

Eno

Center for
Transportation

**Questions and Answers on H.R. 13200 Based
on Testimony of Witnesses Before the Subcommittee
on Legislative and Executive Reorganization of the House
Committee on Government Operations**

SECTION 2 - PURPOSESQuestions Related to Why a Department is Needed

1. What large transportation problems exist that necessitate a Departmental organization? (p. 54) -- Mrs. Dwyer

Transportation responsibilities within the Federal Government are highly fragmented. There is no one to whom the President, Congress, or the public can look to for the development of transportation policy alternatives or for consistent policy implementation once policy has been established by the Congress.

At the present there are general problem areas in the entire transportation spectrum, such as merchant shipping, railroad passenger service, railroad car shortages, shipping transportation problems, transportation services in Metropolitan areas, etc.

There is no single Cabinet official responsible for providing a more explicit evaluation of the benefits of the billions of dollars invested by the Federal Government in transportation.

There is no single Cabinet official responsible for a comprehensive, overall attack on transportation safety problems.

There is no single Cabinet official who can endeavor to coordinate formal transportation programs in the interest of efficient administration so that the public will fully realize the benefits therefrom.

There is no single official in the entire Government who is in a position to identify, study, and propose solutions to transportation problems.

There is no single Cabinet official who can look ahead and see to it that the Nation's future will not be impaired by lack of adequate transportation.

These are very real problems. To solve them, there must be both high-level responsibility and authority. A Department is the obvious and most effective approach.

2. Exactly what will be coordinated by this new Department? (p. 638) -- Brown. Isn't safety really the only area of possible coordination? (Mechling). Why is a Department necessary for this limited area? (Mechling)

Safety is one area where much fruitful coordination is possible. But it is not the only area.

Coordination efforts are already in progress in transportation service itself. They may be found in the Through Container Experimental Project now

being carried out under Maritime Administration auspices. Such further efforts could be encouraged between other modes, including cooperation in the development of standardized containers adaptable to intermode movements.

Better coordination, including an identification of priorities, must be achieved in transportation investment.

Executive policies and programs should be presented to the independent regulatory agencies with the view to developing consistent approaches within the scope of regulatory statutes. Where inconsistencies occur, they will be brought to the attention of Congress. The transportation efforts of the Government should not be directed toward inconsistent or conflicting goals.

The many transportation oriented research and development activities of the Government can be coordinated to the end that duplications can be eliminated and all can benefit from the Federal efforts.

There will be a single authoritative source of information and policy advice in the Executive branch.

The areas of coordination are many. What is needed, as a starting point, is a Department with both responsibility and authority.

3. Why can't the Office of the Under Secretary of Commerce for Transportation be strengthened to achieve better coordination in the development of a national transportation system?
(p. 388) -- Burton

What real justification has been shown for DOT as such? (Lawton, Cramer, Hershey, McMullen). Can't many, if not all of these aims be realized now by the Under Secretary for Transportation or the President? (Hartranft, Lee, Burton)

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.

To merely strengthen the Under Secretary's role would not solve the situation. His responsibilities are now set forth in broad language but it is, nevertheless, a fact that they far exceed his power to carry them out. Furthermore, the only really effective way in which the post of UST could be strengthened would be to place all major transportation functions under his supervision and have him report directly to the President. The DOT proposal seeks to achieve this result.

The President simply does not have the time to devote to the details of transportation policy and operations. Effective government, or any other efficiently-managed organization, does not contemplate that a chief executive should deal directly with such matters.

4. Will the Department accomplish some efficiency in the operation of Government? (p. 686) -- Erlenborn
 What specific dollar savings will result from a Department? (Cramer, Hershey, McMullen)
 What are actual savings from aviation transfers? Can't they take place now? (McMullen)

Budget Director Schultze testified at length on expected long range program benefits. He also testified on a number of possible specific short-run management savings which will more than offset added costs. Efficiency is contemplated in both categories. Specifically, in the short-run area, he pointed to potential savings in automatic data processing activities, in joint aircraft maintenance between the FAA and the Coast Guard, in medical research activities, and in supply and logistics. Undoubtedly, there will be others to be explored as the Department becomes fully operational.

Some of the dollar-and-cents interagency savings might theoretically be possible now. The point is that they have not taken place because of the scattered nature of today's transportation organization, and in the absence of the Department they are most unlikely to materialize. High-level leadership can effect such savings and go well beyond them, both on a short-run and on a long-run basis.

5. What has occurred, since the Monroney hearings on the FAA Act in which no one raised the issue of a Department of Transportation, to justify this proposal at this time? (p. 610) -- Hartranft

Prior to the time that the Federal Aviation Agency was established in 1958, the aviation functions consolidated in the FAA were scattered throughout

the Government -- specifically in the Executive Office of the President, the Department of Defense, the Civil Aeronautics Administration, the Airways Modernization Board, the Civil Aeronautics Board, the Office of the Under Secretary of Commerce for Transportation, and the Secretary of Commerce. The need to create an effective organization was so pressing that there was no opportunity to consider a reorganization in the broader light of the needs of transportation generally.

We are now at the next stage in the evolution of a systems approach to the Nation's transportation problems. We have learned that no form of transportation can or should stand alone and that each is benefitted by playing its appropriate role in an integrated national transportation system. The development of such an integrated system and the policy framework necessary for its evolution can only be accomplished when the major promotional and safety transportation programs are placed in organizational juxtaposition under the policy leadership and administrative direction of a single official responsible directly to the President.

6. Why do we have to amalgamate agencies in order to achieve a national transportation policy for the investment of federal funds in transportation? (p. 605) -- Hartranft

We are not amalgamating agencies in order to achieve a national transportation policy. Rather, by combining the functions of certain agencies in a Department, formulation of a national transportation policy will be enhanced. Unless there is an office which can recommend consistent policy for federal transportation funding, public investment decisions may well result in the maldistribution of public resources. There is a strong need for clear standards for the preparation and evaluation of investment proposals and for an instrumentality to develop adequately and apply such criteria on a consistent and coordinated, rather than a piecemeal, basis. The need and importance of such evaluations to the taxpayer's purse are obvious; and they will grow.

7. Wouldn't a council be more effective than a Department of Transportation in resolving problems? (p. 691) -- McMullen

No. A council would have no power to carry out any responsibilities it might have. Such an organizational arrangement inevitably results in watered down advisory recommendations which have no real force. While a council's efforts might be useful, it would be a significantly less effective arrangement than the creation of the single responsible departmental focus envisaged.

Questions Related to Transportation History

8. Doesn't history prove that aviation is downgraded when it is in a department with other transportation agencies? (p.387) -- Lee

Questions Related to Transportation History (Continued)

Did CAA really suffer under Commerce? (McDermott, Burton)

History shows only that aviation in its fledgling stage did not develop adequately during most of its time under the Department of Commerce because Commerce officials were primarily concerned with other pressing matters not related to transportation. However, as a matter of historical accuracy, it should be noted that the increase provided for the CAA for the 1959 fiscal year (8,000 positions and \$160,000,000) was larger than any ever accorded the FAA. The other transportation interests of Commerce were not a controlling factor in this increase.

9. Can it not be shown by history that when a coordinating department is biased in favor of surface transportation that there results an absolute curtailment in the scientific and technological growth of aviation? (p. 378) -- Lee

Such a showing cannot be made. In the first place, there has never been in this Nation's history a Department with any effective transportation coordinating powers. Secondly, there is no evidence that the Department of Commerce, as then constituted, was biased in favor of surface transportation.

10. Will the aviation budget suffer? (Lee)

There is no reason to think so. Nothing in this bill changes Appropriation committee or subcommittee jurisdiction over aviation. Moreover, its growth should continue to follow that of the nation which will clearly demand more and better aviation services. Increased budget needs in air navigation, safety, traffic control, and airport and aviation development might grow rather than decrease.

11. Won't there be a tendency to stifle competition in transportation once a Department is established? (p. 391) -- Burton

Competition as a day-to-day commercial matter is left, undisturbed, with the operators and the regulatory agencies. For the Administration's part, its position, stated many times, is to increase competition. As to transportation, the Council of Economic Advisers' latest Report to the President is quite clear on this point. Section 2 itself looks to low cost service.

Insofar as the Department's functions are concerned, it would seem likely that the various modes will continue to support their individual programs and to present their views forcefully to the Department as contemplated by Section 2.

12. Won't general aviation suffer? (Lawton, Hartranft)

The question assumes that the Department will concern itself with the for-hire carriers only. There is no basis for such a belief. General aviation,

like private surface carriage, both of people and property, fulfills a vital need. It will be aided by the bill and by a Department whose aims are broadly defined rather than unduly limited.

13. Why create a Department of Transportation without solving the urban transit relationship since that is the major transportation problem facing the Nation? (p. 51) -- Mrs. Dwyer

Urban mass transit is a problem but not necessarily the major one facing the Nation. The President has recognized that the functions of the new Department, as proposed, and those of the relatively new Department of Housing and Urban Development will be highly interrelated and complex. He will require that a one-year study be undertaken to explore all bases for a decision as to future relationships. The problem can be solved, but it should be approached with a clear understanding of all facets of the situation. For the study to take place with any hope for successful outcome there must be a Secretary who really speaks for transportation to deal with a Secretary who speaks for urban development. Creation of the Department of Transportation is, therefore, a necessary preliminary to any resolution of transportation-urban relationships.

14. Does the bill change the ground rules for transportation decisions? (p. 350) -- Mechling

The basic ground rules remain unchanged except in two respects. These are the transfer of the safety functions from the CAB and the ICC and the transfer of certain of the ICC's car service authority. They are the only two elements transferred from the independent regulatory agencies. But even in these situations, the basic statutes governing these elements are unchanged. For example, determinations of cause in aviation accidents would remain with a body with independent authority, the National Transportation Safety Board. However, both matters are executive in nature and are functionally related to the Executive branch. Otherwise, all of the other agencies and functions to be transferred now reside in the Executive branch.

15. Why does the bill purport not to involve economic control of transportation and yet all justifications for the Department are based upon economic aspects? (p. 602) -- Hartranft

The question misconstrues the concepts underlying the bill and ignore the safety aspects noted by the President in his Transportation Message. Economic control is not involved because control contemplates regulation. That aspect is left outside the Department with the various regulatory agencies. But economic considerations are not confined to matters of regulatory control. There are many other existing programs of Government which involve economics, such as loans, research, safety, and the provision of facilities.

16. Why must all modes be included? (Baskerville, Hirschfield, Ruby, Hartranft, Lee, McDermott, Wager, Mathews)

If transportation policies are to be developed on a truly national basis, there must be a vehicle for implementing such efforts. This necessarily implies that all modes be effectively included in a Department. Differences among modes, while they exist, should not be controlling. Uniqueness can be recognized along with the many elements common to all modes. The public interest requires that a less parochial outlook be taken. Moreover, failure to include any one or more modes would undermine the basic purposes of the Department and lead to pressures to exclude all other modes.

Questions Related to the Regulatory Agencies

17. Why were the regulatory agencies excluded. (p. 78) -- Erlenborn

They were excluded because the Congress has determined that the quasi-judicial determinations of adversary matters, which constitute the bulk of their caseload, require a separate, independent status. Congress has assigned over the years other functions to the Executive branch and those functions have been included in the Department of Transportation. Safety is such a function, although some aspects of safety have been given to the regulatory agencies in the past.

18. Does the Under Secretary for Transportation in Commerce now appear as a party in regulatory proceedings? (Informational question by Erlenborn, p. 562)

Technically speaking, the answer is no. When appearances are made, they are in the name of the Department of Commerce, although the transportation policy decisions are made in the Under Secretary's office. The Department does appear from time to time in cases of broad public interest. For example, the Department is now a party to two proceedings before the ICC and one before the CAB, and has petitioned to intervene in another CAB proceeding.

The Under Secretary is also Chairman of the Interagency Transportation Merger Committee. Such positions as the Committee may take are presented by its counsel, the Department of Justice, which appears in the name of the United States.

19. Where does the Secretary of Transportation get authority to appear before a regulatory agency? p. 563 -- Erlenborn

It has long been standard procedure for the regulatory agencies to permit interested parties to appear to present views. The CAB, for example, by its regulations, allows interested Departments to appear before the Board. The Department of Transportation would fall into the same category as State, Justice, and other Departments, and the Secretary, in carrying out his statutory authority to recommend policy, would appear before the agencies in appropriate cases.

SECTION 3 - ORGANIZATION

20. How will lines of authority running from the Secretary and Assistant Secretaries of the new Department to the line agencies be different from at present? (p. 42) -- Holifield

Under existing arrangements, the Bureau of Public Roads and the Maritime Administration report to the Secretary of Commerce through the Under Secretary for Transportation. The new agencies which will be created, in accordance with Section 4(b)'s continuity of function concept, will report through their administrators directly to the Secretary. The FAA, which now reports directly to the President, and the Coast Guard, which reports to the Secretary of the Treasury, would report in similar fashion directly to the Secretary.

The Assistant Secretaries of the Department would not be in the line and would be available for assignments which cut across departmental programs and require officials of Assistant Secretary status. This approach will equip the Secretary to cope with policy and program matters which need analysis or action from perspectives broader than particular modes of transportation. It will also avoid undesirable layers of line supervision between the Secretary and the heads of operating administrations, and make the Assistant Secretaries real aides to the Secretary instead of spokesmen for particular transportation modes. The four Assistant Secretaries could be used to provide leadership or help to the Secretary in such matters as the following:

- . Long-range planning and policy development
- . Transportation technology and research
- . Public and congressional relations
- . Interagency and intergovernmental relations
- . International transportation affairs
- . Transportation safety

The Administration paper submitted April 22, 1966, entitled "Concept of Organization and Management" deals with this subject at greater length.

21. Why shouldn't the Administrator of the Bureau of Public Roads not only continue in a confirmed position but be elevated to Level III as well? (p. 447) -- Congressman Cramer

Since the Secretary will be held responsible for the conduct of the activities of the Department, the Secretary should have authority to select key subordinates, in consultation with the President. However, there is merit in considering the desirability of specifying Presidential selection and Senate confirmation for these subordinates. The head of BPR is now a Level V position and there appears to be no reason for a shift to a level normally reserved for Under Secretaries or a very few other exceptional departmental agencies.

22. Why should the FAA Administrator be downgraded? (Cramer, Lee, Burton)

Why shouldn't he be a high-level Presidential appointee reporting directly to the Secretary? (Cramer, Tipton)

It is contemplated that the aviation administrator will be a Level III position. Should the FAA Administrator remain in his present Level II position, it would place him above the level of the Department's Under Secretary. As noted above, the Secretary should have the authority to choose his key subordinates.

23. Will FAA functions be dispersed in DOT? -- Tipton

No. This can be stated with certainty. The aviation agency will be reconstituted promptly by order with its same functions. Section 4(b) of the bill provides for the operational continuity of the transferred functions.

24. Shouldn't BPR be given an autonomous status? (Cramer, Fallon)

Autonomous means independent, self-governing, and without outside control. BPR does not have such status now; it is under the policy direction and supervision of the Under Secretary of Commerce for Transportation. Therefore, autonomous status would not only be different from that which presently exists, but it would also be inconsistent with the purpose of the bill.

SECTION 4 - GENERAL PROVISIONS

25. Is the Congress transferring its right to develop policy to the Secretary of Transportation under the terms of Section 4? (p. 536) -- Erlenborn

No. Section 4(a) authorizes the Secretary to develop national transportation policies and programs, and make recommendations for their implementation. Those matters requiring new legislation would be proposed for Congressional consideration. Those matters which could be developed within the framework of the terms of regulatory statutes would be proposed for regulatory agency consideration pursuant to existing procedures. Those matters which fall within the scope of statutes administered by the Executive branch would be developed therein. It is important to emphasize that the ultimate policy power of Congress is not effected by this bill.

26. Will the Secretary, as arbiter over all modes, replace the Administrator of FAA as advocate for aviation? (p. 591) -- Hartranft

The Secretary will become the principal spokesman for aviation, as well as for other transportation modes. Existing statutory requirements for the promotion of aviation will become the responsibility of the Secretary.

27. Just how will policy be coordinated under Sections 2 and 4? (Tipton)

The functions and powers of the Secretary would result in a focal point of leadership around which the principal transportation policies and programs of the Federal Government could be coordinated. As to those offices directly under the Secretary's supervision, he could obviously prevent disparity and diffusion of effort by the exercise of his executive authority to the extent permitted by law. Where inconsistencies appear in the law, he would urge their elimination by Congress.

He would present the coordinated views of the Executive branch on transportation matters before regulatory agencies. Thus, the Executive branch's various transportation arms would take a consistent, coordinated view before individual regulatory agencies.

In all of these efforts, the Secretary would, as Section 2 requires, give full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense. As a Cabinet officer, the Secretary would, under Section 4, exercise leadership under the direction of the President. Any and all efforts at policy coordination would be those within the statutory powers of the President.

28. Don't Sections 2, 4, and 7, when read together, give the Secretary power rightfully belonging to Congress? (Fallon, Cramer, Hershey, Baskerville)

Center for Transportation
Can't the same be said for Sections 2 and 4? (Tipton, Baskerville, Hirschfield)

No. Congress legislates; it does not administer. Sound administration, the faithful execution of the laws, is all that is contemplated by these sections. These sections, whether read separately or in conjunction, give no legislative powers to the Secretary. They do not alter any funding responsibilities of Congress. The sections contemplate only that careful, considered evaluation will be given to the many existing transportation programs to the end that they will be effectively and efficiently administered in the public interest. When existing law is not adequate the Secretary will recommend changes to Congress. When existing regulatory policies are, in the Secretary's judgment, inadequate, he will urge the regulatory bodies to re-evaluate their positions.

29. Is any other department charged with the obligation of establishing and developing national policy? (p. 537) --
Erlenborn

Yes, although not necessarily by statute. The Department of the Treasury, for example, formulates (1) domestic and international tax policies and programs and (2) policies and programs relating to the responsibilities of that Department in the international economic, financial, and monetary field. The Department of Defense establishes policies relating to the national security. Under Section 307(a) of the Federal Aviation Act, the Administrator is directed to "... develop plans for and formulate policy with respect to the use of the navigable airspace."

SECTION 5 - NATIONAL TRANSPORTATION SAFETY BOARD

Questions Related to the Board's Independence

30. Just what does Section 5 mean as to NTSB? (Hirschfield, Mechling, Lawton, Ruby, McMullen) How will it operate as to all cases and all modes? Will it be composed of experts? (Ruby) How can it be truly independent of the Secretary? (Lawton, Lee, Burton, McDermott, Mechling, Hirschfield, Hartranft, Ruby) Won't the Department be in the unjustifiable position of being both judge and accuser? (Ruby, Lawton)

If accident investigation is not done by the National Transportation Safety Board, but by elements of the Department, will this detract from the Board's independence? (p. 42) -- Holifield

Shouldn't the CAB safety functions and those of FAA be kept absolutely independent? Isn't this guaranteed now? Isn't the DOT bill lacking in this respect? (Lee, Burton, Lawton, Hartranft, Ruby, McMullen, McDermott, Tipton)

Isn't the CAB at fault in permitting FAA to investigate itself in traffic control and navigation? (McDermott)

If airmen are to be accused and judged by same body, should standards required before revocation or suspension be allowed be made more stringent? (Ruby)

By the terms of Section 5(a) of the bill, the National Transportation Safety Board is given statutory responsibility to exercise powers with regard to (1) determining the cause or probable cause of transportation accidents and (2) reviewing, on appeal, the suspension, amendment, modification, revocation, or denial of airmen and mariner certificates and licenses. (See Briefing Book No. 12 - Safety Functions and the role of the National Transportation Safety Board). The Board members will be chosen for their expertise in the field of transportation. The Board will have a small expert staff to assist in the review of accident investigation reports submitted to the Board by the Department.

The Board will be independent of the Secretary and the operating units of the Department with respect to its statutory functions. This independence is enhanced by the fact that the Board members are Presidential appointees and in no way dependent on the Secretary for their continuance in office or reappointment. The Board will receive a separate appropriation. The Department will not be "judge and prosecutor" because, as a result of these

arrangements, the National Transportation Safety Board will be able to exercise an independent decision on cases reaching it. The Board's independence will not be compromised by the fact that it will not undertake accident investigations directly since it has adequate authority to insure development of all ascertainable facts related to a transportation accident. Currently, FAA, under delegation from the CAB, conducts accident investigations in a large number of light plane accidents. This does not compromise the independence of the CAB which has reserved to itself the determination of cause even though it does not conduct the individual investigation. Similarly, final judgment in aviation accident cause cases will be retained by the National Transportation Safety Board. There is general agreement that this organizational arrangement has worked satisfactorily. Consequently, there is no evident need to change existing certification standards.

Under the bill, as at present, there will be a separation of responsibility for probable cause and FAA activities. Even under existing arrangements, there is no absolute bar between accident investigation by FAA and CAB safety functions. Under delegation, the FAA undertakes a large number of accident investigations. Similar arrangements are contemplated under the bill.

Questions Related to Accident Investigation

31. What deficiencies are there in the present accident investigation procedures relating to air safety? (Informational question for proponents of the bill by Erlenborn, p. 788)

Aren't air and water safety being conducted well? (Tipton, Mechling, Hirschfield, Lee, Hartranft, Ruby, McDermott)
Why should they be included? Do they bear any relation to surface safety?

Why is there a contradiction between the President's statement of April 22 that the NTSB will investigate accidents and their causes and Administration briefings that accident investigation will be carried out in the Department and probable cause will be determined by the Board? (p. 595) -- Hartranft

Will the National Transportation Safety Board have investigators under their direction so that they can tell them what they would like to have investigated? (p. 394) -- Rosenthal

Will the CAB's safety staff be less effective in the new Department because it would lose every vestige of independence? (p. 729) -- McDermott

Does the investigation of aircraft accidents have much in common with other types of accident investigation? (p. 680) -- Erlenborn

Questions Related to Accident Investigation (Continued)

Is aviation so unique as to keep FAA and CAB safety out of DOT? (Ruby, Hartranft, Lee, McDermott)

If Coast Guard comes in, why should Secretary or NTSB have substantive review? (Hirschfield, Mechling)

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 vehicle, the type 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 President's statement of April 22 contained a technical error in that the accident investigation staffs will not be under the direction and control of the National Transportation Safety Board. The accident investigation staffs will be part of the Department. The results of certain accident investigations, however, will be transmitted to the National Transportation Safety Board which has full authority through recommendations to the Secretary and through its own power to hold hearings to ensure that careful and complete investigations are held. The Board can make recommendations to the Secretary with regard to all aspects of accident investigation. If the Board decides that an investigation is not adequate it can request further information of the Department or conduct hearings of its own.

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.

Under the provisions of Section 6, all authority for the Coast Guard to conduct casualty and personnel investigations is transferred to the Secretary. These authorities will be delegated to the Commandant of the Coast Guard under the Secretary's authority established by Section 9(f) of the bill.

Investigations of marine casualties and procedures will be carried out by Coast Guard personnel, as is now the case. However, since under Section 5(a) of the bill, the NTSB is given final authority to determine cause for all modes in order to insure an independent review, certain changes from existing practice will be made in the determination process which follows the preliminary accident investigation.

Coast Guard statutory functions are transferred to the Secretary, however, the determination of what "... caused or contributed to the cause of such casualty" will be made by the NTSB in those cases which have not been delegated. It is expected that in most cases the determination of cause or probable cause will continue to be made by the Commandant.

Coast Guard statutory authorities for action in connection with suspension, amendment, modification or revocation of certificates and licenses issued, are transferred to the Secretary, however, Section 5a(2) of the bill vests in the NTSB final appellate authority in those cases which have not been delegated. It is expected that most cases reviewed on appeal would be decided by the Commandant, under delegated authority.

Other Questions

32. Will NTSB members have less qualifications in aviation safety matters than present CAB members? (p. 717) -- Holifield

NTSB members will have more rather than less qualifications in aviation safety than present CAB members. Current Board members, who have responsibility for determining probable cause, are chosen for their capacities to deal with the major economic regulatory functions of the Board rather than for their technical expertise. Since no economic regulatory functions will be involved, greater emphasis can be placed on technical qualifications in selecting NTSB members.

33. In what way is the NTSB an appellate body? (p. 269) -- Roback
Who will handle cases of "limited impact" under NTSB? -- Lawton

The NTSB will act as an appellate board in certain cases of action taken with respect to certificates and licenses of airmen and mariners. It will delegate authority within certain categories to elements of the Department. It is expected that most cases reviewed on appeal would be decided by the head of the operating component in the Department of Transportation within this delegated authority. Similarly, it is expected that decision on cases of "limited impact" will be delegated to appropriate elements of the Department. "Limited impact" as used herein means those cases not involving matters having widespread application in the field of transportation safety which would require changes in regulations, construction requirements, equipment requirements, standard operating procedures, etc., in the particular transportation mode affected. It does not necessarily mean a division based on the extent of monetary damage, nature of an injury, size of the vehicle, aircraft, or vessel involved, or any finite standards of that nature.

Other Questions (Continued)

34. Might safety be compromised in favor of economics in a departmental conflict between two elements? (p. 882) -- Hirschfield

Since safety involves number of employers, hours of employment and so forth, which have a direct bearing on economic conditions, why shouldn't it be left with the regulatory agencies? (p. 843) -- Erlenborn

Aren't car service and safety economic regulatory matters? Since the President said the latter were not to be touched, why does the bill do so? (Mathews, Wager)

Should rail safety and explosives authority be transferred from ICC? Aren't these really of an economic regulatory nature? -- Wager

There is no reason to suppose that safety would be compromised in any conflict among modes. Safety is a fundamental responsibility of the Secretary and one of the major reasons for creating the Department.

It is true that safety requirements have an economic effect or impact on transportation, but this is not economic regulation in the sense of rates, routes, exit and entry from the field, etc. These are normally considered objects of the regulatory process. Many executive branch safety responsibilities may have an economic effect on the industry concerned but are not considered as economic regulatory in nature. For example, Food and Drug Administration and Agriculture health requirements have a definite impact on affected industries, as do the Coast Guard's safety regulations. Similarly, FAA's existing safety authority has an economic impact on airlines regulated by the CAB.

35. Shouldn't all parties have a right to present their views before the NTSB? Shouldn't the bill so state? -- Wager

At investigative stages within the Department, all parties will have a right to present their views as is the current practice, and these views will, of course, be included in the record considered by the NTSB. It is not contemplated that interested parties would appear before the NTSB unless the NTSB felt that a public hearing was required, at which time Departmental investigators and parties concerned would appear to develop fully all facts bearing on the accident.

SECTION 6 - TRANSFER OF POWERS

36. Exactly how many of the 35 transportation agencies will be merged into this Department? (p. 632) -- Erlenborn

All or part of eleven agencies will form the Department of Transportation. Not every agency with a transportation activity was included in the President's proposal. The principal reason for exclusion was the complementary nature of an agency's transportation activities to its prime purpose. (See Tab 8, DOT Agencies Included and Excluded, Briefing Book).

37. Does the bill change any statutory functions now assigned to the separate agencies brought into the Department? (p. 42) -- Holifield

Is there anything in this law abrogating or rescinding previous law which will give the Secretary the chance, in effect, to rewrite the law? (p. 804) -- Brown

The bill makes no changes of a substantive nature affecting transportation programs presently operating. All changes have been made to make the combination of 11 separate organizations into a departmental structure possible. The Secretary of Transportation, with the exception of establishing transportation standards and criteria for the investment of federal funds in transportation facilities and equipment, is given no additional powers. The standards and criteria themselves cannot alter or nullify existing statutes. Rather, the standards will be established to facilitate conformity with the body of statutes on transportation now existing. Where there is irreconcilable conflict, the Secretary will have no option but to recommend to the President that he seek Congressional action for solution.

FAA

38. What happens to the President's authority under the Federal Aviation Act of 1958 to transfer the FAA to Defense in case of war? (p. 239) -- Robach

What effect will the Department have on administering wartime transportation policies? (p. 64) -- Holifield

Can Executive Order No. 11161 be honored if the FAA has no integrity and its functions are dispersed throughout the Department? (p. 785) -- Erlenborn

The Federal Aviation Act of 1958 states in Section 302(e) (49 USC 1343(c)) that "the Administrator shall develop in consultation with the Department of Defense and other affected Government agencies, plans for the effective

discharge of the responsibilities of the Agency in event of war ... provided that in the event of war the President by Executive order may transfer any functions (including powers, duties, activities, facilities, and parts of functions) of the Agency prior to enactment of such proposed legislation."

The Federal Aviation Act thus provides for the possible transfer of functions, not of the entire agency. These functions will clearly exist in the new Department and they can as easily be transferred to the Defense Department from DOT as they can from FAA. Executive Order No. 11161, July 7, 1964, does provide that "the defense of the United States would require the transfer of the Federal Aviation Agency to the Department of Defense in the event of war" and that "while functioning as an adjunct of the Department of Defense the Federal Aviation Agency will remain organizationally intact." The organizational course chosen by the Executive order was one of administrative convenience. The Order also implies that those functions not deemed by the Secretary of Defense to be crucial to his responsibilities will be retained by the Administrator.

The Department of Transportation is not established until 90 days after the Secretary first takes office. During the interim period, a number of new orders will have to be prepared to conform to the new law. H.R. 13200 (Sec. 4(b)) directs the Secretary to "give full consideration to the need for operational continuity of the functions transferred ... and to the needs of national defense." Most of the aviation entity in the new Department would be named in place of the FAA in any new order. The functions not transferred will probably be those that the Secretary should retain as part of his overall transportation policy and managerial role in time of war and similar to the functions contemplated under Executive Order 11161 to be exercised by the Administrator of FAA.

39. Why are we losing the specific qualifications now set forth in law for the Administrator of FAA with enactment of this bill? (p. 608) -- Erlenborn

The specific qualifications for Administrator of FAA (49 USC 1341(b)) -- a U. S. citizen, a civilian with experience in a field directly related to aviation, and devoid of outside pecuniary interest in aeronautical enterprises -- are lost because the office of Administrator ceases to exist.

The bill purposely does not impinge in any way on either the President's or the Secretary's flexibility to choose the best men available for policy level positions in the Department. In finding such men, they will be guided by past precedents, duties to be fulfilled, and responsibilities to be undertaken. To inhibit by statute the President's and the Secretary's personnel decisions, which may result in this or a future Administration seeking special amendments, seems unnecessarily cumbersome.

FAA (Continued)

Center for
Transportation

40. Is the public right of freedom of transportation through the navigable air space, as provided in existing legislation, guaranteed in the present bill? (p. 589) -- Reuss

Yes. The right, recognized and declared to exist by Section 104 of the Federal Aviation Act of 1958, is not affected by the Department of Transportation bill. H.R. 13200 transfers functions of the Administrator to the Secretary of Transportation; it does not specifically repeal other provisions of the Federal Aviation Act. Therefore Section 104 of the Federal Aviation Act remains in full force and effect.

41. Can the FAA be brought into the Department substantially intact (as a legal entity) but still subject to the overriding power of the Secretary of Transportation to make final decisions? (p. 480) -- Reuss

Don't FAA's military ties justify separate entity status?
-- Hartranft, Lee

Why shouldn't FAA be a separate (legal) entity in DOT?
-- Cramer, Tipton

Since putting transportation organization together will be such a massive undertaking -- and the aviation community has so little in common with other types of transportation -- why not stage the formation of the Department over a period of time? (p. 658) -- Ruby

There is staging already built into the Department of Transportation proposal since mass transit and others will be studied for later possible inclusion. There would be, however, little justification for excluding FAA at this time. A comprehensive national transportation policy could not be recommended and effective transportation programs could not be developed without having one of the three principal modes as an integral part of the planning considerations and decision-making process.

The Coast Guard is coming into the Department as a legal entity with all powers transferred to the Secretary of Transportation from the Secretary of the Treasury because its case is unique. The necessity for this provision is found in the Coast Guard being an armed service, its role in defense preparedness, and its support for naval operations in time of war. Its effectiveness in wartime depends on its training and activities in peacetime.

The civilian components of the Department of Transportation do not need the same degree or organizational inviolability. The Secretary, on the other hand, does need the flexibility and control which comes with an organization unfettered by separate legal jurisdiction, power, and

authority vested in subordinate officials.

HUD

Center for
Transportation

42. What will be the relationship between the Department of Housing and Urban Development and the Department of Transportation with regard to urban mass transit?
(p. 48) -- Holifield

Why doesn't the bill recognize city-to-airport transportation problems by taking in mass transit from HUD?
-- McMullen

How are we going to determine whether HUD or the Department of Transportation will have jurisdiction over metropolitan area mass transit problems? Is there a definition of the limits of authority for HUD's programs and thus a limit on the Department of Transportation's interest? (p. 283-284) -- Erlenborn

While admittedly a significant aspect of the American transportation network involves urban areas, the functions assigned by law to the Department of Housing and Urban Development (principally mass transit) will remain in HUD. Because the problem of delimiting areas of responsibility are so complex -- deciding, in effect, what decisions have to be made in the interests of a national transportation system and what decisions have to be made in the interests of optimum urban land use -- the President will ask the two Secretaries to study the problem intensively and report to him within a year on the best possible organizational arrangement to meet the responsibilities of all interested parties.

Congress will be informed of the results of the study and may be asked to take action through further legislation or by reorganization plan, if either of these are necessary.

The Urban Mass Transit Act limits assistance to projects under "a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area." The 1962 Highway Act makes projects in urban areas of more than 50,000 inhabitants contingent on the highways being part of "a continuing comprehensive transportation planning process." With much of mass transit related to highways there is then an obvious link between the two programs. Just how that link will be fashioned, based on the varying experience of the agencies involved, will require the kind of study the President will be requesting. (See Tab 18, The Relationship of the Mass Transportation Program to the Department of Transportation, Briefing Book).

CORPS OF ENGINEERS

43. How is the Corps of Engineers affected by the bill?
(p. 57) -- Holifield

CORPS OF ENGINEERS (Continued)

Why shouldn't the Corps retain section 6(f) functions? (Baskerville). If transferred should the Secretary's power re bridge clearances be limited so as to prevent undue navigational hazards? (Mechling)

The Corps of Engineers' present responsibilities for bridge clearances, tolls, oil pollution on the high seas, and anchorages will be transferred to the Secretary of Transportation. These are functions which the Corps itself feels are more suited to the Department of Transportation than to the Department of the Army. Certainly bridge clearances and tolls are more closely related to overall transportation policy objectives than to multipurpose public works projects. To fear that the Secretary's clearance policies, without explicit statutory restrictions, may result in navigational hazards, unwarrantedly assumes that the Secretary would ignore a significant aspect of his overall responsibility. Anchorage policy and oil pollution are also closely associated with Coast Guard harbor safety and marine activities. Otherwise, the Corps is not affected by Section 6(f). See questions relating to Section 7 for a detailed discussion of the effect of that Section on the Corps.

BUREAU OF PUBLIC ROADS

44. Will the relationship between the Bureau of Public Roads and the State highway officials be changed under the bill? (p. 433) -- Congressman Fallon

No. BPR will be reconstituted along its existing lines. It is well recognized that the relationship has been excellent, fruitful, and successful. The Department will continue to cooperate fully with the States, and, in addition, afford all concerned the benefits of an expanded research program.

COAST GUARD

45. Why shouldn't Coast Guard remain under Treasury? Isn't water safety different from other modes? (Baskerville, Hirschfield)

While water safety has certain unique characteristics, so do safety aspects in each of the other modes. One of the major reasons for the establishment of a Department of Transportation is the improvement of transportation safety. If a Department of the Federal Government is to be established with a major mission to improve transportation safety, the Coast Guard should be a part of it and, indeed, must be a part of it to enable that Department to carry out its mission. The Coast Guard's activities and programs are clearly directly related to transportation and not nearly as directly to the major missions of the Treasury Department.

SECTION 7 - STANDARDS AND CRITERIAQuestions Related to WordingCenter for
Transportation

46. What does Section 7 really mean? (Baskerville, Tipton, Cramer, Fallon, Hirschfield)

Does the wording of Section 7 change the concept of the highway program by inviting the Secretary not to spend trust funds? (p. 452) -- Congressman Cramer

Does the last clause of Section 7 give the Secretary the power to decide each and every transportation and public works project to be carried out? (p. 457) -- Congressman Cramer

The Secretary of Commerce already has broad powers to control Public Roads and Maritime projects for which he has statutory responsibility. These powers would be transferred to the Secretary of Transportation whether or not Section 7 of H.R. 13200 is enacted. The purpose of Section 7 is to induce the Secretary of Transportation to develop an explicit and more consistent set of criteria by which operating agencies are to prepare and the Secretary's staff is to evaluate investment proposals for the advice of both the President and the Congress under (a) programs entrusted to the Department and (b) navigation projects developed by the Corps of Engineers.

Moreover, Section 7 does not change the concept of the Highway Trust Fund, it does not change the statutory framework, nor does it invite the Secretary to withhold funds nor change the scope or direction of the program. See "Analysis of Section 7 -- the Use of Standards and Criteria in the Formulation and Evaluation of Federal Transportation Investments" which was forwarded to Chairman Dawson on April 22, 1966.

47. Does Section 7 compatibility refer to a cost/benefit ratio or to economic criteria and evaluation? (p. 486) -- Cramer

Section 7 refers to economic criteria and their use, not to the cost/benefit ratio that would be produced by using them; it would be the criteria that must be found compatible, not the cost/benefit ratios.

48. What does "as appropriate" mean in Section 7(b)? (p. 475) -- Cramer

The word "appropriate" in Section 7(b) means that the agencies consulted would be those having expertise in matters of transportation investment, typically those agencies operating Federal programs involving transportation investments.

Questions Related to Congressional Role

49. Does Section 7 change the existing relationship between the Executive Branch and the Congress? (p. 64) -- Holifield

Will the bill transfer to the Department of Transportation the evaluation of projects which should be determined by Congress and the proper committees thereof after recommendations of the proper agencies of government and all interested organizations and individuals? (p. 429) -- Congressman Fallon

Is Congress yielding some of its constitutional prerogatives and obligations by allowing the Secretary the right and obligation of establishing standards and criteria and the value of various modes of transportation? (p. 533) -- Brown

Will Congress have a chance to review the standards and criteria? (p. 472) -- Cramer

How exactly does Section 7 affect Federal funding of aviation? (Tipton, Lawton). If it does, isn't this a Congressional prerogative? (Tipton, Lawton)

Section 7 would not change the existing relationship between the Executive Branch and the Congress. Its purpose would be to provide the Congress, with respect to navigation projects, more refined criteria reflecting recent advances in planning concepts and analytical techniques for the formulation and evaluation of public investment projects.

It must be remembered also that project proposals relating to public investment in airports and air navigation control facilities, in highways, in the merchant marine, and in mass transit are approved finally by the heads of the respective operating agencies and are not submitted to the Congress for further review. With respect to inland navigation projects, the bill would not transfer to the Department of Transportation the function of making final evaluations of projects, now carried out by the Congress. It would provide a more comprehensive and precise evaluation of those projects for the consideration of the Congress along with recommendations of interested organizations and individuals.

With respect to those investment matters left to the Executive branch for final decision, the Congress will continue to be able to review any standards and criteria administratively established to implement policies adopted by the Congress.

Questions Related to Congressional Role (Continued)

50. Does Section 7 empower the Secretary, once he has established national policy as charged by Section 4, to implement that policy -- through the application of the criteria and standards -- before the policy ever gets to Congress? (p. 541) -- Erlenborn

Doesn't Section 7, Section 2 and 4(a), delegate congressional power without adequately limiting and defining the exercise of that power? (p. 535) -- Hershey, MacKenzie

Does Section 7(b) transfer away from the Congressional Committees to the Secretary of Transportation control over all information upon which agency recommendations are made? (p. 429) -- Congressman Fallon

Can't the policy powers in Section 2 and 4 be utilized together with Section 7 by the Secretary to invade Congress' domain of policy determinations? (Fallon, Cramer, Hershey, Baskerville)

In the first place, Section 4 does not empower the Secretary to "establish" national policy but only to develop policy alternatives and recommend policies. The criteria and standards established under Section 7 would, hopefully, make possible the identification of priority projects and more precise estimation of project benefits on the basis of which the Secretary could (a) make better judgments concerning those projects now within his final jurisdiction and (b) give more useful advice to the Congress with respect to those projects (now only inland navigation projects) which would not be finally approved by the Secretary.

In the second place, Section 7(b) deprives Congressional Committees of no information which now becomes available to them in connection with the development and evaluation of any investment program or any information that might in the future be developed with respect to such programs.

51. Does this bill repeal those standards and criteria established by Congress and give power to the Secretary to establish wholly new standards and criteria? (p. 784) -- Erlenborn

While the Secretary would be authorized to establish new standards and criteria with respect to transportation projects in general including inland navigation projects, insofar as existing legislation contains specific standards, the new standards would not be overriding.

Questions Related to Congressional Role (Continued)

52. Aren't present funding determinations by Congress sound and fully adequate to meet the Nation's needs? (Cramer, Hershey)

It would be imprudent to state that any funding determinations are as good as they could be, i.e., that we have arrived at perfection. The underlying purpose of establishing a Department of Transportation is to do a better job in the transportation field than we have been able to do in the past.

Questions Related to Presidential Role

53. Doesn't the Budget Bureau now do a pretty good job of resolving where we invest national tax dollars for the improvement of transportation? (p. 389) -- Burton

Will there be a Presidential Special Assistant (a Mr. X) or some other person in the White House office making decisions on transportation matters required of the President by this bill? (p. 466) -- Brown

Won't the President have more responsibilities than he ever had after this bill becomes law? (p. 618) -- Hartranft

Does Section 7(a) give the Secretary and the President absolute and complete control over all types of transportation? (p. 467) -- Congressman Cramer

Should the President, usurping Congress' present prerogatives, be involved in decisions on specific transportation projects, on a case-by-case basis according to Section 7(b)? (p. 458/462) -- Congressman Cramer

The President is not given any additional responsibilities by this bill; it is expected, however, that information and analyses developed pursuant to the authority granted in the bill would enable the President to fulfill his present responsibilities more effectively with the help of a Cabinet Secretary. Moreover, a more effective organization of transportation activities should make it less necessary for the President to have any additional personnel on the White House staff dealing with transportation. He would be put in a position to make better informed recommendations to the Congress. As a matter of fact, the President would not make judgments on a case-by-case basis but would approve overall standards and such changes as conditions require in the criteria developed by the Secretary of Transportation and the Water Resources Council. Such criteria would then be used by the operating agencies in developing and evaluating projects on a case-by-case basis.

Finally, the Bureau of the Budget does not now, in any meaningful sense, "resolve" where national tax dollars are invested in transportation. Agencies make recommendations to the President in their budget proposals; the Bureau of the Budget reviews these proposals and makes additional recommendations to the President; the President reviews both agency and BOB recommendations and in turn makes recommendations to the Congress; the Congress reviews the recommendations of the President and makes its own decision as to the allocation of investment funds.

Questions Related to Water Resources

54. Isn't it a vast change of policy to have the Corps of Engineers proposal report, written in conformity with the Secretary of Transportation's criteria, go to the President before reaching the Congress? (p. 547) -- Hershey (MacKenzie)

It is no change in policy to have the Corps of Engineers project reports go to the White House staff before they are transmitted by the Secretary of the Army to the Congress. Projects are presently reviewed by the Bureau of the Budget and such other Government agencies as are found to have expertise or interest in the proposals and are then returned to the Corps with whatever comments may have developed for transmittal to the Congress by the Secretary of the Army.

55. Doesn't Section 7 give the Secretary a veto on Corps projects? -- Hirschfield

Section 7 does not create a veto power for the Secretary. It is not the intent of the bill that procedures established by the President would supplant or modify the present legal requirement that reports prepared by the Corps of Engineers shall be submitted to Congress by the Secretary of the Army.

56. How are Section 7 and the Water Resources Council Act similar? (p. 61) -- Brown

Is Congress changing the terms of the Water Resources Council Act by now vesting final authority in the President, rather than the Council, on transportation matters affecting water programs? (p. 479) -- Congressman Cramer

Why shouldn't Secretary be put on Water Resources Council? (Mechling)

Which standards will control on water projects -- those for transportation or for other purposes? Shouldn't criteria for these other purposes be entirely separate from transportation features? (p. 480) -- Congressman Cramer

Questions Related to Water Resources (Continued)

Center for
Transportation
Does the bill give the Secretary authority to establish the standards that would affect the cost/benefit ratios? (p. 442) -- Erlenborn

The authority of the Water Resources Council to develop standards and criteria for the appraisal of water resources projects is very similar to the authority that would be placed in the Secretary of Transportation to develop standards and criteria for the evaluation of transportation projects. In both cases Presidential approval is required. It is in those instances where projects are both transportation and water resources oriented that the compatibility of criteria must be achieved. It would not be required, however, that they be identical. To achieve compatibility it has been proposed that the Secretary of Transportation be a member of the Water Resources Council for purposes of considering the transportation criteria applicable to water resources projects. There would be no objection to this modification.

Lastly, the Secretary is given authority by Section 7 to establish the standards affecting a cost/benefit ratio. The ratios are calculated by ordinary arithmetical processes pursuant to data gathered under the guidelines of standards and criteria for costs and benefits, however established.

Nothing, however, derogates from the Corps of Engineers present authority to develop the data for the necessary calculations.

Questions Related to Highways

57. Does the bill contain a substantive change in Title 23 of the United States Code? Does Section 7, read in conjunction with Sections 2 and 4, give the Secretary of Transportation the authority to control all projects involving Federal funds in the field of transportation including, among others, highways and waterways? (p. 429) -- Congressman Fallon

Under the wording of Section 7, could the Secretary transfer funds from the highway trust fund for other purposes? (p. 430) -- Congressman Fallon

Doesn't Section 7 set the stage for future pressure to convert the highway trust fund into a transportation trust fund? (p. 469) -- Congressman Cramer

Can Section 7(a) be interpreted to read that the criteria will extend power to the Secretary of Transportation in such a way as to defeat the purposes of existing law -- particularly giving the Secretary authority to use highway trust funds for any form of transportation? (p. 440) -- Holifield

Questions Related to Highways

Center for
Transportation

Does Section 7 empower the Secretary of Transportation to decide first what criteria and standards there will be for a highway program and then to decide whether or not it should be done? (p. 454) -- Congressman Cramer

No authority in the bill would enable the Secretary to transfer funds from the highway trust fund to other transportation purposes nor would Section 7 or any other part of the bill enable the Secretary to defeat the purposes of existing law.

It is not the intent of Section 7, nor would it be consistent with sound transportation investment policy, for the Secretary to alter overall transportation standards and criteria for the evaluation of any individual highway project or any other single project affecting another mode. As a matter of fact, under existing statutory authority being transferred, the Secretary of Commerce now has the power to approve or disapprove highway projects, without reference to overall, consistent transportation standards.

The bill makes no change in Title 23 of the United States Code. Sections 2, 4, and 7 do not give any powers to the Secretary of Transportation, except with respect to inland water navigation projects, which the Secretary of Commerce does not now have. The purpose of the bill is to require the Secretary to make more explicit and objective the basis upon which he exercises this power.

58. Why is the authority to incorporate defense needs in the highway program taken from the Administrator and vested in the Secretary of Defense? (p. 478) -- Congressman Cramer

The bill does not transfer authority with respect to the determination of defense needs for highways from the Bureau of Public Roads to the Department of Defense. It refers only to existing authority exercised by the Secretary of Defense.

Other Questions

59. How can the Federal Government speak with one voice on transportation policy and adopt another when it acts as a customer for transportation goods and services? (p. 789) -- Erlenborn

Criteria for the purchase of transportation goods and services will continue to be established by the purchasing Federal agency. Such criteria for levels of cost, quality, and effectiveness should be left, in the interests of efficiency and flexibility, to the purchasing agencies. The criteria and standards for federal investment in transportation facilities, whether for the facilitation of air, sea, or land movement, are to be centrally established in the total interests of all users and will be of a different nature than those used in procurement.

Other Questions (Continued)

60. What rationale is there for refusing to apply American national transportation policy to other countries?

(p. 479) -- Cramer

The transportation needs of this country are unique to this country. The criteria and standards established for federal investment will be constructed to take maximum advantage of our present transportation network in planning for future growth and development. Each of the countries of the world to which we give economic aid and assistance, has its own transportation problems and needs, its own in-being transportation facilities and constraints. It would be highly inappropriate to require standards established for domestic needs to be adopted by other countries with totally different requirements.

61. What guarantee is there that the investment criteria will be the same for all modes? (p. 528) -- Hershey

There is no guarantee that the investment criteria will be identically the same for all purposes but the explicit purpose of the bill is to standardize the tests by which investment decisions are made. The whole idea is to assure that money spent in one area will bring reasonably close to the same return as money spent in any other area of transport investment.

62. Would Section 7 allow the Secretary to favor one mode or another? (p. 96) -- Brown

Can't these broad policy powers be used to favor particular modes at the expense of others? (Mechling, Lawton, Hartranft, Tipton)

It is clearly not the intention of Section 7 to allow the Secretary to favor one mode over another. To the extent that the bill requires the Secretary to establish objective and explicit standards, it will allow him to judge needs and requirements considering all modes.

63. Could the Secretary of Transportation devise standards and criteria which would benefit railroads over water transportation or airlines over road transportation? (p. 362) -- Copenhaver

At the present time no public investment is being made in railroad facilities, but among the modes in which public investment is now being made, the Secretary of Transportation, with or without Section 7 could devise discriminatory standards. This would be in violation of the intent of Section 7; it would immediately come to the notice of the President and the Congress. It is unlikely that any such Secretary of Transportation would remain long in office.

64. Can't Section 7 be used to effect safety efforts such as Coast Guard aids to navigation? (Hirschfield).
Couldn't the same thing occur by tying Section 7 to Section 6(f) and bridge clearance? (Hirschfield)

It is difficult to see how standards and criteria established under Section 7 could have any inimical effect on Coast Guard navigation aids or bridge clearance since safety requirements on the one hand and alternate transport requirements on the other would be built into project evaluation. The purpose of Section 7 is not to frustrate the achievement of worthwhile ends but to make sure that the ends are really worthwhile and that those of greatest importance get priority consideration.

OTHER

65. What effect will the Secretary of Transportation have on the deliberations of the regulatory agencies when he appears before them in an adversary proceeding? (p. 544) -- Hershey, Mackenzie

The Secretary of Transportation would endeavor to be an articulate spokesman for the public interest. Thus, appearances would be made only in cases of broad significance to present such evidence and views as the Department believes the regulatory bodies should be aware of. Some appearances would, no doubt, be entered in adversary proceedings where the parties are properly concerned with their own particular interests.

The regulatory bodies would be perfectly free, in their best judgments, to accord the appropriate weight to such evidence and views as the Department might submit, or to have their own staffs advance different views. They do so now. There is every reason to believe that their deliberations will continue to be fair and even-handed.

66. Could not the Secretary's views before the regulatory bodies lead to, in effect, economic regulation by the Secretary? (Mathews, Mechling)

No. The regulatory bodies' Congressionally delegated powers and duties remain unimpaired. Any presentation of the Secretary would be considered with other evidence of record; his showing would enjoy no specially preferred status. As stated previously, the regulatory bodies would be perfectly free in their best judgments to accord the appropriate weight to such evidence and views. Additionally, such presentations would be subject to review by the courts and ultimately, of course, by Congress. To the extent that such views may prevail, one must assume that they will have had merit.

67. Will communications between industry and top-level Government decision makers in the transportation field be changed by this bill? (p. 617) -- Brown

The answer is no; programs will continue and existing contacts between industry and Government will be maintained. However, industry will now have a single authoritative government agency at the highest level to deal with.