

Eno

Center for
Transportation

[COMMITTEE PRINT]

**Summary of Suggested Amendments Proposed
During the Hearings on S. 3010
to Establish a
DEPARTMENT OF TRANSPORTATION**

Printed for the use of the Committee on Government Operations
United States Senate

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Transportation

MARCH 29, 1966

Hon. Warren G. Magnuson, U.S. Senator from the State of Washington.
Hon. Charles Schultze, Director, Bureau of the Budget.
Hon. Jonh T. Connor, Secretary of Commerce.
Hon. Alan S. Boyd, Under Secretary for Transportation, Department of Commerce.
Maj. Gen. R. G. MacDowell, Acting Chief of Engineers, Office of the Chief of Engineers, Department of the Army.

MARCH 30, 1966

Hon. Charles M. Haar, Assistant Secretary for Metropolitan Development, Department of Housing and Urban Development.
Charles E. Shumate, president, and A. E. Johnson, executive secretary, American Association of State Highway Officials.

MAY 3, 1966

Hon. Charles S. Murphy, Chairman, Civil Aeronautics Board.
Gen. William F. McKee, Administrator, Federal Aviation Agency.
Rear Adm. Paul E. Trimble, Chief of Staff, U.S. Coast Guard.
Hon. John W. Bush, Chairman, Interstate Commerce Commission.
James S. Hostetler, counsel, New England Council for Economic Research and Development.
Walter G. Baskerville, Sr., president, Upper Mississippi Towing Corp.
Frederick B. Lee, National Pilots Association.

MAY 4, 1966

Hon. A. S. Mike Monroney, U.S. Senator from the State of Oklahoma.
J. W. Hershey, chairman of the executive committee, Common Carrier Conference of Domestic Water Carriers.
F. A. Mechling representing the American Waterways Operators, Inc.
Joseph B. Hartranft, Jr., president, Aircraft Owners & Pilots Association.
Stuart G. Tipton, president, Air Transport Association.
Charles H. Wager, appearing on behalf of the National Industrial Traffic League.
Maj. Gen. John P. Doyle, U.S. Air Force (retired), MacDonald Chair Professor of Transportation, Texas A. & M. University.
A. B. McMullen, executive vice president, National Association of State Aviation Officials.
William K. Lawton, executive director, National Business Aircraft Association.

WITNESSES

Charles H. Ruby, president, Air Line Pilots Association.
Thomas L. Campbell, chairman, Legislative Committee, Pittsburgh Coal Exchange.
Harry M. Mack, chairman of the Board of Trustees, Ohio Valley Improvement Association, Inc.

MAY 5, 1966

Rear Adm. John Harlee, Chairman, Federal Maritime Commission.
O. H. Miller, on behalf of the Grocery Manufacturers of America.
Clifford P. Burton, executive director, Air Traffic Control Association.
R. E. Commerce, president, Air Line Dispatchers Association.
Tom Adams, secretary of state, and vice-chairman, Florida Board of Conservation.
Frank Kingston Smith, executive director, National Aviation Trades Association.

MAY 18, 1966

Hon. Jacob K. Javits, U.S. Senator from the State of New York.
Vice Adm. James A. Hirshfield, President, Lake Carriers' Association.
Captain J. W. Clark, Chairman, Committee of American Steamship Lines.
Perry M. Shoemaker, President, Central Railroad of New Jersey.
Andrew Biemiller, AFL-CIO, Department of Legislation.
Brig. Gen. John L. Person, U.S. Army (retired), Executive Vice President, National Rivers and Harbors Congress.
Paul Hall, Vice President, AFL-CIO.
Ralph E. Casey, President, American Merchant Marine Institute, Inc.

MAY 19, 1966

Najeeb E. Halaby, Senior Vice President, Pan American World Airways.
Sidney Zagri, Legislative Counsel, International Brotherhood of Teamsters.
D. P. Loomis, President, Association of American Railroads.
R. L. Wagner, Chairman, Association of Oil Pipelines.
W. J. Amoss, Chairman, Committee on National Transportation Policy, Association of Port Authorities.
Richard Spatz, Private Truck Council of America.
Giles Morrow, General Counsel, Freight Forwarders Institute.
Francis M. McDermott, Transportation Consultant.
George E. Pratt, Greater Philadelphia Chamber of Commerce.
G. E. Leighty, Chairman, Railway Labor Executives' Association.
A. C. Cocke, Chairman, Traffic Advisory Committee, Mississippi Valley Association.

89TH CONGRESS
2D SESSION

S. 3010

IN THE SENATE OF THE UNITED STATES

MARCH 2, 1966

Mr. MAGNUSON introduced the following bill; which was read twice and referred to the Committee on Government Operations

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "Department of Trans-
 4 portation Act."

DECLARATION OF PURPOSE

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 6 SEC. 2. The Congress hereby declares that the general
 7 welfare, the economic growth and stability of the Nation
 8 and its security require the development and implementation
 9 of national transportation policies and programs conducive
 10 to the provision of fast, safe, efficient, and convenient trans-
 11 portation at the lowest cost consistent therewith and with

Walter G. Baskerville, Sr., president, Upper Mississippi Towing Corp.:
 Proposes revision of Sec. 2 to insure that Congress retains its authority over transportation policy.

J. W. Hershey, chairman, executive committee, Common Carrier Conference of Domestic Water Carriers:

(1) Objects to Sec. 2—national transportation policy already established.

(2) Objects to Sec. 4(a) as unlawful delegation of legislative authority and function.

Stuart G. Tipton, president, Air Transport Association:

(1) What policy is to govern Secretary—wants clarification between Secs. 2 and 4.

(2) Wants clarification with respect to effect upon Secretary of DOT upon transportation policy previously laid down by Congress.

(3) Suggests merging Secs. 2 and 4 so as to provide a clear definition of the powers which Congress wants to confer on the Secretary of DOT.

(4) Suggests that the congressional policy stated in the Federal Aviation Act should govern not only the Administrator of the FAA and the CAB, but also Secretary of DOT when he is acting in the aviation field.

THE BILL

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1 other national objectives, including the efficient utilization
2 and conservation of the Nation's resources.

3 The Congress therefore finds that the establishment of
4 a Department of Transportation is necessary in the public
5 interest and to assure the coordinated, effective administra-
6 tion of the transportation programs of the Federal Gov-
7 ernment; to facilitate the development and improvement of
8 coordinated transportation service, to be provided by private
9 enterprise to the maximum extent feasible; to encourage co-
10 operation of Federal, State, and local governments, carriers,
11 labor, and other interested parties toward the achievement
12 of national transportation objectives; to stimulate technologi-
13 cal advances in transportation; to provide general leadership
14 in the identification and solution of transportation problems;
15 and to develop and recommend national transportation
16 policies and programs to accomplish these objectives with
17 full and appropriate consideration of the needs of the pub-
18 lic, users, carriers, industry, labor, and the national defense.

COMMENTS AND SUGGESTED AMENDMENTS 2

Charles H. Ruby, president, Air Line Pilots Association:

Does not object to establishment of DOT, but recommends that functions be transferred in stages, beginning with all surface transportation functions. Aviation and air functions might be added later as experience shows it to be in the public interest—develop functions of DOT in stages. This would avoid functional vacuum during and after transfer.

Suggests amendment of Sec. 2 as follows:

"The Congress does not intend through the establishment of this Department to restrict, change, modify, or abolish the existing functions, powers, and duties of the governmental agencies, programs, and acts transferred to the Secretary of Transportation under section 6 of this Act to the extent that they are not restricted, changed, modified, or abolished elsewhere in the Act, and further, it is intended that all procedures and policies now in existence which are affected by the provisions of this Act shall be continued."

Tom Adams, Secretary of State, Fla., Florida Board of Conservation:

Desire statement of legislative policy—Proposes following amendment to Sec. 2 as concerns water resources:

On Page 2, following line 18, at the end of Section 2, add the following insert in Section 2:

"In view of the interdependence of the programs for developing the land and water resources with developing the nation's system of inland waterways, nothing in this act shall be construed to confer upon the Secretary of Transportation duties and responsibilities previously vested in the Water Resources Council. The Water Resources Council shall establish principles, standards and procedures for Federal participation in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects.

"For the purpose of establishing such principles, standards and procedures, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway, where the savings to shippers shall be construed to mean the difference in the current freight rates or charges for the movement by alternative means and those which would be charged on the proposed waterway, and where the estimate of traffic that would use the waterway shall be based on existing freight rates, and taking into account projections of the economic growth of the affected area."

Stuart G. Tipton:

Proposes an amendment to shorten the statement of purpose and objectives of the bill and to eliminate the confusion which arises by the detailed statement of purpose in the second paragraph of section 2, and its transfer by inference in section 4 as a statement of responsibilities of the Secretary.

On page 2, line 5, insert a period after the word "interest" and strike the remainder of line 5 through line 18.

Giles Morrow, general counsel, Freight Forwarder Institute:

Too broad—should limit language to nonregulatory transportation functions. Would limit Secretary of DOT to recommending policies to Congress and the President. Would not allow Secretary of DOT to tell regulatory agencies how to interpret policies laid down by Congress.

Adm. James A. Hirshfield, president, Lake Carriers' Assn.:

Must make it clear Secretary recommends policy to Congress rather than giving Secretary authority to establish such policy.

Brig. Gen. John L. Person, USA (Ret.), executive vice president, National

Rivers and Harbors Congress:

To have Congress determine policy on water resource projects.

Andrew Bie-miller, AFL-CIO:

To provide for an office within the Department of Transportation with the specific responsibility of representing the public interest in certain merger, passenger train discontinuance, and line abandonment cases involving railroads.

THE BILL

ESTABLISHMENT OF DEPARTMENT

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SEC. 3. (a) There is hereby established at the seat of

government an executive department to be known as the

Department of Transportation (hereinafter referred to as the

“Department”). There shall be at the head of the Depart-

ment a Secretary of Transportation (hereinafter referred to

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1 as the “Secretary”), who shall be appointed by the Presi-

2 dent, by and with the advice and consent of the Senate.

3 (b) There shall be in the Department an Under Secre-

4 tary, who shall be appointed by the President, by and with

5 the advice and consent of the Senate. The Under Secretary

6 (or, during the absence or disability of the Under Secretary,

7 or in the event of a vacancy in the office of Under Secretary,

8 and Assistant Secretary determined according to such order

9 as the Secretary shall prescribe) shall act for, and exercise

10 the powers of the Secretary, during the absence or disability

11 of the Secretary or in the event of a vacancy in the office of

12 Secretary. The Under Secretary shall perform such func-

13 tions, powers, and duties as the Secretary shall prescribe

14 from time to time.

15 (c) There shall be in the Department four Assistant

16 Secretaries and a General Counsel, who shall be appointed

17 by the President, by and with the advice and consent of the

Senator Magnuson:

- (1) Recommends establishment of an Office of Passenger Transportation.
- (2) Recommends establishment of Office of Transportation Mergers reporting directly to an Assistant Secretary—to be given the responsibility and the staff to formulate a Government position, after consultation with other Government agencies, the States, industry, and the public and to develop and present the public interest and viewpoint before the regulatory agencies.

Senator Javits:

To require the designation of an Assistant Secretary in the new Department of Transportation to handle urban mass transit.

Appointment by President of an Assistant Secretary representing each mode of transportation within the Department.

F. A. Mechling, American Waterways Operators, Inc.:

Approves establishment of DOT—proposes following amendment:

Appointment by President of an Assistant Secretary representing each mode of transportation within the Department.

G. E. Leighty, chairman, Railway Labor Executives' Association:

Would abolish President's Interagency Committee on Transportation Mergers and transfer its functions to the Office of Transportation Mergers, which Senator Magnuson recommended for inclusion in DOT.

(Eliminating these items would require elimination of Sec. 8(d) (e) (g)).

Transportation of explosives is a special problem and should not be transferred.

(3) Suggests we make certain that nothing in S. 3010 will change present law in respect to requirement that Coast Guard obtain an annual authorization for its capital expenditure program.

O. H. Miller, Grocery Manufacturers of America:

Desires a provision in bill which would require “someone in the Department of Transportation to concern themselves with shipper problems”.

Tom Adams:

Add Secretary of DOT as a member of Water Resources Council. Proposes following amendment:

On Page 3, following line 24, after Subsection (d), add the following insert, to be Subsection 3(e):

“(e) The Water Resources Council established under section 101 of Public Law 89-80 is hereby expanded to include the Secretary of Transportation.”

18 Senate, and who shall perform such functions, powers, and
19 duties as the Secretary shall prescribe from time to time.

20 (d) There shall be in the Department an Assistant Sec-
21 retary for Administration, who shall be appointed, with the
22 approval of the President, by the Secretary under the classi-
23 fied civil service who shall perform such functions, powers,
24 and duties as the Secretary shall prescribe from time to time.

4

1 GENERAL PROVISIONS

2 SEC. 4. (a) The Secretary in carrying out the pur-
3 poses of this Act shall, among his responsibilities, exercise
4 leadership under the direction of the President in transpor-
5 tation matters, including those affecting the national defense
6 and those involving national or regional emergencies; de-
7 velop national transportation policies and programs, and
8 make recommendations for their implementation; promote
9 and undertake development, collection, and dissemination of
10 technological, statistical, economic and other information
11 relevant to domestic and international transportation; and
12 promote and undertake research and development in and
13 among all modes of transportation and types of transportation
14 services and facilities.

15 (b) In exercising the functions, powers, and duties
16 herein conferred on and transferred to the Secretary, the
17 Secretary shall give full consideration to the need for opera-

Senator Magnuson:

4(a)(1) Why not include transportation of Government goods and personnel (\$4 billion in last fiscal year)—in responsibilities of Secretary of DOT? Should he not also exercise leadership and require Government agencies to comply with national transportation policy? Suggests Government agencies be required to consult with Secretary of DOT on these matters.

(2) Where does urban and interurban transportation come in? Guidelines are required in this important field.

4(b) Concerned about operational continuity following lapse of Maritime Administration, Bureau of Public Roads, and FAA. Suggests considering transfers as legal entities.

Gen. William F. McKee, Administrator, Federal Aviation Agency:

4(b) Rewrite Sec. 4(b) so as to clarify the intention to maintain operational integrity of FAA.

J. W. Hershey:

4(a)(1) Wants elimination or clarification.

(2) Wants Congress to make national policy relative to transportation and to standards and criteria.

Charles H. Wager, National Industrial Traffic League:

4(j) Appropriate procedures should be provided whereby the Secretary and the National Transportation Safety Board shall afford appropriate opportunity for interested parties to present their views prior to the issuance of decisions, orders or other actions.

Tom Adams:

4(a) To tighten the language and clarify the Secretary's authority with respect to congressional policy, following amendments are suggested, (together with clean text of amended section):

On page 4, line 14, at end of Subsection (a), substitute a comma for the period and add the following insert: "all within the limitations and specifications as detailed in this act."

Clear Text of Section 4(a) Amendment

"Sec. 4. (a) The Secretary in carrying out the purposes of this Act shall, among his responsibilities, exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; develop national transportation policies and programs, and make recommendations for their implementa-

18 tional continuity of the functions transferred, to the need for
 19 effectiveness and safety in transportation systems, and to
 20 the needs of the national defense.

21 (c) As necessary, and when not otherwise available,
 22 the Secretary is authorized to provide for, construct, or main-
 23 tain the following for employees and their dependents sta-
 24 tioned at remote localities:

25 (1) Emergency medical services and supplies;

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1 (2) Food and other subsistence supplies;

2 (3) Messing facilities;

3 (4) Motion picture equipment and film for recrea-
 4 tion and training;

5 (5) Reimbursement for food, clothing, medicine,
 6 and other supplies furnished by such employees in emer-
 7 gencies for the temporary relief of distressed persons;
 8 and

9 (6) Living and working quarters and facilities.

10 The furnishing of medical treatment under paragraph (1)
 11 and the furnishing of services and supplies under para-
 12 graphs (2) and (3) of this subsection shall be at prices
 13 reflecting reasonable value as determined by the Secretary,
 14 and the proceeds therefrom shall be credited to the appro-
 15 priation from which the expenditure was made.

tion; promote and undertake development, collection, and dissemination of tech-
 nological, statistical, economic, and other information relevant to domestic and
 international transportation; and promote and undertake research and develop-
 ment in and among all modes of transportation and types of transportation
 services and facilities, all within the limitations and specifications as detailed in
 this act."

Stuart G. Tipton:

Suggests the following:

The purpose of this amendment so as to state in one place and in more
 detail, the specific duties and responsibilities of the Secretary of Transporta-
 tion. This will eliminate ambiguity and provide a more readily understand-
 able focus for the objectives of the Department.

On page 4, line 1, change the title to "Duties and Powers of the Secretary."

On page 4, line 3, after "responsibilities", strike the comma and all of
 the remainder of Section 4(a) and substitute the following:

"(1) Exercise leadership under the direction of the President in trans-
 portation matters, including those affecting the national defense and those
 involving national or regional emergencies;

"(2) Provide general leadership in the development of national transpor-
 tation policies and programs and make recommendations to the President and
 Congress for their implementation;

"(3) Encourage the development and improvement of transportation
 services and facilities by private enterprise to the maximum extent possible;

"(4) Coordinate Federal planning for the development of transportation
 facilities;

"(5) Encourage safety and develop safety standards and regulations in
 those areas of transportation specifically assigned to him;

"(6) Coordinate and promote research and development in and among
 all modes of transportation and of transportation services and facilities;

"(7) Undertake the development, collection, analysis, and dissemination
 of technical, statistical, economic and other information relative to domestic
 and international transportation;

"(8) Facilitate and encourage the development and improvement of co-
 ordinated transportation services;

"(9) Encourage government agencies engaged in the procurement of
 transportation or the operation of their own transport services to establish and
 observe policies consistent with the maintenance of a strong transportation
 system operated by private enterprise;

"(10) Encourage cooperation of Federal, state and local governments,
 carriers, labor, shippers, travelers, and other interested parties toward the
 achievement of national transportation objectives.

"In carrying out his duties the Secretary shall be governed by the policy
 standards set forth in Title I of the Federal Aviation Act, Title of the
 Interstate Commerce Act, and Title of the War Shipping Act."

Najeeb E. Halaby, senior vice president, Pan American World Airways:

Strengthen Sec. 4(b) so that operating functions of FAA not be dis-
 rupted—especially air traffic control—safety standards and national defense.
 Keep their functions unified and semiautonomous.

Giles Morrow:

Powers and duties of the Secretary of DOT should be more clearly defined.

George E. Pratt, Philadelphia Chamber of Commerce:

4(a) Should require the Secretary of DOT to submit national transpor-
 tation policies and programs to Congress for approval.

G. E. Leighty:

Eliminate Secs. 4(g)6(h) as a potential invasion of the right of privacy
 in Nation's commerce.

Andrew Biemiller:

(1) Provide for an Office of Passenger Transportation.
 (2) Provide that the car service and safety function now vested in ICC
 shall be performed by independent entity within the new Department.

16 (d) The Secretary is authorized to accept, hold, admin-
17 ister, and utilize gifts and bequests of property, both real and
18 personal, for the purpose of aiding or facilitating the work of
19 the Department of Transportation. Gifts and bequests of
20 money and the proceeds from sales of other property re-
21 ceived as gifts or bequests shall be deposited in the Treasury
22 in a separate fund and shall be disbursed upon order of the
23 Secretary of Transportation. Property accepted pursuant to
24 this provision, and the proceeds thereof, shall be used as

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1 nearly as possible in accordance with the terms of the gift or
2 bequest.

3 (e) For the purpose of Federal income, estate, and gift
4 taxes, property accepted under section 4 (d) of this Act
5 shall be considered as a gift or bequest to or for use of the
6 United States.

7 (f) Upon the request of the Secretary, the Secretary of
8 the Treasury may invest and reinvest in securities of the
9 United States or in securities guaranteed as to principal and
10 interest by the United States any moneys contained in the
11 fund authorized herein. Income accruing from such secu-
12 rities, and from any other property pursuant to section 4 (d)
13 of this Act, shall be deposited to the credit of the fund author-
14 ized herein, and shall be disbursed upon order of the Secre-
15 tary of Transportation.

16 (g) The Secretary is authorized, upon the written re-
17 quest of any person, firm, or corporation, to make special
18 statistical studies relating to foreign and domestic transporta-
19 tion, and other matters falling within the province of the De-
20 partment of Transportation, to prepare from its records
21 special statistical compilations, and to furnish transcripts of
22 its studies, tables, and other records upon the payment of
23 the actual cost of such work by the person, firm, or corpora-
24 tion requesting it.

25 (h) All moneys received by the Department of Trans-

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1 portation in payment of the cost of work under section 4 (g)
2 of this Act shall be deposited in a special account to be
3 administered under the direction of the Secretary of Trans-
4 portation. These moneys may be used, in the discretion
5 of the Secretary of Transportation, and notwithstanding
6 any other provisions of law, for the ordinary expenses inci-
7 dental to the work and/or to secure in connection there-
8 with the special services of persons who are neither officers
9 nor employees of the United States.

10 (i) The Secretary is authorized to appoint such ad-
11 visory committees as shall be appropriate for the purpose
12 of consultation with and advice to the Department in per-
13 formance of its functions. Members of such committees
14 shall be entitled to per diem and travel expenses as author-

THE BILL

15 ized by the Administrative Expenses Act of 1946 (60
16 Stat. 808), for all persons employed intermittently as con-
17 sultants or experts receiving compensation on a per diem
18 basis.

19 (j) Orders and actions of the Secretary or the National
20 Transportation Safety Board in the exercise of functions,
21 powers, and duties transferred under this Act shall be sub-
22 ject to judicial review to the same extent and in the same
23 manner as if such orders and actions had been by the agency
24 originally exercising such functions, powers, and duties.

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1 (k) In the exercise of the functions, powers, and duties
2 transferred under this Act, the Secretary is authorized the
3 same authority as vested in the agency originally exercising
4 such functions, powers, and duties, and his actions in exer-
5 cising such functions, powers, and duties shall have the same
6 force and effect as when exercised by such agency.

7 (1) (1) Nothing in this Act or other law shall pre-
8 clude appointment, detail, or assignment of a member on
9 active duty of the Coast Guard to any position in the De-
10 partment, other than Secretary, Under Secretary, and Assist-
11 ant Secretary for Administration.

12 (2) Nothing in this Act or other law shall preclude
13 appointment of a retired member of the Coast Guard to
14 any position in the Department.

THE BILL

15 (3) The provisions of section 9 (e) (1) shall apply to
16 persons appointed, detailed, or assigned under authority of
17 this subsection.

18 NATIONAL TRANSPORTATION SAFETY BOARD

19 SEC. 5. (a) There is hereby established within the De-
20 partment a National Transportation Safety Board. The
21 Board shall exercise the functions, powers, and duties trans-
22 ferred to the Secretary by sections 6 and 8 of this Act with
23 regard to (1) determining the cause or probable cause of
24 transportation accidents, and shall report the facts, condi-
25 tions, and circumstances relating to such accidents; and (2)

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1 the review on appeal of the suspension, amendment, modifi-
2 cation, revocation, or denial of any certificate or license issued
3 by the Secretary. In exercising these functions, powers, and
4 duties, the Board shall be independent of the Secretary and
5 the operating units of the Department.

6 (b) The Board shall consist of five members to be ap-
7 pointed by the President, by and with the advice and consent
8 of the Senate, and who shall continue in office as designated
9 by the President at time of nomination through the last day
10 of the first, second, third, fourth, and fifth full calendar years,
11 respectively, following the year of enactment of this Act.
12 Their successors shall be appointed for terms of five years.

COMMENTS AND SUGGESTED AMENDMENTS 9

Frederick B. Lee, National Pilots Association:

5(a) Proposes that National Transportation Safety Board be made *com-pletely* independent of the DOT and the Secretary.

F. A. Mechling:

5(a) Establish legislative history or amend so as to insure that Coast Guard will retain final authority for merchant marine safety functions.

William K. Lawton, National Business Aircraft Association:

5(a) Proposes National Transportation Safety Board completely independent of DOT and Secretary—with status of an independent office, having entire accident investigation and appeal functions.

Charles H. Ruby:

5(b) Amend Section 5(b) to provide for specific qualification requirements for NTS Board members; further, each member should be required to have at least 10 years of operational experience and following categories should be represented on the Board: (1) Aviation (civil), (2) Highway, (3) Marine, (4) Rail, and (5) Systems engineering.

Amend Section 5(b) (pg 9, lines 1-5;) so as to include from its scope those functions, powers and duties transferred to the Secretary of DOT by Sec. 6(d), insofar as they might refer to review on appeal of a suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary to airmen, leaving this function, power or duty to CAB.

Stuart G. Tipton:

In the event that the National Transportation Safety Board is not given aviation accident investigation authority (which would remain with FAA and CAB), it is proposed to specifically provide for the loan of aviation accident personnel and facilities to the National Transportation Safety Board or their agencies of government when such loans may be useful in investigating other types of accidents or improving transportation safety.

The following amendment is suggested to accomplish this:

On page 11, strike subsection 5(h); i.e., lines 9 through 13, and insert in lieu thereof the following:

“The Civil Aeronautics Board and the Federal Aviation Administrator are authorized to make available on a reimbursable basis, facilities and personnel, especially experienced and useful in accident investigation techniques, to the National Transportation Safety Board, the Secretary or any other agency of government, for the purpose of contributing to the improvement of transportation safety.”

To make it clear that the National Transportation Safety Board's accident investigation functions are confined to those specifically conferred on it by this Act, the following amendment is proposed:

On page 11, line 14, insert after (i) the following:

“With respect to the functions vested in the Board by this Act,”.

Spatz, Richard E., Truck Council of America, Inc.:

If safety functions are transferred, should provide for public hearing on new regulations instead of relying on Sec. 4 of the Administrative Procedures Act. Should also write requests as to procedure in the bill like those provided for in Sec. 17 of ICC Act, rather than those of Sec. 7 and 8 of the Administrative Procedures Act.

Francis M. McDermott, Transportation Consultant:

Need a truly independent National Transportation Safety Board. Agency should not be allowed to investigate its own operation, e.g. FAA.

THE BILL

13 in the same manner as the members originally appointed
14 under this Act. Members of the Board shall be appointed
15 with due regard to their fitness for the efficient dispatch of
16 the functions, powers, and duties vested in and imposed
17 upon the Board. Members of the Board may be removed
18 by the President for inefficiency, neglect of duty, or mal-
19 feasant in office.

20 (c) Any person appointed to fill a vacancy occurring
21 prior to the expiration of a term for which his predecessor
22 was appointed shall serve only for the remainder of such
23 term. Upon the expiration of his term of office, except in
24 the case of a member removed for cause under section 5 (b),

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1 a member shall continue to serve until his successor is ap-
2 pointed and shall have qualified.

3 (d) The President shall designate from time to time
4 one of the members of the Board as Chairman and one of
5 the members as Vice Chairman, who shall act as Chairman
6 in the absence or incapacity of the Chairman, or in the event
7 of a vacancy in the office of the Chairman. The Chairman
8 shall be the chief executive and administrative officer of the
9 Board and shall exercise the responsibility of the Board with
10 respect to (1) the appointment and supervision of personnel
11 employed by the Board; (2) the distribution of business
12 among the Board's personnel; and (3) the use and expendi-

COMMENTS AND SUGGESTED AMENDMENTS 10

G. E. Leighty:

(1) Suggests National Transportation Safety Board be set up with four subdivisions—rail, highway, maritime and aviation. Suggests that the examiners who conduct accident investigations hearings at ICC be transferred to DOT along with Bureau of Railroad Safety and Service.

(2) Amend Sec. 5(d) (3) to require Board's approval of expenditures—
fear one man control.

Andrew Biemiller:

(1) Provision for the establishment of divisions within the Board, each with sole responsibility over safety functions relating to a single mode of transportation.

(2) Assign to the Secretary of Transportation enlarged jurisdiction over all aspects of railroad safety.

THE BILL

13 ture of funds. In executing and administering the functions
14 of the Board on its behalf, the Chairman shall be governed
15 by the general policies of the Board and by its decisions,
16 findings, and determinations. Three of the members shall
17 constitute a quorum of the Board.

18 (e) The Chairman of the Board shall be compensated
19 at the rate provided for at level V of the Federal Executive
20 Salary Act of 1964 (78 Stat. 416), as provided in section
21 10 (d) (4) of this Act. Members of the Board shall be
22 compensated at the rate now or hereafter established for
23 grade 18 of the General Schedule of the Classification Act
24 of 1949 (63 Stat. 954).

25 (f) The Board is authorized to establish such rules, reg-

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1 ulations, and procedures as are necessary to the exercise of
2 its functions.

3 (g) The Board, any member thereof, or any hearing
4 examiner assigned to the Board shall have the same powers
5 as are vested in the Secretary to hold hearings, sign and
6 issue subpoenas, administer oaths, examine witnesses, and
7 receive evidence at any place in the United States it may
8 designate.

9 (h) Subject to the proviso in section 701 (g) of the
10 Federal Aviation Act of 1958 (72 Stat. 731), the Board
11 may delegate to any officer or official of the Board or, with

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12 the approval of the Secretary, to any officer or official of the
13 Department such of its functions as it may deem appropriate.

14 (i) The Board is further authorized to make such
15 recommendations concerning transportation safety to the Sec-
16 retary as it may deem appropriate, including recommenda-
17 tions for the conduct of special safety studies on matters
18 pertaining to safety in transportation and the prevention of
19 accidents, the initiation of accident investigations, and rules,
20 regulations, and procedures for the conduct of accident
21 investigations.

22 (j) Subject to the civil service and classification laws,
23 the Board is authorized to select, appoint, employ, and fix
24 compensation of such officers and employees, including attor-

12

1 neys, as shall be necessary to carry out its powers and duties
2 under this Act.

3 (k) The Secretary shall provide to the Board financial
4 and administrative services, the cost of which shall be paid
5 in advance, or by reimbursement, from funds of the Board.

TRANSFERS TO DEPARTMENT

7 SEC. 6. (a) There are hereby transferred to and vested
8 in the Secretary all functions, powers, and duties of the
9 Secretary of Commerce and other officers and offices of the
10 Department of Commerce under title 23, United States
11 Code, relating to highways; the Federal Aid Highway Act

Senator Magnuson:

6(e) (1) Transfer all car-service functions, including fixing of incentive per diem rates, to DOT. (Under S. 3010, fixing of incentive per diem rates would remain in ICC.) (Bush, Chairman, ICC, agrees).

6(c) (2) Transfer FAA without basic alteration of its present structure and retain position of Administrator or as Presidential appointee who would report to the President through Secretary of Transportation.

6(a) (3) Maritime Administrator should be appointed by President, subject to Senate confirmation, so as to strengthen Maritime Administrator's position.

Committee should explore, with the Chairman and Members of the Public Works Committee, the advisability of making the Administrator of the Bureau of Public Roads a Presidential appointee.

12 of 1962 (76 Stat. 1145), relating to engineering and plan-
 13 ning surveys concerning highway construction programs in
 14 Alaska; the Act of July 14, 1960 (74 Stat. 526), relating
 15 to the National Driver Register Service; the Federal Aid
 16 Highway Act of 1954 (68 Stat. 70), relating to the Great
 17 River Road; the Highway Revenue Act of 1956 (70 Stat.
 18 387), relating to the highway trust fund; the Highway
 19 Beautification Act of 1965 (79 Stat. 1028); the Alaska
 20 Omnibus Act (73 Stat. 141), relating to transfers of lands,
 21 buildings, fixtures, and other property used in connection
 22 with Bureau of Public Roads activities in Alaska; Senate
 23 Joint Resolution 81 (79 Stat. 578), relating to reports of
 24 highway needs to Congress; section 525 (c) of the General
 25 Bridge Act of 1946 (60 Stat. 847), relating to the location

1 of and plans for interstate bridges; the Act of July 26, 1956
 2 (70 Stat. 669), relating to the Muscatine Bridge Commis-
 3 sion; the Act of December 21, 1944 (58 Stat. 846), relating
 4 to the City of Clinton Bridge Commission; the Act of
 5 April 12, 1941 (55 Stat. 140), relating to the White
 6 County Bridge Commission; the Act of April 27, 1962
 7 (76 Stat. 59), relating to the annual audit of bridge con-
 8 missions; the Act of September 30, 1965, relating to high-
 9 speed ground transportation (79 Stat. 893); the Urban

Senator Monroney:

- (1) If FAA is transferred, it should be as an independent entity.
- (2) Make clear that Administrator should report to President through Secretary of Transportation and not through a layer of Assistant Secretaries.
- (3) (Proposes amendment of 9(j) so as to eliminate lapse of FAA as legal entity.)
- (4) Head of FAA activity should be retained as Presidential appointee, subject to Senate confirmation.

Senator Javits:

- (1) Maintain CAB as independent agency.
- (2) Transfer Maritime, Bureau of Public Roads, FAA as legal entities.
- (1) Retain the existing identity of the Maritime Administration, the Bureau of Public Roads and the Federal Aviation Agency.
- (2) The independence of aviation accident investigation should be preserved in an independent agency—the CAB—which is an arm of the Congress.
- 6(d) (4) Independence of CAB in accident investigations should be preserved.

Walter G. Baskerville:

- 6(f) Delete 6(f) so as to leave all present powers and duties of Secretary of Army and Corps of Engineers where they are.
- 6(c) Proposes to leave Coast Guard out—proposes (in effect) deletion of transfer.

Frederick B. Lee:

- 6(c) Leave FAA as is. (Delete Sec. 6(c)).
- 6(d) Accident investigation functions of CAB should be left intact and not rejoined with FAA in DOT.
- Prefers that CAB accident investigation function remain where it is. But—
- (1) If CAB's safety functions are transferred, the bill should be amended to transfer CAB Bureau of Safety intact to NSTB.
- (2) Responsibility for aircraft accident investigation should be assigned directly to NSTB and *not* the Secretary of DOT and NSTB exercise this function completely independent of Secretary.

F. A. Mechling:

- 6(b) (1) Establish legislative history or amend so as to make certain that Coast Guard will retain final authority for merchant marine safety functions.
- 6(f) Legislative history is established to show that the intent of the Congress is that the Secretary of DOT in the exercise of his authority to determine clearances in bridges crossing navigable waterways will not create an undue hazard or burden upon commercial navigation. (Suggests amendatory language (318) as contained in S. 2483.)

Joseph B. Hartranft, president, Aircraft Owners and Pilots Association:

- 6(c) Leave FAA as an independent agency—delete from bill entirely.
- 6(d) Leave accident investigation functions with CAB as at present.
- (NOTE.—Provisions of FAA Act of 1958 concerning qualifications of FAA Administrator are lost—as are limiting provisions regarding military background of Administrator and Deputy Administrator.)

Stuart G. Tipton:

- 6(c) (1) Transfer FAA to DOT intact and provide that Administrator report to President and Congress through Secretary of DOT.
- (2) Further clarify relations between FAA Administrator and Secretary of DOT.

On page 12, insert between Sections 5 and 6 a new section titled "Transfer of the Federal Aviation Agency." The new section would read as follows:
 "(a) The Federal Aviation Agency together with its functions, powers and duties, is hereby transferred intact to the Department of Transportation. All of the powers and duties of the Administrator set forth in the Federal Aviation Act of 1958, as amended, shall continue to be exercised by the Administrator, and all of the provisions of said Act shall remain in full force and effect except as specifically modified herein.

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10 Mass Transportation Act of 1964 (78 Stat. 302); the Act
11 of September 7, 1957 (71 Stat. 629), and section 410 of
12 the Federal Aviation Act of 1958 (72 Stat. 769), relating
13 to guarantee of loans for the purchase of aircraft and air-
14 craft equipment; title XIII, War Risk Insurance, of the
15 Federal Aviation Act of 1958 (72 Stat. 800); the Great
16 Lakes Pilotage Act of 1960 (74 Stat. 259); the Merchant
17 Marine Act, 1920 (41 Stat. 988); the Merchant Marine
18 Act, 1928 (45 Stat. 689); the Merchant Marine Act, 1936
19 (49 Stat. 1985); the Shipping Act, 1916 (39 Stat. 728);
20 the Merchant Ship Sales Act of 1946 (60 Stat. 41); the
21 Maritime Academy Act of 1958 (72 Stat. 622); the Act
22 of June 12, 1940 (54 Stat. 346), relating to assistance to
23 maritime schools; the Act of August 30, 1964 (78 Stat.
24 614), relating to the fishing fleet; the Act of September 14,

14

1 1961 (75 Stat. 514), relating to appointments to the Mer-
2 chant Marine Academy; the Act of June 13, 1957 (71
3 Stat. 73), to the extent it relates to operating-differential
4 subsidies; the Act of June 12, 1951 (65 Stat. 59), relating
5 to vessel operations revolving fund; the Act of July 24,
6 1956 (70 Stat. 605), relating to the grant of medals and
7 decorations for service in the United States merchant ma-
8 rine; the Act of August 9, 1954 (68 Stat. 675), relating
9 to emergency foreign merchant vessel acquisition and opera-

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“(b) For the purpose of developing transportation policy recommenda-
tions for the consideration of Congress and the President, the Secretary shall
have general direction of the Administrator. In the event of conflict between
the Administrator of the Federal Aviation Agency and any other division or
agency of the Department concerning the interpretation or application of any
part of the Federal Aviation Act other than those relating to Title III, VI and
VII, the matter may be submitted to the Secretary for determination.

“(c) No provision of this Act shall be so construed as to prevent the
Administrator of the Federal Aviation Agency from presenting to the Con-
gress, on his own initiative, after first so informing the Secretary of Trans-
portation, any recommendations relating to the Federal Aviation Agency that
he may deem proper.

“(d) The Administrator shall prepare and submit his budget independ-
ently of the Department of Transportation.

“(e) Except as provided herein, the powers of the Administrator shall not
be transferred to the Secretary or any other division of the Department of
Transportation or any other agency of the government, except in accordance
with specific enabling legislation.

“(f) The annual report of the Federal Aviation Administrator to the
President and the Congress, as required in Section 313(e) of the Federal
Aviation Act shall be submitted through the Secretary of Transportation.”

6(d)(3) Leave accident investigation functions, including determination
of probable cause in CAB.

Page 15, lines 18 through 22, Section 6(d) should be deleted.

Since the previous amendment, which provides for the transfer of the
FAA to the DOT, would take the place of Section 6(e), the following language
is suggested so as to delete the language which would transfer the functions of
FAA to the Secretary of DOT.

On page 12, line 6, this section and subsequent sections should be renum-
bered. This section should be retitled as “Other Transfers to the Department.”

Charles H. Wager:

6(e)(1) ICC should retain all safety functions and all car-service func-
tions, but ICC should seek counsel and advice from NTSB with respect to
ICC's overall safety program.

A. B. McMullen, executive vice president, National Association of State Avia-
tion Officials:

6(d) Functions and Personnel of Bureau of Air Safety should not be
removed from CAB.

William K. Lawton:

6(d) Amend section 6(d) so as to eliminate CAB from bill—(Leave
CAB's accident investigation and safety functions where they are).

Charles H. Ruby:

(1) Delete sections 6(c) and 6(d).

(2) Establish coordination policies and procedures between CAB and
NTSB with respect to accident investigation and determination.

(3) Preserve authority of CAB (Under Title VI of FAA Act of 1958)
with respect to its quasi-judicial functions relative to appeals on airmen cer-
tificates or licenses issued by FAA.

Thomas L. Campbell:

Amend section 6(f) so as to leave with Secretary of Army his functions
with respect to location and clearance of bridges in navigable waters.

Proposes that Coast Guard remain where it is—(delete Section 6(b)).

Or—if Coast Guard is transferred, take appropriate steps to “manifest
the intention of Congress to assure that the Coast Guard retain final authority
in merchant marine safety functions.

O. H. Miller:

Contends that car-service is also an economic regulation which should
remain under the jurisdiction of the ICC.

Regulatory functions of ICC pertaining to qualifications and maximum
hours of service of employees and safety of operation and equipment, of com-
mon, contract, and private carriers of property by motor vehicle—are all part

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10 tion; Reorganization Plan Numbered 21 of 1950 (64 Stat.
11 1273); Reorganization Plan Numbered 7 of 1961 (75 Stat.
12 840); Reorganization Plan Numbered 7 of 1949 (63 Stat.
13 1070); and the Act of August 1, 1947 (61 Stat. 715), to
14 the extent that it authorizes scientific and professional posi-
15 tions which relate primarily to functions transferred by this
16 subsection.

17 (b) (1) The Coast Guard is hereby transferred to the
18 Department, and there are hereby transferred to and vested
19 in the Secretary all functions, powers, and duties, relating
20 to the Coast Guard, of the Secretary of the Treasury and of
21 other officers and offices of the Department of the Treasury.

22 (2) Notwithstanding the transfer of the Coast Guard
23 to the Department and the transfer to the Secretary of the
24 functions, powers, and duties, relating to the Coast Guard,
25 of the Secretary of the Treasury and of other officers and

15

1 offices of the Department of the Treasury, effected by the pro-
2 visions of subparagraph (1) of this subsection, the Coast
3 Guard, together with the functions, powers, and duties relat-
4 ing thereto, shall operate as a part of the Navy, subject to the
5 orders of the Secretary of the Navy, in time of war or when
6 the President shall so direct, as provided in title 14, United
7 States Code, section 3.

8 (3) Notwithstanding any other provision of this Act.

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of safety regulations and are also economic regulations which should remain in ICC.

R. E. Commerce, president, Air Line Dispatchers Association:

6(d) Appears to be in favor of leaving CAB Bureau of Safety and its safety and accident investigation functions in CAB.

Najeeb E. Halaby, senior vice president, Pan American World Airways:

Administrator of FAA continue to be appointed by President.

D. P. Loomis, president, Association of American Railroads:

Feels car services rules and regulations, demurrage, storage rates and per diem are involved in economic regulations and should stay with ICC. Power to determine emergency routes should stay with ICC.

ICC should keep authority to promulgate safety rules—also involves economic regulations (have accident investigations in new DOT but leave rules and regulations with ICC).

Also leave Bureau of Explosives and safety rules for transportation of explosives with ICC.

R. L. Wagner, chairman, Association of Oil Pipelines:

Safety is integral to economics and should stay with ICC, as should the car service function.

Walter Amoss, chairman, American Association of Port Authorities, Inc.:

Maritime Administration should be independent.

Richard E. Spatz:

Safety functions of ICC should stay with ICC—notes economic impact of safety regulations.

Giles Morrow:

Sec. 6(e) should be changed to read that nothing in S. 3010 shall diminish any sections of the ICC Act rather than specifying just certain sections of the ICC Act.

Francis M. McDermott:

(1) If independent board cannot be established then all FAA investigations should go to CAB with latter retaining its present safety functions.

(2) Would strike in Sec. 6(e) the phrase "(but not including establishment of the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it)". Contends this language would prevent DOT from obtaining true financial picture of Railroads.

A. C. Cocke, chairman, Traffic Advisory Committee, Mississippi Valley Association:

Suggest that Maritime Administration be made an independent agency reporting to the Congress.

George E. Pratt:

Eliminate transfer of car service and routing functions since they involve economic regulations. Eliminate transfer of control functions in qualifications and maximum hours of service of employees to safety equipment and operations of motor carriers; also involves economic regulations.

Eliminate proposed transfer of air traffic control from FAA and the accident investigative and reporting functions from CAB.

Admiral Hirshfield:

Leave maritime safety with Coast Guard.

Ralph E. Casey, president, American Merchant Marine Institute, Inc.:

(1) Uncertainty as to the possible usurpation by the National Safety Board or any other section within the Department of the present function of the Coast Guard.

(2) All Government agencies as shippers shall be coordinated through the Department of Transportation.

(3) This legislation be amended so as not to impair the activities of agencies such as the Coast Guard and Corps of Engineers in areas where they have performed so admirably for many years;

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9 the functions, powers, and duties of the General Counsel of
10 the Department of the Treasury set out in the Uniform Code
11 of Military Justice (10 United States Code, section 801, et
12 seq.) are hereby transferred to and vested in the General
13 Counsel of the Department.

14 (c) There are hereby transferred to and vested in the
15 Secretary all functions, powers, and duties of the Federal
16 Aviation Agency, and of the Administrator and other officers
17 and offices thereof.

18 (d) There are hereby transferred to and vested in the
19 Secretary all functions, powers, and duties of the Civil Aero-
20 nautics Board, and of the Chairman, members, officers, and
21 offices thereof under titles VI (72 Stat. 776) and VII (72
22 Stat. 781) of the Federal Aviation Act of 1958.

23 (e) There are hereby transferred to and vested in the
24 Secretary all functions, powers, and duties of the Interstate
25 Commerce Commission under the Act of March 2, 1893 (27

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(4) There be established a separate independent agency for maritime activities;

(5) But failing this latter, there be conferred upon the Maritime Administrator adequate independent authority to do the job he is appointed to do with only the housekeeping functions coordinate within the new Department.

Paul Hall, vice president, AFL-CIO:

Favors an independent autonomous Maritime Administration.

Andrew Biemiller:

(1) Transfer to and vest in the Secretary of Transportation of jurisdiction over the railroad freight car supply (per Diem rates), with inward power as provided in S. 1098.

(2) Vest in Secretary of DOT authority over the establishment of compensation to be paid for the use of locomotive cars or other vehicles not owned by the carriers using it.

(3) Provide for a Federal Maritime Administration.

(4) Provide that the Civil Aeronautics Board be retained in its present status.

(5) FAA head to be Presidential appointee.

(6) Maintain status of transferred employees.

Captain J. W. Clark, chairman, Committee of American Steamship Lines:

Proposes creation of a Civil Maritime Board within Department of Transportation as an independent agency similar to the National Safety Transportation Board.

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1 Stat. 531), as amended by the Act of August 14, 1957 (71
2 Stat. 352), the Act of March 2, 1903 (32 Stat. 943), as
3 amended by the Act of April 11, 1958 (72 Stat. 86), and
4 the Act of April 14, 1910 (36 Stat. 298), as amended by
5 the Act of August 14, 1957 (71 Stat. 352), relating to
6 safety appliances; the Act of May 30, 1908 (35 Stat. 476),
7 relating to ash pans; the Act of February 17, 1911 (36 Stat.
8 913), the Act of March 4, 1915 (38 Stat. 1192), the Act
9 of June 26, 1918 (40 Stat. 616), the Act of June 7, 1924
10 (43 Stat. 659), the Act of June 27, 1930 (46 Stat. 822),
11 and the Act of April 22, 1940 (54 Stat. 148), the Act of
12 May 27, 1947 (61 Stat. 120), the Act of June 25, 1948
13 (62 Stat. 909), the Act of October 28, 1949 (63 Stat.
14 972), the Act of August 14, 1957 (71 Stat. 352), relating
15 to boiler inspection; Reorganization Plan Numbered 3 of
16 1965 (79 Stat. 1320), relating to locomotive inspection;
17 the resolution of June 30, 1906 (34 Stat. 838), relating to
18 block signals; the Act of May 27, 1908 (35 Stat. 325), the
19 Act of March 4, 1909 (35 Stat. 965), relating to investiga-
20 tion and testing of appliances and inspection of mail cars;
21 the Act of May 6, 1910 (36 Stat. 350), the Act of Septem-
22 ber 13, 1960 (74 Stat. 903), relating to accident reports;
23 the Act of March 4, 1907 (34 Stat. 1415), the Act of
24 May 4, 1916 (39 Stat. 61), the Act of June 25, 1948 (62
25 Stat. 909), the Act of August 14, 1957 (71 Stat. 352),

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1 relating to hours of service of employees; the Act of Feb-
2 ruary 23, 1905 (33 Stat. 743), the Act of June 13, 1957
3 (71 Stat. 69), relating to awards; title 18, United States
4 Code, sections 831-835, relating to explosives and other dan-
5 gerous articles; the Act of March 19, 1918 (40 Stat. 450),
6 the Act of March 4, 1921 (41 Stat. 1446), and the Act of
7 March 3, 1923 (42 Stat. 1434), as amended by the Act of
8 June 24, 1948 (62 Stat. 646), relating to the Standard
9 Time Act; and the following sections of the Interstate Com-
10 merce Act (24 Stat. 379); sections 1 (10), 1 (11), 1 (12),
11 1 (13), 1 (14) (a) (but not including establishment of the
12 compensation to be paid for the use of any locomotive, car,
13 or other vehicle not owned by the carrier using it), 1 (15),
14 1 (16), 1 (17), 6 (8), the final sentence of 15 (4), 15 (10),
15 and 420, relating to car service; section 25, relating to
16 safety appliances, methods and systems; section 226, relat-
17 ing to investigation of motor vehicle sizes and weights; sec-
18 tion 1 (21) except to the extent that it relates to the exten-
19 sion of line or lines of common carriers; section 204 (a) (1)
20 and (2) to the extent that they relate to qualifications and
21 maximum hours of service of employees and safety of opera-
22 tion and equipment; and section 204 (a) (3), (3a), and
23 (5), relating to safety.

24 Nothing in this subsection shall diminish the functions,

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1 powers, and duties of the Interstate Commerce Commission
2 under sections 1 (6), 206, 207, 209, 210a, 212, and 216 of
3 the Interstate Commerce Act or under any other section of
4 that Act not specifically referred to in the first paragraph of
5 this subsection.

6 (f) There are hereby transferred to and vested in the
7 Secretary all functions, powers, and duties of the Secretary
8 of the Army and other officers and offices of the Department
9 of the Army under section 7 of the River and Harbor Act
10 of March 4, 1915 (38 Stat. 1053), and the Act of April 22,
11 1940 (54 Stat. 150), relating to water vessel anchorages;
12 section 5 of the Act of August 18, 1894 (28 Stat. 362),
13 relating to drawbridge operating regulations; the Act of
14 June 21, 1940 (54 Stat. 497), relating to obstructive
15 bridges; section 4 of the Act of March 23, 1906 (34 Stat.
16 85), section 503 of the General Bridge Act (60 Stat. 847),
17 section 17 of the Act of June 10, 1930 (46 Stat. 552), the
18 Act of June 27, 1930 (46 Stat. 821), and the Act of August
19 21, 1935 (49 Stat. 670), relating to the reasonableness of
20 tolls; the Oil Pollution Act of 1961 (75 Stat. 402), relating
21 to the detection of oil pollution and enforcement of measures
22 against same; and section 9 of the Act of March 3, 1899 (30
23 Stat. 1151), the Act of March 23, 1906 (34 Stat. 84), and
24 the General Bridge Act (60 Stat. 847), insofar as they relate

1 to the location and clearances of bridges in the navigable
2 waters of the United States.

3 TRANSPORTATION INVESTMENT STANDARDS

4 SEC. 7. (a) The Secretary shall develop and from time
5 to time in the light of experience revise standards and criteria
6 consistent with national transportation policies, for the formu-
7 lation and economic evaluation of all proposals for the invest-
8 ment of Federal funds in transportation facilities or equip-
9 ment, except such proposals as are concerned with (1) the
10 acquisition of transportation facilities or equipment by Fed-
11 eral agencies in providing transportation services for their own
12 use; (2) an interoceanic canal located outside the contigu-
13 ous United States; (3) defense features included at the
14 direction of the Department of Defense in the design and con-
15 struction of civil air, sea, and land transportation; or (4)
16 programs of foreign assistance. The standards and criteria
17 of economic evaluation of the transportation features of
18 multipurpose water resource projects shall be developed by
19 the Secretary after consultation with the Water Resources
20 Council, and shall be compatible with the standards and
21 criteria for economic evaluation applicable to nontransporta-
22 tion features of such projects. The standards and criteria
23 developed or revised pursuant to this subsection shall be

Senator Magnuson:

- (1) Clarify Sec. 7 so as to spell out how Secretary of DOT is to perform his Sec. 7 duties in relation to Congress.
- (2) Define words "standards and criteria consistent with national transportation policies".
- (3) Make certain that Sec. 7 does not infringe on prerogatives of Congress in establishment of transportation policies.
- (4) Clarify relation between Secretary of DOT and Water Resources Council.
- (5) Regional differences must be considered.

Senator Monroney:

- (1) Language is broad and vague—impossible to determine exactly what is to be done under it. Delete Sec. 7 or
- (2) If it is retained, it should be amended substantially.
Recommends (1) adding a fifth exception to Sec. 7(a) excepting water resources projects, (2) add Secretary of Transportation as member of Water Resources Council.
- (3) Amend Sec. 7 to make clear the interest of Congress that "water-compelled rates" not be used in the economic evaluation of water resource projects,—return to pre-1964 standard of "current freight rate" formula.

Senator Javits:

Sees no reason why Government, which is biggest shipper, should be exempted from policy decisions made in the DOT or why Government should not conform to national transportation policy.

J. W. Hershey:

- 7(a) (1) Congress should establish transportation policies and criteria.
- 7(b) (2) Congress has already established the standards and criteria to be established—(cost/benefit ratio—is measure of economic feasibility of waterway improvements).
"Rivers and Harbors Improvement Act is based on congressional mandate that the desirability of waterway improvements shall be determined by the public benefit and need, and not upon factors involving intermodal transportation competition as would be required in our estimation by subsection 7(b) of the proposed act."

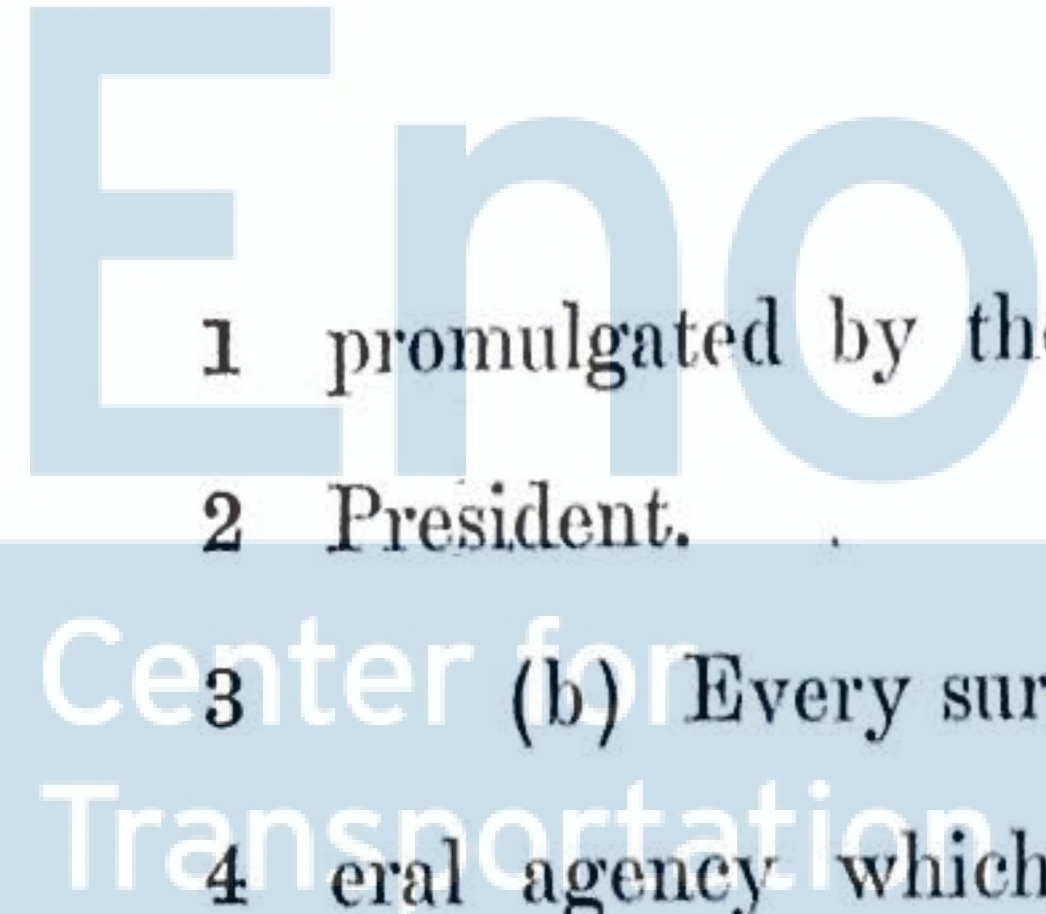
F. A. Mechling:

Amend Sec. 7 so as to have the Congress retain directly or through the Water Resources Council final authority for determination of standards and criteria for investment of Federal funds in water resource improvement projects. Wants to preserve relationship between Congress and Corps of Engineers.

Amend P. L. 89-80 to make Secretary of Transportation a member of Water Resources Council.

Stuart G. Tipton:

- (1) Suggests clarification of Sec. 7 to clarify exact authority of Secretary's determinations.
- (2) Raises other issues and suggests Sec. 7 be stricken. Suggests section 7 be stricken and in lieu thereof require Secretary of Transportation to study the problems involved and make recommendations to Congress by July 1, 196-.



1 promulgated by the Secretary upon their approval by the
2 President.

3 (b) Every survey, plan, or report formulated by a Fed-
4 eral agency which includes a proposal as to which the
5 Secretary has promulgated standards and criteria pursuant to
6 subsection (a) shall be (1) prepared in accord with such
7 standards and criteria and upon the basis of information
8 furnished by the Secretary with respect to projected growth
9 of transportation needs and traffic in the affected area, the
10 relative efficiency of various modes of transport, the available
11 transportation services in the area, and the general effect of
12 the proposed investment on existing modes, and on the
13 regional and national economy; (2) coordinated by the pro-
14 posing agency with the Secretary and, as appropriate, with
15 other Federal agencies, States, and local units of government
16 for inclusion of his and their views and comments; and
17 (3) transmitted thereafter by the proposing agency to the
18 President for disposition in accord with law and procedures
19 established by him.

Charles H. Wager:

Amend S. 3010 to make it perfectly clear that the new Secretary is to *only recommend* policies to the Congress and *assist* in the congressional determination of levels and areas of Federal expenditures in transportation.

Thomas L. Campbell, chairman, Legislative Committee, Pittsburgh Coal Exchange:

7(a) Exclude water resources projects.

Harry M. Mack, chairman, Board of Trustees, Ohio Valley Improvement Association, Inc.:

7(a) Amend 7(a) so as to exclude water resource projects as follows:

- (1) In line 15, page 19, delete the "or".
- (2) In line 16, page 19, after the word "assistance" substitute a semicolon for the period and insert the words "or (5) water resource projects".
- (3) In line 16, page 19, strike out the words "The standards and criteria"; strike out lines 17, 18, 19, 20, 21 and, in line 22, strike out the words "tion features of such projects".

Subsection (a) of section 7 of S. 3010 (H.R. 13200) as so amended would read as follows:

"The Secretary shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; or (5) water resource projects. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the President."

Wants to remove the Bureau of the Budget's November 1964 criteria and restore criteria used prior thereto, by means of the following amendment:

On page 20, following line 19, add a new subsection (c) as follows:

"(c) For the purposes of principles, standards and procedures for the formulation and evaluation of Federal water and related land resources projects established by the Water Resources Council with the approval of the President under the Water Resources Planning Act, the primary direct navigation benefits of a water resource project are defined as the product of (1) the savings to shippers using the waterway and (2) the estimated traffic that would use the waterway, where the savings to shippers shall be construed to mean the difference between the current freight rates or charges for the movement by the alternative means and those which would be charged on the proposed waterway, and where the estimate of traffic that would use the waterway shall be based on existing freight rates, taking into account projects of the economic growth of the affected area."

Tom Adams:

Proposes (1) elimination of water resource projects and (2) requires the Congress to approve all standards and criteria developed by Secretary of DOT under section 7, as follows:

- (1) On Page 19, line 15, delete the word "or".
- (2) On page 19, line 16, after the word "assistance", substitute a semicolon for the period and insert "or (5) water resource projects."
- (3) On page 19, line 16, strike out the words, "the; standards and criteria"

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and strike out all of lines 17, 18, 19, 20, 21, and on line 22 strike out the words "tion features of such projects."

(4) On Page 20, line 2, strike out the word, "President" and substitute the word, "Congress".

Subsection 7(a) would read as follows:

"Sec. 7. (a) The Secretary shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; or (5) water resource projects. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress."

D. P. Loomis:

Does not feel Water Resources Council should be given a "veto" over the Secretary of DOT in water transportation matters, which he sees in revised Sec. 7.

Walter J. Amoss:

Object to Sec. 7—too sweeping and uncontrolled—even with Sec. 2, it provides no meaningful guide. Questions whether the 'investment standards' of Sec. 7 would be contrary to the construction-differential subsidy contracts of Merchant Marine Act of 1936. Questions effect of Sec. 7 on loans or grants made by O.E.D. for constructing port facilities and other transportation facilities. Questions whether Sec. 7 would disrupt normal dredging and maintain operations of Corps of Engineers.

Adm. Hirshfield:

Wants Congress to have authority on investment standards.

Brig. Gen. John L. Person:

(1) That the Secretary of DOT be authorized to submit recommendations for the economic evaluation of navigation projects to the Water Resources Council for consideration in its establishment of criteria and standards for this evaluation.

(2) That the requirement for review by the Secretary of DOT of navigation projects be deleted from the bill.

(3) Section 7 be deleted insofar as it applies to water resource development.

Andrew Biemiller:

Give Congress authority to earmark funds for transportation.

20

AMENDMENTS TO OTHER LAWS

21

SEC. 8. (a) Section 406 (b) of the Federal Aviation

22

Act of 1958, as amended (72 Stat. 763), is amended by

23

adding the following sentence at the end thereof: "In apply-

24

ing clause (3) of this subsection, the Board shall take into

25

consideration any standards and criteria prescribed by the

Charles H. Ruby:

Retain CAB's quasi-judicial functions with respect to appeal on airmen certificates and licenses—proposes following amendment:

In addition to the above proposed amendment, it is recommended that section 8(a) of this bill be amended to include the following at the end of line 3, page 21:

Section 609 of the Federal Aviation Act of 1958, as amended (72 Stat. 763), is amended by:

(1) Revising the second sentence to read as follows:

If, as a result of any such reinspection or reexamination of a civil airman, he determines that because of incompetency, or habitual and/or willful violation of the Federal Air Regulations or criminal conduct of a nature which might affect the certificate holder's exercise of the privileges of his certificate, safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, suspending, or revoking, in whole or in part, any airman's certificate, production certificate, airworthiness certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate.

(2) Adding new sentence immediately thereafter as follows:

If, as a result of any such reinspection or reexamination of other than a civil airman, he determines that safety in air commerce or air transportation and the public interest requires, the Administrator may issue an order amending, modifying, or suspending or revoking, in whole or in part, any type certificate, production certificate, airworthiness certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate.

(3) Deleting the last two words, namely "Administrator's order," in the fourth sentence and inserting the word "Administrator."

(4) Deleting that portion beginning with the sentence, "In the conduct of its hearings * * *" to end of the section.

Stuart G. Tipton:

Recommends that since the quality of air transportation is judged in the light of the requirements for the commerce, postal service should be added, as follows (believes this was omitted through an oversight):

On page 21, line 3, after the words "United States" insert ", the postal service."

G. E. Leighty:

(1) Would separate Railroad safety and car service functions now performed by one bureau in the ICC, which would be transferred to new Department intact. Wants them separated.

(2) Would broaden DOT authority over Railroad safety by adding terms of two bills now pending before the Commerce Committee (S. 1476 & S. 1590).

(3) Eliminate Sec. 8(a) since it would require mandatory consideration by CAB of standards prescribed by DOT, which would "lower quality of decisions."

1 Secretary of Transportation, for determining the character
2 and quality of transportation required for the commerce of
3 the United States and the national defense.”

4 (b) Section 201 of the Appalachian Regional Develop-
5 ment Act (79 Stat. 10) is amended as follows:

6 (1) The first sentence of subsection (a) of that section
7 is amended by striking the words “Commerce (hereafter in
8 this section referred to as the ‘Secretary’)” and inserting in
9 lieu thereof “Transportation.”

10 (2) The last sentence of subsection (a) of that section
11 is amended by inserting after the word “Secretary”, the
12 words “of Transportation”.

13 (3) Subsection (b) of that section is amended by in-
14 serting after the word “Secretary”, the words “of Com-
15 merce”.

16 (4) Subsection (c) of that section is amended by strik-
17 ing the first sentence and inserting in lieu thereof the fol-
18 lowing sentence: “Such recommendations as are approved
19 by the Secretary of Commerce shall be transmitted to the
20 Secretary of Transportation for his approval.”

21 (5) The second sentence of subsection (c) of that sec-
22 tion is amended by inserting after the word “Secretary” the
23 words “of Transportation”.

24 (6) Subsection (e) of that section is amended by in-

1 sserting after the word "Secretary" the words "of Transpor-
2 tation".

3 (7) Subsection (f) of that section is amended by in-
4 sserting after the word "Secretary", the words "of Com-
5 merce and the Secretary of Transportation". Subsection
6 (f) of that section is further amended by striking the word
7 "determines" and inserting in lieu thereof "determine".

8 (8) Subsection (g) of that section is amended by
9 striking the period at the end thereof and adding the follow-
10 ing: "to the Secretary of Commerce, who shall transfer funds
11 to the Secretary of Transportation for administration of proj-
12 ects approved by both Secretaries."

13 (c) Section 206 (c) of the Appalachian Regional De-
14 velopment Act of 1965 (79 Stat. 15) is amended by insert-
15 ing after "Interior," the words "Secretary of Transporta-
16 tion,".

17 (d) Sections 12, 13 (1), 13 (2), 20 (except clauses
18 (3), (4), (11), and (12) thereof), 204 (a) (except
19 clauses 4 and 4a thereof), 204 (c), 205 (d), 205 (f), 220
20 (except subsection (c) thereof), and 222 (except subsec-
21 tions (b) (2) and (b) (3) thereof) of the Interstate Com-
22 merce Act (27 Stat. 379) are amended by inserting "(Sec-
23 retary of Transportation with respect to the establishment
24 and enforcement of reasonable requirements with respect to
25 qualifications and maximum hours of service of employees,

1 safety of operation and equipment, and car service)" im-
2 mediately after "Commission" where it first occurs in each
3 such section, and by inserting "or Secretary of Transportation
4 as the case may be" after Commission in every other place
5 where it occurs in each such section, except where it occurs
6 in the proviso of section 220 (a) and the last time in section
7 222 (h) .

8 (e) Section 212 (a) of the Interstate Commerce Act
9 (49 Stat. 555) is amended by striking "of the Commission"
10 the second, third, and fourth times those words occur.

11 (f) Section 13 (b) of the Fair Labor Standards Act of
12 1938 (52 Stat. 1067) is amended by striking the words
13 "Interstate Commerce Commission" and inserting in lieu
14 thereof "Secretary of Transportation."

15 (g) Section 18 (1) of the Interstate Commerce Act
16 (24 Stat. 386) is amended by inserting "or Secretary of
17 Transportation with respect to the establishment and en-
18 forcement of reasonable requirements with respect to quali-
19 fications and maximum hours of service of employees, safety
20 of operation and equipment, and car service" after "Com-
21 mission" where it last occurs therein.

22 (h) The second sentence of section 3 of the Federal
23 Explosives Act (40 Stat. 385) is amended as follows:
24 "This Act shall not apply to explosives or ingredients which
25 are in transit upon vessels, railroad cars, aircraft, or other

1 conveyances in conformity with statutory law or with the
2 rules and regulations of the Secretary of Transportation."

ADMINISTRATIVE PROVISIONS

3
4 SEC. 9. (a) In addition to the authority contained in
5 any other Act which is transferred to and vested in the
6 Secretary, the Secretary is authorized, subject to the civil
7 service and classification laws, to select, appoint, employ,
8 and fix the compensation of such officers and employees, in-
9 cluding attorneys, as are necessary to carry out the pro-
10 visions of this Act and to prescribe their authority and
11 duties.

12 (b) Subsection b of section 505 of the Classification
13 Act of 1949 (63 Stat. 959), relating to the maximum
14 number of positions authorized at any one time for grades
15 16, 17, and 18 of the General Schedule of such Act, is
16 further amended by striking the number "twenty-four hun-
17 dred" and by inserting in lieu thereof "twenty-four hundred
18 and forty-five."

19 (c) The Secretary may obtain services as authorized
20 by section 15 of the Act of August 2, 1946 (60 Stat. 810),
21 but at rates not to exceed \$100 per diem for individuals
22 unless otherwise specified in an appropriation Act.

23 (d) The Secretary is authorized to provide for par-
24 ticipation of military personnel in carrying out his functions.
25 Members of the Army, the Navy, the Air Force, or the

Senator Magnuson:

"I wonder why they (Maritime, Public Roads, and FAA) should not be transferred as legal entity."

Concerned over operational continuity following lapse.

Senator Monroney:

9(j) Provide that FAA shall not lapse as a legal entity.

Gen. William F. McKee:

9(j) No strong objection to head of FAA remaining Presidential appointee subject to Senate confirmation.

Stuart G. Tipton:

9(j) FAA remain independent entity.

Richard E. Spatz:

If safety functions are transferred, should provide for public hearings on new regulations instead of relying on Sec. 4 of the Administrative Procedures Act. Should also write requests as to procedure in the bill like those provided for in Sec. 17 of ICC Act, rather than those of Sec. 7 and 8 of the Administrative Procedures Act.

1 Marine Corps may be detailed for service in the Department
2 by the appropriate Secretary, pursuant to cooperative agree-
3 ments with the Secretary of Transportation. Members so
4 detailed shall not be charged against any statutory limitation
5 on grades or strengths applicable to the military departments.

6 (e) (1) Appointment, detail, or assignment to, accept-
7 ance of, and service in any appointive or other position in
8 the Department under the authority of section 4(1) and
9 section 9(d) shall in no way affect status, office, rank, or
10 grade which officers or enlisted men may occupy or hold
11 or any emolument, perquisite, right, privilege, or benefit
12 incident to or arising out of any such status, office, rank, or
13 grade. A person so appointed, detailed, or assigned shall
14 not be subject to direction by or control by his armed force
15 or any officer thereof directly or indirectly with respect to
16 the responsibilities exercised in the position to which ap-
17 pointed, detailed, or assigned.

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

23 (f) In addition to the authority to delegate and redele-
24 gate contained in any other Act in the exercise of the func-

1 tions transferred to or vested in the Secretary in this Act,
2 the Secretary may delegate any of his functions, powers, and
3 duties to such officers and employees of the Department
4 as he may designate, may authorize such successive redele-
5 gations of such functions, powers, and duties as he may deem
6 desirable, and may make such rules and regulations as may
7 be necessary to carry out his functions, powers, and duties.

8 (g) The personnel, assets, liabilities, contracts, prop-
9 erty, records, and unexpended balances of appropriations,
10 authorizations, allocations, and other funds employed, held,
11 used, arising from, available or to be made available, of the
12 Federal Aviation Agency, and of the head and other officers
13 and offices thereof, are hereby transferred to the Secretary.

14 (h) So much of the personnel, assets, liabilities, con-
15 tracts, property, records, and unexpended balances of ap-
16 propriations, authorizations, allocations, and other funds
17 employed, held, used, arising from, available or to be made
18 available in connection with the functions, powers, and duties
19 transferred by sections 6 (except section 6 (c)) and 8 (d),
20 (e), (f), and (g) of this Act as the Director of the Bureau
21 of the Budget shall determine shall be transferred to the
22 Secretary.

23 (i) The transfer of personnel pursuant to subsections
24 (e) and (f) of this section shall be without reduction in clas-
25 sification and compensation, except that this requirement

27

1 shall not operate after one year from the date such transfers
2 are made.

3 (j) Any offices and any agency heretofore established
4 by law, all the functions, powers, and duties of which are
5 transferred pursuant to this Act shall lapse: *Provided, how-*
6 *ever,* That this sentence shall not apply to the Coast Guard:
7 *And provided further,* That any person holding a position
8 compensated in accordance with the Federal Executive Sal-
9 ary Schedule who, without a break in service, is appointed
10 in the Department to a position having duties comparable to
11 those performed at the effective date of this Act shall con-
12 tinue to be compensated at not less than the rate provided
13 for such level for the duration of his service in such position.

14 (k) The Secretary is authorized to establish a working
15 capital fund, to be available without fiscal year limitation,
16 for expenses necessary for the maintenance and operation of
17 such common administrative services as he shall find to be
18 desirable in the interest of economy and efficiency in the De-
19 partment, including such services as a central supply service
20 for stationery and other supplies and equipment for which
21 adequate stocks may be maintained to meet in whole or in
22 part the requirements of the Department and its agencies;
23 central messenger, mail, telephone, and other communica-
24 tions services; office space, central services for document re-
25 production, and for graphics and visual aids; and a central

1 library service. The capital of the fund shall consist of the
 2 fair and reasonable value of such stocks of supplies, equip-
 3 ment, and other assets and inventories on order as the Sec-
 4 retary may transfer to the fund, less the related liabilities and
 5 unpaid obligations, together with any appropriations made
 6 for the purpose of providing capital, which appropriations
 7 are hereby authorized. Such funds shall be reimbursed from
 8 available funds of agencies and offices in the Department,
 9 or from other sources, for supplies and services at rates which
 10 will approximate the expense of operation, including the ac-
 11 crual of annual leave and the depreciation of equipment. The
 12 fund shall also be credited with receipts from sale or exchange
 13 of property and receipts in payment for loss or damage
 14 to property owned by the fund.

15 (1) The Secretary shall cause a seal of office to be
 16 made for the Department of such device as he shall approve,
 17 and judicial notice shall be taken of such seal.

18 CONFORMING AMENDMENTS TO OTHER LAWS

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

23 (b) Section 158 of the Revised Statutes (5 U.S.C. 1)
 24 is amended by adding at the end thereof:

25 "Twelfth. The Department of Transportation."

Senator Hart:

Desires to insure the organizational stability of the St. Lawrence Seaway Corporation by adding the following amendment:

Sections 1 and 2 of P.L. 83-358, as amended, is further amended as follows:

Strike the entire Section 1, and substitute the following:

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

Section 2(a), insert after the word "Administrator" the following: "with a rank equal to an Assistant Secretary."

(This should probably be added as a new subsection (i) on page 30, following line 24.

General McKee:

10(e) Place the individual heading the former FAA at level II of Executive Salary Schedule, instead of placing him at level III.

1 (c) The amendment made by subsection (b) of this
2 section shall not be construed to make applicable to the
3 Department any provision of law inconsistent with this Act.

4 (d) Section 303 of the Federal Executive Salary Act
5 of 1964 (78 Stat. 416) is amended as follows:

6 (1) subsection (a) of that section is amended by add-
7 ing at the end thereof the following:

8 “(11) Secretary of Housing and Urban Development.

9 “(12) Secretary of Transportation.”

10 (2) subsection (c) of that section is amended by strik-
11 ing “(6) Under Secretary of Commerce for Transportation”
12 and inserting in lieu thereof “(6) Under Secretary of Trans-
13 portation”.

14 (3) subsection (d) of that section is amended by add-
15 ing the following:

16 “(22a) Assistant Secretaries, Department of Transpor-
17 tation (4)”.

18 “(47a) General Counsel, Department of Transporta-
19 tion”.

20 (4) subsection (e) of that section is amended by add-
21 ing the following:

22 “(27a) Assistant Secretary for Administration, Depart-
23 ment of Transportation”.

24 “(101) Chairman, National Transportation Safety
25 Board, Department of Transportation”.

1 (5) subsection (f) of that section is amended by strik-
2 ing out "thirty" and inserting in lieu thereof "thirty-nine."

3 (6) Immediately following subsection (g) of that sec-
4 tion, the following new subsection is added:

5 "(h) The President is further authorized to place one
6 position in level III."

7 (e) Subsections (b) (7), (d) (2), and (e) (12),
8 (13), (14), (76), (82), and (89) of section 303 of the
9 Federal Executive Salary Act of 1964 (78 Stat. 416) are
10 repealed, subject to the provisions of section 9 of the Depart-
11 ment of Transportation Act.

12 (f) The Act of August 1, 1956 (70 Stat. 897), is
13 amended by striking the words "Secretary of Commerce"
14 where they appear therein and inserting in lieu thereof
15 "Secretary of Transportation."

16 (g) Title 18, United States Code, section 1020 is
17 amended by striking the words "Secretary of Commerce"
18 where they appear therein and inserting in lieu thereof "Sec-
19 retary of Transportation."

20 (h) Subsection (1) of section 801, title 10, United
21 States Code, is amended by striking out "the General Coun-
22 sel of the Department of the Treasury" and inserting in lieu
23 thereof "the General Counsel of the Department of Trans-
24 portation."

THE BILL

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ANNUAL REPORT

1
2 SEC. 11. The Secretary shall, as soon as practicable after
3 the end of each fiscal year, make a report in writing to the
4 President for submission to the Congress on the activities of
5 the Department during the preceding fiscal year.

SAVINGS PROVISIONS

6
7 SEC. 12. (a) All orders, determinations, rules, regula-
8 tions, permits, contracts, certificates, licenses, and privileges
9 which have been issued, made, granted, or allowed to be-
10 come effective by any department or agency, functions of
11 which are transferred by this Act, or by any court of com-
12 petent jurisdiction, or under any provision of law repealed
13 or amended by this Act, or in the exercise of duties, powers,
14 or functions which, under this Act are vested in the Secre-
15 tary, and which are in effect at the time this section takes
16 effect, shall continue in effect according to their terms until
17 modified, terminated, superseded, set aside, or repealed by
18 the Secretary, or by any court of competent jurisdiction, or
19 by operation of law.

20 (b) The provisions of this Act shall not affect any pro-
21 ceedings pending at the time this section takes effect before
22 any department, agency, or component thereof, functions of
23 which are transferred by this Act; but any such proceedings
24 involved in such transfer shall be continued before the De-

1 partment of Transportation, orders therein issued, appeals
2 therefrom taken, and payments made pursuant to such
3 orders, as if this Act had not been enacted; and orders
4 issued in any such proceedings shall continue in effect until
5 modified, terminated, superseded, or repealed by the Secre-
6 tary or by operation of law.

7 (c) The provisions of this Act shall not affect suits
8 commenced prior to the date on which this section takes
9 effect; and all such suits shall be continued by the Depart-
10 ment of Transportation, proceedings therein had, appeals
11 therein taken, and judgments therein rendered, in the same
12 manner and effect as if this Act had not been enacted. No
13 suit, action, or other proceeding commenced by or against
14 any officer in his official capacity of any department or
15 agency, functions of which are transferred by this Act, shall
16 abate by reason of the enactment of this Act. No cause of
17 action by or against any department or agency, functions
18 of which are transferred by this Act, or by or against any
19 officer thereof in his official capacity shall abate by reason
20 of the enactment of this Act. Causes of actions, suits, actions
21 or other proceedings may be asserted by or against the
22 United States or such official of the Department as may
23 be appropriate and, in any litigation pending when this
24 section takes effect, the court may at any time, on its own

33

1 motion or that of any party, enter an order which will
2 give effect to the provisions of this section.

3 (d) With respect to any function, power, or duty trans-
4 ferred by this Act and exercised hereafter, reference in any
5 other Federal law to any department or agency, officer or
6 office so transferred or functions of which are so transferred
7 shall be deemed to mean the Secretary.

8
SEPARABILITY

9 SEC. 13. If any provision of this Act or the application
10 thereof to any person or circumstances is held invalid, the
11 remainder of this Act, and the application of such provision
12 to other persons or circumstances shall not be affected
13 thereby.

14
CODIFICATION

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

20
EFFECTIVE DATE

21 SEC. 15. The President and the Secretary are authorized
22 to nominate and appoint any of the officers provided for in
23 sections 3 and 5 of this Act, as provided in such sections, at
24 any time after the date of enactment of this Act. Such

THE BILL

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1 officers shall be compensated from the date they first take
2 office, in accordance with sections 5 and 10 of this Act.
3 Such compensation and related expenses of their offices shall
4 be paid from funds available for the functions to be trans-
5 ferred to the Department pursuant to this Act. All other
6 provisions of this Act shall take effect ninety days after the
7 Secretary first takes office, or on such prior date after en-
8 actment of this Act as the President shall prescribe and
9 publish in the Federal Register.

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PROPOSED NEW SECTION

Capt. J. W. Clark:

Proposed to create new section to provide for transfer of functions to Civil Maritime Board.

Andrew Biemiller:

Establish a Maritime Subsidy Board.