

APPROVED

OCT 15 1966  
*Statement  
(Coast Guard)*

PL 89-670

EXECUTIVE OFFICE OF THE PRESIDENT  
BUREAU OF THE BUDGET  
WASHINGTON, D.C. 20503

OCT 14 1966

Eno

Center for  
Transportation

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15963 - Department of Transportation Act  
Sponsor - Rep. Holifield (D) California

OK  
MPS

Last Day for Action

Purpose

Establishes a Department of Transportation.

Agency Recommendations

Bureau of the Budget	Approval
Department of the Army	No objection
Civil Aeronautics Board	Approval
Civil Service Commission	Approval
Department of Commerce	Approval
Federal Aviation Agency	Approval
Federal Maritime Commission	Approval
Department of Health, Education, and Welfare	Approval (informally)
Interstate Commerce Commission	Approval
Department of the Treasury	Approval
Department of Justice	No objection

Discussion

H.R. 15963 is designed to provide Cabinet-level leadership in the development, direction, and coordination of the principal transportation functions of the Federal Government. The bill transfers to the new Department of Transportation the following agencies and functions:

- (1) the Federal Aviation Agency; (2) the Coast Guard; (3) the safety functions of the Interstate Commerce Commission; (4) the safety functions of the Civil Aeronautics Board; (5) the Bureau of Public Roads; (6) minor functions of the Corps of Engineers; (7) the functions of the Under Secretary of Commerce for Transportation; (8) St. Lawrence Seaway Development Corporation; (9) the Alaska Railroad; and (10) the motor vehicle and highway safety activities of the Department of Commerce.

The bill also establishes a five-member, Presidentially-appointed, bipartisan National Transportation Safety Board. The Board is authorized to (1) determine the cause or probable cause of transportation accidents; (2) review on appeal suspensions, revocations, or denials of licenses issued by the Department; (3) carry out the aviation accident investigation functions transferred from the Civil Aeronautics Board; (4) carry out rail, highway, and pipeline accident investigations as it deems appropriate; and (5) conduct special safety studies and make recommendations to the Secretary.

The bill also establishes in statute a particular formula to be used by the Water Resources Council in establishing standards and criteria for the economic evaluation of waterways projects.

A Department of Transportation has been proposed by many groups over a long period. Recently two different Presidential Task Forces--in 1964 and 1965--recommended it. You proposed the creation of such a department in your special transportation message on March 2, 1966.

While the enrolled bill follows in general the concepts underlying your proposal, major changes were made in the Administration's bill by the Congress.

The most significant of these changes are in the following three areas:

1. Restrictions on the authority of the Secretary. As a sound principle of management it is desirable to vest all statutory authority in the head of a department or agency. This ensures that the President and the Congress can hold a single individual accountable for the effectiveness of his department, and provides the agency head with desirable flexibility in organizing his department. Legislation and a series of reorganization plans have transferred generally to the heads of Executive departments the functions vested in other officers, agencies, and employees of the departments. (Defense and HEW are exceptions.)

The Department of Transportation bill restricts the full authority of the Secretary in the safety field. All of the aviation safety functions in specified sections of the Federal Aviation Act are to be exercised by the Federal Aviation Administrator. His decisions with respect to those functions are administratively final, with appeals taken to the National Transportation Safety Board or the courts.

Other somewhat less restrictive limits on the Secretary's authority are found in the rail and highway areas. Decisions which involve notice and hearing made by the rail and highway administrators with respect to the safety functions transferred from the Interstate Commerce Commission are to be administratively final.

In these three areas--air, rail, and highway--where safety functions are assigned to subordinates of the Secretary, the bill provides that those functions may not be transferred except by statute or reorganization plan.

While these statutory restrictions are undesirable and may cause some administrative difficulty particularly in the case of aviation, they are not insurmountable in view of the Secretary's overall authorities, especially his control of the budget process and other administrative and policy-making functions. Moreover, at an appropriate time in the future it may be possible to submit a reorganization plan to conform the structure of authority in the Department to that of most other departments by vesting in the Secretary the functions placed by this bill in his subordinates.

2. Omission of the Maritime Administration. The Administration's bill included the Maritime Administration as one of the major constituent elements of the new Department. After extensive debate and considerable pressure from the maritime industry, the House of Representatives eliminated all reference to maritime functions from the bill. This action prevailed in conference. Thus, the Maritime Administration is left under the supervision of the Secretary of Commerce with all authority under the various maritime laws vested in the Secretary. The maritime industry-backed bill to establish the Maritime Administration as an independent agency is now pending in the House.

The elimination of the Maritime Administration from the Department of Transportation removes from the direct influence of the Secretary one of the Nation's critical transportation problem areas, and will make it more difficult to develop overall national transportation policy. If the Maritime Administration remains in Commerce, it may well be desirable to assign the Secretary of Transportation an important consultative role in developing maritime policy even though he is not responsible for administering the Maritime Administration. At a future date, it may be possible to submit a reorganization plan to shift the Maritime Administration to the Department of Transportation.

3. Criteria and standards for transportation investment. The Administration bill would have authorized the Secretary of Transportation to establish standards and criteria for the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment, including water resources projects. Such standards and criteria were to be promulgated by the Secretary after approval by the President.

H.R. 15963 provides that the standards and criteria can be promulgated only after approval by the Congress. This provision, in effect, negates the purpose of the authority. In addition, the bill makes two important broad exemptions from the list of categories to which such standards and criteria were to apply under the Administration's bill: grant-in-aid programs and water resources. The bill specifically provides that

criteria for water resources projects must be developed by the Water Resources Council. The bill also specifies a formula, used by the Corps of Engineers prior to November 20, 1964, to be used in the economic evaluation of waterways projects. Placing the formula in the law will restrict the flexibility of the Executive Branch in developing the most efficient and meaningful methods of evaluating the benefits of waterway projects.

The enrolled bill differs from the Administration's proposal in other significant aspects:

- It places aviation accident investigation responsibility in the National Transportation Safety Board rather than the Department of Transportation.
- It raises the salary levels of the modal Administrators--aviation, highways, and railroad--and the National Transportation Safety Board members one level higher in the Federal Executive Salary Schedule than those contemplated by the Administration.
- It does not include a provision for 45 super-grade positions and reduces from 9 to 4 the number of new Executive Salary schedule positions added to the Presidential pool.

The new Department of Transportation will represent a significant step forward in the effort to organize more effectively the transportation responsibilities of the Federal Government. While significant deficiencies in this bill are evident--notably the elimination of the transfer of the Maritime Administration and the restrictions on the Secretary's authority--the bill as a whole will allow the new Secretary of Transportation to assume leadership in formulating and executing our national transportation policy. Defects in the structure of the Department can be corrected by reorganization plans or legislation in the future.

*Wilfred H. Rommel*

Assistant Director for  
Legislative Reference

Enclosures



GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE  
WASHINGTON, D.C. 20230

Eno

OCT 14 1966

Center for  
Transportation

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

Dear Mr. Schultze:

This is in reply to your request for the views of this Department concerning H.R. 15963, an enrolled enactment

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

H.R. 15963 would establish a Department of Transportation and bring together in one Department the following organizational units and functions:

- the Federal Aviation Agency;
- the Coast Guard;
- the Bureau of Public Roads, the traffic and highway safety program, the high speed ground transportation program, the aviation war risk insurance program, the aviation loan guarantee program, the Great Lakes Pilotage Administration, the transportation research program, and the transportation policy functions of the Office of the Under Secretary of Commerce for Transportation, all from this Department;
- the safety and standard time functions of the Interstate Commerce Commission;
- certain functions of the Army Corps of Engineers relating to drawbridge regulation, oil pollution, anchorages for ships, location and clearances of bridges, and control of rates on toll bridges;
- the Alaska Railroad;
- the Saint Lawrence Seaway Development Corporation;
- a newly established National Transportation Safety Board which would determine cause or probable cause of transportation accidents, review on appeal of denials or revocations of licenses issued by the Secretary, and conduct aircraft, rail, highway and pipeline accident investigations.

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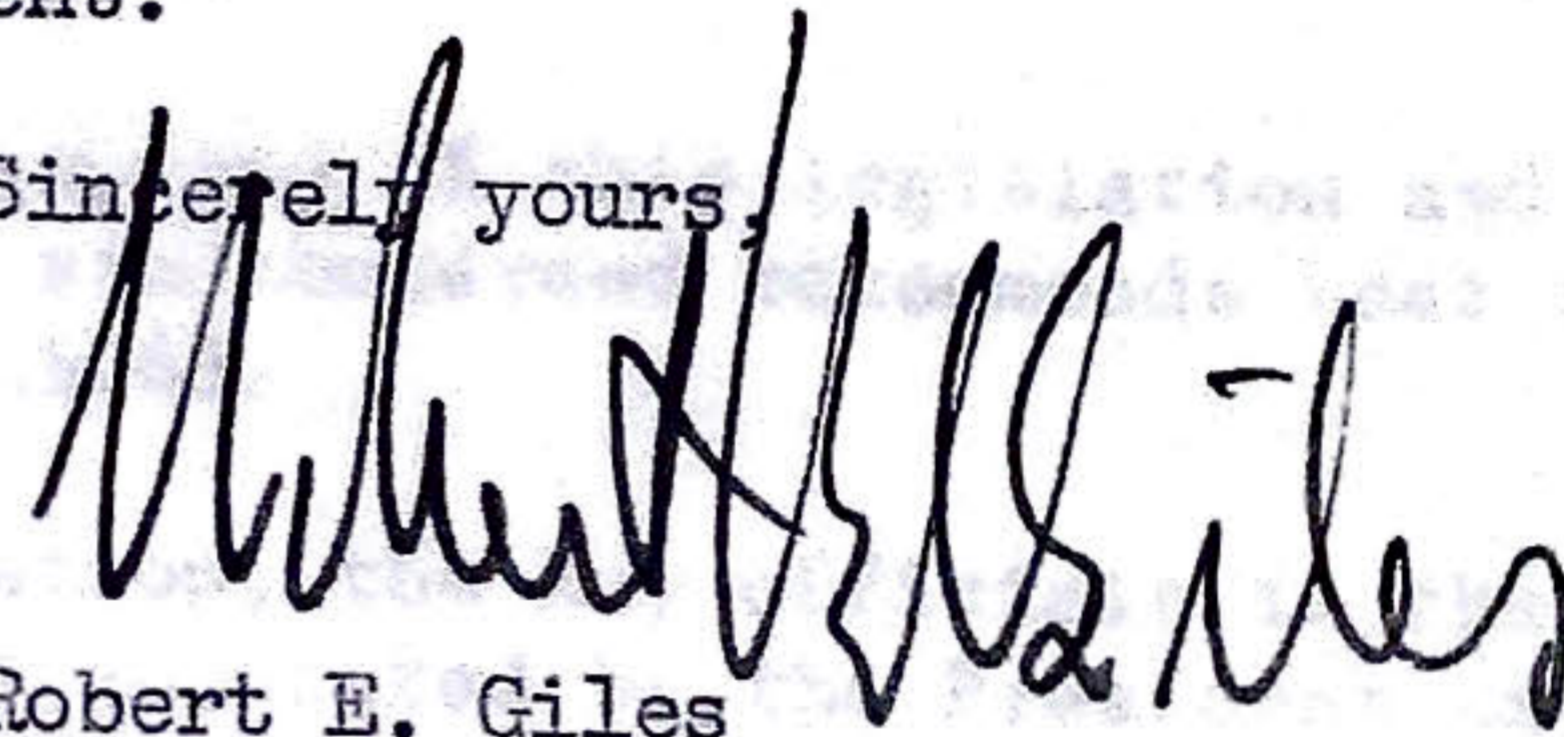
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The new Department would develop national transportation policies and programs, bring together major transportation programs of the Federal Government, and promote and enforce safety in transportation.

The bill is consistent with the President's proposal to establish a Department of Transportation and this Department recommends the bill for the President's signature. There are, of course, a number of differences between the Administration's proposal and the enrolled enactment. Attached is a list of major differences between the Administration's bill and the enrolled enactment and a more detailed comparative analysis of the two bills for your information. While the enrolled bill does not include the Maritime Administration and does not provide the desirable degree of Secretarial flexibility recommended by the Administration, the enrolled bill is a first step toward establishment of truly effective coordination of transportation in the Federal Government.

Enactment of this legislation would reduce considerably the appropriations required for this Department.

Sincerely yours,



Robert E. Giles  
General Counsel

Enclosures



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

OCTOBER 14, 1966

IN REPLY PLEASE REFER TO  
**Eno**  
YOUR REFERENCE

Center for  
Transportation

Mr. Wilfred H. Rommel  
Assistant Director for  
Legislative Reference  
Bureau of the Budget

Dear Mr. Rommel:

This is in response to your request for the Commission's views and recommendation on enrolled bill H. R. 15963 "To establish a Department of Transportation, and for other purposes."

The Commission fully supports the purposes of this legislation and insofar as its personnel provisions are concerned recommends that the President sign enrolled bill H. R. 15963.

Under the provisions in this legislation, the key officials in the new Department of Transportation will be appointed by the President with Senate confirmation and will be compensated at the salary levels indicated below:

Level I (\$35,000)	Secretary of Transportation
Level II (\$30,000)	Under Secretary of Transportation Administrator, Federal Aviation Administration
Level III (\$28,500)	Administrator, Federal Highway Administration Administrator, Federal Railroad Administration Chairman, National Transportation Safety Board
Level IV (\$27,000)	Members, National Transportation Safety Board (4) Assistant Secretaries of Transportation (4) General Counsel Deputy Administrator, Federal Aviation Administration Director of Public Roads Administrator, Saint Lawrence Seaway Development Corporation

Level V (\$26,000)

Traffic Safety Director  
Highway Safety Director

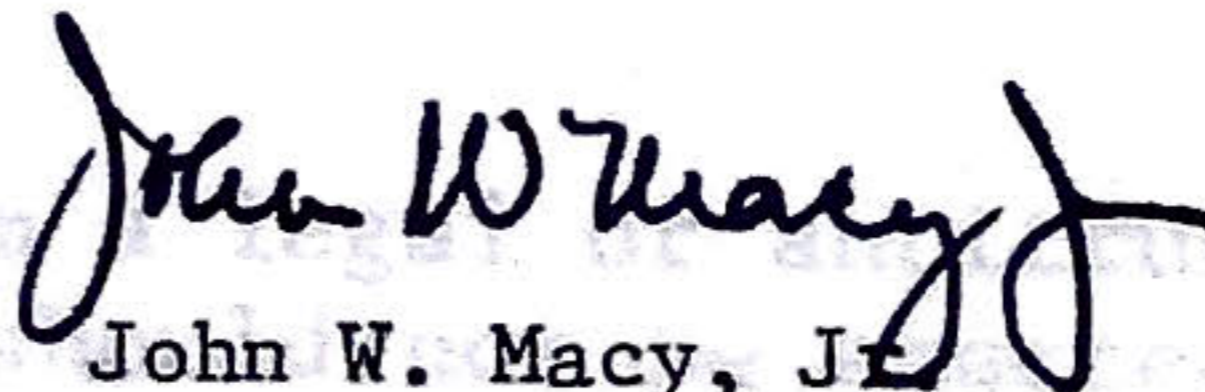
Also in level V would be an Assistant Secretary for Administration, appointed by the Secretary of Commerce, with approval by the President, under the classified civil service.

Section 10(d)(6) of the bill authorizes the President to place four additional positions in levels IV and V of the Federal Executive Salary Schedule. These are made available by increasing from 30 to 34 the number which the President may place in those levels under 5 U.S.C. 5317 and therefore are not limited to use in the new department.

Other parts of the enrolled bill provide for the procurement of temporary and intermittent services of experts and consultants, establishment of advisory committees, transfer of personnel and functions, and salary retention for certain individuals. These provisions are consistent with existing personnel statutes.

By direction of the Commission:

Sincerely yours,



John W. Macy, Jr.  
Chairman



RECEIVED OF THE BUREAU

OCT 14 1968





Office of the Attorney General  
Washington, D. C.

OCT 14 1966

Eno

Center for  
Transportation

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

Dear Mr. Schultze:

In compliance with your request, I have examined a copy of the bill, H.R. 15963, "To establish a Department of Transportation, and for other purposes," as it appears in the conference report on pages 25161 to 25167 of the Congressional Record for October 12, 1966. I understand that both houses of Congress accepted the conference report.

I see no reason from a legal or antitrust policy standpoint why the bill should not be enacted in its present form. With respect to other policies, I defer to the departments and agencies concerned.

Accordingly, the Department of Justice has no objection to executive approval of the bill.

Sincerely,

  
Ramsey Clark  
Acting Attorney General

RECEIVED THE DEPT. OF JUSTICE

OCT 14 1966

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THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

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Center for  
Transportation

OCT 14 1966

Sir:

Your office has requested the views of this Department on the enrolled enactment of H.R. 15963, "To establish a Department of Transportation, and for other purposes."

The enrolled enactment would establish a new executive Department of Transportation to which would be transferred most of the major transportation agencies and functions involving promotion and safety of the Federal Government. Within the Department, a National Transportation Safety Board would be created to exercise certain functions in the field of transportation accident investigation.

Of primary interest to this Department are those provisions of the enrolled enactment which would transfer the Coast Guard from the Treasury to the new Department and continue the operation of the Coast Guard as a legal entity and an Armed Force.

The Department supports the establishment of the new Department and the operation of the Coast Guard within it as a legal entity and an Armed Force. Accordingly, the Department recommends that the enrolled enactment be approved by the President.

Sincerely yours,

Fred B. Smith  
General Counsel

The Director

Bureau of the Budget

Interstate Commerce Commission

Washington, D.C. 20423

OFFICE OF THE CHAIRMAN

October 14, 1966

Eno

Center for  
Transportation

Mr. Wilfred H. Rommel  
Assistant Director for Legislative  
Reference  
Bureau of the Budget  
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your communication of August 14, 1966, requesting the Commission's views and recommendations on the enrolled bill, H.R. 15963, "To establish a Department of Transportation, and for other purposes." I am authorized to submit the following comments.

The Interstate Commerce Commission strongly supports H.R. 15963 and recommends its enactment.

Sincerely,

*J.W. Bush*

John W. Bush  
Chairman

BUREAU OF THE BUDGET

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FEDERAL MARITIME COMMISSION  
WASHINGTON, D.C. 20573

October 14, 1966

Eno  
IN REPLY REFER TO:

Center for  
Transportation

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

Dear Mr. Schultze:

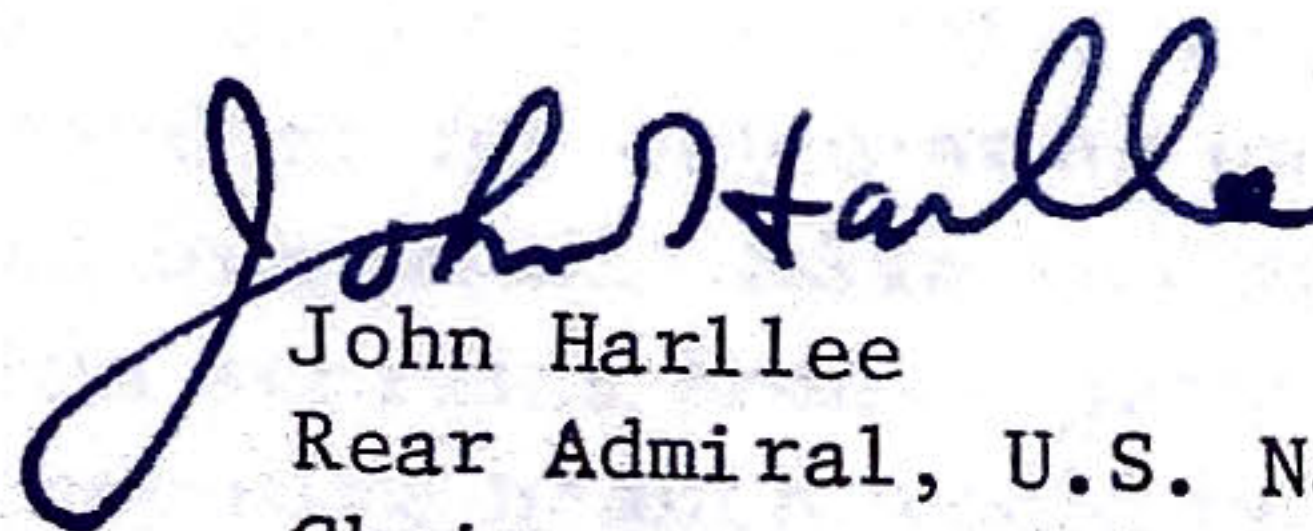
You have requested the views of the Federal Maritime Commission with respect to the Enrolled Enactment H.R. 15963, an Act

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

The bill would provide for establishment at the seat of government of an executive department known as the Department of Transportation. It further provides for the transference to that Department of certain functions, powers and duties of the Secretary of Commerce, the Interstate Commerce Commission and other agencies which would properly be vested in a Department of Transportation. Establishment of this Department would be in the public interest and would assure coordination and effective administration of transportation programs of the Federal Government.

The Commission recommends prompt approval of this bill.

Sincerely yours,

  
John Harllee  
Rear Admiral, U.S. Navy (Retired)  
Chairman

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DEPARTMENT OF THE ARMY  
WASHINGTON, D.C. 20310



of all relevant facts, and through the process of legislative...  
to Presidential approval.  
If interpreted to bind the President in formulating...  
navigation investment proposals he wishes to recommend...  
Congress, then Section 7 would have most mischievous...  
the result would be to prevent from the Congress the true...  
enacted to it.

Honorable Charles L. Schultze

Director, Bureau of the Budget

Dear Mr. Schultze:

Reference is made to your request for the views of the Department of Defense on enrolled enactment H. R. 15963, 89th Congress, "To establish a Department of Transportation, and for other purposes." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this enrolled enactment.

The Department of the Army on behalf of the Department of Defense fully supports the establishment of a Department of Transportation and therefore has no objection to approving the enrolled enactment. However, Section 7 on Transportation Investment standards may, depending on how it is interpreted, cause extremely serious problems in developing water resource investment proposals.

By one interpretation of Section 7 the Water Resources Council, although charged with developing standards and criteria for the economic evaluation of water resource projects, would nevertheless be bound to promulgate a standard for calculating navigation benefits which would very well result in a wholly false and misleading statement of the economic benefits accruing from a particular project. By this interpretation the executive branch would be placed in the position of recommending to the Congress navigation investments which were in fact not economically justified.

There may be appropriate occasions for uneconomic transportation investments, but decisions on this score should be made in the

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light of all relevant facts, and through the process of legislation subject to Presidential approval.

If interpreted to bind the President in formulating the specific navigation investment proposals he wishes to recommend to the Congress, then Section 7 would have most mischievous effects, for the result would be to conceal from the Congress the true economic consequences of the action recommended to it.

However, Section 7 can be interpreted only to require that present economic standards used in formulating navigation investment proposals be continued while the Water Resources Council carries on an effort to improve those standards. This interpretation is inconsistent with that contained in the Senate Committee report on the bill. Consequently we urge that the point be dealt with in the course of a signing statement when the President approves the bill.



Alfred B. Fitt

Special Assistant (Civil Functions)



OFFICE OF  
THE ADMINISTRATOR

FEDERAL AVIATION AGENCY  
Washington, D.C. 20553

October 14, 1966

Eno

Center for  
Transportation


Dear Mr. Rommel:

This is in reply to your request for the views of this Agency respecting action on H.R. 15963, an enrolled enactment

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

The Federal Aviation Agency favors Presidential approval of this legislation.

Sincerely,

  
WILLIAM F. MCKEE  
Administrator

Mr. Wilfred H. Rommel  
Assistant Director for  
Legislative Reference  
Bureau of the Budget  
Washington, D.C. 20503

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Eno

Center for  
Transportation

OCT 18 1966

Dear Mr. Schultze:

This is in reply to Mr. Rommel's letter of October 14, 1966, transmitting a copy of enrolled bill H.R. 15963, "To establish a Department of Transportation, and for other purposes", and requesting an expression of our views relative to this legislation.

We recommend approval of this enrolled bill.

Sincerely,

Under Secretary

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





CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO: B-1-38A

Eno

Center for  
Transportation

Mr. Wilfred H. Rommel  
Assistant Director for  
Legislative Reference  
Bureau of the Budget  
Washington, D. C. 20503

OCT 14 1966

Dear Mr. Rommel:

This is in reply to your oral request of October 14, 1966 for the views of the Board with respect to H.R. 15963, an enrolled bill "To establish a Department of Transportation, and for other purposes."

The enrolled bill preserves, as did earlier bills S. 3010 and H.R. 13200, without impairment the Board's independent status and economic regulatory functions. Although the Board would be required in applying clause (3) of subsection (b) of section 406 of the Federal Aviation Act (the subsidy provision) 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, this provision embodies only the established principle that a regulatory agency such as the Board should give weight to the views of other governmental components having responsibility in related areas. Thus, it assures that the Board's subsidy program will be administered with due regard for overall national transportation policy.

With regard to the transfer of the Board's safety functions to the National Transportation Safety Board, the Board stated in reports to the Senate and House Committees on Government Operations with respect to S. 3010 and H.R. 13200 that it recognized the potential benefits of a coordinated safety program for the various modes of transportation such as would be provided by such bills. Moreover, the Board stated that its investigative staff of experts which would be transferred would bring with them special skills and experience that might serve as a catalyst for developing new and improved techniques for safety investigation in the other modes of transportation.

In these circumstances, the Board recommends approval by the President of the enrolled bill.

Sincerely yours,

BUREAU OF THE BUDGET

OCT 14 1966

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Charles S. Murphy

Chairman

DEPARTMENT OF TRANSPORTATION  
MAJOR DIFFERENCES BETWEEN ADMINISTRATION PROPOSAL  
AND ENROLLED ENACTMENT

Eno

Center for  
Transportation

The major differences between the Administration's proposal and the enrolled enactment on the establishment of a Department of Transportation are as follows:

1. Maritime Administration

- The Administration recommended its inclusion in the Department of Transportation
- The enrolled enactment deletes entirely all provisions transferring Maritime Administration and Maritime Subsidy Board functions, thus leaving these functions in the Department of Commerce.

2. Investment Standards for Transportation Facilities and Equipment.

- The Administration bill provided that the Secretary of Transportation would develop standards and criteria for the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment, including water resource projects.
- The enrolled enactment excludes water resource projects from the authority, provides that all standards and criteria must have Congressional approval, provides that the Water Resources Council shall develop standards and

criteria for the evaluation of water resources projects, and defines various terms relevant in connection with such evaluation.

3. Authority of the Secretary.

- The Administration bill provided for statutory designation for a Secretary, Under Secretary, four Assistant Secretaries and a General Counsel. The duties of Secretarial officers would be prescribed by the Secretary. The Administration bill provided that the Secretary shall give full consideration to the need for operational continuity of the functions transferred to the Department.

All functions, except with respect to the National Transportation Safety Board, were vested solely in the Secretary. This provided the Secretary great latitude in organizing the Department.

- The enrolled enactment provides for a Secretary, an Under Secretary, four Assistant Secretaries, a General Counsel, three Modal Administrators (Aviation, Rail and Highway), a Director of Public Roads, a Traffic Safety Director, a Highway Safety Director, and an Administrator of the Saint Lawrence Seaway Development Corporation.

The Aviation Administrator would have transferred to him specified functions pertaining to safety (and his decisions

would be administratively final) and the Rail and Highway Administrators would carry out (with administrative finality) the Secretary's functions pertaining to safety which were transferred from the ICC. These functions cannot be transferred except by statute or reorganization plan. The net effect is to weaken the flexibility and strength of the Secretary viz-a-vis the modal administrators.

4. CAB Bureau of Safety

- The Administration bill transferred the CAB's accident investigation function to the Secretary of Transportation.
- The enrolled enactment transfers these functions to the National Transportation Safety Board.