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United States Senate

COMMITTEE ON PUBLIC WORKS

Eno

Center for
Transportation

April 5, 1966

MEMORANDUM

FOR: Jim Calloway

FROM: Ron M. Linton *RL*

Attached is another analysis done on the Transportation Department bill. This one was oriented more towards the effect on Highway legislation, and I thought that you might be interested in having it.

I think that it is a bit strong in the last two paragraphs, but nevertheless presents a potential.

DEPARTMENT OF TRANSPORTATION LEGISLATION

H. R. 13200 & S. 3010

Of greatest concern in the legislative proposals to establish a Cabinet-level Department of Transportation is the interaction among Sections 2, 4(a) and 7.

Section 2 contains a broad declaration of purpose looking to, among other things, the development and recommendation of national transportation policies and programs to accomplish the objectives of the Act.

Section 4(a) directs the Secretary, in carrying out the purposes of the Act, to exercise leadership in transportation matters including those affecting the national defense, national and regional emergencies and the development of national transportation policies and programs.

Section 7, entitled "Transportation Investment Standards", would call on the Secretary to "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 ****." Once these standards and criteria were approved by the President, the language of the paragraph (b) of the Section goes on to provide "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." In addition, the subsection (b) would require such proposals to be coordinated by the proposing agency with the Secretary and with other Federal agencies, states and local subdivisions and would have to be presented by the proposing agency to the President for disposition in accord with law and procedures established by him.

The language of this Section, unlike the other powers granted to the Secretary of Transportation, do not now reside in any other agency or agencies acting in concert. This language appears to be a substantive change in law.

Under its operation, if enacted, the Secretary of Transportation would be able to control all projects involving Federal funds relating to waterways, airports, highways and the like. When viewed in light of the language of Sections 2 and 4(a), referred to above, it would appear that the Secretary would have the authority, with respect to highways, for example, to approve or disapprove their construction without regard to any of the policy declarations presently contained in the Federal Aid Highway Acts, or Title 23, U.S. Code. Under the language of subsection (b), this control is further strengthened by the fact that all the information upon which agency recommendations are to be made would be under the control of the Secretary of Transportation.

One of the possible effects of the enactment of this language would be removal from Congress of the authority it now exercises in connection with

the authorization of construction projects of all kinds if they bore any relationship to transportation. All decision making would be delegated to the Executive Branch and Congress would be removed from the position it has held as the authorizing institution for so many years.

While Congress would retain its residual right to change the law, Committees of Congress now charged with responsibilities in the areas of waterway, airport and highway construction authorization would be effectively barred from further contact with such projects.

A very liberal reading of the interrelated Sections--2, 4(a) and 7-- might even give the Secretary of Transportation the right to divert funds authorized by Congress for one set of projects to projects which have never been authorized by Congress. The only review which would be maintained would be that of the Appropriations Committees of the House and Senate. But, as indicated before, the Committees which formerly exercised substantive jurisdiction could possibly be foreclosed from exercising their expert knowledge in the field.