.

transferred under this Act, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this Act, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such functions by the Secretary, the Administrators, or the National Transportation Safety Board.

(d) In the exercise of the functions, powers, and duties transferred under this Act, the Secretary, the Administrators, and the National Transportation Safety Board shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

(e) It shall be the duty of the Secretary—

(1) to promptly investigate the safety compliance records in the Department of each applicant seeking operating authority from the Interstate Commerce Commission (referred to in this subsection as the "Commission") and to report his findings to the Commission;

(2) when the safety record of an applicant for permanent operating authority, or for approval of a proposed transaction involving transfer of operating authority, fails to satisfy the Secretary, to intervene and present evidence of such applicant's fitness in Commission proceedings;

(3) to furnish promptly upon request of the Commission a statement regarding the safety record of any applicant seeking temporary operating authority from the Commission; and

(4) (A) to furnish upon request of the Commission a complete report of the safety compliance of any carrier, (B) to have made such additional inspections or safety compliance surveys which the Commission deems necessary or desirable in order to process an application or to determine the fitness of a carrier, and (C) if the Commission so requests, to intervene and present evidence in any proceeding in which a determination of fitness is required.

(f) The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(g) The Secretary and the Secretary of Housing and Urban Development shall consult and exchange information regarding their respective transportation policies and activities; carry on joint planning, research and other activities; and coordinate assistance for local transportation projects. They shall jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas. They shall, within one year after the effective date of this Act, and annually thereafter, report to the President, for submission to the Congress, on their studies

Safety records
of applicants,
investigation.

Transportation
activities.
Cooperation with
HUD Secretary.

Reports to Presi-
dent and Con-
gress.

and other activities under this subsection, including any legislative recommendations which they determine to be desirable. The Secretary and the Secretary of Housing and Urban Development shall study and report within one year after the effective date of this Act to the President and the Congress on the logical and efficient organization and location of urban mass transportation functions in the Executive Branch.

NATIONAL TRANSPORTATION SAFETY BOARD

SEC. 5. (a) There is hereby established within the Department a National Transportation Safety Board (referred to hereafter in this Act as "Board").

(b) There are hereby transferred to, and it shall be the duty of the Board to exercise, the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this Act with regard to—

Duties.

(1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents; and

(2) reviewing on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary or by an Administrator.

(c) The Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary by section 6(d) of this Act.

(d) The Board is further authorized to—

(1) make such recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety;

(2) conduct special studies on matters pertaining to safety in transportation and the prevention of accidents;

(3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the accident involved;

(4) initiate on its own motion or conduct rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate;

(5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations;

(6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate;

(7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or Administrators in such cases as it deems appropriate; and

(8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

(e) Except as otherwise provided by statute, the Board shall make public all reports, orders, decisions, rules, and regulations issued pursuant to sections 5(b) (1) and 5(b) (2), and the Board shall also make public—

Reports rules,
etc., avail-
ability.

(1) every recommendation made to the Secretary or an Administrator;

(2) every special study conducted; and

(3) every action of the Board requesting the Secretary or an Administrator to take action, pursuant to section 5(d) (1), (2), (3), (5), (6), or (8).

(f) In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(g) The Board shall report to the Congress annually on the conduct of its functions under this Act and the effectiveness of accident investigations in the Department, together with such recommendations for legislation as it may deem appropriate.

(h) The Board shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. 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, and may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(i) Members of the Board shall be appointed for terms of five years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) the five members first appointed shall serve for terms (designated by the President at the time of appointment) ending on the last day of the first, second, third, fourth, and fifth calendar years beginning after the year of enactment of this Act. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

(j) 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 of the Board and by its decisions, findings, and determinations. Three of the members shall constitute a quorum of the Board.

(k) The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

(l) In carrying out its functions, the Board (or, upon the authorization of the Board, any member thereof or any hearing examiner assigned to or employed by 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.

(m) 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, except that—

(1) with respect to aviation, the proviso in section 701(g) of the Federal Aviation Act of 1958, as amended (72 Stat. 782; 49 U.S.C. 1441(g)) shall apply to the Secretary, the Federal Aviation Administrator and their representatives, and

(2) the Board shall not delegate the appellate or determination of probable cause functions transferred to it by section 6(d) of this Act.

(n) Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix compensation of such

officers and employees, including investigators, attorneys and hearing examiners, as shall be necessary to carry out its powers and duties under this Act.

(o) The Board is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department and such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board. The Board is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

TRANSFERS TO DEPARTMENT

SEC. 6. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23, United State Code, as amended.

(B) The Federal-Aid Highway Act of 1966 (80 Stat. 766).

(C) The Federal-Aid Highway Act of 1962, as amended (76 Stat. 1145; 23 U.S.C. 307 note).

(D) The Act of July 14, 1960, as amended (74 Stat. 526; 23 U.S.C. 313 note).

(E) The Federal-Aid Highway Act of 1954, as amended (68 Stat. 70).

(F) The Act of September 26, 1961, as amended (75 Stat. 670).

(G) The Highway Revenue Act of 1956, as amended (70 Stat. 387; 23 U.S.C. 120 note).

(H) The Highway Beautification Act of 1965, as amended (79 Stat. 1028; 23 U.S.C. 131 et seq. notes).

(I) The Alaska Omnibus Act, as amended (73 Stat. 141; 48 U.S.C. 21 note prec.).

(J) The Joint Resolution of August 28, 1965, as amended (79 Stat. 578; 23 U.S.C. 101 et seq. notes).

(K) Section 502(c) of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525(c)).

(L) The Act of April 27, 1962, as amended (76 Stat. 59).

(M) Reorganization Plan No. 7 of 1949 (63 Stat. 1070; 5 U.S.C. 133z-15 note).

(2) the following laws and provisions of law relating generally to ground transportation:

(A) The Act of September 30, 1965, as amended (79 Stat. 893; 49 U.S.C. 1631 et seq.).

(B) The Urban Mass Transportation Act of 1964, as amended (78 Stat. 306, 49 U.S.C. 1607).

(3) the following laws and provisions of law relating generally to aircraft:

(A) The Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 note).

(B) Section 410 of the Federal Aviation Act of 1958, as amended (72 Stat. 769; 49 U.S.C. 1380).

(C) Title XIII of the Federal Aviation Act of 1958, as amended (72 Stat. 800; 49 U.S.C. 1531 et seq.).

Cooperation
with other
agencies.

Commerce De-
partment.

72 Stat. 885.

Ante, p. 730.

23 USC 136
note.

Ante, p. 199.

Report to
Congress.

Membership.

Terms of
office.

Chairman, Vice
Chairman.

Subpoena power,
etc.

Delegation of
functions;
exceptions.

(4) the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended (74 Stat. 259; 46 U.S.C. 216 et seq.).

(5) the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended (61 Stat. 715; 5 U.S.C. 1161).

(6) the following laws relating generally to traffic and highway safety:

(A) The National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718).

(B) The Highway Safety Act of 1966 (80 Stat. 731).

(b) (1) The Coast Guard is hereby transferred to the Department, and 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.

(2) Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the 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, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of title 14, United States Code, as amended.

(3) Notwithstanding any other provision of this Act, the functions, powers, and duties of the General Counsel of the Department of the Treasury set out in chapter 47 of title 10, United States Code, as amended (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

(c) (1) 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, including the development and construction of a civil supersonic aircraft: *Provided, however,* That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this Act shall affect the power of the President under section 302(e) of the Federal Aviation Act of 1958 (72 Stat. 746, 49 U.S.C. 1343(c)) to transfer, to the Department of Defense in the event of war, any functions transferred by this Act from the Federal Aviation Agency.

(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; 5 U.S.C. 1421 et seq.) and VII (72 Stat. 781; 49 U.S.C. 1441 et seq.) of the Federal Aviation Act of 1958, as amended: *Pro-*

75 Stat. 789;
76 Stat. 863;
Ante, p. 262.

Coast Guard.

63 Stat. 496,
General Counsel.

70A Stat. 36,
10 USC 801-940.

Federal Aviation
Agency.

49 USC 1347-1350,
1353-1355, 1501,
1505, 1511, 1421-
1430, 1441-1443,
1471-1474, 1521-
1523.

49 USC 1303.

Civil Aeronautics
Board.

vided, however, That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the courts.

(e) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

Interstate
Commerce Com-
mission.

(1) the following laws relating generally to safety appliances and equipment on railroad engines and cars, and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended (27 Stat. 531; 45 U.S.C. 1 et seq.).

(B) The Act of March 2, 1903, as amended (32 Stat. 943; 45 U.S.C. 8 et seq.).

(C) The Act of April 14, 1910, as amended (36 Stat. 298; 45 U.S.C. 11 et seq.).

(D) The Act of May 30, 1908, as amended (35 Stat. 476; 45 U.S.C. 17 et seq.).

(E) The Act of February 17, 1911, as amended (36 Stat. 913; 45 U.S.C. 22 et seq.).

43 Stat. 659.

(F) The Act of March 4, 1915, as amended (38 Stat. 1192; 45 U.S.C. 30).

54 Stat. 148.

(G) Reorganization Plan No. 3 of 1965 (79 Stat. 1320).

5 USC 1332-15
note.

(H) Joint Resolution of June 30, 1906, as amended (34 Stat. 838; 45 U.S.C. 35).

(I) The Act of May 27, 1908, as amended (35 Stat. 325; 45 U.S.C. 36 et seq.).

(J) The Act of March 4, 1909, as amended (35 Stat. 965; 45 U.S.C. 37).

(K) The Act of May 6, 1910, as amended (36 Stat. 350; 45 U.S.C. 38 et seq.).

74 Stat. 903.

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended (34 Stat. 1415; 45 U.S.C. 61 et seq.).

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended (33 Stat. 743; 49 U.S.C. 1201 et seq.).

71 Stat. 69.

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831-835 of title 18, United States Code, as amended.

74 Stat. 808;

79 Stat. 285.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended (40 Stat. 450; 15 U.S.C. 261 et seq.).

Ante, p. 108.

(B) The Act of March 4, 1921, as amended (41 Stat. 1446; 15 U.S.C. 265).

(C) The Uniform Time Act of 1966, as amended (80 Stat. 107).

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) relating generally to safety appliances methods and systems: Section 25 (49 U.S.C. 26).

50 Stat. 835;

54 Stat. 919.

(B) relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 226 (49 U.S.C. 325).

49 Stat. 566;

54 Stat. 929.

(C) relating generally to qualifications and maximum hours of service of employees and safety of operation and

49 Stat. 546.

70 Stat. 958.

68 Stat. 526.

52 Stat. 1240.

49 USC 324.

41 Stat. 475;

49 Stat. 551;

52 Stat. 1238.

Definitions.

Federal Railroad
Administrator.Federal Highway
Administrator.Department of
the Army.

equipment: Sections 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 sections 204(a) (3), (3a), and (5) (49 U.S.C. 304).

(D) to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 221(a), 221(c), and 224 (49 U.S.C. 321 et seq.).

(f) (1) Nothing in subsection (e) shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended (49 U.S.C. 1(6), 306 et seq.), or under any other section of that Act not specifically referred to in subsection (e).

(2) (A) With respect to any function which is transferred to the Secretary by subsection (e) and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e).

(B) For purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following provisions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (6) and (7), 204(c), 204(d), 205(d), 205(f), 220 (except subsection (c) and the proviso of subsection (a) thereof), 222 (except subsections (b) (2) and (b) (3) thereof), and 417(b) (1) (49 U.S.C. 12 et seq., 304 et seq., and 1017).

(3) (A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involve notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or the courts, as appropriate.

(g) 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—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended (34 Stat. 85; 33 U.S.C. 494).

(B) Section 503 of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 526).

(C) Section 17 of the Act of June 10, 1930, as amended (46 Stat. 552; 33 U.S.C. 498a).

(D) The Act of June 27, 1930, as amended (46 Stat. 821; 33 U.S.C. 498b).

(E) The Act of August 21, 1935, as amended (49 Stat. 670; 33 U.S.C. 503 et seq.).

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.).

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended, (30 Stat. 1151; 33 U.S.C. 401).

(B) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.).

(C) The General Bridge Act of 1946; as amended (60 Stat. 847; 33 U.S.C. 525 et seq.).

(h) The provisions of subchapter II of chapter 5 and of chapter 7 of title 5, United States Code, shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this Act except that notwithstanding this or any other provision of this Act, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of title 5, United States Code, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this Act.

(i) The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended (38 Stat. 308), and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order.

Ante, pp. 381,
392.

32CFR, 1959-
1963 Comp., p.
767.

TRANSPORTATION INVESTMENT STANDARDS

SEC. 7. (a) The Secretary, subject to the provisions of section 4 of this Act, 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 inter-oceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89-80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 101 of Public Law 89-80 is hereby expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects.

(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 (1) 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, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and 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. 8. (a) Section 406(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 763; 49 U.S.C. 1376(b)), 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 standards 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 of 1965, as amended (79 Stat. 10; 40 U.S.C. App. 206) 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."

(c) Section 206(c) of the Appalachian Regional Development Act of 1965, as amended (79 Stat. 15; 40 U.S.C. App. 206), is amended by inserting after "Interior," the words "Secretary of Transportation."

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

(e) Section 13(b)(1) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1067), is amended by striking the words "Interstate Commerce Commission" and inserting in lieu thereof "Secretary of Transportation".

(f) The second sentence of section 3 of the Federal Explosives Act, as amended (40 Stat. 386; 50 U.S.C. 123) is amended to read as follows: "This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, aircraft, or other conveyances in conformity with statutory law or with the rules and regulations of the Secretary of Transportation."

(g) (1) Section 1 of the Act of May 13, 1954, as amended (68 Stat. 93; 33 U.S.C. 981), is amended to read as follows:

"SECTION 1. There is hereby created, subject to the direction and supervision of the Secretary of Transportation, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the 'Corporation')."

(2) Notwithstanding any other provision of this Act, the Administrator of the Saint Lawrence Seaway Development Corporation shall report directly to the Secretary.

(h) Section 201 of the Highway Safety Act of 1966 (80 Stat. 731) is amended by striking the words "Federal Highway Administrator" and inserting in lieu thereof the words "Director of Public Roads", by striking the word "Agency" wherever it occurs in such section and inserting in lieu thereof the word "Bureau", and by striking "an Administrator" or "Administrator", wherever appearing therein, and inserting in lieu thereof "a Director" or "Director", respectively.

(i) Section 115 of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) is amended by striking the word "Agency" wherever it occurs in such section and inserting in lieu thereof the word "Bureau", and by striking the word "Administrator" wherever it occurs in such section and inserting in lieu thereof the word "Director".

(j) Section 3(a) of the Marine Resources and Engineering Development Act of 1966 (80 Stat. 204) is amended by striking the words "the Treasury" and inserting in lieu thereof "Transportation".

Ante, p. 829.

(k) Section 2(e) of the Act of September 22, 1966, Public Law 89-599, is amended by striking the words "of Commerce" and inserting in lieu thereof the words "of Transportation".

ADMINISTRATIVE PROVISIONS

Appointment of personnel.

SEC. 9. (a) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department, 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 investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this Act and to prescribe their authority and duties.

Experts and consultants.

Ante, p. 416.

Detail of military personnel to department.

(b) The Secretary may obtain services as authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed \$100 per diem for individuals unless otherwise specified in an appropriation Act.

(c) The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation.

(d) (1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of section 9(c) and section 9(p) shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

Report to congressional committees.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

Delegation and redelegation of functions.

(e) (1) Except where this Act vests in any administration, agency or board, specific functions, powers, and duties, the Secretary may, 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, delegate any of his residual 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.

(2) In addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to or specified by this Act to be carried out by any officer in the Department, such officer may delegate any of such functions, powers, and duties to such other 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 such functions, powers, and duties.

(3) The Administrators established by section 3(e) of this Act may not delegate any of the statutory duties and responsibilities specifically assigned to them by this Act outside of their respective administrations.

(f) 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: *Provided, however,* That 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 carrying out the duties and functions transferred by this Act to the Secretary which are specified by this Act to be carried out by the Federal Aviation Administrator shall be assigned by the Secretary to the Federal Aviation Administrator for these purposes.

Federal Aviation Agency, transfer of functions, etc.

(g) So much of the positions, 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 6 (except section 6(c)) and 8 (d) and (e) of this Act as the Director of the Bureau of the Budget shall determine shall be transferred to the Secretary: *Provided, however,* That the positions, 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, by the Civil Aeronautics Board in carrying out the duties transferred by this Act to be exercised by the National Transportation Safety Board shall be transferred to the National Transportation Safety Board. Except as provided in subsection (h), personnel engaged in functions, powers, and duties transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

Civil Aeronautics Board, transfer of functions, etc.

(h) The transfer of personnel pursuant to subsections (f) and (g) of this section shall be without reduction in classification or compensation for one year after such transfer.

(i) In any case where all of the functions, powers, and duties of any office or agency, other than the Coast Guard, are transferred pursuant to this Act, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

Compensation of transferred personnel.

(j) 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 any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such

Working capital fund, establishment.

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. Such funds shall be reimbursed in advance 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. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

Official seal.

(k) 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.

Services for dependents at remote localities.

(l) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or other officer in the Department, 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.

Gifts and bequests.

(m) (1) 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. 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. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

Investment in U.S. securities.

(3) 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 moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

Statistical studies.

(n) (1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision

thereof, to make special statistical studies relating to foreign and domestic transportation, and special studies relating to other matters falling within the province of the Department, 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 or body requesting it.

(2) All moneys received by the Department in payment of the cost of work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. These moneys may be used, in the discretion of the Secretary, 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.

Moneys for special services.

(o) The Secretary is authorized to appoint, without regard to the civil-service laws, 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, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

Appointment of advisory committees.

(p) (1) Notwithstanding any provision of this Act or other law, a member of the Coast Guard on active duty may be appointed, detailed, or assigned to any position in the Department other than Secretary, Under Secretary, and Assistant Secretary for Administration.

Ante, p. 499.

Coast Guard, detail to Department.

(2) Subject to the provisions of title 5, United States Code, a retired member of the Coast Guard may be appointed to any position in the Department.

Ante, p. 378.

(q) (1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Department which are authorized by statute.

Research contracts.

(2) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this section.

(4) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research.

62 Stat. 677;
79 Stat. 669.

Ante, p. 378.

Ante, p. 460.

SEC. 10. (a) Section 19(d)(1) of title 3, United States Code, as amended, is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Transportation."

(b) Section 101 of title 5 of the United States Code is amended by inserting at the end thereof the following:

"The Department of Housing and Urban Development.

"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) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title V of the United States Code is amended as follows:

(1) Section 5312 is amended by adding at the end thereof the following:

"(11) Secretary of Housing and Urban Development.

"(12) Secretary of Transportation."

(2) Section 5313 is amended by striking out "(7) Administrator of the Federal Aviation Agency" and inserting in lieu thereof "(7) Under Secretary of Transportation", and by adding at the end thereof the following:

"(19) Administrator, Federal Aviation Administration."

(3) Section 5314 is amended by adding at the end thereof the following:

"(46) Administrator, Federal Highway Administration.

"(47) Administrator, Federal Railroad Administration.

"(48) Chairman, National Transportation Safety Board."

(4) Section 5315 is amended by adding at the end thereof the following:

"(78) Members, National Transportation Safety Board.

"(79) General Counsel, Department of Transportation.

"(80) Deputy Administrator, Federal Aviation Administration.

"(81) Assistant Secretaries of Transportation (4).

"(82) Director of Public Roads.

"(83) Administrator of the St. Lawrence Seaway Development Corporation."

(5) Section 5316 is amended by adding at the end thereof the following:

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

(6) Section 5317 is amended by striking out "thirty" and inserting in lieu thereof "thirty-four".

Repeals.

(e) Subsections 5314(6), 5315(2), and 5316 (10), (12), (13), (14), (76), and (82) of title 5 of the United States Code are repealed, subject to the provisions of section 9 of this Act.

68 Stat. 76.

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

70A Stat. 36.

(g) Subsection (1) of section 801, title 10, United States Code, as amended, is amended by striking out "the General Counsel of the Department of the Treasury" and inserting in lieu thereof "the General Counsel of the Department of Transportation".

SEC. 11. 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. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this Act, or

(B) in the exercise of duties, powers, or functions which are transferred under this Act,

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), 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 or agency (or component thereof), functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the department or agency before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, Administrators, Board, or General Counsel (in the exercise of any authority respectively vested in them by this Act), by a court of competent jurisdiction, or by operation of law.

(c) (1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments 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 as an officer 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 subsection.

(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency is transferred to the Secretary, or

(B) any function of such department, agency, or officer is transferred to the Secretary, then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the department, agency, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, 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 officer or agency in which this Act vests such function after such transfer.

SEPARABILITY

SEC. 13. 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.

CODIFICATION

SEC. 14. The Secretary is directed to submit to the Congress within two years from the effective date of this Act, a proposed codification of all laws that contain the powers, duties, and functions transferred to or vested in the Secretary or the Department by this Act.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 15. (a) This Act shall take effect ninety 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.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

Approved October 15, 1966, 1:25 p.m.

(over)

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1701 (Comm. on Government Operations) and No. 2236 (Comm. of Conference).

SENATE REPORTS: No. 1659 accompanying S. 3010 and No. 1660 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 112 (1966):

Aug. 24, 29: Considered in House.

Aug. 30: Considered and passed House.

Sept. 29: Considered and passed Senate, amended, in lieu of S. 3010.

Oct. 13: House and Senate agreed to conference report.

DEPARTMENT OF TRANSPORTATION ACT

JULY 15, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DAWSON, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany H.R. 15963]

The Committee on Government Operations, to whom was referred the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 8, insert after line 7 the following:

(d) Except as otherwise provided by statute, the Board shall make public all reports, orders, decisions, rules, and regulations issued pursuant to sections 5(b)(1) and 5(b)(2); and the Board shall also make public—

(1) every recommendation made to the Secretary,

(2) every special study conducted, and

(3) every action of the Board requiring the Secretary to take action

pursuant to section 5(c)(1), (2), (3), (4), (5), or (7).

Page 8, line 8, strike out "(d)" and insert in lieu thereof "(e)".

Page 8, line 13, strike out "(e)" and insert in lieu thereof "(f)".

Page 8, beginning on line 13, strike out "two years after the effective date of this Act" and insert in lieu thereof "annually".

Page 8, beginning on line 17, strike out "An interim report shall be submitted to the Congress one year after the effective date of this Act."

Page 8, line 20, strike out "(f)" and insert in lieu thereof "(g)".

Page 9, line 3, strike out "(g)" and insert in lieu thereof "(h)".

Page 9, line 14, strike out "(h)" and insert in lieu thereof "(i)".

Page 10, line 6, strike out "(i)" and insert in lieu thereof "(j)".

Page 10, line 10, strike out "(j)" and insert in lieu thereof "(k)".
 Page 10, line 13, strike out "(k)" and insert in lieu thereof "(l)".
 Page 10, line 20, strike out "(l)" and insert in lieu thereof "(m)".
 Page 10, line 21, strike out "731" and insert in lieu thereof "782".
 Page 11, line 1, strike out "(m)" and insert in lieu thereof "(n)".
 Page 11, line 6, strike out "(n)" and insert in lieu thereof "(o)".
 Page 16, line 9, insert before "49 U.S.C. 1343(c)" the following:
 "72 Stat. 746,".
 Page 16, line 18, strike out "776" and insert in lieu thereof "775".
 Beginning on page 18, strike out line 24 and all that follows down
 through line 5 on page 19.
 Page 19, line 6, strike out "(B)" and insert in lieu thereof "(A)".
 Page 19, line 8, strike out "(C)" and insert in lieu thereof "(B)".
 Page 19, strike out lines 11 through 14.
 Page 19, line 15, strike out "(E)" and insert in lieu thereof "(C)".
 Page 19, line 22, strike out "(F)" and insert in lieu thereof "(D)".
 Page 20, beginning on line 8, strike out "the first paragraph of this
 subsection" and insert in lieu thereof "subsection (e)".
 Page 24, beginning on line 6, strike out "or (5)" and all that follows
 down through line 14, and insert in lieu thereof "(5) programs of
 foreign assistance; or (6) water resource projects. The".
 Page 27, line 20, strike out "385" and insert in lieu thereof "386".
 Page 34, line 19, insert after "and" the following: "special statistical
 studies relating to".

DIVISIONS OF THE REPORT

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SUMMARY AND PURPOSE OF THE BILL (AS AMENDED)

H.R. 15963 was introduced by Congressman Chet Holifield to carry out a recommendation made to Congress by the President to establish a new executive Department of Transportation to bring together major Federal agencies and activities involving transportation promotion and safety, but not economic regulation which would remain with the appropriate regulatory agencies. H.R. 15963 is a clean bill that represents a substantial rewriting by the committee of H.R. 13200, originally introduced.

In his message to Congress on transportation of March 2, 1966 (H. Doc. 89-399), the President urged the creation of such a Department to serve the growing demands of this great Nation, to satisfy

the needs of our expanding industry and to fulfill the rights of our taxpayers to maximum efficiency and frugality in Government operations. The new Department would bring together almost 100,000 employees and \$6 billion of Federal funds presently devoted annually to transportation.

The Department will be headed by a Secretary, an Under Secretary, four Assistant Secretaries, an Assistant Secretary for Administration, and a General Counsel. The principal operating divisions will be a Federal Highway Administration, a Federal Railroad Administration, a Federal Maritime Administration, a Federal Aviation Administration, each headed by an Administrator appointed by the President and confirmed by the Senate, and the Coast Guard, headed by the Commandant. There will also be an Office of Accident Investigation, whose primary responsibility will be to investigate major aircraft accidents. This office will be independent of the Federal Aviation Administration.

The bill will create, within the Department, a National Transportation Safety Board to review investigations of accidents and to determine their causes. It will make reports to the Secretary and to Congress, including recommendations for safety legislation. Specifically, the Board will carry out the functions transferred directly to it by the bill to decide the cause or probable cause of transportation accidents and to review, on appeal, the amendment, suspension, modification, revocation, or denial of certificates or licenses issued by the Secretary. The Board will have the authority to require the Secretary to conduct further investigations, or take such other measures as the Board believes are required to develop all facts and circumstances surrounding an accident. The Board will also have the authority to require the Secretary to initiate specific accident investigations. It will make special studies of safety and accident prevention, and may arrange for the personal participation of its members or employees in the investigation of accidents by the Department.

The following agencies and functions are being transferred to the new Department:

1. The Office of the Under Secretary of Commerce for Transportation, and its policy, program, emergency transportation, and research staffs.

2. The Bureau of Public Roads and the Federal-aid highway program it administers—to become a principal element of the Federal Highway Administration.

3. The Federal Aviation Agency with its functions in aviation safety, promotion, development, and grant programs—to become the Federal Aviation Administration.

4. The Coast Guard, whose principal peacetime activities relate to transportation and marine safety—to be transferred as a unit from the Treasury Department. As in the past, the Coast Guard will operate as part of the Navy in time of war.

5. The Maritime Administration, with its construction and operating subsidy programs—to become the Federal Maritime Administration.

6. The functions of the CAB to determine the probable cause of aircraft accidents and its appellate functions related to safety certificates and licenses are transferred to the National Transportation Safety Board. The CAB's function of investigating aircraft accidents

is transferred to the Secretary and will be delegated to the Office of Accident Investigation.

7. The safety functions of the Interstate Commerce Commission, principally the inspection and enforcement of safety regulations for railroads, motor carriers, and pipelines.

8. The Great Lakes Pilotage Administration, and certain minor transportation-related activities of other agencies. In his message on transportation, the President stated that the St. Lawrence Seaway Development Corporation and the Alaska Railroad would be transferred to the Department by Executive order.

The bill will also require the Secretary of Transportation to develop 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 with certain exceptions listed in the bill. Standards and criteria involving water resource projects and grant-in-aid programs including highway and airport construction were among those excepted.

Nothing in the bill authorizes the Secretary, without appropriate action by Congress, to adopt or revise a national transportation policy.

HEARINGS

Hearings on the bill were held by the Subcommittee on Executive and Legislative Reorganization at which time representatives of the administration, officials of the affected agencies, representatives of industry and labor groupings and transportation experts, among others, testified. The hearings consumed 11 days. Virtually all points of view were presented and carefully considered by the subcommittee. The printed record contains approximately 1,200 pages. (See "Hearings on H.R. 13200, Creating a Department of Transportation," vols. 1 and 2, Committee on Government Operations, House of Representatives, 89th Cong., 2d sess., cited hereafter as "Hearings.")

COMMITTEE POSITION ON THE BILL

Creation of a Cabinet-level department of Government is a historic act. In our 176 years of experience as a nation and a government under the Constitution, acts of Congress to create the great departments of Government have been few. Today we have only 11 Cabinet-level departments. We propose, in H.R. 15963, to make the Department of Transportation the 12th.

The fact that 6 of our 11 Cabinet departments are 20th-century creations and that 3 of them are less than 20 years old—the last one created in 1965—bespeaks the growing complexity of our society and the broadening responsibilities of the Federal Government to provide for the common defense and the general welfare, to enlarge the opportunities for education and decent housing, to fight poverty and discrimination, to safeguard the Nation's health, and to cope with the countless other problems of burgeoning populations and sprawling metropolitan growth.

The Department of Defense (1949), the Department of Health, Education, and Welfare (1953), and the Department of Housing and Urban Development (1965) denote, by their very titles, broad seg-

ments of Government responsibility in contemporary life which have merited the creation of Cabinet-level departments. Now we propose, by the creation of a Department of Transportation, to lay the organizational base for coherent policy and efficient performance in another large and vitally important area of public concern—the movement of people and goods. Transportation ties together communities and regions, enlarges individual horizons, expands opportunities for employment, commerce and recreation, marks our interdependence and unity as a nation. As stated so aptly by President Johnson in his message proposing the new Department, "In a nation that spans a continent, transportation is the web of union."¹

The President's message points up in graphic terms the vast transportation growth over two decades. Twenty years ago there were 31 million motor vehicles in the United States. Now there are 90 million. These autos, trucks, buses, and motorcycles move on 1.5 million miles of paved streets and highways. Aircraft numbers in the same period have grown from 38,000 private and commercial aircraft to 97,000. Commercial aircraft mileage flown was 1 billion in 1965 compared to 209 million 20 years ago—a fivefold increase.

Transportation accounts for one-sixth of the gross national product and is one of the largest sources of employment. There are 737,000 railroad employees, 270,000 local and interurban workers, 230,000 in air transport, and almost 1 million in motor transport and storage. The President's message points out that including pipeline and water transportation employees, well over 2.5 million people make their living by moving people and goods.

Transportation employment and services, for the most part, are the responsibilities of private enterprise. Nevertheless the Federal Government supports or regulates almost every means of transportation. The Director of the Budget testified that in the current fiscal year the Government expects to spend \$5 billion on the highway system, \$879 million for aviation, and \$740 million for our merchant marine including the Coast Guard.

Looking back 20 years, the evidence of growth in the transportation sector is truly phenomenal. But more important than comparisons with the past are the projections for the future. The startling growth of the population alone, projected from present trends, suggests the enormous problems that lie ahead. In 1960, the year of the last official census, the population of the United States stood at 179.2 million, of whom 125.3 million, or 70 percent, were classified as urban dwellers. This year—1966—the population is estimated at 195.8 million. In less than a single generation, by 1990, the population of the United States probably will top 300 million. The estimate for the year 2000 is 362 million, an increase of 85 percent over 1966. About 128 million will be residents of the eastern seaboard.² By then 85 of every 100 Americans will be city dwellers.

Projections of transportation and traffic growth, even for the short term, signify a vastly increasing movement of people for pleasure and profit, and of commodities in the channels of local and interstate commerce. In 1965, 87 million automobiles, trucks, and other

¹ House Doc. No. 390, 89th Cong., 2d sess., Mar. 2, 1966, p. 1.

² Includes the New England, Middle Atlantic and South Atlantic States and Pennsylvania and West Virginia.

vehicles traveled the Nation's streets and highways. By 1975, less than 10 years hence, 116 million—some predictions say 120 million—vehicles will abound.

In 1965, intercity ton-miles of cargo and intercity passenger-miles for all forms of transportation were 1,620 billion and 938 billion, respectively. For 1975 the figures are 2,440 billion intercity ton-miles and 1,464 billion intercity passenger-miles, increases of 66 and 64 percent.

Domestic airline passenger traffic, which was estimated at approximately 45 billion revenue passenger-miles in 1965, will double or triple by 1975 depending on the assumptions in the estimates.

The pressing demands of a prosperous economy and a progressive society such as ours for more goods and services, more and better means of travel to work or play, strain our transportation systems to the breaking point. Traffic clogs the streets, the highways, the airlines and the waterways. Each year there is a fearful toll of death and injury—this year alone probably 50,000 persons will die in street and highway accidents; the maimed will number in the hundreds of thousands. The automobile, that wondrous machine which has so radically transformed our society in this century, cumulatively has taken more American lives—1.5 million—than all of the wars in our Nation's history.

Each day at our major national airports, airplanes come and go by the hundreds and thousands. Last year at Washington National Airport alone there were almost 300,000 arrivals and departures of aircraft carrying 7 million passengers. Ticket counters are jammed, parking places are filled, aircraft noise is a nuisance, stacked up planes and delays are common.

The toll of life and injury exacted from the traveling public is compounded by the disruptions and delays of inefficient or uncoordinated transportation systems. The economy pays a heavy toll in wasted resources when goods or people cannot move cheaply, efficiently, and safely to points of demand or destination.

The Department of Transportation is not a panacea for all the transportation ills of the Nation. There must be a many-sided attack on these problems, including research and experimentation in safety measures and techniques for vehicles in all modes of transportation, the vigorous enforcement of standards, the application of new technologies in devising safe and rapid means of transport, and the channeling of Federal investments to promote economically viable and efficient transportation systems.

Many actions now are underway administratively at President Johnson's direction, pointed toward the abatement of aircraft noise, the coordination and improvement of Federal highway safety programs, the investigation of improved traffic flow and expanded highway networks, the development of safety standards for motor vehicles and equipment, the study of advanced concepts in propulsion, speed, capacity, and loading methods of seagoing vessels, and broad-scale systems research to reduce the burden of paperwork in handling of shipments and to effectively use techniques and methods which cut across the several modes of transportation. In support of these efforts and in recognition of the many complex but interrelated facets of the transportation problem, the Congress is devoting considerable attention to transportation measures. The 89th Congress has enacted

important legislation enabling the Federal Government to help cities build mass transportation systems, and to investigate by research and demonstration the feasibility of high-speed intercity transportation systems. Among other measures presently under active consideration is a bill for Federal safety standards in automobile manufacture.

H.R. 15963, the Department of Transportation bill, is a governmental organization measure of far-reaching significance. It will give stronger force, surer direction, and greater coherence to programs now underway and to new ones in the making. It will lay a better and broader foundation for dealing with the many transportation problems which confront the Nation and for developing coherent and coordinated policy in the transportation sector.

The proposal itself is not new. Recommendations for a Department of Transportation date back to the latter part of the 19th century. In recent years, as the population multiplied and transportation conditions became more chaotic, such recommendations were renewed with a more compelling sense of urgency. The heavy Federal investment in transportation, the diverse agencies and policies, the uneven economic impact, the changing technologies affecting all modes, the heavy, recurrent toll of life and property and serious concern about safety, the demands for effective coordination and a more rational allocation of resources, all add up to a justification for a Cabinet-level Department of Transportation and for action now.

In creating the great new departments of the past few years, the Congress has laid down pragmatic criteria for departmental status. These include the size and scope of the Government activities, their interrelationships, their permanence, and their national importance. As the Budget Director observed in his testimony:²

Departmental status has been given to those agencies which (1) administer a wide range of programs directed toward a common purpose of national importance; and (2) are concerned with policies and programs requiring frequent and positive Presidential direction and representation at the highest levels of Government.

Certainly, the transportation activities of the Federal Government merit departmental status. The Department of Transportation will have approximately 100,000 employees and a yearly budget of \$6 billion. It will rank as one of the larger Cabinet departments of the Federal Government.

The committee regards the new Department as a necessary organizational change not only for more efficient performance of existing transportation activities but as a means of preparing for the future. We have enormous problems to solve today and also tomorrow. The new Department will signify a new Government posture for progress in transportation. A nation which will add 160 million more people in 35 years must look beyond contemporary problems to the welfare and happiness of its children.

IMPORTANT FEATURES OF THE BILL

(1) *It brings together in one department major transportation agencies but avoids rigid consolidation.*—Government responsibilities in transportation are many and diverse. Every major department or agency

² Testimony by Charles L. Schultze, Director, Bureau of the Budget, hearings, pt. 1, p. 55.

of Government, in one sense or another, is interested in or involved in transportation activities. The bill does not propose to effect a highly rigid, overcentralized consolidation of all transportation activities in the Federal Government. It brings together within the Department of Transportation the major transportation agencies and functions outside the Department of Defense; namely, the Federal Aviation Agency, the Bureau of Public Roads, the Coast Guard, the Maritime Administration, the Office of the Under Secretary of Commerce for Transportation, the safety functions of the Civil Aeronautics Board and of the Interstate Commerce Commission, the Great Lakes Pilotage Administration, and certain minor transportation-related activities of other agencies. Additionally, by Executive order, the President can transfer to the new Department the St. Lawrence Seaway Development Corporation and the Alaska Railroad.

(2) *The organizational identity of the major transportation modes is assured.*—The bill would create four administrations: Federal Aviation Administration, Federal Highway Administration, Federal Maritime Administration, and Federal Railroad Administration. In each case the agency will be headed by a Federal Administrator appointed by the President and confirmed by the Senate who will report directly to the Secretary. The Coast Guard will be a major component of the Department and will continue as a separate and intact organization headed by the Commandant, responsible to the Secretary of Transportation rather than the Secretary of the Treasury. The bill makes clear that in time of war or emergency the Coast Guard would be transferred to the Department of the Navy, as now prescribed by law. A similar provision assures that functions of the Federal Aviation Administration could be transferred to the Department of Defense in time of war. The few pipeline safety functions which are transferred to the Department would be administered in accordance with the Secretary's directions.

(3) *Emphasis is given to the continuity of operations.*—Not only does the bill provide for designated transportation agencies with high-level administrators, but it specifically enjoins the Secretary of Transportation, in exercising his functions, powers, and duties, to "give full consideration to the need for operational continuity of the functions transferred" as well as to the need for safe and effective transportation systems and national defense requirements. The committee emphasizes the importance of continuity in operating agencies and expects that, by and large, the agencies and functions to be transferred will go over with their existing personnel and resources. As the Secretary becomes familiar with the workings of the new Department and examines the varied resources within his departmental jurisdiction, the committee expects that many opportunities to eliminate duplication and to effect money savings and more efficient performance will be presented.

(4) *The transportation regulatory agencies remain independent.*—The committee recognizes and the bill provides that regulatory agencies dealing with transportation have historic quasi-judicial and quasi-legislative functions which require independence from other executive branch organizations. Thus, economic regulatory functions of the Interstate Commerce Commission (motor carriers, railroads, water carriers, freight forwarders, and pipelines, except water and natural gas), Civil Aeronautics Board (airlines), Federal Maritime

Commission (ocean shipping), and the Federal Power Commission (natural gas pipelines) will remain in these agencies. Safety and accident investigation functions of the CAB and ICC, however, will be transferred to the new Department.

The independent regulatory agencies naturally will be aware of, and give consideration to, transportation policies and programs of the new Department. Indeed, the Secretary of Transportation from time to time will appear before the ICC and other regulatory agencies, as do certain department and agency heads at the present time. The bill specifically enjoins the CAB, in determining airline subsidy needs, to consider any standards and criteria prescribed by the Secretary of Transportation relative to the quality of transportation required by the defense and commerce of the United States. It is mandatory that the Board consider, not that it follow, the Secretary's standards or criteria.

In the case of maritime subsidies, since these presently are administered not by the Federal Maritime Commission but by the Maritime Administration, which goes over to the new Department, the responsibilities are not of the same regulatory nature as airline subsidies. The Maritime Administration does not grant or deny certificates of convenience and necessity like the CAB; and CAB authority for certain airlines to operate or utilize certain routes is intimately tied up with the granting of subsidies.⁴

(5) *Car service functions stay in the Interstate Commerce Commission.*—A committee amendment to the bill provides that car service functions, relating to the supply, distribution and interchange of locomotives, cars, and other vehicles not owned by using carriers, will remain in the ICC. The bill originally proposed that car service functions be transferred to the new Department, except that those relating to per diem charges and to demurrage charges (in part) be left with the ICC. The committee recognizes that car service functions are partly administrative or operational and partly of an economic regulatory nature. There appeared to be general agreement that all these functions should be administered by a single agency rather than be split up. The ICC and the Bureau of the Budget, in communications to the committee, favored transfer of the car service functions to the new Department, whereas industry generally favored their retention by the ICC. The committee believes that, until more conclusive reasons for transfer are presented to the Congress, these functions should remain in the ICC.

Representations also were made to the committee by railroad interests that safety as well as car service functions had an economic aspect and therefore should remain in the regulatory agency. Undoubtedly all safety measures have important economic implications, but the committee believes that transferring safety functions in all modes of transportation to the new Department will yield more future dividends in accident prevention and safety progress than leaving these functions distributed among the regulatory commissions. For reasons stated below, safety is a key organizational feature of the new Department. Additionally, by transferring the ICC's safety functions to the new Department, while leaving the car service functions in the ICC, the committee gives effect to a recommendation

⁴ Testimony by Adm. John Harlike, Chairman, Federal Maritime Commission, hearings, pt. 1, pp. 188-189.

made in one of its recent reports regarding the separation of these functions.⁵

(6) *The Department of Defense's transportation resources are excluded from the new Department.*—The Department of Defense and the military services have many ships, aircraft, helicopters, motor vehicles, boxcars, barges, small boats, and other transportation vehicles and resources to serve defense needs. None of these resources nor the responsibilities for their procurement, deployment, and use are transferred to the Department of Transportation. Nor will the Secretary of Transportation control design features of civil transportation required for defense.

On the other hand, in view of the broad transportation responsibilities both in the Department of Defense and the new civil Department, the committee contemplates that there will be close consultation and cooperation. The bill authorizes the Secretary of Transportation to arrange for the detail of military personnel by cooperative agreements with the service Secretaries, and he is directed to consult with the heads of other departments and agencies on transportation requirements of the Government.

The only actual transfers from the defense sector are certain minor functions of the Army Corps of Engineers more related to civil transportation than to military necessities, such as prescribing regulations for drawbridge operations, designating certain areas of anchorages, determining whether existing bridges obstruct navigation or what vertical and horizontal bridge clearances over waterways are essential, reviewing the reasonableness of bridge tolls in case of controversy, and policing oil and chemical pollution. The total estimated yearly expenditures in connection with these transferred corps functions are only \$500,000 and involve the employment of only about 50 persons.

Administration of the Panama Canal, delegated to the Secretary of the Army, does not come within the purview of the new Department of Transportation.

(7) *Special attention is given to safety functions and the development of techniques and measures for accident prevention.*—A National Transportation Safety Board is created within the Department as an independent entity to determine and report the cause or probable cause of transportation accidents, and to review on appeal the orders of the Secretary or his designees, amending, suspending, modifying, revoking, or denying any certificate or license issued by the Secretary. The Safety Board is further authorized to conduct special studies on matters relating to transportation safety and accident prevention, to insure that accident investigations are fully adequate, to require specific accident investigations to be made, to send its own members or personnel as observers or participants in accident investigations, to require such reports or notifications of accidents as it considers necessary, and to make recommendations to the Secretary on policies, programs, and procedures in the interests of preventing accidents, promoting safety, and insuring the proper conduct of accident investigations.

The Safety Board will be comprised of five members appointed by the President with Senate confirmation, chosen for their competence in this special field, serving 5-year terms and removable only for

⁵ "Interstate Commerce Commission Operations (Railroad Safety)," 26th Report by the Committee on Government Operations, H.R. 1432, 89th Cong., 2d sess., Apr. 27, 1966.

cause. The Safety Board also will have its own budget and its own employees and hearing examiners. It will be truly independent, although for efficient housekeeping it will remain within the Department and draw upon departmental resources in the performance of its duties. It is also authorized to consult and cooperate with State and local agencies. The Congress will receive annual reports from the Safety Board on its performance and its recommendations for legislation.

The committee envisages the National Transportation Safety Board not only as an appeal and review body for determining cause of accidents and reviewing contested license or certification matters but as a key agency for energizing the departmental offices and agencies engaged in accident investigation and prevention work. The four administrations provided in the bill for air, highway, rail, and water transportation, and the Coast Guard, would continue to perform the bulk of the routine accident investigation and to develop safety techniques and measures as authorized and exercised under existing statutes.

(8) *Organizational arrangements are made to preserve the pattern of air accident investigations.*—In aviation, in contrast to marine or rail affairs, there has been established a tradition of having a separate accident investigation staff for certain types of accidents. Because the Federal Aviation Agency sets standards for equipment and crew performance and its personnel are directly concerned with flight operations, it has been considered desirable to have a staff apart from the agency for investigation of fatal aviation accidents.

To preserve this basic pattern, the bill provides for a separate Office of Accident Investigation, which is made specifically independent of the new Federal Aviation Administration. It would also serve as a focal point for investigation of aviation accidents. The Office would house the investigative staff transferred from the CAB and will be charged with the total investigative responsibility. It is expected that investigations of light plane, nonfatal aviation accidents would continue to be carried out by the field staff of the Federal Aviation Administration under delegation from the Secretary. The committee expects that reports of all investigations of accidents made by the Office of Accident Investigation will be sent to the Secretary, the National Transportation Safety Board, and the operating agencies within the Department.

Relationships in air accident investigation then would continue essentially as before: (1) Investigation of fatal or large aircraft accidents would be carried out by a separate staff element (primarily composed of the personnel transferred from the CAB's Bureau of Safety) in the Office of Accident Investigation; (2) as is presently the case under CAB delegation to FAA, investigations of designated categories of nonfatal accidents involving small planes would be carried out by the Department's Federal Aviation Administration field elements; (3) determination of probable cause of accidents would be made by the National Transportation Safety Board, as the CAB does now.

The Office of Accident Investigation, it might be observed, is placed between the review board and the operating element to accommodate the institutional practice of air accident investigation as described above. Without the Office of Accident Investigation,

either the Federal Aviation Administration would be obliged to investigate all accidents, which industry and Government practice does not sanction, or else the accident investigation role would have to be transferred to the National Transportation Safety Board, which then might be dominated by aviation concerns to the exclusion of other safety matters.

The arrangements provided in the bill have the advantages of preserving, to a large extent, the existing pattern of relationships, allowing the Safety Board broad scope for oversight of all transportation safety areas, and allowing the Office of Accident Investigation to concentrate on aviation accidents. While it will be primarily the base of the aircraft accident staff, it seems likely that the office would have a small group concerned with the coordination of accident investigations conducted by the operating components. In other words, this group would recommend to the operating components investigative techniques of proven worth used in each of the transportation modes. It would also help to insure the availability to investigators of appropriate laboratory and other investigative facilities from any of the operating components.

(9) *A staff secretariat is provided to insure full attention to matters which cut across all modes of transportation.*—The bill provides for the Secretary to head the Department, an Under Secretary, four Assistant Secretaries, a General Counsel, and an Assistant Secretary for Administration. All these officials except for the Assistant Secretary for Administration require Senate confirmation as well as Presidential appointment. In keeping with reorganization measures of this nature, and to afford the Secretary flexibility in deploying his staff resources to deal with important or emergent problems, the bill does not tie down the functions of the secretariat by specific statutory language. However, the committee expects that the Assistant Secretaries will be charged with staff areas of responsibility of crucial importance to transportation.

A case in point is research and development. While the operating agencies will be responsible for research and development in their respective areas, to a substantial and growing extent research and development will have to be focused on the techniques and methods relating to safety and performance common to several or all modes. Structural techniques, types of metals, propulsion and navigation systems, packaging and handling methods, noise abatement, the behavior of moving bodies—research and development in these and many other areas often draw upon similar technologies and offer many opportunities for common application. Standardization of containers for moving goods by all modes portends, by itself, a revolution in the transportation industries. In such troublesome areas as aircraft noise abatement, which the committee considers one of the important problems within the research and development area and has been specifically assigned as a duty of the Secretary in the bill, top-level attention will be required.

An Assistant Secretary can be instrumental in coordinating the research efforts of the operating agencies, in stimulating new areas of research, and in making sure that there are no serious gaps or omissions. In a sense somewhat analogous to the Director of Defense Research and Engineering in the Department of Defense, who supervises and

sponsors research standing above the level of the military services, so, in the Department of Transportation, the committee anticipates that there will be an Assistant Secretary for Research and Development, whose concerns will be departmentwide and intermodal.

(10) *Federal investment standards will be developed for balanced progress in transportation.*—Throughout our history, public investment in transportation facilities has been common, often on a massive scale. Inconsistencies in Federal policies governing public investment decisions have been cited repeatedly by analysts and critics in the transportation field. The underlying cause of these inconsistencies appears to be a lack of clear standards for preparation and evaluation of investment proposals.

The Secretary of Transportation would be required to develop standards and criteria, subject to Presidential approval, to be used in the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment. The committee views this authority conferred upon the Secretary of Transportation as a means of obtaining a more rational allocation of Government resources as determined by Federal investment. The analytic tools and statistical information for making such public investment decisions will improve in the years ahead, but the effort springs from the commonsense requirement which the Congress has put upon reclamation and other water resource projects for many years; namely, that the benefits exceed the cost.

Responsibility to develop investment standards for water resource projects now is assigned by law to the Water Resources Council. The Secretary of Transportation would exercise an analogous function in his field. The committee recognizes that since water resource projects may have transportation features, there will be areas of overlap or mutual interest on the part of the Council and the Secretary. Although the bill originally attempted to define the relationship between the two in areas of mutual interest, a committee amendment exempts water resource projects from the Secretary's purview, so far as promulgating standards and criteria is concerned. In executing its own responsibilities, the Water Resources Council is required by Public Law 89-80 to consult with Federal agencies when appropriate. Since the President must approve standards and criteria to be promulgated, whether by the Council or the Secretary, there is nothing in the bill to prevent the President from seeking advice and recommendations from either source in regard to proposed projects in which there is mutual interest.

The exemption of water resource projects reflects the concern of some that in developing investment standards for the transportation features of such projects, the Secretary might alter the procedures for referral of Corps of Engineers reports to the Congress. The committee wishes to make it clear that Corps referral procedures are in no way altered under the bill. To reaffirm congressional prerogatives, the committee has written language into the bill which makes it clear that any policies prescribed by the Congress itself in existing or future acts must be observed by the Secretary in developing standards and criteria for economic evaluation of transportation proposals and projects. And to remove any doubt on that score, the bill provides that the Secretary cannot promulgate investment standards or criteria contrary to or inconsistent with acts of Congress relating to this sub-

ject. Finally, the Secretary is enjoined from adopting or revising a national transportation policy without appropriate action by the Congress.

Besides these safeguards, there are specific exceptions from the Secretary's authority to promulgate standards and criteria for economic evaluation: (1) Procurement of transportation facilities or equipment by Federal agencies in providing transportation for their own use; (2) grants-in-aid programs authorized by law; (3) inter-oceanic canal outside the continental United States; (4) defense features in design and construction of civil transportation; (5) programs of foreign assistance; and (6) water resource projects. The grants-in-aid exception gives added assurance, if any is needed, that the highway trust fund will be administered as the Congress has provided and will not be subject to diversions by any decision of the Secretary.

Before the Secretary presents standards and criteria to the President for approval, he must publish a notice in the Federal Register and provide an opportunity for interested persons to present their views. This requirement also will afford an opportunity for interested congressional committees to inquire into the proposed standards and criteria.

(11) *Existing procedural rights and privileges are safeguarded.*—The committee has taken pains to insure that all procedural rights and privileges authorized in existing law are carried over to the new Department. There is no loss or diminution of procedural safeguards, and all permissible channels for administrative or judicial proceedings are unimpeded. Any orders or actions of the Secretary or of the National Transportation Safety Board are subject to judicial review to the same extent and in the same manner as they would have been in the departments or agencies from which the functions are transferred. Statutory requirements relating to notice, hearings, actions upon the record, or administrative review apply to the new Department. These safeguards are made explicit in section 4(c). The independence of hearing examiners guaranteed by the Administrative Procedure Act also is preserved by subsection 6(h).

Savings provisions in section 12 guarantee that all orders, determinations, rules, regulations, contracts, certificates, and other privileges issued or granted by law or authorized administrative action or judicial decision, shall continue in effect until changed or terminated by similar exercise of lawful authority after the Department is created. Proceedings pending before the transfer are to continue in similar fashion until completed.

The powers and authorities, with respect to functions transferred to the Board, would be the same as now authorized for the agency from which such functions are transferred.

(12) *Certain important transportation matters are left open for future organizational decision.*—The Department of Transportation, as we said earlier, is not a panacea for the transportation ills of the Nation. It will, however, set the framework for a concerted and comprehensive attack on the many transportation problems that must be solved. The variety and complexity of these problems are reflected in the numerous Government organizations and the historic accumulation of statutes which had to be considered in framing the bill for a new department.

The bill reported by the committee is the joint product of careful deliberation by members on a nonpartisan basis and by staff experts in the committee and the executive branch. In public hearings all interested parties were heard, and the committee tried conscientiously in amending the bill to accommodate diverse viewpoints when not in conflict or not contrary to the basic objectives of the bill. Inevitably some compromises were made, and some matters were left open. The committee has not tried to wrap up in one package every conceivable problem or agency in the transportation field.

A prominent case in point is urban mass transportation. The Congress by a recent enactment has assigned Federal functions in this important area to the Department of Housing and Urban Development, which is itself a new department. To shift urban mass transportation responsibilities from one new Department to another, at this early stage would only delay the program. More experience is necessary to decide intelligently whether urban mass transportation, which is intimately bound up with other problems of community growth and development, more logically belongs in HUD or DOT. The President has said he intends, upon the creation of the Department of Transportation, to ask the heads of the two Departments concerned to study and report within 1 year on a logical and efficient organization of urban mass transportation functions. It may well be that these functions will be lodged in the new Department. The committee considers that the President's proposed course is reasonable and that the final organizational decision on urban mass transportation should be deferred.

EXPLANATION OF AMENDMENTS

Other than purely typographical corrections, the following explanation covers all changes made in H.R. 15963 (the reported clean bill) by the committee amendments:

1. A new subsection (d) has been added to section 5 and the subsections that follow have been relettered. The new subsection requires, except as otherwise provided by statute, the National Transportation Safety Board to make public all reports, orders, decisions, rules and regulations that it issues and also to make public every recommendation that it makes to the Secretary, every special study it conducts and every action of the Board requiring the Secretary to take action under section 5. The purpose of the exception is to preserve such statutory provisions as section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), which requires the Civil Aeronautics Board to withhold information after a written objection to its public disclosure has been made and after the Board finds that such disclosure would adversely affect the interest of the person making the objection and the information is not required in the interest of the public. Section 1104 also preserves the security of classified information, which, of course, would not be made public pursuant to the new section 5(d).

2. The renumbered subsection 5(f) has been amended to provide that the National Transportation Safety Board shall report to the Congress annually on the conduct of its functions and the effectiveness of accident investigations in the Department, together with whatever legislative recommendations it deems appropriate. Without this amendment, section 5(f) would require the Board to make a report

on these subjects after it had been in existence 2 years with an interim report after its first year. The committee believes that the public interest requires that the National Transportation Safety Board issue an annual report on its activities and on the effectiveness of the Department of Transportation in investigating accidents. The possibilities of improvements through legislation should also be considered at least annually.

3. Subparagraphs (6) (A) and (D) of subsection 6(e) have been deleted and the remaining subparagraphs have been relettered. Subparagraphs (A) and (D) would have transferred car service functions of the Interstate Commerce Commission to the Department of Transportation, although related responsibilities for fixing per diem charges were left to the Commission. The committee believes the several car service functions should remain together and be administered by a single agency. Since they bear upon the economic regulatory role of the Interstate Commerce Commission, the committee proposes that they remain in the Commission.

4. The committee voted to drop from H.R. 15963 the two sentences in subsection 7(a) dealing with the Water Resources Council and standards and criteria for economic evaluation of transportation features of water resource projects. Related to this deletion was the committee's action to add "water resource projects" to the list of categories of investment proposals specifically excepted from the authority given the Secretary to develop standards and criteria for Federal investments in transportation facilities or equipment. The effect of these amendments is to remove water resource projects from the Secretary's authority to establish standards and criteria.

The development of standards and criteria for formulating and evaluating Federal water resource projects is an involved and many-sided subject with a long and still evolving history extending as far back as the River and Harbor Act of 1902.⁶ The committee decided, through the above-mentioned amendments, to remove this subject matter from the operation of the bill, feeling, in any event, that its retention was not necessary in order to preserve the purpose and effectiveness of the bill.

Among the factors and circumstances contributing to the committee's decision to adopt the amendments are the following:

(a) The numerous Federal water resource projects involve enormous investments of Federal funds. The projects are constructed by a number of different agencies.⁷ A great many of such projects incorporate transportation features either as principal or incidental works. Congress has always been keenly interested in the policies, standards, and procedures used by these agencies to formulate and evaluate proposed water resource projects prior to their submission for legislative consideration. Many of these policies, procedures, and standards are, in fact, statutory; while others, of administrative origin, reflect basic policies laid down by Congress. The committee recognizes that this is an area with which not merely the Government Operations

⁶ See historical summary in hearings, app. 3, attachment A, p. 326.
⁷ The Department of the Army (Corps of Engineers), the Department of the Interior (Bureau of Reclamation), the Tennessee Valley Authority, the Department of Agriculture, and the U.S. Section, International Boundary and Water Commission, United States and Mexico. The two major agencies, the Corps of Engineers and the Bureau of Reclamation, had fiscal year 1966 appropriations for investigation and construction of water resource projects exceeding \$1.2 billion.

Committee, but other committees of Congress are deeply concerned.

(b) H.R. 15963, as introduced, would have directed the establishment by the Secretary of Transportation of economic standards and criteria for the evaluation of transportation features of water resource projects, with the requirement that they be compatible with the standards and criteria for nontransportation features of such projects. H.R. 15963 would, in effect, have split off transportation features of water resource projects from other features and given them a separate status.

At present, all Federal water development projects are being formulated and evaluated in accordance with policies, standards and procedures promulgated by the President in May 1962 (printed as S. Doc. No. 97, 87th Cong.). However, under the Water Resources Planning Act of July 22, 1965 (Public Law 89-80), the Water Resources Council was created comprising the Secretaries of the Interior, the Army, Agriculture, and Health, Education, and Welfare as well as the Chairman of the Federal Power Commission. One of the Council's chief duties under the 1965 act is to establish "principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects." The Council has not yet established such principles, standards and procedures. Of course, how these might follow or depart from those of Senate Document No. 97 cannot now be ascertained.

(c) Reorganization Plan No. 2 of 1966 transferred certain water pollution control functions from the Secretary of Health, Education, and Welfare to the Secretary of the Interior. This plan became effective May 10, 1966. While the Secretary of Health, Education, and Welfare retains some public health functions concerning this subject matter, most of his former functions relating to water pollution prevention, control, and abatement are now vested in the Secretary of the Interior. Thus the role of the Secretary of the Interior on the Water Resources Council is to that extent enhanced.⁸ Furthermore, the President has appointed the Secretary of the Interior as Chairman of the Council.

The committee, therefore, notes with particular interest a position taken by the Department of the Interior in its report to us on H.R. 13200. This report, signed on June 20, 1966, addresses itself to the language of subsection 7(a) as proposed in H.R. 13200. It states the Department's belief that subsection 7(a) conflicts with section 103 of the Water Resources Planning Act of 1965. It suggests that the standards and criteria for economic evaluation of transportation features of a water resource project should be established by the Water Resources Council after consultation with the Secretary of Transportation, rather than the reverse procedure provided in H.R. 13200 whereby the Secretary of

⁸ On July 2, the President, in Executive Order No. 11288, required the Secretary of the Interior to review all proposals for the authorization or construction of any Federal water resources development project for consistency with the general standards for water pollution prevention control and abatement set forth in the Executive order (31 F.R. 9261, July 7, 1966). A prior Executive order (No. 11288, Nov. 17, 1966) by which the Secretary of Health, Education, and Welfare had been assigned that responsibility was expressly superseded by Executive Order No. 11288.

Transportation would establish the standards and criteria after consultation with the Water Resources Council.

(d) The committee has been informed that the Committee on Public Works of the House of Representatives is now considering whether to hold hearings dealing with the evaluation of benefits in connection with inland waterway projects.

5. Section 9(o)(1) which authorizes the Secretary to make special statistical studies upon the written request of any person, State, territory, possession or political subdivision upon the payment of the actual cost of the work has been amended to make it absolutely clear that the only work authorized by this provision is the making or preparation of special statistical studies and the furnishing of transcripts of studies, tables, and other records. The authority given to the Secretary under 9(o)(1) does not, of course, derogate from any other authority he may have pursuant to laws transferred to his jurisdiction by H.R. 15963.

PRINCIPAL DIFFERENCES BETWEEN H.R. 13200 AND H.R. 15963 AS REPORTED

H.R. 15963 represents an extensive revision by the subcommittee, of H.R. 13200, the bill originally introduced to carry out the President's recommendation that a Department of Transportation be created. In a number of instances subsections have been moved intact to provide a more appropriate grouping of subject matters. In other cases the language has been improved and clarified without making substantive changes. For example, a number of subsections originally in section 4 have been moved to other sections and section 6 has been revised to set out a clear grouping of the functions transferred to the new Department and to add, where appropriate, United States Code citations to the statutory citations given in the original bill.

The changes made by the committee amendments to H.R. 15963 are discussed in the preceding part of this report.

In addition, H.R. 15963 makes a number of other substantive changes in the original bill which are described below:

1. A new subsection 3(e) requires the Secretary to establish within the Department a Federal Highway Administration, a Federal Railroad Administration, a Federal Maritime Administration, and a Federal Aviation Administration, each Administration to be headed by an Administrator appointed by the President by and with the advice and consent of the Senate. The Administrators shall report directly to the Secretary and have such powers and duties as he may prescribe. The Coast Guard with its Commandant, would remain a separate unit in the Department.

It is contemplated that the Administrators and the Commandant will serve as line officers, in a direct chain of command from the Secretary, with the responsibilities for carrying out assigned functions relating to their particular modes transferred to the Department by the bill. This would not include, of course, functions placed in the Office of Accident Investigation by subsection 3(f) or placed in the National Transportation Safety Board by section 5. The administration of the Secretary's functions with respect to pipeline safety would be carried out as prescribed by him.

2. A new subsection 3(f) has been added to require the Secretary to establish an Office of Accident Investigation which shall be indepen-

dent of the Federal Aviation Administration. Among its duties, the Office is required to investigate aviation accidents in accordance with rules and regulations prescribed by the Secretary.

The primary purpose of establishing the Office of Accident Investigation is to provide an independent unit within the Department to carry out the aviation accident investigation function now performed by the Bureau of Safety of the Civil Aeronautics Board.

3. Language has been added to subsection 4(a) to place specific responsibility on the Secretary of Transportation to promote and undertake research and development on transportation noise abatement with particular attention to aircraft noise. While the committee refrains from a statutory delineation of the exact organization the Secretary is to use to carry out this function, it expects the Secretary to make the abatement of aircraft noise a matter of major concern to the new Department. Administration witnesses concurred in this view of the seriousness of this problem.

4. A basic premise that has guided the committee in its deliberations is that this legislation should not change the relationship between the legislative and the executive branches of the Government in transportation matters. For example, it is the committee's intent that national transportation policies be adopted only through congressional action. Standards and criteria for proposals relating to the investment of Federal funds in transportation equipment and facilities must be consistent with congressionally adopted national transportation policies and cannot be contrary to or inconsistent with relevant statutes.

H.R. 15963 includes a number of changes from the earlier bill, H.R. 13200, to make this intent crystal clear.

(a) In subsection 4(a) the responsibility of the Secretary to "develop national transportation policies and programs, and make recommendations for their implementation" has been modified by requiring the recommendations to be made to the President and to Congress. As will be seen in the next paragraph, this does not give the Secretary or the President power to adopt or change a national transportation policy without legislative approval and does not change the traditional role of the executive and legislative branches. Before action by Congress, the language contemplates that the Secretary would make recommendations to the President and to the Congress for legislative action; after Congress has acted, the Secretary will be responsible for implementation of the congressionally adopted policies.

(b) A new subsection 4(e) has been added reading:

Nothing in this Act shall be construed to authorize, without appropriate action by Congress, the adoption or revision of a national transportation policy. Nor shall the Secretary promulgate investment standards or criteria pursuant to section 7 of this Act which are contrary to or inconsistent with acts of Congress relating to standards or criteria for transportation investment.

The first sentence prohibits the executive branch from adopting or revising a national transportation policy without congressional action. The second sentence relates to section 7 of the bill which provides, in somewhat limiting detail, the manner in which and the extent to which the Secretary may, with the approval of the President, prescribe

standards and criteria for the investment of Federal moneys in transportation facilities and equipment. These may not be contrary to or inconsistent with any statutory standards, and under section 7 must be consistent with national transportation policies.

(c) A further safeguard is provided by adding the following language to subsection 7(a):

The Secretary shall at a time selected by him, prior to the presentation of standards and criteria to the President for approval, publish a notice of proposed standards and criteria in the Federal Register and provide an opportunity for interested persons to present their views on them.

This clause will provide time for both the public and the Congress to review proposed standards and criteria and to make their views on them known before the Secretary sends them to the President for approval. Congressional committees concerned would have an opportunity to initiate hearings or other actions if deemed appropriate.

5. Subsection 4(a) has been further amended by adding to the responsibilities of the Secretary that of consulting "with the heads of other Federal departments and agencies on the transportation requirements of the Government." Since the Federal Government is the Nation's biggest user of transportation, the actions taken by Federal agencies in meeting their own transportation needs can have a great impact on promoting and coordinating the development of the various modes of transportation. The added language would permit the Secretary of Transportation to lead and advise other Federal agencies in meeting their own transportation needs without giving the Secretary an absolute veto power over their activities.

6. The following sentence has been added to subsection 4(c):

Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary or the National Transportation Safety Board.

The purpose of this section is to preserve in the new Department the applicability of the Administrative Procedure Act and of similar statutory provisions that now apply to the transferred functions. The first sentence of subsection 4(c) preserves the right of judicial review.

7. The authority of the National Transportation Safety Board, established by section 5 of the bill, has been strengthened in a number of respects. This Board which, in the exercise of its functions, powers, and duties, is independent of the Secretary and other officers and offices of the Department, has as its principal functions (i) the determination of cause or probable cause of transportation accidents and the reporting of the facts relating to such accidents and (ii) the review on appeal of the suspension, amendment, modification, revocation or denial of any certificate or license issued by the Secretary. In addition to the authority originally contained in H.R. 13200, H.R. 15963 authorizes the Board to:

(a) Conduct special studies on matters pertaining to safety in transportation and the prevention of accidents;

(b) Insure that investigative reports of accidents are adequate and, where additional information is needed, to require the Secretary to conduct further investigations or take other measures as the Board may require to develop all the facts and circumstances surrounding the accident;

(c) Require the Secretary to initiate specific accident investigations;

(d) Arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Department;

(e) Require the Secretary to give it notice of transportation accidents and reports of accidents to the extent the Board deems necessary;

(f) Employ its own hearing examiners; and

(g) Use the available services, equipment, and personnel of the Department of Transportation and of other civilian or military agencies and instrumentalities of the Federal Government and, to the extent that such cooperation is forthcoming, to utilize the cooperation, services, records, and facilities of State and local governmental agencies.

In addition, the new bill changes the proposed salary level of the Chairman of the Board from executive level V to executive level IV and the members of the Board from GS-18 to executive level V. This will enable the President to appoint better qualified members and will place the National Transportation Safety Board on a par with several other independent boards. Finally, the new language requires the Board to report to Congress annually on the conduct of its functions under the act and on the effectiveness of accident investigations in the Department and to make whatever recommendations for legislation the Board deems appropriate.

8. A new paragraph (2) has been added to subsection 6(c) to make it clear that the bill does not limit the existing statutory power of the President in the event of war, to transfer functions now exercised by the Federal Aviation Agency to the Department of Defense.

9. A subsection (h) has been added to section 6 to make it clear that certain powers and duties vested by the Administrative Procedure Act directly in hearing examiners will continue to be so vested in them in the new Department.

10. A specific exception of "grant-in-aid programs authorized by law" has been written into subsection 7(a) which deals with the development of standards and criteria for the formulation and evaluation of proposals for investment of Federal funds in transportation facilities or equipment. This removes from the operation of the section such matters as the Interstate Highway System, including the highway trust fund, and Federal grants to local entities for airport purposes. These programs are being excepted to make clear that there is no intention to change the scope or direction of the basic legislative purpose of such programs. In authorizing these programs, Congress either prescribes the general character of the system to be financed or provides a formula for allocating the funds, or both. The Secretary would supervise these programs as the head of the Department which administers them.

It should be noted that the exception relates to existing grant-in-aid programs and to new ones after they have been enacted by Con-

gress. It would not prevent the executive branch from following standards and criteria promulgated by the Secretary and approved by the President in formulating any new legislative proposals.

11. Subsection 7(a) of H.R. 13200 provided that there should be consultation between the Secretary and the Water Resources Council with respect to standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects and that these standards and criteria should be compatible with those applicable to nontransportation features of such projects. This provision was deleted by the committee. In a related change, the committee added in subsection 7(a) a sixth category to the list of excepted categories of investment proposals; namely, water resource projects. Further discussion of the changes may be found *supra* under the heading "Explanation of Committee Amendments."

12. Subsection 7(b) has been changed to provide that among the data supplied by the Secretary to be used by Federal agencies in formulating individual proposals or projects shall be information regarding the general effect of the proposed investments on the overall transportation system of the area. The purpose of this change is to require that a broad view be taken of the overall transportation system and needs of an area in formulating plans for Federal investment in transportation projects relating to it.

13. Section 7(b) has also been amended to eliminate the requirement that all individual projects and proposals for Federal investments in transportation be channeled automatically through the President. Instead, the bill would now require the agency, after securing the necessary clearances, to transmit the plan for disposition in accordance with law and with procedures established by the President. This change is designed to preserve the direct transmission of projects from an agency to Congress where it may now be required by law, and to eliminate the requirement that the President give consideration to thousands of individual plans, proposals, and projects.

14. In section 9 the provision in H.R. 13200 for an additional 45 supergrade positions (i.e., grades 16, 17, and 18 of the general schedule) in the executive branch has been eliminated. The committee recognizes that additional supergrade positions are required for the new Department but believes the necessary authorization should be handled in separate legislation authorizing an overall increase in the number of supergrade positions in the executive branch.

COMMENT ON OBJECTIONS MADE TO DEPARTMENT OF TRANSPORTATION BILL

The committee heard the administration witnesses in favor of the Department of Transportation bill and heard testimony and received statements from all persons who wished to present their views on the legislation. The overwhelming weight of the testimony, both of the administration witnesses and of others, was in favor of the legislation. Some objections, however, were raised regarding some parts or details of the bill and a few witnesses opposed the legislation entirely.

The committee, of course, disagrees completely with those who oppose the creation of a Department of Transportation. The committee's basic views are set out in the part of this report entitled "Committee Position on the Bill." Some of the bill's opponents did

not seem to realize the full scope of the new Department's responsibilities. For example, some argued that transportation safety did not require a department for coordination purposes; others stated that coordination could be achieved by some other means.

The committee believes that these opponents do not fully appreciate the Nation's needs and the problems that lie before us. Transportation as a social force, as an economic factor, and as an element of our national security is so important, and the Federal Government's role in transportation is of such magnitude, that it clearly warrants Cabinet status. Only such status will assure that it receives the full-time attention of an official at the highest councils of Government. When the same situation has existed in the past for other fields of Government service, executive departments have been created. In addition, the Department of Commerce has other responsibilities of great magnitude which require knowledge and talents different from those involving transportation.

Only with such an organization can there be an effective framework—and this is the real justification for the Department—to coordinate the principal existing programs that promote transportation; bring new technology to a total transportation system by promoting research and development in cooperation with private industry; improve safety in every means of transportation; encourage private enterprise to take full and prompt advantage of new technological opportunities; encourage high-quality, low-cost service to the public; conduct systems analyses and planning to strengthen the less effective parts of the Nation's transportation system; and develop investment criteria and standards and analytical techniques to assist all levels of government and industry in their transportation investments.

On the other hand, some of the objections raised and fears expressed regarding details of the bill, the committee felt, may have some merit. Consequently, in preparing the clean bill, H.R. 15963, and in adopting amendments to it, the committee has written in language to take care of such objections and fears even though in some cases the committee does not agree that they were fully warranted by the language of the original bill (H.R. 13200). These changes are described fully in the parts of this report entitled "Explanation of Committee Amendments" and "Principal Differences Between H.R. 13200 and H.R. 15963 as Reported." For example:

(a) Fears that the relationship between the legislative and executive branches in transportation matters might be altered by the bill probably were somewhat exaggerated. Nevertheless, the committee has made several changes to alleviate such fears. These are discussed in detail under item 4 on page 19, *supra*.

(b) Fears that section 7 of the bill might in some way authorize violation of the highway trust fund have been taken care of by specifically eliminating Federal grant-in-aid programs authorized by law from the scope of section 7. Since the highway trust fund is an element of a grant-in-aid program, the Secretary will not be able to promulgate standards and criteria affecting the fund.

(c) Fears that the Secretary might in some way impede the development of water resource projects have been taken care of by eliminating water resource projects from section 7 of the bill and by preserving the direct reference of project proposals from the Corps of Engineers to the Congress. These actions are discussed on pages 16 and 22, *supra*.

(d) Adequate representation for each of the major modes of transportation in the Department has been assured by the creation of four separate modal administrations each to be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The committee has been assured that the heads of the four modal administrations will be placed on a level equal at least to that of an Assistant Secretary. The four Administrators, under the bill, must report directly to the Secretary.

(e) Objections that the transfer of car service functions to the new Department would involve it too deeply in the economic regulatory aspects of railroad rate regulation have been met by deleting the railroad car service functions from those transferred to the new Department.

(f) Fears expressed by some witnesses that the aviation accident investigation function may be weakened in the new Department have led to the statutory creation of an Office of Accident Investigation which is required to be completely independent of the Federal Aviation Administration and to the strengthening of the National Transportation Safety Board by giving it power to require the Secretary to perform certain acts and giving it additional power of its own. These changes are described on pages 10 and 20, *supra*.

There were, of course, some objections which the committee believes should not be met. Some of these are listed below with the reasons why the committee believes the objections are not persuasive:

(a) It has been urged that the Maritime Administration be established as an independent agency completely separate from the Department of Transportation and that the Coast Guard be left in the Treasury Department. The committee believes that this would not only controvert the basic purpose of the bill, but also would be a serious mistake for the maritime industry. The maritime phase of our transportation system does not exist alone and by itself.

With very few exceptions, the transportation of the goods which are carried in ships neither begins nor ends at the docks. Exports are crated and shipped or shipped in bulk from points within the United States to the dockside and imports are brought from the docks to their points of consumption within the country. Studies and work on the improvement of transportation must encompass the complete flow of these goods through the national channels of transportation. The elimination of one essential element would lead to gaps in the job that has to be done. It is obvious that such objectives as uniform packaging and crating and the most efficient inland transportation can only be achieved through close coordination with the maritime industry. In addition, we believe that when the problems of all other modes of transportation are being put under a Department whose purpose is to foster their growth, improve their efficiency and strengthen them economically, any major phase of our transportation industry which is left out of this Department would suffer because it would not have the same vigorous Cabinet-level push behind it.

So far as the Coast Guard is concerned, while it has a traditional link to the Treasury Department, its primary civil functions relate to maritime and to some extent air transportation. Now that a separate Department of Transportation is being set up, that Department is the logical home for the Coast Guard which, under the bill, would still remain as a separate unit in its present form.

(b) Some witnesses advocated that the Federal Aviation Agency remain as an independent agency outside the Department of Transporta-

tion and that the safety functions of the Civil Aeronautics Board remain with the Board or be transferred to a completely independent National Transportation Safety Board. The committee believes that the National Transportation Safety Board should not be made a completely separate agency. Under the bill it is in the Department primarily for housekeeping services and is empowered to require the Department to carry on investigations and to do other work for the Board. The provisions of the bill assure that the Board will be truly independent and will have ample authority to require complete and thorough investigations (see p. 20, *supra*).

To create the Board as an entity completely separate from the Department would be to create another agency exercising transportation functions. The committee believes that a separate Board would be much more costly and, in fact, much less effective than the type of organization proposed in H.R. 15963.

Nor is fear for the effectiveness of the functions now carried on by the Federal Aviation Agency justified. The Federal Aviation Administration is established in the new Department as one of its major components headed up by a high level Presidential appointee. There is no reason to believe that the aviation functions will be carried on less effectively in the new Department but, with Cabinet-level backing, should become more effective. Since transportation safety will be a primary concern of the Department of Transportation the committee believes that the administrative machinery for promoting transportation safety in all modes of transportation should be encompassed within the Department.

The benefits of the new organization for air safety do not stem from a need to repair present deficiencies. Rather, it offers an opportunity to bring about even greater effectiveness through broader based research, pooling of facilities, and cross fertilization of ideas and investigative techniques. While each of the modes has unique characteristics, accidents in various forms of transportation have common elements. Since transportation involves motion and the movement of people and property in vehicles of different types, accidents vary in accordance with the degree of impact and other deceleration forces involved. Similarly, the construction of vehicles, the types of materials used, as well as structural techniques and the nature of effective restraining devices for the vehicle, for the passenger, and for property transported, relate directly to the nature of injuries and damage and the possibility of preventing them. A sustained effort to identify the common elements among modes of transportation and their bearing on safety in all modes, will spread the benefits of improved safety programs much more rapidly than would otherwise be possible. It should be possible in a single department to integrate research with respect to the common facets of accidents, not only involving structures and materials but particularly those involving human factors.

The present CAB Bureau of Safety staff should be more effective, rather than less, in the Department of Transportation. It will continue to be independent of FAA operating activities and will be able to draw on the resources of the entire Department for facilities and research. Important new safety developments from whatever source will be quickly available to the aviation investigation unit.

COSTS AND ECONOMIES OF THE NEW DEPARTMENT

Establishing a new Department of Transportation will result in some additional dollar costs. However, these costs will be rapidly offset and eventually outweighed by sizable Government economies and other dollar benefits flowing to State and local governments and to the private sector. To make precise estimates of these costs, savings, and benefits is difficult. However, the Bureau of the Budget has provided certain data, both general and specific.

COSTS

The new Department will be one of the largest. It will have approximately 100,000 civilian and military employees. It will be necessary to set up a departmental headquarters organization to preside over and direct an operation of this magnitude. On the basis of the management concept now envisaged for the Department and the experience of comparable existing departments, the necessary headquarters organization will require an added annual expenditure of from \$4 to \$5 million.⁹

The concept of organization and management contemplates the Secretary's Office (including the Under Secretary and the Assistant Secretaries) doing only those things which are required for the effective performance of the policy, programing, and overall managerial functions of the Department. Everything which it is practicable to have done in the operating elements will be performed at that level on a decentralized basis.

Examples of functions customarily performed within a department level organization are those of a budget office, a personnel office, a planning office, an information office, an internal audit group, etc. Also, within the Department of Transportation, assistance at the secretarial level would be required in connection with the Secretary's responsibilities to bring together and evaluate information identifying the national transportation needs, to develop and recommend national transportation policies and supervise the implementation of approved policies, to coordinate related transportation programs, and to foster cooperation with Federal, State, and local governments and with the transportation industry, labor, and other parties concerned with an effective national transportation system.

Assisting those carrying out the above functions will, of course, be a number of clerical and administrative personnel.

ECONOMIES

Budgetary economies will be realized quite rapidly after formation of the new Department through consolidating administrative operations and improving cooperation among the various transportation elements within the Department. Moreover, the development of sounder transportation programs and the resultant improved transportation system of the Nation will provide to our shippers and travelers savings of great magnitude.

⁹ The appendix to the U.S. budget for fiscal year 1967 contains the following estimates: The Department of Agriculture (82,650 employees), under the heading "General Administration," lists net permanent positions numbering 705 at a total net salary of \$5,966,000. The Department of the Interior (59,500 employees), under the heading "Secretarial Offices" shows net permanent positions of 414 at a total net salary of \$4,945,000.

The Bureau of the Budget now believes that budgetary savings directly attributable to the establishment of the Department should offset the net costs of establishing the Secretary-level organization within 2 to 3 years after the Department is created. The Bureau has described in some detail the potential operating economies which can be expected to occur as a result of forming a Department of Transportation. The description, furnished under date of June 23, 1966, is as follows:

*Potential Economies in the Department of Transportation**Automatic data processing*

Agencies to be transferred to the Department are currently using 44 computers at 21 different cities throughout the United States. A preliminary survey of ADP activities indicates that there are potential savings of \$221,000 which might be achieved within 2 years. These savings would come from the transfer of work now performed by contractors to in-house computer facilities and from making more effective use of existing computers.

Further annual savings, estimated at \$400,000, are possible after a period of about 2 years. These might develop through consolidation of Washington headquarters computers into a departmental data processing center and centralization of personnel and payroll data processing functions.

Other long-term improvements in computer usage appear to offer major opportunities for economies. Possible use of FAA Air Route Traffic Control Center reserve computer capacity is several years away but such use, if feasible, would eliminate the need for many smaller computers. All of these possibilities require in-depth study. A preliminary review indicates possible savings, from long-term projects, of up to \$1,670,000 per year.

Aircraft maintenance

FAA and Coast Guard aircraft fleets total about 270 aircraft with annual maintenance costs of over \$38 million. At present the savings in terms of consolidated or cooperative maintenance services are limited because there is little commonality of aircraft type between the two fleets. Over the years, as the fleets are modernized, it may be possible to develop a higher degree of commonality thereby increasing the opportunities for savings in both procurement and maintenance.

Training

Coast Guard, Maritime Administration, and FAA all have sizable field training facilities, some of which are not now being fully utilized. Sharing of such facilities should reduce travel and per diem costs. Some technical equipment (for example, flight training and electronic maintenance training equipment) can be utilized by more than one element of the Department. Effective use of existing classroom facilities alone should result in large savings as compared to the lease or purchase of additional training facilities.

Logistics

The greatest potential for savings in the logistics area appears to lie in increased cooperation in the efforts to support Coast Guard and FAA activities. Depending on how the Department is finally

organized there are potential economies in the consolidation of policy and systems staffs and operational staffs in the logistic function. Each agency now has geographically dispersed procurement offices and in several cities these are duplicated. A consolidated or cooperative procurement system should produce savings. There also appear to be possibilities for better utilization of factory inspectors, price analysis specialists and equal employment opportunity compliance personnel. Another area of potential saving is the combination or cross utilization of services in electronic repair, assembly and fabrication.

FAA and Coast Guard are now exploring in some detail the possibilities of improved and more efficient logistic aircraft flight operations, particularly in the Pacific Ocean area.

Research and development

There will be many opportunities for mutual support and more effective use of expensive equipment and scarce skilled manpower. For example:

Bureau of Public Roads capability in materials analysis may support FAA work in the design of airport facilities.

FAA's and the Coast Guard's substantial investment in electronic equipment used in developing navigation aids is useful to both agencies.

Human factors medical research now being carried out by FAA should have substantial applicability in highway safety.

FAA special medical research facilities which include much under-utilized capacity can be used in cooperation with other elements of the Department, especially in highway safety.

Printing

The FAA headquarters has an authorized departmental printing plant. The plant has the capacity to meet the printing needs of the entire Department with little or no additional equipment. It should be possible to provide better service to elements of the Department at reduced cost because of the efficiency of higher volume production.

Photographic capability

The Federal Aviation Agency has a completely equipped photo laboratory which can meet all the requirements of the Department without procurement of additional equipment and with only minimal additions to the staff. The lab should be able to meet all departmental needs with high quality production at low cost.

Other common support services

The Department of Transportation bill contains a provision authorizing a revolving fund type operation to provide support services to the various elements of the Department. The size of the requirements for services which the Department will generate should permit provision of such services on a much more economical scale than is now possible. In addition to printing and photographic services it should be possible to provide lower cost support in such areas as office equipment repair, forms supply and distribution, visual aids, employee health services, telecommunications, technical security inspections, and mail and messenger service.

SECTION-BY-SECTION ANALYSIS OF H.R. 15963

Section 1. Short title

This section provides that the bill may be cited as the "Department of Transportation Act."

Section 2. Declaration of purpose

The Congress finds that a Department of Transportation is necessary in order to (1) provide leadership in identifying and solving transportation problems; (2) develop and recommend national transportation policies and programs which will provide fast, safe, efficient, and convenient transportation at the lowest cost possible; and (3) assure the coordinated, effective administration of the transportation programs of the Federal Government.

The Congress further finds the need for such a department to stimulate technological advances and to facilitate the development and improvement of transportation service by private enterprise. In accomplishing these objectives the Department is to consider fully the needs of the public, users, carriers, industry, labor, and the national defense.

Section 3. Establishment of Department

Subsection (a) of this section establishes a new executive department known as the Department of Transportation (hereafter referred to as the "Department"), headed by a Secretary of Transportation (hereafter referred to as the "Secretary"). Subsections (b), (c), and (d) provide for the appointment in the Department of an Under Secretary of Transportation, and of four Assistant Secretaries, a General Counsel, and an Assistant Secretary for Administration.

Subsection (e) directs the Secretary to establish within the Department a Federal Highway Administration, a Federal Railroad Administration, a Federal Maritime Administration, and a Federal Aviation Administration, each of which is to be headed by an administrator reporting directly to the Secretary and having such duties and powers as the Secretary may prescribe.

All of the officers provided for in this section would be appointed by the President, by and with the advice and consent of the Senate, except for the Assistant Secretary for Administration who will be appointed by the Secretary with the approval of the President. The Commandant of the Coast Guard would be appointed by the President under 14 U.S.C. 44. It is the committee's understanding that the Administrator of the Federal Aviation Administration will be placed at level III of the Federal Executive Salary Schedule and the other three administrators will be placed at level IV.

Subsection (f) directs the Secretary to establish an Office of Accident Investigation, independent of the Federal Aviation Administration, which will, among its duties, investigate aviation accidents.

Section 4. General provisions

Subsection (a) of this section provides that the Secretary in carrying out the purposes of this bill 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 and programs, and make recommendations to the

President and Congress for their implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; promote and undertake research and development relating to transportation, including noise abatement, with particular attention to aircraft noise; and consult with the heads of other Federal departments and agencies on the transportation requirements of the Government.

Subsection (b) directs the Secretary to give full consideration to the need for operational continuity of the functions transferred to him by the bill, to the need for effectiveness and safety in transportation systems, and to the needs of the national defense.

Subsection (c) preserves the same rights to judicial review of actions of officers or agencies to whom functions are transferred by the bill as existed with respect to the actions of the officers or agencies from which the functions were transferred. Likewise, statutory requirements relating to notice, hearing, action on the record, and administrative review with respect to functions transferred by the bill remain applicable after transfer. Subsection (d) gives the Secretary the same authority with respect to transferred functions as the agency from which they were transferred possessed at the time of transfer. His actions with respect to transferred functions will have the same force and effect as when exercised by the agency from which transferred.

Subsection (e) makes clear that the bill does not authorize (without appropriate congressional action) the adoption or revision of a national transportation policy. The Department will be expected, of course, under existing laws to carry out its functions, including the appearance before transportation regulatory agencies as appropriate, and the implementation and coordination of the transportation programs within its jurisdiction in a manner consistent with transportation laws. In addition, the Secretary is prohibited from promulgating under section 7 of the bill any criteria or standards for transportation investments by the United States which are inconsistent with the laws relating to standards or criteria for such investments.

Section 5. National Transportation Safety Board

Subsection (a) establishes the National Transportation Safety Board.

Subsection (b) vests in the Board the functions, powers, and duties transferred by section 6 with regard to (1) determining the cause or probable cause of transportation accidents and reporting the facts of such accidents; and (2) the review on appeal of actions by the Department suspending or otherwise changing certificates or licenses issued by the Secretary.

Subsection (c) authorizes the Board to (1) make recommendations to the Secretary which will tend to prevent transportation accidents; (2) conduct special safety studies; (3) require the Department to conduct further investigations or to take other measures in cases before the Board to determine cause where additional information is needed and to insure that all facts and circumstances have been developed; (4) make recommendations to the Secretary concerning transportation safety policies and rules, regulations, and procedures for the conduct of accident investigations; (5) require the Secretary to initiate whatever accident investigations the Board deems necessary;

(6) arrange for the participation by members or other personnel of the Board in accident investigations as observers or otherwise; and (7) require from the Secretary whatever copies of notices or reports of accidents, made to or by the Department, which the Board deems necessary.

Subsection (d) requires, except as otherwise provided by statute, the National Transportation Safety Board to make public all reports, orders, decisions, rules and regulations that it issues and also to make public every recommendation that it makes to the Secretary, every special study it conducts and every action of the Board requiring the Secretary to take action under section 5.

Subsection (e) provides that the Board will be independent of the Secretary and the rest of the Department, and directs the Board to give full consideration to section 4(b) of the bill (relating to operational continuity of functions transferred, etc.).

Subsection (f) directs the Board to make an annual report.

Subsections (g), (h), (i), and (j) provide that the Board is to consist of a chairman and four other members who will be appointed by the President, by and with the advice and consent of the Senate, for staggered five-year terms (except in the case of the initial appointees), and who may be removed by the President for cause. The chairman will be the chief executive and administrative officer of the Board and will be compensated at level IV of the Federal Executive Salary Schedule. The other members will be compensated at level V.

Subsection (k) authorizes the Board to establish rules, regulations, and procedures to carry out its functions. Subsection (l) provides that in carrying out its functions the Board will have the same powers as the Secretary with respect to holding hearings, issuing subpoenas, and certain other matters.

Subsection (m) gives the Board certain powers of delegation, subject to the provision of the Federal Aviation Act of 1958 that the Federal Aviation Agency (the functions of which are transferred to the Secretary) not participate in determinations of probable cause of aviation accidents by the Civil Aeronautics Board (the accident-cause-determination functions of which are transferred to the Board).

Subsections (n) and (o) authorize the Board to employ personnel, subject to the civil service and classification laws, to utilize other agencies of the Government, and to cooperate with State and local agencies.

Section 6. Transfers to Department

This section contains the principal provisions of the bill transferring certain transportation functions of Federal officers and agencies to the Secretary. The analysis of this section gives a general description of the functions transferred. A more detailed description appears in the technical addendum appearing on page 59.

Subsection (a) of this section transfers to the Secretary functions of the Secretary of Commerce relating to highways and bridges, ground transportation, aviation loan guarantees and war risk insurance, Great Lakes pilotage service, and the merchant marine (including the granting of construction and operating-differential subsidies).

Subsection (b) transfers the Coast Guard to the Department, and transfers to the Secretary the duties of the Secretary of the Treasury which relate to the Coast Guard. The power of the President to

transfer the Coast Guard to the Navy in time of war is retained. The functions of the General Counsel for the Department of the Treasury under the Uniform Code of Military Justice are transferred to the General Counsel of the Department.

Subsection (c) transfers the functions of the Federal Aviation Agency to the Secretary. Under existing law the President has power in time of war to transfer functions of the Federal Aviation Agency to the Department of Defense. This power is retained in the bill.

Subsection (d) transfers to the Secretary the functions of the Civil Aeronautics Board relating to aviation safety.

Subsection (e) transfers to the Secretary certain functions of the Interstate Commerce Commission concerning (1) railroad safety laws relating to train equipment, accident reporting, safety and signal devices, train brakes, and hours of service of employees; (2) motor carrier safety laws relating to qualifications of drivers, parts and accessories necessary for safe operation, hours of service of drivers, inspection and maintenance of vehicles, and accident reporting; (3) the transportation of explosives and other dangerous articles by rail carrier, motor carriers, freight forwarders, and pipe-line carriers (except natural gas); (4) medals for heroism; (5) standard time zones and daylight saving time; and (6) other functions relating to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle (other than contract carriers).

Subsection (f)(1) makes clear that subsection (e) will not diminish the functions of the Commission under provisions of the Interstate Commerce Act not specifically mentioned in subsection (e). Paragraph (2) of subsection (f) gives the Secretary in carrying out the substantive functions transferred to him by subsection (e) the same administrative powers under the Interstate Commerce Act as the Commission possessed before the transfer. After the transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only in carrying out functions not transferred to the Secretary.

Subsection (g) transfers to the Secretary certain functions of the Secretary of the Army relating to anchorages, drawbridge operating regulations, obstructive bridges, reasonableness of tolls, oil pollution at sea, and location and clearance of bridges.

Subsection (h) is a technical provision relating to hearing examiners.

Section 7. Transportation investment standards

Subsection (a) authorizes the Secretary to develop standards and criteria for the formulation and economic evaluation by the executive branch of its proposals for the investment of Federal funds in transportation facilities or equipment. Such investment is intended to comprise the financing by the Federal Government of capital goods such as durable facilities and equipment used by private industry in providing transportation for the public or directly by the general public in providing its own transportation. Proposals exempt from these standards and criteria are those concerned with (1) acquisition of capital goods by the Government for its own use, such as military aircraft, or mail trucks; (2) authorized grant-in-aid programs, such as airport construction and highways financed by the highway trust fund; (3) any interoceanic canal outside the continental United States; (4) defense features included in the design and construction of civil

transportation systems or equipment included at the direction of the Department of Defense; (5) foreign assistance programs; and (6) water resource projects.

The President must approve the standards developed by the Secretary but prior to his action the proposed standards must be published in the Federal Register and an opportunity provided for interested persons to present their views on them.

Subsection (b) provides for various procedures to be used by the Federal agencies in the preparation and submission of proposals for investment to which the standards authorized in subsection (a) apply. These procedures include the requirements that the proposals be (1) in accord with these standards; (2) based on certain specific information furnished by the Secretary; (3) coordinated with the Secretary and other appropriate Federal, State, and local government agencies for inclusions of their views and comments; and (4) transmitted to the President or, as in the case of proposals and reports by the Corps of Engineers, to the Congress.

Section 8. Amendments to other laws

Subsection (a) of this section amends section 406(b) of the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to take into consideration, in fixing subsidies to air carriers, the Secretary's standards and criteria for determining the character and quality of transportation required for the commerce of the United States and the national defense.

Subsections (b) and (c) amend sections 201 and 206 of the Appalachian Regional Development Act of 1965. Section 206 of the Act presently provides for Federal assistance for the construction of an Appalachian development highway system. The outlines of the system are recommended by the Appalachian Regional Commission. The Secretary of Commerce, after approving these recommendations, may pay up to 50 percent of the cost of construction, or under certain circumstances, a greater percentage determined by him. In addition, he may require the use of coal derivatives in 10 percent of the roads constructed. The amendment transfers the Secretary of Commerce's functions under this section to the Secretary of Transportation, except that (1) the Commission's recommendations first go to the Secretary of Commerce and, upon his approval, to the Secretary of Transportation for final approval, (2) the two secretaries jointly determine whether more than 50 percent of the cost of construction will be paid by the United States, and (3) appropriations would be made to the Secretary of Commerce, who would transfer the necessary highway funds to the Secretary. The amendment made to section 206 would require the Secretary of the Army in formulating the water resource plan called for under that section to consult with the Secretary of Transportation.

Subsection (d) makes a conforming amendment to section 212(a) of the Interstate Commerce Act to permit the Interstate Commerce Commission to revoke or amend motor carrier certificates, permits and licenses for failure to obey the Secretary's orders made pursuant to functions transferred to him from the Interstate Commerce Commission by the bill.

Subsection (e) is a conforming amendment to the Fair Labor Standards Act of 1938.

The amendment made by subsection (f) to the Federal Explosives Act would give to the Secretary the Interstate Commerce Commission's present authority to make regulations with respect to the transportation of explosives.

Section 9. Administrative provisions

Subsection (a) of this section authorizes the Secretary to employ personnel, subject to the civil service and classification laws. Subsection (b)(1) permits the appointment, detail, or assignment to positions in the Department (without regard to the civil service and classification laws) of members of the Coast Guard on active duty. Subsection (b)(2) makes clear that subsection (b)(1) is not intended to exclude retired members of the Coast Guard from employment within the Department (subject to the civil service and classification laws, and the Dual Compensation Act of 1964). Subsection (c) permits the Secretary to employ experts and consultants on a temporary or intermittent basis at not more than \$100 per diem unless otherwise specified in an appropriation act.

Subsection (d) permits the Secretary to provide for participation of military personnel in carrying out his functions. Subsection (e)(1) provides that the service of Coast Guard personnel under subsection (b)(1) in positions in the Department other than in the Coast Guard or the service of other Armed Forces personnel under subsection (d) shall not affect their status in their armed force, and that such personnel will not be charged against any statutory limitation on armed forces' grades or strengths and will not be subject to the control of their armed force while serving in the Department.

Subsection (f) permits the Secretary to delegate and to authorize the redelegation of his functions. Subsection (g) transfers the Federal Aviation Agency's personnel, assets, unexpended balances of appropriations, etc., to the Secretary. Subsections (h), (i), and (j) transfer to the Secretary the positions, assets, unexpended balances of appropriations, etc., which the Director of the Bureau of the Budget determines relate to functions transferred by sections 6 (other than subsection (c) thereof), 8(d), and 8 (e) of the bill. Personnel engaged in transferred functions will be transferred in accordance with applicable laws and regulations, but without reduction in compensation for a year after transfer. Appointees to the Department who immediately before appointment held a position compensated under the Federal Executive Salary Schedule, comparable to their new position, shall be compensated at not less than their rate for the old position for as long as they hold the new position. Any agency all of the functions of which are transferred by the bill will lapse, except for the Coast Guard which will continue under the new Department.

Subsection (k) authorizes the establishment of a working capital fund for the Department. Subsection (l) authorizes the Secretary to adopt a seal for the Department. Subsection (m) authorizes the Secretary to provide certain facilities, services, and supplies to employees and their dependents stationed at remote localities. Subsection (n) authorizes the Secretary to accept gifts and bequests of real and personal property. Subsection (o) authorizes the Secretary, upon payment of the actual cost of the work, to make special statistical studies and compilations and to furnish transcripts of its studies and records for private persons and State and local governments.

Payments received for work under this subsection would be deposited in a special account from which payment could be made for the ordinary expenses incidental to the work and to secure the services of persons who are not officers or employees of the United States.

Subsection (p) authorizes the appointment of advisory committees.

Section 10. Conforming amendments to other laws

Subsection (a) would place the Secretary of Transportation in the line of succession to the office of President of the United States.

Subsections (b) and (c) are technical provisions which would extend to the new department the provisions of title IV of the Revised Statutes, except to the extent inconsistent with the bill. These provisions deal with such matters as departmental vacancies, regulations, duties of clerks, details, and employment of personnel, oaths, subpoenas, and witness fees.

Subsection (d) amends Section 303 of the Federal Executive Salary Act of 1964 by placing the Secretary of Housing and Urban Development and the Secretary of Transportation in level I of the Federal Executive Salary Schedule; by deleting the Under Secretary of Commerce for Transportation and inserting the Under Secretary of Transportation at level III; by adding four Assistant Secretaries of the Department of Transportation, a General Counsel of the Department of Transportation, and the Chairman of the National Transportation Safety Board at level IV; and by adding an Assistant Secretary for Administration of the Department of Transportation and four members of the National Transportation Safety Board at level V. The section also authorizes the President to place one position in level III and a total of nine additional positions in levels IV and V of the Federal Executive Salary Schedule.¹⁰

Subsection (e) removes from the Federal Executive Salary Schedule reference to the Federal Highway Administrator; the Maritime Administrator; and the following officers of the Federal Aviation Agency: the Administrator, Deputy Administrator, Associate Administrator for Administration, Associate Administrator for Development, Associate Administrator for Programs, and General Counsel.

Subsection (f) amends an act which makes the vessel operation revolving fund available to pay activation and deactivation cost of ships chartered out by the Secretary of Commerce, so as to make the act applicable to ships chartered out by the Secretary of Transportation.

Subsection (g) amends the act which prescribes a criminal penalty for false representations relating to highway projects submitted to the Secretary of Commerce so as to make it applicable to such projects submitted to the Secretary of Transportation.

Subsection (h) is a conforming amendment to the Uniform Code of Military Justice.

Section 11. Annual report

This section directs the Secretary to make an annual report.

Section 12. Savings provisions

This section contains savings provisions, designed in general to insure that transfers of functions to the Department do not affect either rights and privileges existing before the transfer, or administrative or judicial proceedings pending at the time of transfer, except to

¹⁰ Eight newly authorized positions are replacements of positions abolished by the bill. See sec. 303(f) of the Federal Executive Salary Act of 1964, p. 48 below.

the extent necessary to permit the Department to act in the place of the officer or agency from which the functions were transferred.

Subsection (a) provides that orders, regulations, certificates, etc., to which transferred functions relate and which are in effect at the time of transfer, will remain in effect until modified by the appropriate officer or agency of the Department, by the courts, or by operation of law.

Subsection (b) provides that the bill will not affect administrative proceedings pending on the bill's effective date, except that certain proceedings involving transferred functions will be continued before the new Department.

Subsection (c) provides that no cause of action will abate by reason of the bill's enactment, and that judicial proceedings pending when the bill takes effect will not be affected by the bill, with the exception of certain proceedings involving transferred functions, which will be continued by the Secretary.

Subsection (d) provides that with respect to a transferred function exercised after the effective date of the bill, any reference in any Federal law to the agency or officer from which the function was transferred will be deemed to mean the officer or agency in which the bill vests such function after its transfer.

Section 13. Separability

This section provides that if any provision of the bill or the application thereof to any person or circumstances is held invalid, the remainder of the bill, and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 14. Codification

This section directs the Secretary to propose to Congress within 2 years from the effective date of the bill a codification of all laws that contain functions transferred to or vested in the Secretary or the Department by the bill.

Section 15. Effective date; initial appointment of officers

Subsection (a) of this section provides that the bill will take effect 90 days after the Secretary first takes office, or on such prior date after the enactment of the bill as the President shall prescribe and publish in the Federal Register. Subsection (b) provides that the principal officers of the Department may be appointed at any time after the date of enactment of the bill, and that they will be compensated from the date they first take office. Their compensation and the related expenses of their offices will be paid from funds available for the functions to be transferred to the Department.

CONCLUSION

The committee has made a careful study of this proposal. We considered the arguments both for and against and criticisms made of various features of the bill. These arguments and criticisms along with our own study resulted in the revisions made and the product here presented.

It is apparent to us that the need is clear and the time is ripe for establishment of the new Department of Transportation. For the reasons set forth in this report we strongly urge the House to act favorably upon this legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

SECTION 406(b) OF THE FEDERAL AVIATION ACT OF 1958

(72 Stat. 763)

RATE MAKING ELEMENTS

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carriers or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier 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 the national defense. *In applying clause (3) of this subsection, the Board shall take into consideration any standards 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.*

SECTIONS 201 AND 206(c) OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

(79 Stat. 10 and 15)

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

SEC. 201. (a) The Secretary of [Commerce (hereafter in this section referred to as the "Secretary")] *Transportation* is authorized *to assist in the construction of an Appalachian development highway system serving the Appalachian region (the length of which shall not*

exceed two thousand three hundred and fifty miles. In addition thereto, there are authorized to be constructed not in excess of one thousand miles of local access roads, that will serve specific recreational, residential, commercial, industrial, or other like facilities or will facilitate a school consolidation program). The system, in conjunction with the Interstate System and other Federal-aid highways in the region will provide a highway system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access. The provisions of title 23, United States Code, that are applicable to Federal-aid primary highways, and which the Secretary of Transportation determines are not inconsistent with this Act, shall apply to the Appalachian development highway system, and the local access roads.

(b) As soon as feasible, the Commission shall submit to the Secretary of Commerce its recommendations with respect to (1) the general corridor location and termini of the development highways, (2) the designation of local access roads to be constructed, (3) priorities for construction of the local access roads and of the major segments of the development highways, and (4) other criteria for the program authorized by this section. Before any State member participates in or votes on such recommendations, he shall have obtained the recommendations of the State highway department of the State which he represents.

(c) [The Secretary shall have authority to approve in whole or in part such recommendations or to require modifications or revisions thereof.] *Such recommendations as are approved by the Secretary of Commerce shall be transmitted to the Secretary of Transportation for his approval.* In no event shall the Secretary of Transportation approve any recommendations for any construction which would require for its completion the expenditure of Federal funds (other than funds available under title 23, United States Code) in excess of the appropriation authorizations in subsection (g). On its completion each development highway not already on the Federal-aid primary system shall be added to such system and shall be required to be maintained by the State.

(d) In the construction of highways and roads authorized under this section, the States may give special preference to the use of mineral resource materials indigenous to the Appalachian region.

(e) For the purposes of research and development in the use of coal and coal products in highway construction and maintenance, the Secretary of Transportation is authorized to require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not to exceed 10 per centum of the roads authorized under this Act.

(f) Federal assistance to any construction project under this section shall not exceed 50 per centum of the costs of such project, unless the [Secretary determines.] *Secretary of Commerce and the Secretary of Transportation determine,* pursuant to the recommendation of the Commission, that assistance in excess of such percentage is required in furtherance of the purposes of this Act, but in no event shall such Federal assistance exceed 70 per centum of such costs.

(g) To carry out this section, there is hereby authorized to be appropriated \$840,000,000 to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects approved by both Secretaries.

WATER RESOURCE SURVEY

SEC. 206. (a) * * *

(c) To insure that the plan prepared by the Secretary of the Army shall constitute a harmonious component of the regional program, he shall consult with the Commission and the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, *Secretary of Transportation*, the Tennessee Valley Authority, and the Federal Power Commission.

SECTION 212(a) OF THE INTERSTATE COMMERCE ACT

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND LICENSES

SEC. 212. (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this part, or with any lawful order, rule, or regulation [of the Commission] promulgated thereunder, or with any term, condition, or limitation of such certificate, permit, or license: *Provided, however,* That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order [of the Commission], made as provided in section 204(c), commanding obedience to the provision of this part, or to the rule or regulation [of the Commission] thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder: *And provided further,* That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of section 206, 209, or 211, or by virtue of the second proviso of section 206(a) or temporary authority under section 210a, may be suspended by the Commission, upon reasonable notice of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of section 211(c), 217(a), or 218(a) or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

SECTION 13(b)(1) OF THE FAIR LABOR STANDARDS ACT OF 1938

(52 Stat. 1067)

- (b) The provisions of section 7 shall not apply with respect to—
 (1) any employee with respect to whom the [Interstate Commerce Commission] *Secretary of Transportation* has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or
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SECTION 3 OF THE FEDERAL EXPLOSIVES ACT

(40 Stat. 385)

SEC. 3. The purchase or possession of ingredients when purchased or held in small quantities and not used or intended to be used in the manufacture of explosives shall not be subject to the provisions of this Act. [This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, or conveyances in conformity with the statutory provisions or rules and regulations of the Interstate Commerce Commission, or regulations of the Secretary of Commerce.] *This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, aircraft, or other conveyances in conformity with statutory law or with the rules and regulations of the Secretary of Transportation.* This Act shall not be construed to prevent the manufacture under the authority of the United States of explosives for, or their sale to or possession by, the military or naval service of the United States or the Federal Bureau of Investigation. This Act shall not apply to arsenals, navy yards, depots or other establishments owned by, or operated by or on behalf of, the United States. The Director may, however, cooperate with the heads of departments having jurisdiction over such establishments. Nothing in this Act shall be construed to modify or otherwise affect in any way the authority of the Federal Bureau of Investigation with respect to the investigation of explosions, accidents, or fires.

SECTION 19(d)(1) OF TITLE 3, UNITED STATES CODE

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Postmaster General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development[.], *Secretary of Transportation.*

SECTION 158 OF THE REVISED STATUTES (5 U.S.C. 1)

SEC. 158. The provisions of this Title shall apply to the following Executive Departments:
 First. The Department of State.
 Second. The Department of Defense.
 Third. The Department of the Treasury.
 Fourth. The Department of Justice.
 Fifth. The Post Office Department.
 Sixth. The Department of the Interior.
 Seventh. The Department of Agriculture.
 Eighth. The Department of Commerce.
 Ninth. The Department of Labor.
 Tenth. The Department of Health, Education, and Welfare.
 Eleventh. The Department of Housing and Urban Development.
 Twelfth. *The Department of Transportation.*

SECTION 303 OF THE FEDERAL EXECUTIVE SALARY ACT OF 1964

(78 Stat. 416)

SEC. 303. (a) Level I of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be \$35,000:

- (1) Secretary of State.
- (2) Secretary of the Treasury.
- (3) Secretary of Defense.
- (4) Attorney General.
- (5) Postmaster General.
- (6) Secretary of the Interior.
- (7) Secretary of Agriculture.
- (8) Secretary of Commerce.
- (9) Secretary of Labor.
- (10) Secretary of Health, Education, and Welfare.
- (11) *Secretary of Housing and Urban Development.*
- (12) *Secretary of Transportation.*

(b) Level II of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be \$30,000:

- (1) Deputy Secretary of Defense.
- (2) Under Secretary of State.
- (3) Administrator, Agency for International Development.
- (4) Administrator of the National Aeronautics and Space Administration.
- (5) Administrator of Veterans' Affairs.
- (6) Administrator of the Housing and Home Finance Agency.
- [(7) Administrator of the Federal Aviation Agency.]
- (8) Chairman, Atomic Energy Commission.
- (9) Chairman, Council of Economic Advisers.

(10) Chairman, Board of Governors of the Federal Reserve System.

(11) Director of the Bureau of the Budget.

(12) Director of the Office of Science and Technology.

(13) Director of the United States Arms Control and Disarmament Agency.

(14) Director of the United States Information Agency.

(15) Director of the Federal Bureau of Investigation, Department of Justice, so long as the position is held by the present incumbent: *Provided*, That thereafter the position shall be placed in level III.

(16) Director of Central Intelligence.

(17) Secretary of the Air Force.

(18) Secretary of the Army.

(19) Secretary of the Navy.

(c) Level III of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be \$28,500:

(1) Deputy Attorney General.

(2) Solicitor General of the United States.

(3) Deputy Postmaster General.

(4) Under Secretary of Agriculture.

(5) Under Secretary of Commerce.

[(6) Under Secretary of Commerce for Transportation.]

(6) *Under Secretary of Transportation.*

(7) Under Secretary of Health, Education, and Welfare.

(8) Under Secretary of the Interior.

(9) Under Secretary of Labor.

(10) Under Secretary of State for Political Affairs or Under Secretary of State for Economic Affairs.

(11) Under Secretary of the Treasury.

(12) Under Secretary of the Treasury for Monetary Affairs.

(13) Administrator of General Services.

(14) Administrator of the Small Business Administration.

(15) Deputy Administrator of Veterans' Affairs.

(16) Deputy Administrator, Agency for International Development.

(17) Chairman, Civil Aeronautics Board.

(18) Chairman of the United States Civil Service Commission.

(19) Chairman, Federal Communications Commission.

(20) Chairman, Board of Directors, Federal Deposit Insurance Corporation.

(21) Chairman of the Federal Home Loan Bank Board.

(22) Chairman, Federal Power Commission.

(23) Chairman, Federal Trade Commission.

(24) Chairman, Interstate Commerce Commission.

(25) Chairman, National Labor Relations Board.

(26) Chairman, Securities and Exchange Commission.

(27) Chairman, Board of Directors of the Tennessee Valley Authority.

(28) Chairman, National Mediation Board.

(29) Chairman, Railroad Retirement Board.

(30) Chairman, Federal Maritime Commission.

(31) Comptroller of the Currency.

(32) Commissioner of Internal Revenue.

(33) Director of Defense Research and Engineering, Department of Defense.

(34) Deputy Administrator of the National Aeronautics and Space Administration.

(35) Deputy Director of the Bureau of the Budget.

(36) Deputy Director of Central Intelligence.

(37) Director of the Office of Emergency Planning.

(38) Director of the Peace Corps.

(39) Director of Selective Service, so long as the position is held by the present incumbent: *Provided*, That thereafter the position shall be placed in Level IV.

(40) Chief Medical Director in the Department of Medicine and Surgery of the Veterans' Administration.

(41) Director of the National Science Foundation.

(42) Deputy Administrator of the Housing and Home Finance Agency.

(43) President of the Export-Import Bank of Washington.

(44) Members, Atomic Energy Commission.

(45) Members, Board of Governors of the Federal Reserve System.

(46) Associate Director of the Federal Bureau of Investigation, Department of Justice, so long as the position is held by the present incumbent: *Provided*, That thereafter the position shall be placed in Level IV.

(d) Level IV of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be \$27,000:

(1) Administrator, Bureau of Security and Consular Affairs, Department of State.

[(2) Deputy Administrator of the Federal Aviation Agency.]

(3) Deputy Administrator of General Services.

(4) Associate Administrator of the National Aeronautics and Space Administration.

(5) Assistant Administrators, Agency for International Development (6).

(6) Regional Assistant Administrators, Agency for International Development (4).

(7) Under Secretary of the Air Force.

(8) Under Secretary of the Army.

(9) Under Secretary of the Navy.

(10) Deputy Under Secretaries of State (2).

(11) Assistant Secretaries of Agriculture (3).

(12) Assistant Secretaries of Commerce (5).

(13) Assistant Secretaries of Defense (7).

(14) Assistant Secretaries of the Air Force (3).

(15) Assistant Secretaries of the Army (3).

(16) Assistant Secretaries of the Navy (3).

(17) Assistant Secretaries of Health, Education, and Welfare (6).

(18) Assistant Secretaries of the Interior (4).

(19) Assistant Attorneys General (9).

(20) Assistant Secretaries of Labor (4).

- (21) Assistant Postmasters General (5).
- (22) Assistant Secretaries of State (11).
- (23) Assistant Secretaries of the Treasury (4).
- (24) Chairman of the United States Tariff Commission.
- (25) Commissioner, Community Facilities Administration.
- (26) Commissioner, Federal Housing Administration.
- (27) Commissioner, Public Housing Administration.
- (28) Commissioner, Urban Renewal Administration.
- (29) Director of Civil Defense, Department of the Army.
- (30) Director of the Federal Mediation and Conciliation Service.
- (31) Deputy Chief Medical Director in the Department of Medicine and Surgery of the Veterans' Administration.
- (32) Deputy Director of the Office of Emergency Planning.
- (33) Deputy Director of the Office of Science and Technology.
- (34) Deputy Director of the Peace Corps.
- (35) Deputy Director of the United States Arms Control and Disarmament Agency.
- (36) Deputy Director of the United States Information Agency.
- (37) Assistant Directors of the Bureau of the Budget (3).
- (38) General Counsel of the Department of Agriculture.
- (39) General Counsel of the Department of Commerce.
- (40) General Counsel of the Department of Defense.
- (41) General Counsel of the Department of Health, Education, and Welfare.
- (42) Solicitor of the Department of the Interior.
- (43) Solicitor of the Department of Labor.
- (44) General Counsel of the National Labor Relations Board.
- (45) General Counsel of the Post Office Department.
- (46) Counselor of the Department of State.
- (47) Legal Adviser of the Department of State.
- (48) General Counsel of the Department of the Treasury.
- (49) First Vice President of the Export-Import Bank of Washington.
- (50) General Manager of the Atomic Energy Commission.
- (51) Governor of the Farm Credit Administration.
- (52) Inspector General, Foreign Assistance.
- (53) Deputy Inspector General, Foreign Assistance.
- (54) Members, Civil Aeronautics Board.
- (55) Members, Council of Economic Advisers.
- (56) Members, Board of Directors of the Export-Import Bank of Washington.
- (57) Members, Federal Communications Commission.
- (58) Member, Board of Directors of the Federal Deposit Insurance Corporation.
- (59) Members, Federal Home Loan Bank Board.
- (60) Members, Federal Power Commission.
- (61) Members, Federal Trade Commission.
- (62) Members, Interstate Commerce Commission.
- (63) Members, National Labor Relations Board.
- (64) Members, Securities and Exchange Commission.
- (65) Members, Board of Directors of the Tennessee Valley Authority.

- (66) Members, United States Civil Service Commission.
- (67) Members, Federal Maritime Commission.
- (68) Members, National Mediation Board.
- (69) Members, Railroad Retirement Board.
- (70) Assistant Secretaries, Department of Transportation, (4).
- (71) General Counsel, Department of Transportation.
- (72) Chairman, National Transportation Safety Board, Department of Transportation.

(e) Level V of the Federal Executive Salary Schedule shall apply to the following offices and positions, for which the annual rate of basic compensation shall be \$26,000:

- (1) Administrator, Agricultural Marketing Service, Department of Agriculture.
- (2) Administrator, Agricultural Research Service, Department of Agriculture.
- (3) Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.
- (4) Administrator, Farmers Home Administration.
- (5) Administrator, Foreign Agricultural Service, Department of Agriculture.
- (6) Administrator, Rural Electrification Administration, Department of Agriculture.
- (7) Administrator, Soil Conservation Service, Department of Agriculture.
- (8) Administrator, Bonneville Power Administration, Department of the Interior.
- (9) Administrator of the National Capital Transportation Agency.
- (10) Administrator of the Saint Lawrence Seaway Development Corporation.
- (11) Deputy Administrators of the Small Business Administration (4).
- [(12) Associate Administrator for Administration, Federal Aviation Agency.]
- [(13) Associate Administrator for Development, Federal Aviation Agency.]
- [(14) Associate Administrator for Programs, Federal Aviation Agency.]
- (15) Associate Administrator for Advanced Research and Technology, National Aeronautics and Space Administration.
- (16) Associate Administrator for Space Science and Applications, National Aeronautics and Space Administration.
- (17) Associate Administrator for Manned Space Flight, National Aeronautics and Space Administration.
- (18) Associate Deputy Administrator, National Aeronautics and Space Administration.
- (19) Deputy Associate Administrator, National Aeronautics and Space Administration.
- (20) Associate Deputy Administrator of Veterans' Affairs.
- (21) Archivist of the United States.
- (22) Area Redevelopment Administrator, Department of Commerce.
- (23) Assistant Secretary of Agriculture for Administration.
- (24) Assistant Secretary of Health, Education, and Welfare for Administration.

- (25) Assistant Secretary of the Interior for Administration.
- (26) Assistant Attorney General for Administration.
- (27) Assistant Secretary of Labor for Administration.
- (28) Assistant Secretary of the Treasury for Administration.
- (29) Assistant General Manager, Atomic Energy Commission.
- (30) Assistant and Science Adviser to the Secretary of the Interior.
- (31) Chairman, Foreign Claims Settlement Commission of the United States.
- (32) Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense.
- (33) Chairman of the Renegotiation Board.
- (34) Chairman of the Subversive Activities Control Board.
- (35) Chief Counsel for the Internal Revenue Service, Department of the Treasury.
- (36) Chief Forester of the Forest Service, Department of Agriculture.
- (37) Chief Postal Inspector, Post Office Department.
- (38) Chief, Weather Bureau, Department of Commerce.
- (39) Commissioner of Customs, Department of the Treasury.
- (40) Commissioner, Federal Supply Service, General Services Administration.
- (41) Commissioner of Education, Department of Health, Education, and Welfare.
- (42) Commissioner of Fish and Wildlife, Department of the Interior.
- (43) Commissioner of Food and Drugs, Department of Health, Education, and Welfare.
- (44) Commissioner of Immigration and Naturalization, Department of Justice.
- (45) Commissioner of Indian Affairs, Department of the Interior.
- (46) Chief Commissioner, Indian Claims Commission.
- (47) Associate Commissioners, Indian Claims Commission (2).
- (48) Commissioner of Patents, Department of Commerce.
- (49) Commissioner, Public Buildings Service, General Services Administration.
- (50) Commissioner of Reclamation, Department of the Interior.
- (51) Commissioner of Social Security, Department of Health, Education, and Welfare.
- (52) Commissioner of Vocational Rehabilitation, Department of Health, Education, and Welfare.
- (53) Commissioner of Welfare, Department of Health, Education, and Welfare.
- (54) Director, Advanced Research Projects Agency, Department of Defense.
- (55) Director of Agricultural Economics, Department of Agriculture.
- (56) Director, Bureau of the Census, Department of Commerce.
- (57) Director, Bureau of Mines, Department of the Interior.
- (58) Director, Bureau of Prisons, Department of Justice.
- (59) Director, Geological Survey, Department of the Interior.

- (60) Director, Office of Research and Engineering, Post Office Department.
- (61) Director, National Bureau of Standards, Department of Commerce.
- (62) Director of Regulation, Atomic Energy Commission.
- (63) Director of Science and Education, Department of Agriculture.
- (64) Deputy Under Secretary for Monetary Affairs, Department of the Treasury.
- (65) Deputy Commissioner of Internal Revenue, Department of the Treasury.
- (66) Deputy Director, National Science Foundation.
- (67) Deputy Director, Policy and Plans, United States Information Agency.
- (68) Deputy General Counsel, Department of Defense.
- (69) Deputy General Manager, Atomic Energy Commission.
- (70) Associate Director of the Federal Mediation and Conciliation Service.
- (71) Associate Director for Volunteers, Peace Corps.
- (72) Associate Director for Program Development and Operations, Peace Corps.
- (73) Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).
- (74) Assistant Directors, Office of Emergency Planning (3).
- (75) Assistant Directors, United States Arms Control and Disarmament Agency (4).
- [(76) Federal Highway Administrator, Department of Commerce.]
- (77) Fiscal Assistant Secretary of the Treasury.
- (78) General Counsel of the Agency for International Development.
- (79) General Counsel of the Department of the Air Force.
- (80) General Counsel of the Department of the Army.
- (81) General Counsel of the Atomic Energy Commission.
- [(82) General Counsel of the Federal Aviation Agency.]
- (83) General Counsel of the Housing and Home Finance Agency.
- (84) General Counsel of the Department of the Navy.
- (85) General Counsel of the United States Arms Control and Disarmament Agency.
- (86) General Counsel of the National Aeronautics and Space Administration.
- (87) Governor of the Canal Zone.
- (88) Manpower Administrator, Department of Labor.
- [(89) Maritime Administrator, Department of Commerce.]
- (90) Members, Foreign Claims Settlement Commission of the United States.
- (91) Members, Renegotiation Board.
- (92) Members, Subversive Activities Control Board.
- (93) Members, United States Tariff Commission.
- (96) Deputy Directors of Defense Research and Engineering, Department of Defense (4).
- (97) Assistant, Administrator of General Services.

(98) Director, United States Travel Service, Department of Commerce.

(99) Executive Director of the United States Civil Service Commission.

(100) Administrator for Economic Development.

(101) Assistant Secretary for Administration, Department of Transportation.

(102) Members, National Transportation Safety Board, Department of Transportation (4).

(f) In addition to the offices and positions listed in subsections (d) and (e) of this section, the President is authorized to place from time to time offices and positions held by not to exceed [thirty] *thirty-nine* persons in levels IV and V of the Federal Executive Salary Schedule when he deems such action necessary to reflect changes in organization, management responsibilities, or workload in any Federal department or agency. Any such action with respect to an office to which appointment is made by the President by and with the advice and consent of the Senate shall be effective only at the time of a new appointment to such office. Each action taken under this subsection shall be published in the Federal Register, except when it is determined by the President that such publication would be contrary to the interest of the national security. No action shall be taken under this subsection with respect to an office or position the compensation for which is fixed at a specific rate by this section or by statute enacted subsequent to the date of enactment of this Act.

(g) In addition to the offices and positions listed in subsections (d) and (e) of this section and the offices and positions placed by the President in levels IV and V pursuant to subsection (f) of this section, the President is authorized to place, during the period which begins on the day immediately following the date of enactment of this Act and which terminates on the first day of the sixth month which begins following the date of enactment of this Act, in levels IV and V of the Federal Executive Salary Schedule offices and positions held by not to exceed thirty persons, the duties and responsibilities of which he deems appropriate for such levels. No action shall be taken under this subsection with respect to an office or position the compensation for which is fixed at a specific rate by this section or by statute enacted subsequent to the date of enactment of this Act.

(h) *The President is further authorized to place one position in level III.*

ACT OF AUGUST 1, 1956

(70 Stat. 897)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the vessel operations revolving fund created by the Third Supplemental Appropriations Act, 1951, approved June 2, 1951 (Public Law 45, Eighty-second Congress; 65 Stat. 52, at 59), shall, beginning July 1, 1956, be available for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the Secretary of [Commerce] *Transportation*. There shall be credited

to such fund all receipts on account of operations after July 1, 1956, under charters of Government-owned ships under the jurisdiction of the Secretary of [Commerce] *Transportation*.

SECTION 1020 OF TITLE 18, UNITED STATES CODE

§ 1020. Highway projects.

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of [Commerce] *Transportation*; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of [Commerce] *Transportation*; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SECTION 801(1) OF TITLE 10, UNITED STATES CODE

§ 801. Article 1. Definitions.

In this chapter:

(1) "Judge Advocate General" means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, the General Counsel of the Department of [the Treasury] *Transportation*.