



FEDERAL AVIATION AGENCY
Washington 25, D.C. 20553

Eno

Center for
Transportation

OFFICE OF
THE ADMINISTRATOR

February 4, 1966

Dear Mr. Schultze:

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

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

The Federal Aviation Agency, like the Coast Guard, has extensive national defense-related responsibilities in peace and in war. These responsibilities are identified in the Federal Aviation Act of 1958 and elsewhere.* Provision for their accomplishment in wartime is contained in Executive Order 11161 of July 8, 1964, and in other documents with which you are familiar. The Agency in all probability will be transferred to the Department of Defense in time of war. It should be so organized in peace that it can function in war without significant reorganization.

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

The FAA was created by the Congress as a major independent Agency as recently as 1958. Its status as a major independent Agency was reflected again in 1964 in the assignment of an Executive Level II position to the Administrator in the Executive Salary Act. The need to establish the FAA as a major independent Agency was clearly understood by the Congress and the public on both occasions.

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

The hoped for improvements in air safety and technological development that lay behind these actions have been realized in satisfying measure, largely because of FAA's greater ability to be effective in the manner in which it was organized and authorized to operate. The reasons for making it a major Agency still exist, more so perhaps than earlier, and suggest that every reasonable effort be made within the context of a Department to preserve the Agency's effectiveness and the integral nature of its role, mission, and capabilities. The draft bill should reiterate rather than retract the proven value of these accomplishments in Government organization and management.

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

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

For these reasons, the specific recommendations noted below include preservation of the Agency's identity and status within the framework of a Department of Transportation. This represents a major policy recommendation that is entirely consistent with the creation and effective administration of a Department of Transportation and for which precedent is found in the recently created Department of Housing and Urban Development. It represents a realistic solution to problems that may be involved in securing Congressional approval of a Department and a realistic approach to management of markedly disparate organizations involved in discrete areas of operation.

In accordance with the foregoing, we endorse the objective of Section 3(c) and welcome its inclusion. In addition we recommend:

- (1) The addition of the following language to this subsection in appropriate context: "in addition to their relationship and responsibility to the national defense and security and the

need for their availability and responsiveness in fulfilling national defense requirements." This language is taken substantially from Sections 302(e) and 302(g) of the Federal Aviation Act of 1958.

- (2) That consideration be given to establishing the post of Under Secretary at Level II of the Executive Level. The Under Secretary will oversee the FAA Administrator whose basic functions and responsibilities remain the same. The Administrator is presently at Level II and, in addition, other major functional responsibilities and organizations will be assigned to the Under Secretary's area of responsibility. We believe the background of circumstances and organizations involved in the creation of this Department justifies Level II rank for the Under Secretary and recognizes the realities of the situation in a manner that provides for their most effective administration in the future.
- (3) In order to eliminate any suspicion or basis for a charge that investigation of accidents will lack objectivity, consideration should be given either in Section 3 or in Section 8, in appropriate context, to the inclusion of language that will caution the Secretary to provide for separation of investigative functions from judicial or quasi-judicial functions and operating responsibilities. The following language, for example, could be included in Section 3(c): "to the need for separation of investigative functions from supervision or direction by officials of the Department engaged in operating or adjudicative functions." Alternatively, Section 8 should include a statutory directive for the establishment of an Office of Safety Investigation to which personnel would be transferred who are engaged in those functions in the Civil Aeronautics Board under Title VII of the Federal Aviation Act. Other personnel could be transferred to this office, after the Department is organized, as the Secretary deems appropriate.
- (4) Section 5(c) be amended to add the following: "Provided that there shall be in the Department a Federal Aviation Administrator who shall head a Federal Aviation Agency within the Department and who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to aviation. The Administrator shall be compensated at Level II of the Federal Executive Salary Act of 1964, or as that Act may be amended in the future." This language is a direct paraphrase of the language in Section 4(a) of the Act of September 9, 1965, establishing a

Department of Housing and Urban Development. Section 4(a) of that Act specifically provides for the continuation within the Department of Housing and Urban Development of one of the agencies transferred to it, retaining its prior title, supervising official, and general responsibilities. Alternatively, appropriate language to the same effect could be included in Section 3 either as a part of or as a new subsection following Subsection (d), with the succeeding Subsections to be renumbered as required. In either event, Section 8(i) should be amended to insert the following language at the beginning thereof: "Except as otherwise provided in this Act," and conforming changes should be made in Section 9(e).

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

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

The objective of this Administration is to secure the enactment of legislation authoring the Department of Transportation in a manner that will most readily facilitate its acceptance in Congress. It should recognize the realities involved in combining disparate modes of transportation and widely varying technologies in one Department. FAA is primarily a technical safety and developmental Agency. We would serve the Administration's interests best by frankly acknowledging its well recognized and distinctive technological and developmental attributes.

We can make more progress by constructing the bill and the new Department in a framework that recognizes the practical realities of the problems and operating environments for which the Department will be responsible, and building on these realities instead of appearing to pretend that we are matching identical organizations, responsibilities, systems, and technologies with each other in a common mold. They do not match; they will not fit a common mold; practical management judgment requires that we recognize differences and build the new Department to manage them rather than ignore them. It is our hope and expectation that the Secretary of the Department will take this approach in carrying out the grave responsibilities entrusted to him by this legislation.

The recommendations noted above are in no sense a criticism of the manner in which the working group has drafted the legislation. To the contrary, I think they've done a fine job. The recommendations illustrate instead

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certain areas of policy that require review at this time. The recommen-
dations are completely consistent with the basic purposes of the Department
and its ability to operate effectively and efficiently from the outset.
They are also consistent with the form in which, in my opinion, the
Congress is more likely to be willing to approve the creation of the
Department at this time.

A number of other perfecting and technical amendments appear to be in
order, which are noted for your consideration in the enclosure.

Sincerely,

Signed:
William F. McKee
William F. McKee
Administrator

Enclosure

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