

ESTABLISHING A DEPARTMENT OF TRANSPORTATION, AND FOR OTHER PURPOSES

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Mr. McCLELLAN, from the Committee on Government Operations,
submitted the following

REPORT together with ADDITIONAL VIEWS

[To accompany S. 3010]

The Committee on Government Operations, to which was referred the bill (S. 3010) to establish a Department of Transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

The purpose of S. 3010 as amended, is to centralize in one new Cabinet-level department the responsibility for leadership in the development, direction, and coordination of the principal transportation policies, functions, and operations of the Federal Government which are now carried on by some 100,000 Federal employees in several departments, agencies, and independent regulatory agencies and elements thereof, involving annual expenditures approximating \$6 billion; and to provide within the Federal Government a focal point of responsibility for transportation safety.

The bill as amended seeks to accomplish this objective by establishing a Department of Transportation to which would be transferred the major transportation agencies and functions of the Federal Government, other than the economic regulatory functions of the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and the Federal Power Commission; and

by transferring to the Secretary, modal Administrators, and a newly created National Transportation Safety Board all of the transportation safety responsibilities which are now vested in agencies throughout the Government. Although some 35 Federal agencies currently have transportation responsibilities, only those agencies or functions would be transferred which are more closely related to the major purpose of the Department of Transportation than they are to their principal organizational bases.

S. 3010 was introduced by Senator Warren G. Magnuson at the request of the President of the United States, in order to implement one of the principal proposals contained in the President's transportation message, dated March 2, 1966, proposing, among other things, the establishment of a Department of Transportation and a National Transportation Safety Board.

SUMMARY OF PRINCIPAL PROVISIONS OF S. 3010, AS AMENDED

ORGANIZATION OF DEPARTMENT

S. 3010, as amended, would establish a Department of Transportation, headed by a Secretary of Transportation, an Under Secretary, four Assistant Secretaries, a General Counsel, and an Assistant Secretary for Administration. The four Assistant Secretaries have no specified statutory duties but would perform such duties and functions as the Secretary may direct.

The principal operating agencies within the Department would be a Federal Aviation Administration, a Federal Highway Administration, a Federal Maritime Administration, a Federal Railroad Administration, and the U.S. Coast Guard. Each of these operating agencies would be headed by an Administrator, except for the Coast Guard which would continue to be headed by the Commandant; and all of the principal officers named above, including the modal Administrators, and a Deputy Administrator in the case of aviation, along with the Commandant, would be appointed by the President, subject to Senate confirmation.

The committee amendment further establishes within the Department an independent bipartisan National Transportation Safety Board, composed of five Presidentially appointed members, subject to Senate approval, with tenure. Finally, there is established within the Department an independent, bipartisan Maritime Board, with the Federal Maritime Administrator serving as Chairman, and two other Presidentially appointed members, to handle maritime subsidy matters.

AGENCIES AND FUNCTIONS TRANSFERRED

S. 3010, as amended, would transfer to the new Department the following agencies and functions:

1. *The Federal Aviation Agency*, in its entirety, with all of its functions. It will continue to carry out all of its present functions in the new Department.

2. *The Bureau of Public Roads, Department of Commerce*, together with the Federal-aid highway program which it administers, as well as its numerous other highway activities.

3. *The Office of the Under Secretary of Commerce for Transportation*, together with all of the transportation functions now vested in the

Secretary of Commerce and other officers and offices of the Department of Commerce under various statutes, including the high-speed ground transportation program.

4. *The Federal Maritime Administration, Department of Commerce*, with its operating-differential and construction, differential subsidy programs for the U.S. merchant Marine and shipping industry.

5. *The U.S. Coast Guard, Department of the Treasury*, together with the functions of the Secretary of the Treasury which relate to the Coast Guard.

6. *The Great Lakes Pilotage Administration, Department of Commerce*, together with its functions of administering the Great Lakes Pilotage Act of 1960 which provides for the establishment of an effective system of regulated pilotage on the Great Lakes.

7. *The safety functions of the Civil Aeronautics Board*, including the responsibility for investigating and determining the probable cause of aircraft accidents and its appellate safety functions involving review on appeal of the suspension, modification, or denial of certificates or licenses.

8. *Interstate Commerce Commission functions* relating to railroad safety laws, and hours of service of employees; motor carrier safety laws; transportation of explosives; and, standard time zones and daylight saving time.

9. *Those functions of the Secretary of the Army, performed by the Corps of Engineers, which relate to anchorages, bridges, and tolls.*

10. *The St. Lawrence Seaway Development Corporation*, which would be under the direction and supervision of the Secretary of Transportation instead of the Secretary of Commerce.

11. *The Alaska Railroad*, now under the direction and supervision of the Secretary of the Interior.

12. *The functions, powers, and duties vested in the Secretary of Commerce by the National Traffic and Motor Vehicle Safety Act of 1966 and the Highway Safety Act of 1966.*

HEARINGS

The committee held 9 days of hearings on S. 3010, receiving testimony from 58 witnesses representing the executive branch, independent regulatory agencies, industry, labor, and the public. In addition, 36 exhibits and 50 statements and communications were incorporated into the hearing record which is contained in 4 volumes totaling 743 pages.

The principal issues which emerged from the hearings related primarily to (1) clarification of the respective roles of the Secretary and the Department of Transportation and the Congress with respect to national transportation policy; (2) assurance of the operational continuity and integrity of the agencies transferred; (3) provision for Presidential appointment with Senate confirmation of the heads of the modal operating agencies within the Department; (4) assurance of complete independence of the National Transportation Safety Board with respect to its adjudicatory and appellate functions; (5) the continued separation of accident investigations and determination of probable cause in major air accidents from the operating agency; (6) assurance of the application of the Administrative Procedures Act to the issuance of safety regulations and other quasi-legislative and quasi-judicial actions by the Secretary of Transportation, the

Administrators, the Maritime Board, and the National Transportation Safety Board, as provided in existing law; (7) transfer of all urban mass transit functions and responsibilities from the Department of Housing and Urban Development to the Department of Transportation; (8) the retention by the Interstate Commerce Commission of all of its car-service functions including those relating to the supply of freight cars, distribution and fixing of per diem and demurrage rates; and (9) the effect of transportation investment standards on certain programs, such as the multipurpose water resource projects of the Corps of Engineers.

In addition to the broader issues listed above, there was a substantial amount of testimony in favor of (1) Assistant Secretaries for each of the principal modes of transportation; (2) retention of the present independent status of the Federal Aviation Agency as well as retention by the Civil Aeronautics Board of all of its present safety functions; (3) retention by the Federal Highway Administrator of his present responsibilities and functions; (4) elimination of the multipurpose water resource projects from the requirements of section 7; (5) retention by the Interstate Commerce Commission of all of its present safety functions; and (6) establishment of a Federal Maritime Administration as an independent agency outside of and apart from the Department of Transportation.

COMMITTEE ACTION AND COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Following an analysis of the testimony, statements, communications and exhibits received at the hearings, the committee adopted numerous amendments which have been incorporated in the bill. In general, the committee amendment is designed to (1) clarify provisions relative to policy and purpose; (2) incorporate recommendations made at the hearings which were deemed to have merits; (3) insure operational continuity and the integrity of the transferred agencies; (4) insure that transportation safety functions will be handled exclusively by qualified professionals, experts and technicians; (5) reorganize certain sections of the bill in order to achieve an orderly arrangement; (6) incorporate certain necessary technical amendments; and (7) to conform, wherever possible, the language of the Senate bill with that of the House-passed act.

POLICY AND PURPOSE

Policy and purpose are set forth in sections 2 and 4 of S. 3010. During the hearings, considerable testimony was received which raised questions concerning the respective roles of the Secretary of Transportation and the Congress relative to national transportation policy. Particular concern was expressed with regard to the impact of the provisions of these sections on existing transportation policy, and suggestions were made that language be included which would make certain that the Secretary would be required to function within the framework of the very considerable body of such policy enacted by the Congress over a period of many years.

In order to clarify the respective roles of the Secretary of Transportation and the Congress with respect to national transportation policies, language was added to section 2 requiring the Secretary to

make recommendations with respect to national transportation policies and their implementation to the President and the Congress. S. 3010, as introduced, was silent as to the recipients of these recommendations.

An additional amendment was added to section 2 declaring it to be national policy that, in carrying out the provisions of this act, special effort be made to preserve the national beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges and historic sites.

Subsection 4(a) of S. 3010, as introduced, details the specific duties and areas of responsibility of the Secretary with respect to various transportation policies and programs and requires him to *develop* such policies and programs and make recommendations for their implementation. In order to clarify the respective roles of the Secretary and the Congress, the committee amended this language so as to require the Secretary to *provide leadership* in the development of such policies and programs, and to make recommendations for their implementation to the President and the Congress.

Additional amendments to subsection 4(a) require the Secretary to (1) include noise abatement, with particular reference to aircraft noise, in connection with his responsibility for the promotion and undertaking of research and development in all modes and types of transportation services and facilities; and (2) to consult with the heads of other Federal departments and agencies engaged in the procurement of transportation or the operation of their own transport services to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system operated by private enterprise.

The noise abatement provision was deemed necessary in view of the increasing use of jet aircraft in and around urban and suburban areas, resulting in a large volume of complaints concerning the noise from local residents. The consultation amendment was added in order to insure maximum coordination with respect to transportation policies among Government agencies.

A new subsection 4(b)(1) has been added which requires that the Secretary, in carrying out his duties and responsibilities under this act, be governed by all applicable statutes, including the policy standards set forth in all of the principal transportation statutes, each of which is specifically referred to. This was intended to eliminate any possible doubt concerning the effect of S. 3010 on existing transportation law, to clarify the role of the Congress with respect to such law, and to make certain that the Secretary will be required to perform his duties within the framework of, and subject to, all of the national transportation policies already enacted by the Congress.

A new subsection 4(b)(2) has been added which provides that nothing in the act shall be construed to authorize the adoption, revision or implementation of any transportation policy or investment standards or criteria contrary to or inconsistent with any act of Congress. This was intended as a further safeguard against possible action by the Secretary which might contravene policies and programs provided for in existing law.

A new subsection 4(f) was added which requires the Secretary of Transportation to cooperate and consult with the Secretaries of the Interior; Health, Education, and Welfare; Agriculture and with the States in all transportation plans and programs; and, after the effective date of the act, the Secretary would not be permitted to approve

any project or plan requiring the use of land from a public park, recreational area, wildlife and waterfowl refuges, historical sites, unless there is no feasible alternative to the use of such land and such plans include all possible planning to minimize harm to such area. This, and the policy statement in section 2, are designed to insure that in planning highways, railroad rights-of-way, airports and other transportation facilities, care will be taken, to the maximum extent possible, not to interfere with or disturb established recreational facilities and refuges.

OPERATIONAL CONTINUITY AND INTEGRITY OF TRANSFERRED AGENCIES—AVIATION, HIGHWAY, RAILROAD, AND MARITIME

Following an examination of testimony at the hearings, the committee was convinced of the need to maintain the integrity and operational continuity of the transferred agencies. In order to accomplish this, the committee added several amendments to section 3, which deals with the establishment and organization of the Department, and to section 6, which deals with transferred functions.

A new subsection 3(e)(1) was added which directs the Secretary to establish four modal operating Administrations (Aviation, Highway, Railroad, and Maritime), each headed by an Administrator appointed by the President, subject to Senate confirmation, and, in the case of aviation, the present Presidentially appointed Deputy Administrator was retained.

In a new subsection 3(e)(2), it was provided that all of the existing technical qualifications which are required of the present Administrator and Deputy Administrator of the Federal Aviation Agency will apply to the newly established office of Federal Aviation Administrator and his Deputy.

In subsection 3(e)(3), it was provided that the Administrators and the commandant of the Coast Guard shall report directly to the Secretary and that they were to carry out such functions, powers, and duties as the Secretary may prescribe and such additional functions as specified in this act; and in a new subsection 3(e)(4), it was provided that the functions, powers, and duties specified in this act to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan or by statute; and by a new subsection 9(f)(3), the modal Administrators may not delegate any of the statutory duties and responsibilities specifically assigned to them by this act outside of their respective administrations.

By amendments to subsection 6 (c), (d) and (e), all of the statutory functions, powers and duties transferred to the Secretary pertaining to safety are to be exercised by the Federal Aviation, Railroad and Highway Administrators, and their decisions regarding safety are made administratively final and not subject to Secretarial review; they are appealable, however, directly to the National Transportation Safety Board, the courts, or both, as appropriate. In the case of the Federal Aviation Administrator, it is provided, in subsection 6(c), that certain functions, powers, and duties of the Federal Aviation Agency and its Administrator are further transferred to, and are to be exercised by the Federal Aviation Administrator.

With respect to maritime matters, the committee heard considerable testimony in support of an independent Maritime Adminis-

tration. On the other hand, there were compelling reasons to retain this important mode of transportation within the Department. Accordingly, in order to strike a balance between these positions, the committee adopted several amendments to subsection 6(a).

Subsection 6(a)(5) (C) and (D) established an independent, bipartisan Maritime Board composed of the Federal Maritime Administrator and two other members, appointed by the President, subject to Senate confirmation, to serve 4-year terms. The Board would be responsible for maritime subsidy and related matters, including ship construction-differential subsidy. The Board members would be placed at level IV of the Federal Executive Salary Act of 1964; the decisions of the Board, made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection, are made administratively final and appeals authorized by law would be taken directly to the courts. The committee also adopted a conforming amendment to subsection 3(e)(4) to include the Maritime Board among the agencies whose functions, powers, and duties cannot be transferred elsewhere in the Department, unless specifically provided for by reorganization plan or by statute.

Thus, with respect to maritime matters, all of the functions, powers, and duties of the Secretary of Commerce, pertaining to maritime matters, now handled by the Maritime Administration of the Department of Commerce, would be transferred to the Secretary of Transportation. These functions, powers, and duties would be transferred within the Department to the Federal Maritime Administrator who would exercise certain functions, while the Maritime Board would carry out those quasi-judicial functions pertaining to maritime subsidies and related matters. The Board's decision with respect to these matters would be administratively final, subject only to judicial review.

S. 3010, as introduced, provided in subsection 4(j) that orders and actions of the Secretary or the National Transportation Safety Board, in the exercise of functions, powers, and duties transferred under this act, would be subject to judicial review to the same extent and in the same manner as if such orders and actions had been issued and taken by the agency from which the functions were transferred. In order to preserve existing legal rights, this provision, which now appears in subsection 4(c), has been amended to include judicial review of orders and actions of the Administrators, and Maritime Board taken pursuant to functions specifically assigned to them by this act.

The bill further provided, in subsection 4(k), that the Secretary, in the exercise of the functions transferred to him under this act, shall have the same powers that are vested in the agency originally exercising such functions, immediately preceding the transfer. In a further effort to achieve operational continuity, this provision, which now appears in subsection 4(c), has been amended to include continuity of authority for the Administrators, the National Transportation Safety Board and the Maritime Board, with respect to the functions, powers and duties transferred to them, in view of the important functions they will have under the committee amendment.

Any office or agency, other than the Coast Guard, all of whose functions, powers, and duties are transferred pursuant to this act, will lapse and cease to exist. However, provision is made to safeguard the positions of those holding positions in such offices or agencies on the effective date of the act, who are compensated under the Federal

executive salary schedule. Any such person, if appointed, without a break in service to a position having comparable duties to those performed immediately preceding his appointment, will continue to be compensated at not less than the rate provided for his previous position, for the duration of his service in his new position.

THE NATIONAL TRANSPORTATION SAFETY BOARD

Section 5 of S. 3010, as introduced, provided that the Board shall exercise those functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this act with regard to (1) determining the probable cause of transportation accidents and reporting the facts, conditions, and circumstances of each accident; and (2) review on appeal of the suspension, amendment, modification, revocation or denial of any certificate or license issued by the Secretary.

According to the language of the bill, as well as the testimony of administration witnesses, it was intended that the Board would function within the Department, but independently of the Secretary and the Department. Numerous witnesses, as well as committee members, expressed serious doubt as to the ability of the Board to maintain its independence, since it would be dependent upon the Secretary for funds, personnel and administrative support, and the primary operating functions which it would exercise would be those which had been transferred to the Secretary.

In order to insure the complete independence of the National Transportation Safety Board, at least with respect to its functions of determining probable cause in transportation accidents and reviewing on appeal denials, suspensions, revocations, etc., of certificates or licenses issued by the Secretary, the committee adopted an amendment to subsection 5(b) which provides that the powers, functions, and duties transferred to the Secretary by sections 6 and 8 of the act would be further transferred to the Board to exercise the same with regard to determinations of probable cause and review on appeal of licensing and certificate denials.

With respect to transportation safety, in general, and accident investigations, in particular, S. 3010, as introduced, limited the authority of the Board to *making recommendations to the Secretary* concerning (1) transportation safety, (2) the conduct of special studies pertaining to safety in transportation and the prevention of accidents, (3) the initiation of accident investigations, and (4) rules, regulations and procedures for the conduct of accident investigations. The actual conduct of such investigations was vested in the Secretary who was expected to delegate the exercise of this authority to the modal Administrators, except in aviation accidents which were to be handled by an Office of Accident Investigations, to be established by the Secretary by departmental action, as part of his Office.

The committee took the view that if the Board was to play a significant and meaningful role in, and serve as the focal point in the Federal establishment for, transportation safety, its powers, functions and duties would have to be strengthened considerably. Accordingly, the committee added a new subsection 5(d) which would authorize the Board to (1) make such recommendations to the Secretary or administrators on the basis of the exercise of its functions, powers and duties which will tend to prevent transportation accidents to promote transportation safety; (2) conduct special studies on matters pertain-

ing to safety in transportation and the prevention of accidents; (3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the accident involved; (4) initiate, on its own motion, or conduct rail, highway or pipeline accident investigations as it deems necessary or appropriate; (5) make recommendations to the Secretary or appropriate administrator concerning rules, regulations, and procedures for the conduct of accident investigations; (6) request the Secretary or appropriate administrator to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate; (7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or appropriate administrator in such cases as it deems appropriate; and (8) request from the Secretary or appropriate administrator notification of transportation accidents and reports of such accidents as the Board deems necessary.

It is expected, however, that the Board will exercise its authority to conduct its own investigations sparingly, and only in unusual situations, such as accidents involving unique equipment, catastrophic accidents when there is great loss of life, or accidents in which there is a special public interest.

A new subsection 5(e) was adopted requiring that the Board, except as otherwise provided by statute, make public all reports, orders, decisions, rules and regulations that it issues as well as every recommendation it makes to the Secretary or an administrator, every special study it conducts and every action of the Board requiring the Secretary or an Administrator to take action pursuant to subsection 5(d) of the act.

AVIATION SAFETY

One of the most troublesome problems facing the committee was the organization within the Department, and the assignment of functions, for aviation safety. Since the enactment of the Federal Aviation Act of 1958, the FAA has been responsible for operating the air navigation system, regulating air commerce so as to promote its safety, and prescribing minimum standards for the certification of airmen and for design, materials and workmanship of aircraft construction and maintenance, among other things; the CAB has statutory responsibility for investigating accidents involving civil aircraft, determining the cause or probable cause of such accidents and making public reports thereon. The FAA may, and often does, participate in such investigations at the request of the CAB, by furnishing technical field staffs. The CAB has delegated its accident investigation function in nonfatal accidents involving small aircraft to the FAA, although the probable cause in such cases is determined by the CAB. However, the statutory responsibility for air accident investigations is vested by law in the CAB.

This arrangement was deliberately and carefully developed as a legislative formula and incorporated in the 1958 act so as to place the responsibility for accident investigations and the determination of probable cause functions in an agency (CAB) which is separate and apart from the agency charged with operating the air navigation system and maintaining air safety (FAA). In addition, the 1958 act vested in the CAB the function of reviewing on appeal the sus-

pension, amendment, modification, or denial of any certificate or license issued by the FAA.

S. 3010, as introduced, would have transferred to the Secretary of Transportation all of the safety functions, powers, and duties now vested in the FAA and the CAB; the National Transportation Safety Board was to exercise the CAB's functions of determining probable cause and reviewing on appeal certificate and licensing actions. The accident investigation functions of the CAB were to be transferred to the Secretary who was to assign them to an Office of Accident Investigations, to be established by departmental order, separate and apart from the operating component responsible for carrying out the Secretary's aviation safety functions.

At the hearings on S. 3010, considerable concern was expressed regarding the advisability of altering the present accident investigation and safety procedures followed by the FAA and the CAB in aviation accidents, particularly in view of the fact that the statutory scheme established in the 1958 act has been successful. The consensus of the testimony was that the public interest would be furthered by eliminating these transfers and agencies from the Department, or by permitting the CAB to retain the accident investigation and determination of probable cause functions which it now performs pursuant to title VII of the Federal Aviation Act of 1958, as amended. Particular emphasis was placed upon the established tradition of having a separate accident investigation staff for certain types of aviation accidents.

The administration contended that under S. 3010, the present arrangement with respect to accident investigations and aviation safety would be preserved by (1) those provisions of section 5 which provide that the National Transportation Safety Board, an independent agency within the Department, would be required to exercise those functions now performed by the CAB with respect to probable cause and review on appeal; and (2) the planned separation of the accident investigation functions which would be vested in an Office of Accident Investigations, a proposed staff agency, completely independent of the operating unit, the Federal Aviation Administration.

The committee concluded that S. 3010 should be amended to (1) make absolutely certain that the present statutory scheme which separates the accident investigation functions from the operating agency be continued by statute; and (2) insure the complete independence of the National Transportation Safety Board in connection with the exercise of the probable cause and certification and licensing appeals functions, now vested in the CAB.

In order to accomplish this objective, the committee amended subsection 5(b) so as to provide that the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of the act be further transferred to the Board which is to exercise them with respect to the determination of probable cause and review on appeal in licensing and certification cases. A new subsection 5(c) was added which provides that the Board shall exercise the aviation accident investigation functions, powers, and duties transferred to the Secretary by subsection 6(d) of the act. As a further safeguard, subsection 6(c) was amended to provide that the functions, powers, and duties of the FAA and its Administrator transferred to and vested in the Secretary, would then

be further transferred to the Federal Aviation Administrator who would be required to exercise specific functions, powers, and duties relating to aviation safety; and that his decisions, made pursuant to the exercise of those functions, would be administratively final and appeals as authorized by law or this act shall be taken directly to the National Transportation Safety Board, or the courts, as appropriate.

The committee amended subsection 6(d) to provide that the accident investigation functions of the CAB, which are transferred to and vested in the Secretary, would then be further transferred to the National Transportation Safety Board which would be required to exercise them. Decisions of the Board, made pursuant to the exercise of the functions enumerated in this subsection, shall be administratively final; and appeals therefrom as authorized by law or this act shall be taken directly to the courts.

The effect of these amendments is that all of the functions, powers, and duties of the CAB, with respect to aviation safety and accident investigations, will be transferred to and exercised by the National Transportation Safety Board, thus insuring, by statute, that all of the CAB's aviation safety functions will be exercised by an independent agency; and that the accident investigation functions will be performed by a component within the Department which is separate and apart from the operating unit—the Federal Aviation Administration.

Concerning aviation accidents, this arrangement would continue the traditional separation between the FAA and the CAB by assigning the CAB's probable cause and accident investigation functions to the National Transportation Safety Board. It would also enable the continuation of the existing practice whereby the CAB delegates to the FAA responsibility for certain categories of investigations, particularly nonfatal accidents, involving small aircraft.

MAJOR RESPONSIBILITIES OF THE SECRETARY

The committee amendment vests in the Secretary of Transportation the responsibility for providing general leadership in the development of national transportation policies and programs; making recommendations to the President and the Congress for their implementation; promoting and undertaking the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; promoting and undertaking research and development in and among all modes and types of transportation services and facilities, including noise abatement, with particular attention to aircraft noise; the development of standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation, with certain stated exceptions, including water resource projects; and the coordination of all of the farflung transportation activities of the Federal Government. In addition, as noted above, he will also be vested with all of the administrative and promotional functions, powers, and duties transferred to the Department, including those relative to all modes of transportation which do not related to safety and maritime subsidy.

In view of the vast area of heavy responsibilities and functions which will be vested in the Secretary, the committee deemed it in the public interest to vest sole authority for all transportation safety decisions in the modal Administrators and in the National Transporta-

tion Safety Board. Safety is highly technical in nature and requires the knowledge, experience and judgment of highly trained and experienced technical specialists. By vesting sole authority for safety matters in trained experts, the committee believes that any possible semblance of political influence will be eliminated, and the Secretary will be free to devote his efforts to the numerous other duties, functions, and responsibilities which would be vested in him. Furthermore, this action would be entirely consistent with the administration's proposal to vest primary overall responsibility for transportation safety in the National Transportation Safety Board.

Although the safety functions pertaining to rail, pipeline, and highway safety would not be further transferred from the Secretary to the respective Administrators, as is the case with the FAA, the committee amendment would require that they be carried out by these Administrators.

Under the provisions of section 6, all authority for the Coast Guard to conduct casualty and personnel investigations is transferred to the Secretary. It is expected that the authority will be delegated to the Commandant of the Coast Guard under authority granted the Secretary by this bill. Investigations of marine casualties and procedures will be carried out by Coast Guard personnel, as is now the case.

As noted earlier, the four Assistant Secretaries have no specific statutory duties, but would perform such functions as the Secretary may direct. Senator Magnuson and other witnesses suggested that consideration be given to an Office of Passenger Transportation, headed by an Assistant Secretary, and an Office of Transport Mergers in the new Department. While the committee recognizes that the needs of the traveling public, and transport merger policy, should be a prime concern of the new Department, it does not appear that this should be tied for the indefinite future to any particular organizational structure in the enabling legislation. The committee strongly urges the Secretary of Transportation to make promotion of passenger service and representation of the public in passenger merger proceedings a prime concern, and to that end to assign to an Assistant Secretary or other appropriate official in the new Department these important duties.

TRANSPORTATION INVESTMENT STANDARDS

Subsection 7(a) of S. 3010, as introduced, would have required the Secretary of Transportation to develop standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, with certain stated exceptions (purchase of transportation facilities for agency use, an interoceanic canal, defense features included at the direction of the Department of Defense and foreign aid). The standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects were to be developed by the Secretary after consultation with the Water Resources Council, and were required to be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of such projects. Standards and criteria developed pursuant to this subsection were to be promulgated by the Secretary upon their approval by the President.

Subsection 7(b) required that every survey, plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has issued standards and criteria pursuant to subsection (a), be prepared in accordance with those standards and criteria and on the basis of transportation data furnished by the Secretary of Transportation and coordinated by the proposing agency with the Secretary and other Government agencies before transmission to the President for appropriate disposition.

During the hearings, considerable concern was expressed by witnesses, as well as by committee members, regarding the effect of this section on congressionally-approved transportation investment projects, in general, and upon the future of multipurpose water resource projects, in particular. Questions were also raised as to the effect of section 7 on the present role of the Corps of Engineers in the planning and development of multipurpose water resource projects. Finally, the committee received testimony to the effect that the authority to establish standards and criteria for the evaluation of water resources projects has been placed by the Congress in the Water Resources Council, when it enacted Public Law 89-80; and that since November 1964, when the Bureau of the Budget changed the criteria for the economic evaluation of water resources projects from the current rates to water-compelled rates, not a single project has been approved.

The committee recognizes that there is a need for orderly procedures within the Federal Government in the determination of allocations of Federal funds for investment in transportation facilities and equipment. Therefore, it was decided to retain this section, after amending it so as to correct its defects and omissions, despite the fact that the House of Representatives eliminated it from the House-passed act. Accordingly, the committee adopted amendments to subsection 7(a) which (1) added water resource projects as a fifth exemption from the Secretary's authority to establish standards and criteria for the economic evaluation of Federal transportation investments; (2) provided for approval by the Congress, instead of by the President, of standards and criteria developed by the Secretary prior to their promulgation; (3) provided for the development by the Water Resources Council of standards and criteria for the economic evaluation of water resource projects; (4) established a definition of primary direct navigation benefits of water resource projects, thus restoring the criteria followed by the Corps of Engineers prior to November 1964, when the Bureau issued new criteria for the evaluation of such projects; and (5) includes the Secretary of Transportation as a member of the Water Resources Council on matters pertaining to navigation features of water resource projects.

By way of explanation, the committee adopted the first amendment, exempting water resource projects from the criteria to be established by the Secretary of Transportation because navigation is a major function of any total concept of water resource development and, therefore, other phases of water resource development should not be influenced by standards and criteria established for application to problems related solely to transportation. The second amendment struck out the specific language relating to the transportation features of multipurpose water resource projects, since the previous amendment exempted water resource projects from the Secretary's authority.

The third amendment, requiring congressional instead of Presidential approval of the standards and criteria developed or revised pursuant to this subsection, prior to their promulgation by the Secretary, was intended to retain within the Congress its constitutional authority to regulate commerce among the several States. A blanket delegation of such widespread authority to the executive branch of the Government is considered unwise. The result of this amendment is to place upon the Secretary of Transportation the responsibility for developing the standards and criteria, but the final responsibility for their approval is retained in the Congress.

The fourth amendment would continue the authority of the Water Resources Council to establish standards and criteria for the evaluation of water resource projects where it was placed by the Congress last year when the Council was established by section 101 of Public Law 89-80. In addition, it would set forth a definition of primary navigation benefits which the committee deemed necessary in order to insure that future projects will be evaluated on the same basis as those which have resulted in the development of this Nation's outstanding system of inland navigation which has served so well in peace and war. After providing that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council, the amended language provides:

For the purpose of such standards and criteria, 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 between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The fifth amendment which merely expands the membership of the Water Resources Council to include the Secretary of Transportation in matters pertaining to navigation features of water resource projects, is entirely consistent with the intent of section 101 of Public Law 89-80, which established the Council.

In connection with the definition of primary direct benefits, contained in the fourth amendment and set forth above, the committee desires to make it abundantly clear that in estimating navigation benefits, the Corps of Engineers is to use the rates prevailing in the area under consideration in the survey report and is not to introduce a freight rate applied in some other area, even though it may have limited application in the transportation of commodities from other regions to an area that could be served by the proposed development.

INTERSTATE COMMERCE COMMISSION

Car service

S. 3010, as introduced, provided for the transfer from the Interstate Commerce Commission to the Secretary of Transportation of all car service functions, except those relating to per diem and demurrage charges. Strong sentiments were expressed at the hearings that these

functions are regulatory in nature, and should remain with the ICC. The committee agreed with this position and amended subsections 6(e) and 8(d) by deleting the language relating to the proposed transfer, leaving all of these functions with the ICC where they are under existing law.

Safety information

During the hearings on S. 3010, a question was raised concerning the effect of the transfer of the safety functions of the ICC to the Department of Transportation on the ICC's responsibility to determine the safety fitness of applicants for operating rights. It was noted that since the ICC would no longer have a safety investigating staff of its own, it would have to depend upon information developed by personnel of the Department and furnished by the Secretary. In order to insure that such information would be forthcoming promptly, a provision has been added as *subsection 4(e)* which requires the Secretary to investigate the safety compliance record of each carrier or person seeking authority from the ICC and to report their finding to the Commission. In addition, the Secretary would be required to (1) intervene and present evidence of the applicant's fitness in ICC application proceedings for permanent authority or for approval of proposed transactions when the applicant's safety record fails to satisfy the Secretary; (2) furnish promptly upon request of the ICC a statement regarding the safety record of any carrier or person seeking temporary operating authority from the ICC; and (3) furnish upon request of the ICC a complete report of the safety compliance surveys which thereafter the ICC deems necessary or desirable in order to process an application or to determine the fitness of a carrier, including intervention and presentation of evidence upon request of the Commission.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION AND THE ALASKA RAILROAD

S. 3010, as introduced, made no provision for the transfer of either the St. Lawrence Seaway Development Corporation or the Alaska Railroad to the Department of Transportation. However, in his testimony before this committee, the Director of the Bureau of the Budget stated that the Corporation, now in the Department of Commerce, and the Railroad, now in the Department of the Interior, will be transferred to the Department of Transportation, by Executive order, to function under the direction and supervision of the Secretary of Transportation. He explained that the statutes establishing these agencies allow the President to designate their location and to transfer them as he deems necessary. He stated further that he saw no objection to their legislative transfer, although it was not necessary to do so.

Subsequently, 12 Senators requested the committee to consider amending S. 3010 to provide for the transfer of the St. Lawrence Seaway Development Corporation to the Department of Transportation, since it was their belief that the Corporation should be transferred by statute. In support of their request they noted that a reaffirmation of the original intent of the Congress in creating the Corporation is essential at the time when the Department is created and organized, and that the matter should not be resolved by an Executive order following the establishment of the new Department.

Finally, they stated that past experience indicates that the transfer of the Corporation by Executive order will not provide an adequate remedy for the organizational "downgrading" of an agency which must play an important role in national as well as international transportation policy. Based upon these considerations, the committee added a new subsection 8(g), providing for the establishment of the Corporation, subjecting it to the direction and supervision of the Secretary of Transportation, and providing that the Administrator of the Corporation shall report directly to the Secretary.

With respect to the Alaska Railroad, the committee was advised that it forms the central transportation link for the distribution of commodities and supplies throughout the most heavily populated areas of Alaska; that efficient management of the Railroad is of the greatest possible importance to intrastate transportation in Alaska; and that to achieve this, the Railroad should be transferred to the Department of Transportation which will be staffed by transportation specialists.

The committee agreed that the Railroad should be under the direction, administration, and supervision of the Secretary and Department of Transportation, and that its location within the Department is likely to increase the efficiency of the Railroad, since it will now be in a mission-oriented department, staffed by transportation specialists. However, the contemplated transfer presented some technical difficulties. The Alaska Railroad was established pursuant to the act of March 12, 1914, which authorized the President to locate, construct, and operate railroads in the Territory of Alaska. The Railroad was subsequently established by the President, pursuant to Executive order. The current Executive Order No. 11107, April 25, 1963, placed general responsibility for the operation of the Railroad in the Secretary of the Interior, and the Interstate Commerce Commission was given certain responsibilities with respect to the rates. In order to maintain the existing balance, the committee added a new subsection 6(i) which transfers and vests in the Secretary of Transportation all of the functions vested in the Secretary of the Interior by Executive Order No. 11107.

APPALACHIAN REGIONAL DEVELOPMENT COMMISSION

Section 8(b) of the committee amendment provides 'that the recommendations of the Appalachian Regional Development Commission must first go to the Secretary of Commerce, and, upon his approval, to the Secretary of Transportation for final approval.

The committee strongly urges that the Secretaries jointly consult and cooperate on the handling of these projects in order to expedite action. To this end, the committee believes that expeditious action would be furthered if each Secretary would place a designated official in charge of matters relating to Appalachian projects.

FEDERAL EXECUTIVE SALARY ACT AMENDMENTS

In S. 3010, as introduced, the compensation for the principal officers of the Department of Transportation was as follows: The Secretary, level I (\$35,000); Under Secretary, level III (\$28,500); 4 Assistant Secretaries and the General Counsel, level IV (\$27,000); the Assistant Secretary for Administration, and the Chairman of the National

Transportation Safety Board, level V (\$26,000); and the other Board Members, GS-18 (\$25,890).

Since no provision was made in the bill, as introduced, for modal administrators, no salary levels were indicated.

As enacted by the House of Representatives, the Secretary would remain at level I, the Under Secretary at level III, 4 Assistant Secretaries and the General Counsel, at level IV, and the Assistant Secretary for Administration, at level V. However, the Chairman of the National Transportation Safety Board would be at level IV and the Members of the Board at level V. No action was taken with respect to the modal administrators, but in its report, the House Committee on Government Operations stated that it was the committee's understanding that the Federal Aviation Administrator would be placed at level III and the other modal administrators at level IV.

Following due consideration, the committee concluded that the principal officials of the new Department should be placed at salary levels commensurate with their responsibilities, and that appropriate statutory recognition be given to the modal administrators, regarding salary levels, in view of the major responsibilities and functions which they will have, and the importance of attracting fully competent personnel.

Accordingly, the committee adopted an amendment which would raise the salaries of the principal officers below the Secretary (except the General Counsel who would remain at level IV) one level above that established in the House act. Thus, the Under Secretary and the Federal Aviation Administrator would be raised to level II (\$30,000); the four Assistant Secretaries, the Chairman of the National Transportation Safety Board and the other modal administrators would be raised to level III (\$28,500) and the Assistant Secretary for Administration and the members of the National Transportation Safety Board would be raised to level IV (\$27,000). The position of Deputy Federal Aviation Administrator, not provided for in the House version, would also be placed at level IV.

It may be noted that the current levels of the officers holding positions which would be transferred to the Department of Transportation are Federal Aviation Administrator, level II; Federal Highway Administrator, level IV and Federal Maritime Administrator, level V. There is presently no Federal railroad administrator.

URBAN MASS TRANSIT

In his transportation message, the President stated that although the Department of Housing and Urban Affairs bears the principal responsibility for a unified Federal approach to urban problems, it cannot perform this task without the counsel, support and cooperation of the Department of Transportation. Accordingly, he stated further that he would ask the Secretary of Housing and Urban Development and the Secretary of Transportation to recommend to him, within 1 year after the creation of the new Department, the means and procedures by which this cooperation can best be achieved—not only in principal, but in practical effect.

At the hearings, several members of the committee, as well as public witnesses, expressed concern with respect to the failure of

S. 3010 to provide for the inclusion of the urban mass transportation program in the Department. Representatives of the administration opposed any transfer of these activities to the Department of Transportation, pending an analysis of the study referred to.

The committee added a new subsection 4(g), which requires the Secretary of Transportation and the Secretary of Housing and Urban Development to (1) consult and exchange information regarding their respective policies and activities with respect to transportation; (2) carry on joint planning, research and other activities; (3) jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas; and (4) requiring the two Secretaries, within 1 year after enactment of the act, and annually thereafter, to report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable.

RESEARCH AND DEVELOPMENT

S. 3010, as introduced, requires the Secretary, in carrying out the purposes of this act, to promote and undertake research and development in and among all modes and types of transportation services, among his other responsibilities. However, it contained no specific language or authority authorizing him to do so. Accordingly, the committee added a new subsection 9(r) which gives the Secretary clear-cut, direct authority to make use of the expertise, know-how, and facilities of qualified nongovernmental organizations and individuals for the conduct of scientific and technological research in connection with authorized programs of the Department.

TECHNICAL PERFECTING AND CONFORMING AMENDMENTS

Highway and traffic safety

In order to insure the carryover to the Department of Transportation of the provisions of the recently enacted National Traffic and Motor Vehicle Act of 1966 and the Highway Safety Act of 1966, the committee adopted amendments to section 3, 6, and 8.

New subsection 3(f) and subsection 6(a)(7) provide for the transfer to the Secretary of Transportation of all of the functions, power and duties vested in the Secretary and other offices and officers of the Department of Commerce, under the National Traffic and Motor Vehicle Act of 1966 and the Highway Safety Act of 1966. Under both of these acts the functions provided for therein were to be carried out through a National Traffic Safety Agency and a National Highway Safety Agency, each of which was to be headed by a Presidentially appointed, Senate-confirmed Administrator.

In order to avoid confusion with the Federal Highway Administrator, established in section 3(e)(1) of the committee amendments, the titles of the National Traffic Safety Agency and the National Safety Agency have been changed to National Traffic Safety Bureau and National Highway Bureau and each will be headed by a Director instead of an Administrator.

The committee amended the bill to authorize the President to carry out the provisions of both the National Traffic and Motor

Vehicle Safety Act and the Highway Safety Act through a single Bureau and Director, which is consistent with section 201 of the Highway Safety Act of 1966. All provisions of these acts, including those relating to the National Motor Vehicle Safety Council and the National Highway Safety Advisory Committee would be transferred intact to the new Department.

A further amendment was added to transfer the present office of Federal Highway Administrator to the Department of Transportation under the title of Director of Public Roads.

Additional technical implementing amendments have been made in subsections 6(a)(1)(B), 8(h), and 8(i). The amendment in subsection 6(a)(1)(B) transfers to the Department of Transportation the recently enacted Federal-Aid Highway Act of 1966.

Advisory committees

S. 3010, as introduced, in subsection 4(i) authorized the Secretary to appoint advisory committees for the purpose of consultation with and advice to the Department in the performance of its functions. In an attempt to avoid any conflict-of-interest problems on the part of those serving on such committees, the committee amended this subsection, now 9(p), to provide that payments made to members of such committees shall not render them employees or officials of the United States for any purpose.

Working capital fund

S. 3010, as introduced, in subsection 9(k), would have authorized the Secretary to establish a working capital fund, for operating various common administrative services in the Department. A committee amendment provides for an annual audit of such fund by the Comptroller General at the end of each fiscal year; and requires that there shall be covered into the Treasury as miscellaneous receipts any surplus found therein.

SECTION-BY-SECTION ANALYSIS OF S. 3010

SECTION 1. SHORT TITLE

This section provides that the act may be cited as the "Department of Transportation Act."

SECTION 2. DECLARATION OF PURPOSE

The first paragraph of this section declares the need for *development* of national transportation policies and programs. Such policies are to be evolved to provide a coordinated transportation system, permitting travelers and goods to move conveniently and efficiently from one means of transportation to another, consistent with national transportation policy standards, conservation, and efficient utilization of our national resources.

The second paragraph of this section finds a need for the establishment of a Department of Transportation in order to assure coordination of Federal transportation programs; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation in achieving national transportation objectives by Federal, State, and local governments, carriers, labor and other

interested parties; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress changes in national transportation policies and programs to accomplish these objectives.

The third paragraph of this section declares as a national policy that in implementing the provisions of this act, special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

SECTION 3. ESTABLISHMENT OF DEPARTMENT

Paragraph (a) of this section establishes a new executive department to be known as the Department of Transportation; headed by a Secretary of Transportation to be appointed by the President, with Senate confirmation.

Paragraph (b) and (c) provide that the President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Transportation, four Assistant Secretaries, and a General Counsel. These officers of the Department shall have such duties as the Secretary may prescribe. In the event of the absence, disability, or vacancy in the office of the Under Secretary, an Assistant Secretary or the General Counsel, determined according to the order prescribed by the Secretary, shall act for, and exercise his powers.

Paragraph (d) provides that the Secretary shall appoint under the classified civil service, with the approval of the President, an Assistant Secretary for Administration, who shall perform such duties as the Secretary may prescribe.

Subsection (e)(1) directs the Secretary to establish within the Department four modal administrations—highway, railroad, maritime, and aviation—each of which is to be headed by an Administrator (and in the case of aviation, there shall also be a Deputy Aviation Administrator). The four Administrators and the Deputy Aviation Administrator are to be appointed by the President, by and with the advice and consent of the Senate. Subsection (e)(2) provides that the qualifications of the Federal Aviation Administrator and Deputy Administrator shall be those specified in section 302(b) of the Federal Aviation Act of 1958, except that the present Administrator of the Federal Aviation Agency is not precluded from appointment as Administrator of the Federal Aviation Administration.

Subsection (e)(3) provides that Administrators and the Commandant of the Coast Guard shall report directly to the Secretary, and they shall carry out the functions, powers, and duties specified in this act, together with such additional duties as may be prescribed by the Secretary.

Subsection (e)(4) provides that the functions, powers, and duties specified in this act to be carried out by each Administrator and by the Maritime Board shall not be transferred elsewhere in the Department, except pursuant to reorganization plan submitted to the Congress, or by statute.

Subsection (f)(1) directs the Secretary to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through a National Traffic Safety Bureau, which the Secretary shall establish within the Department. The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of

the Senate, who shall be compensated at level V (\$26,000) of the Federal executive salary schedule. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 are made applicable.

Subsection (f)(2) directs the Secretary to carry out the provisions of the Highway Safety Act of 1966 through the National Highway Safety Bureau. The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. All other provisions of the Highway Safety Act of 1966 are made applicable.

Subsection (f)(3) authorizes the President to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

Subsection (f)(4) provides that the office of Federal Highway Administrator, created by 23 U.S.C. 303, is transferred to and continued within the Department under the title "Director of Public Roads." The Director shall be the operating head of the Bureau of Public Roads (or any successor agency carrying out its primary functions within the Department), and shall be compensated at level V (\$26,000) of the Federal executive salary schedule.

SECTION 4. GENERAL PROVISIONS

This section enumerates specific duties of the Secretary in carrying out the purposes of this act. Subsection (a) directs the Secretary to exercise leadership under the direction of the President in transportation matters, including those affecting the national or regional emergencies; provide general leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic and other transportation information; promote and undertake research and development in and among all modes and promote and undertake the research and development with respect to types of transportation services and facilities; noise abatement, with particular attention to aircraft noise; and, consult with the heads of other departments and agencies engaged in the transportation of Government goods and personnel or operating their own transport services, to encourage these departments and agencies to establish and observe transportation policies consistent with the objectives of this act.

Subsection (b)(1) contains a congressional mandate to the Secretary in the carrying out of his duties and responsibilities under this act and requires that he be governed by the declarations of policy contained in the Federal Aviation Act, the Interstate Commerce Act, the Merchant Marine Acts, the Highway Acts, and the Coast Guard statutes.

Subsection (b)(2) states congressional intent that nothing in this act shall be construed to authorize the adoption, revision, or implementation of any national transportation policy, or investment standards or criteria contrary to or inconsistent with any act of Congress.

Subsection (c) preserves the same rights to judicial review of orders and actions of the Secretary, the National Transportation Safety Board, Maritime Board, and the Administrators, and in the same

manner, as if such orders and actions had been taken by the department or agency exercising such functions, powers, and duties immediately preceding their transfer.

Subsection (d) gives the Secretary, the National Transportation Safety Board, Maritime Board, and the Administrators the same authority in the exercise of their functions, powers, and duties under this act, and their actions the same force and effect, as when exercised by the department or agency from which these functions, powers, and duties were transferred.

Subsection (e) provides that it shall be the duty of the Secretary to investigate the safety compliance record of applicants for Interstate Commerce Commission ("Commission") authority and to report the findings thereon to the Commission. In addition, the Secretary shall (1) intervene and present evidence as to applicant's fitness in Commission application proceedings for permanent authority or for approval of proposed transactions when applicant's safety record fails to satisfy the Secretary; (2) furnish promptly upon Commission request a statement of the safety record of an applicant seeking Commission temporary operating authority; and (3) furnish upon Commission request a complete report of the safety compliance of any carrier and also make such additional inspections or safety compliance surveys which the Commission deems necessary or desirable in order to process an application or to determine the fitness of a carrier, including intervention and presentation of evidence upon request of the Commission.

Subsection (4)(f) directs the Secretary to cooperate and consult with the Secretaries of the Interior, Housing and Urban Development and Agriculture, and with the States, and to include all transportation plans and programs measures to maintain or enhance the natural beauty of the lands traversed by transportation agencies. The Secretary shall not approve any program or project after the effective date of this act requiring the use of such lands or sites unless (1) there is no feasible alternative to the use of such land and (2) such program includes all possible planning to minimize harm to such areas resulting from such use.

Subsection (g) directs the Secretary and the Secretary of Housing and Urban Development to consult and exchange information on their respective transportation policies and activities; to carry on joint planning, research, and other activities; and, to coordinate assistance for local transportation projects. They are to undertake joint studies to determine how Federal policies and programs can best assure that urban transportation systems serve both national transportation and urban development needs. Within 1 year after the act, and annually thereafter, they shall report their studies and activities to the President, for submission to the Congress, along with any legislative recommendations they deem desirable.

SECTION 5. NATIONAL TRANSPORTATION SAFETY BOARD

Section 5(a) establishes within the Department a National Transportation Safety Board.

Subsection (b) transfers to the Board, and makes it the duty of the Board to exercise the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this act with regard to (1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents, and

(2) reviewing on appeal the suspension, amendment, modification, revocation or denial of any certificate or license issued by the Secretary or by an Administrator.

Subsection (c) provides that the Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary from the Civil Aeronautics Board.

Under subsection (d) the Board is further authorized to: (1) make recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety; (2) conduct special transportation safety and accident prevention studies; (3) insure that in cases in which it is required to determine the cause or probable cause of accidents, that accident investigation reports adequately state the circumstances of the accident involved; (4) initiate or conduct on its own motion rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate; (5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations; (6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate; (7) arrange for its members or Board personnel to participate in accident investigations conducted by the Secretary or Administrators; (8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

Subsection (e) requires the Board, except as otherwise provided by statute, to make public all reports, orders, decisions, rules and regulations issued under sections 5(b) (1), (2), and (3); every recommendation made to the Secretary or an Administrator; every special study conducted; and, every action of the Board requesting the Secretary or Administrator to take action under this section.

Subsection (f) provides that the Board shall be independent of the Secretary and other offices and officers of the Department in the exercise of its functions, powers, and duties;

Subsection (g) requires the Board to report annually to the Congress on the conduct of its functions and the effectiveness of accident investigations in the Department, together with such legislative recommendations as it deems appropriate.

Subsection (h) provides that the Board shall consist of five Presidentially appointed members with Senate confirmation. The membership of the Board shall be bipartisan. The President shall appoint the members with due regard to their fitness, and may not be removed by the President except for cause.

Subsection (i) establishes a 5-year term of office for the members of the Board, and makes provision for staggered terms of office and continuance in service until a successor is appointed and qualified.

Subsection (j) provides for Presidential designation of members of the Board as Chairman and Vice Chairman. The Chairman shall be the chief executive and administrative officer of the Board, and shall have authority to (1) appoint and supervise Board personnel; (2) distribute business among Board personnel; and (3) control the use and expenditure of funds. The Chairman, in exercising this authority shall be governed by the general policies of the Board and

by its decision, findings, and determinations. Three of its members shall constitute a Board quorum.

Subsection (k) empowers the Board to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

Subsection (l) provides that the Board, or authorized member or hearing examiner thereof, in carrying out Board functions, shall have the same powers, as vested in the Secretary to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence anywhere in the United States.

Subsection (m) authorizes the Board to delegate to any of its officers or officials, or to those of the Department, with the approval of the Secretary, such of its functions as it deems appropriate. A proviso limits such delegation to forbid the Secretary and his representatives, including Federal Aviation Administration officers and representatives, from participating in the determination of probable cause of aviation accidents. A further proviso forbids the delegation of appellate functions transferred from the Civil Aeronautics Board to the Board under section 6(d) of this act.

Subsection (n) authorizes the Board, subject to the civil service and classification laws, to employ necessary officers and employees, including investigators, attorneys, and hearing examiners.

Subsection (o) authorizes the Board, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department, and of other civilian or military agencies and instrumentalities, and to cooperate in such use. The Board is also authorized to confer with the avail itself of the cooperation, services, records, and facilities of State, and other local bodies.

SECTION 6. TRANSFERS TO DEPARTMENT

This section provides for the transfer of transportation functions from various departments and agencies to the Secretary. In addition, this section provides for the further transfer of certain specified functions within the Department to the Federal Aviation and Federal Maritime Administrators and to the National Transportation Safety Board, and sets forth the duties to be exercised by the modal Administrators.

Subsection (a) transfers from the Secretary of Commerce to the Secretary of Transportation various provisions of law relating generally to (1) highways; (2) ground transportation; (3) aircraft; (4) pilotage; (5) the merchant marine; (6) the Act of August 1, 1947, as amended to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection; and (7) the National Traffic Motor Vehicle Safety Act of 1966, and the Highway Safety Act of 1966.

Subsection (a)(5)(A) transfers to the Federal Maritime Administrator and makes it his duty to exercise those functions, powers, and duties of the Secretary relating to the merchant marine laws transferred from the Department of Commerce, except such functions, powers, and duties as the Maritime Board shall exercise in accordance with the provisions of subsection (a)(5)(B).

Subsection (a)(5)(C) establishes within the Department a Maritime Board, which shall exercise the functions, powers, and duties in the merchant marine laws pertaining to operating-differential and construction subsidy, and other allied matters.

Subsection (a)(5)(D) provides that the Maritime Board shall be composed of three members: the Federal Maritime Administrator, shall be Chairman of the Board, and two additional members appointed by the President, by and with the advice and consent of the Senate. The Board shall be bipartisan. The two additional Board members shall be appointed for staggered terms of 4 years, and compensated at the rate of level IV (\$27,000) of the Federal executive salary schedule. The members continue to serve until their successor is qualified, and no member shall engage in any other business, vocation or employment. Any two members of the Board shall constitute a quorum, and the concurring votes of any two members shall be sufficient for the disposition of any matter before the Board. The Federal Maritime Administrator, the members, and officers and employees of the Board are forbidden to have any pecuniary relationship with persons, et cetera with whom the Board may have business relationships. The members of the Board shall be appointed with due regard to their fitness, and the two additional board members may be removed by the President only for cause. The Board is authorized to establish necessary rules, regulations, and procedures, and to delegate to any of its officers or officials or those of the Federal Maritime Administration such of its functions as it deems appropriate. It is further provided that nothing in this act shall be deemed to affect the Federal Maritime Commission, or any of the functions of that Commission.

Subsection (a)(5)(E) provides that decisions of the Maritime Board, made pursuant to the exercise of its enumerated functions, shall be administratively final, and appeals as authorized by law or this act shall be taken directly to the courts.

Subsection (b)(1) transfers the Coast Guard to the Department, and transfers to and vests in the Secretary all functions, powers, and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury. Subsection (b)(2) provides that notwithstanding this transfer, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President so directs in accordance with law. Subsection (b)(3) provides that, notwithstanding any other provisions of this act, the functions, powers, and duties of the General Counsel of the Department of the Treasury, with respect to review and final action concerning courts-martial under the Uniform Code of Military Justice, are transferred to and vested in the General Counsel of the Department.

Subsection (c) transfers from the Federal Aviation Agency and vests in the Secretary all functions, powers, and duties of that Agency, including the development and construction of a civil supersonic aircraft. The functions, powers and duties of the Secretary set forth in certain specified sections and titles of the Federal Aviation Act of 1958, which concern aviation safety, are further transferred, within the Department, to the Federal Aviation Administrator, and it shall be the Administrator's duty to exercise these functions, powers, and duties guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958. The Federal Aviation Administrator's decisions as to these matters are administratively final, and authorized appeals shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

Subsection (d) transfers from the Civil Aeronautics Board and vests in the Secretary all functions, powers, and duties relating to the determination of cause or probable cause of aviation accidents; aircraft accident investigation; and, the determination on appeal of certificate and licensing actions. These functions, powers, and duties of the Secretary are further transferred, within the Department, to the National Transportation Safety Board, and it shall be the duty of the Board to exercise these functions transferred from the CAB. The decisions of the Safety Board as to these matters are administratively final, and authorized appeals are to be taken directly to the courts.

Subsection (e) transfers from the Interstate Commerce Commission and vests in the Secretary all functions, powers, and duties relating generally to (1) safety appliances and equipment on railroad engines and cars, and protection of employees and travelers; (2) hours of service of employees; (3) medals for heroism; (4) explosives and other dangerous articles; (5) standard time zones and daylight saving time; and (6) the following provisions of the Interstate Commerce Act: (A) Section 25, relating generally to safety appliances methods and systems; (b) section 226, relating generally to investigation of motor vehicle sizes and weights, and service of employees; (C) sections 204(a) (1) and (2), to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment, and sections 204(a) (3), (3a), and (5); and (D) sections 221 (a) and (c), and 224, to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers.

Subsection (f)(1) states congressional intent that nothing in subsection (e) of this section shall diminish the functions, powers and duties of the Interstate Commerce Commission under certain specified sections of the Interstate Commerce Act, or under any other section of that act not specifically referred to in subsection (e).

Subsection (f)(2) provides that with respect to any function, power, and duty which is transferred to the Secretary by subsection (e), and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect thereto. The Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those functions, powers, and duties not transferred by subsection (e). The term administrative powers under the Interstate Commerce Act is defined to mean any functions under certain specified provisions of the Interstate Commerce Act.

Subsection (f) also provides that the Federal Railroad Administrator shall have the duty of exercising the functions, powers, and duties of the Secretary as to railroad safety (safety devices, appliances, and equipment on railroad engines and cars, accident reporting and protection of employees and travelers, including hours of service of employees) and pipeline safety. The Federal Highway Administrator shall have the duty of exercising the functions, powers, and duties of the Secretary as to motor carrier safety (qualifications and maximum hours of service of employees, and safety of operation and equipment). Their decisions are to be administratively final as to such matters, and appeals as authorized by law are to be taken directly to the courts.

Subsection (g) transfers to and vests in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army as to certain laws and provisions of law relating generally to (1) water vessel anchorages; (2) drawbridge operating regulations; (3) obstructive bridges; (4) the reasonableness of tolls; (5) the prevention of pollution of the sea by oil; and (6) the location and clearance of bridges and causeways in the navigable waters of the United States.

Subsection (h) states the intent of Congress that, notwithstanding any other provision of this act, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by the Administrative Procedure Act in hearing examiners employed by any department, agency, or components thereof whose functions are transferred under the provisions of this act.

Subsection (i) transfers to and vests in the Secretary of Transportation the administration of the Alaska Railroad, and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order 11107, and provides that the Secretary of Transportation shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to Executive order.

SECTION 7. TRANSPORTATION INVESTMENT STANDARDS

Subsection (a) directs the Secretary to develop and, in the light of experience, to revise standards and criteria consistent with the national transportation policies, for the formulation and economic evaluation of all proposals except such proposals as are concerned with (1) the investment of Federal funds in 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. These standards or criteria as developed or revised shall be promulgated by the Secretary upon their approval by the Congress.

Subsection (a) also provides that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council. The Water Resources Council is expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resources projects. For the purpose of such standards and criteria, this subsection defines "the primary direct navigation benefits of a water resource project as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway." The term "savings to shippers" is construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway. The estimate of traffic that would use the waterway is to be based on such freight rates, taking into account projections of the economic growth of the area.

Subsection (b) directs that every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secre-

tary has promulgated standards and criteria pursuant to subsection (a) shall be prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to (1) projected growth of transportation needs and traffic in the affected area; (2) the relative efficiency of various modes of transport; (3) the available transportation services in the area; and (4) the general effect of the proposed investment on existing modes, and on the regional and national economy. Every such survey, plan, or report shall also be coordinated by the proposing agency with the Secretary and appropriate Federal agencies, States, and local units of government for inclusion of their comments; and, thereafter, transmitted by the proposing agency to the President for disposition in accord with law and procedures established by him.

SECTION 8. AMENDMENTS TO OTHER LAWS

Subsection (a) amends section 406(b) of the Federal Aviation Act by adding a provision requiring the Civil Aeronautics Board in fixing subsidies to take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.

Subsection (b) amends section 201 of the Appalachian Regional Development Act of 1965. The amendment transfers the Secretary of Commerce's functions under this section to the Secretary of Transportation, except that (1) the Appalachian Regional Commission's recommendations first to go to the Secretary of Commerce and, upon his approval, to the Secretary of Transportation for final approval; (2) the two Secretaries jointly determine whether more than 50 percent of the cost of construction will be paid by the United States; and (3) appropriations would be made to the Secretary of Commerce, who would transfer the necessary highway funds to the Secretary for administration of approved projects.

Subsection (c) amends section 206 of the Appalachian Regional Development Act of 1965 to require the Secretary of the Army in formulating the water resource plan called for under that section to consult with the Secretary of Transportation.

Subsection (d) makes a conforming amendment to section 212(a) of the Interstate Commerce Act to authorize the Interstate Commerce Commission to suspend, change, or revoke, in whole or in part, motor carrier certificates, permits, and licenses for failure to obey any lawful order, rule, or regulation of the Secretary made pursuant to functions transferred to him from the Interstate Commerce Commission by this act.

Subsection (e) is a conforming amendment to the Fair Labor Standards Act of 1938 to reflect the transfer from the Interstate Commerce Commission to the Secretary of the power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Interstate Commerce Act.

Subsection (f) is a conforming amendment to the Federal Explosives Act to reflect the transfer to the Secretary of Transportation of the authority to make regulations with respect to the transportation of explosives.

Subsection (g) places within the Department, subject to the direction and supervision of the Secretary, the St. Lawrence Seaway

Development Corporation, and provides that the Administrator of the Seaway Development Corporation shall report directly to the Secretary.

Subsection (h) is a conforming amendment to the Highway Safety Act of 1966 to reflect that the provisions of that act shall be carried out by the Secretary through a National Highway Safety Bureau headed by a Director.

Subsection (i) is a conforming amendment to the National Traffic and Motor Vehicle Safety Act of 1966 to reflect that the provisions of that act shall be carried out by the Secretary through a National Highway Safety Bureau headed by a Director.

Subsection (j) is a conforming amendment to the Marine Resources and Engineering Development Act of 1966. The Secretary of Transportation, because of the transfer of the Coast Guard to the Department, is made a member of the National Council on Marine Resources and Engineering Development in place of the Secretary of the Treasury.

Subsection (k) is a conforming amendment substituting the Secretary of Transportation for the Secretary of Commerce in the act granting the consent of the Congress to a compact between the States of Missouri and Kansas establishing the Kansas City Area Transportation District and the Kansas City Transportation Authority.

SECTION 9. ADMINISTRATIVE PROVISIONS

Subsection (a) authorizes the Secretary, subject to the civil service and classification laws, to employ personnel, including necessary investigators, attorneys, and hearing examiners.

Subsection (b) would amend title V of the United States Code to increase the maximum number of positions authorized for grade 16, 17, and 18 positions with the Federal Government from 2,577 to 2,622.

Subsection (c) authorizes the Secretary to hire experts and consultants at rates not to exceed \$100 per day.

Subsection (d) authorizes the Secretary to provide for participation of military personnel in carrying out the functions of the Department. Members of the Armed Forces could be assigned to the Department pursuant to cooperative agreements between the Secretary of Transportation and the military departments.

Subsection (e) provides that members of the Armed Forces so detailed would not be charged against statutory limitations on grades or strengths applicable to the Armed Forces, and appointment would in no way affect the status of the military personnel so assigned. Persons so assigned would not be subject to the direction or control of the Armed Forces with respect to the responsibilities exercised by such persons in the Department of Transportation. The Secretary would be required to report annually to the Congress on personnel appointed under subsection (d) of this section.

Subsection (f)(1) authorizes the Secretary to delegate any of his functions, powers, and duties, and permits successive redelegation with his approval. The Secretary is also authorized to issue appropriate rules and regulations to carry out his functions, powers, and duties. Subsection (f)(2) authorizes any officer of the Department in the exercise of functions transferred to or specified to be carried out by such an officer of the Department to delegate, and successive redelegations are also authorized. Such officers in the exercise of

such functions transferred to them or to be carried out by them under this act may make such rules and regulations as may be necessary to carry out their statutorily assigned duties. Subsection (f)(3) provides that the modal Administrators may not delegate any of the statutory duties and responsibilities specifically assigned to them by this act outside of their respective administrations.

Subsection (g) transfers to the Secretary the personnel, assets, unexpended balances of appropriations, etc., of the Federal Aviation Agency, and provides that the personnel, funds, etc., employed in carrying out the duties transferred to the Federal Aviation Administrator by this act shall be assigned by the Secretary to the Administrator for these purposes.

Subsection (h) transfers to the Secretary the positions, assets, unexpended balances of appropriations, etc., in connection with the functions, powers, and duties transferred under section 6 (except for the Federal Aviation Agency, which is covered in subsection (g) above), 8(d) and (e) of this act, as the Director of the Bureau of the Budget determines is related to such functions transferred. Personnel engaged in transferred functions will be transferred in accordance with applicable laws and regulations. This subsection further provides that the personnel, personnel funds, etc., employed by the CAB in carrying out the duties transferred by this act to the National Transportation Safety Board, shall be transferred to the Safety Board.

It is further provided that the personnel, positions, funds, etc., employed in carrying out the functions, powers, and duties to be exercised by the Federal Maritime Administrator or the Maritime Board shall be assigned to them by the Secretary for these purposes.

Subsection (i) provides that personnel transferred pursuant to the provisions of subsections (g) and (h) of this section shall not suffer reduction in classification or compensation for 1 year after such transfer.

Subsection (j) provides that any agency all of the functions of which are transferred by this act shall lapse, except for the Coast Guard, which will continue in the Department. This subsection also provides that employees compensated under the Federal executive salary schedule, who without a break in service, are appointed in the Department to a comparable position shall continue to be compensated at not less than the rate provided for in their previous position, for the duration of their service in the new position.

Subsection (k) authorizes the establishment of a working capital fund for the Department. The Comptroller General is directed to make an annual audit of the working capital fund at the end of each fiscal year, and to report to the Congress annually the results of the audit, together with such recommendations as he may have regarding the status and operations of the fund.

Subsection (l) directs the Secretary to adopt a departmental seal, and provides for judicial notice of such seal.

Subsection (m) authorizes the Secretary to provide certain facilities, services, and supplies to employees and their dependents stationed at remote localities.

Subsection (n) authorizes the Secretary to accept gifts and bequests of real and personal property, and for the purpose of Federal income, estate and gift taxes such property accepted shall be considered as a gift or bequest for the use of the United States.

Subsection (o) authorizes the Secretary, upon the payment of the actual cost of the work, to make special statistical studies and to prepare from its records special statistical compilations and other records for private persons and State and local governments. Payments received for work under this subsection would be deposited in a special account from which payment could be made for the ordinary expenses incidental to the work and to secure the services of persons who are not officers or employees of the United States.

Subsection (p) authorizes the Secretary to appoint advisory committees, and provides for compensation of members of such committees in accordance with the provisions of section 5703 of title V of the United States Code. Such payments to members of advisory committees shall not make them employees or officials of the United States for any purpose.

Subsection (q)(1) permits the appointment, detail, or assignment to positions in the Department (without regard to the civil service and classification acts) of members of the Coast Guard on active duty, except for the positions of Secretary, Under Secretary, and Assistant Secretary for Administration. Subsection (q)(2) makes clear that subsection (q)(1) is not intended to exclude retired members of the Coast Guard from employment in any position in the Department (subject to the provisions of title V of the United States Code).

Subsection 9(r) gives the Secretary direct authority to make use of the expertise, know-how, and facilities of qualified nongovernmental organizations and individuals for the conduct of scientific and technological research in connection with authorized programs of the Department.

SECTION 10. CONFORMING AMENDMENTS TO OTHER LAWS

Subsections (a) and (b) places the Secretary of Transportation in the line of succession to the office of the President of the United States:

Subsection (c) is a technical provision which would extend to the Department the provisions of title IV of the Revised Statutes, except to the extent inconsistent with the bill. These provisions deal with such matters as departmental vacancies, regulations, duties of clerks, details, and employment of personnel, oaths, subpoenas, and witness fees.

Subsection (d) amends subchapter II of chapter 3 of title V of the United States Code (relating to executive schedule pay rates) to conform to the establishment of the Department of Transportation by this act; to delete the positions of Under Secretary of Commerce for Transportation and Administrator of the Federal Aviation Agency; and to insert the new positions established by this act. Under this subsection, the officers of the new Department would be placed at the following levels of the Federal executive salary schedule: the Secretary of Transportation, level I (\$35,000); the Under Secretary and the Federal Aviation Administrator, level II (\$30,000); the four Assistant Secretaries, the Chairman of the National Transportation Safety Board and the other Federal highway, railroad and Maritime Administrators, level III (\$28,500); the General Counsel, the Assistant Secretary for Administration, the members of the National Transportation Safety Board, the Director of Public Roads, and the Deputy Federal Aviation Administrator, level IV (\$27,000). This subsection also

authorizes the President to place a total of nine additional positions in levels IV and V, and one additional position in level III.

Subsection (e) removes from the Federal Executive Salary Schedule reference to the Federal Highway Administrator; the Maritime Administrator; and the following officers of the Federal Aviation Agency: the Administrator, Deputy Administrator, Associate Administrator for Administration, Associate Administrator for Development, Associate Administrator for Programs, and General Counsel.

Subsection (f) amends an act which makes the vessel operation revolving fund available to pay activation and deactivation cost of ships chartered out by the Secretary of Commerce, so as to make the act applicable to ships chartered out by the Secretary of Transportation.

Subsection (g) amends the act which prescribes a criminal penalty for false representations relating to highway projects submitted to the Secretary of Commerce so as to make it applicable to such projects submitted to the Secretary of Transportation.

Subsection (h) is a conforming amendment to the Uniform Code of Military Justice to implement the provisions of section 6(b)(3) of this act.

SECTION 11. ANNUAL REPORT

This section directs the Secretary to make an annual report.

SECTION 12. SAVINGS PROVISIONS

This section contains savings provisions, designed in general to insure that transfers of functions to the Department do not affect either rights and privileges existing before the transfer, or administrative or judicial proceedings pending at the time of transfer, except to the extent necessary to permit the Department to act in the place of the officer or agency from which the functions were transferred.

Subsection (a) provides that orders, regulations, certificates, etc., to which transferred functions relate and which are in effect at the time of transfer, will remain in effect until modified by the appropriate officer or agency of the Department, by the courts, or by operation of law.

Subsection (b) provides that this act will not affect administrative proceedings pending on the act's effective date, except that certain proceedings involving transferred functions will be continued before the new Department.

Subsection (c) provides that no cause of action will abate by reason of this act's enactment, and that judicial proceedings pending when this act takes effect will not be affected by this act, with the exception of certain proceedings involving transferred functions, which will be continued by the Secretary.

Subsection (d) provides that with respect to a transferred function exercised after the effective date of this act, any reference in any Federal law to the agency or officer from which the function was transferred will be deemed to mean the officer or agency in which this act vests such function after its transfer.

SECTION 13. SEPARABILITY

This section provides that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act, and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 14. CODIFICATION

This section directs the Secretary to submit to the Congress within 2 years from the effective date of this act a proposed codification of all laws that contain functions transferred to or vested in the Secretary or the Department by this act.

SECTION 15. EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

Subsection (a) of this section provides that this act shall take effect 90 days after the Secretary first takes office, or on such prior date after the enactment of this act as the President shall prescribe and publish in the Federal Register. Subsection (b) provides that the principal officers of the Department may be appointed at any time after the date of enactment of this act, and that they will be compensated from the date they first take office. Their compensation and the related expenses of their offices will be paid from funds available for the functions to be transferred to the Department.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 406(b) OF THE FEDERAL AVIATION ACT OF 1958

(72 Stat. 763)

RATE MAKING ELEMENTS

(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carriers or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier (other than a supplemental air carrier) for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient man-

agement, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. *In applying clause (3) of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation, for determining the character and quality of transportation required for the commerce of the United States and the national defense.*

SECTIONS 201 AND 206(c) OF THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

(79 Stat. 10 and 15)

TITLE II—SPECIAL APPALACHIAN PROGRAMS

PART A—NEW PROGRAMS

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

SEC. 201. (a) The Secretary of **Commerce** (hereafter in this section referred to as the "Secretary") **Transportation** is authorized to assist in the construction of an Appalachian development highway system serving the Appalachian region (the length of which shall not exceed two thousand three hundred and fifty miles. In addition thereto, there are authorized to be constructed not in excess of one thousand miles of local access roads, that will serve specific recreational, residential, commercial, industrial, or other like facilities or will facilitate a school consolidation program). The system, in conjunction with the Interstate System and other Federal-aid highways in the region will provide a highway system which will open up an area or areas with a developmental potential where commerce and communication have been inhibited by lack of adequate access. The provisions of title 23, United States Code, that are applicable to Federal-aid primary highways, and which the Secretary of *Transportation* determines are not inconsistent with this Act, shall apply to the Appalachian development highway system, and the local access roads.

(b) As soon as feasible, the Commission shall submit to the Secretary of *Commerce* its recommendations with respect to (1) the general corridor location and termini of the development highways, (2) the designation of local access roads to be constructed, (3) priorities for construction of the local access roads and of the major segments of the development highways, and (4) other criteria for the program authorized by this section. Before any State member participates in or votes on such recommendations, he shall have obtained the recommendations of the State highway department of the State which he represents.

(c) **The Secretary shall have authority to approve in whole or in part such recommendations or to require modifications or revisions thereof.** *Such recommendations as are approved by the Secretary of Commerce shall be transmitted to the Secretary of Transportation for his approval.* In no event shall the Secretary of *Transportation* approve any recommendations for any construction which would require for its completion the expenditure of Federal funds (other than funds

available under title 23, United States Code) in excess of the appropriation authorizations in subsection (g). On its completion each development highway not already on the Federal-aid primary system shall be added to such system and shall be required to be maintained by the State.

(d) In the construction of highways and roads authorized under this section, the States may give special preference to the use of mineral resource materials indigenous to the Appalachian region.

(e) For the purposes of research and development in the use of coal and coal products in highway construction and maintenance, the Secretary of Transportation is authorized to require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not to exceed 10 per centum of the roads authorized under this Act.

(f) Federal assistance to any construction project under this section shall not exceed 50 per centum of the costs of such project, unless the Secretary of Commerce and the Secretary of Transportation [determines] determine, pursuant to the recommendation of the Commission, that assistance in excess of such percentage is required in furtherance of the purposes of this Act, but in no event shall such Federal assistance exceed 70 per centum of such costs.

(g) To carry out this section, there is hereby authorized to be appropriated \$840,000,000 to the Secretary of Commerce, who shall transfer funds to the Secretary of Transportation for administration of projects approved by both Secretaries.

* * * * *

WATER RESOURCE SURVEY

SEC. 206. (a) * * *

* * * * *

(c) To insure that the plan prepared by the Secretary of the Army shall constitute a harmonious component of the regional program, he shall consult with the Commission and the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of the Interior, Secretary of Transportation, the Tennessee Valley Authority, and the Federal Power Commission.

SECTION 212(a) OF THE INTERSTATE COMMERCE ACT

SUSPENSION, CHANGE, REVOCATION, AND TRANSFER OF CERTIFICATES, PERMITS, AND LICENSES

SEC. 212. (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this part, or with any lawful order, rule, or regulation [of the Commission] promulgated thereunder, or with any term, condition, or

limitation of such certificate, permit, or license: *Provided, however,* That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order [of the Commission], made as provided in section 204(c), commanding obedience to the provision of this part, or to the rule or regulation [of the Commission] thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder: *And provided further,* That the right to engage in transportation in interstate or foreign commerce by virtue of any certificate, permit, license, or any application filed pursuant to the provisions of sections 206, 209, or 211, or by virtue of the second proviso of section 206(a) or temporary authority under section 210a, may be suspended by the Commission, upon reasonable notice of not less than fifteen days to the carrier or broker, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of sections 211(c), 217(a), or 218(a) or with any lawful order, rule, or regulation of the Commission promulgated thereunder.

* * * * *

SECTION 13(b)(1) OF THE FAIR LABOR STANDARDS ACT OF 1938

(52 Stat. 1067)

- (b) The provisions of section 7 shall not apply with respect to—
 (1) any employee with respect to whom the [Interstate Commerce Commission] *Secretary of Transportation* has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

* * * * *

SECTION 3 OF THE FEDERAL EXPLOSIVES ACT

(40 Stat. 385)

SEC. 3. The purchase or possession of ingredients when purchased or held in small quantities and not used or intended to be used in the manufacture of explosives shall not be subject to the provisions of this Act. [This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, or conveyances in conformity with the statutory provisions or rules and regulations of the Interstate Commerce Commission, or regulations of the Secretary of Commerce.] *This Act shall not apply to explosives or ingredients which are in transit upon vessels, railroad cars, aircraft, or other conveyances in conformity with statutory law or with the rules and regulations of the Secretary of Transportation.* This Act shall not be construed to prevent the manufacture under the authority of the United States of explosives for, or their sale to or possession by, the military or naval service of the United States or the Federal Bureau of Investigation. This Act shall

not apply to arsenals, navy yards, depots or other establishments owned by, or operated by or on behalf of, the United States. The Director may, however, cooperate with the heads of departments having jurisdiction over such establishments. Nothing in this Act shall be construed to modify or otherwise affect in any way the authority of the Federal Bureau of Investigation with respect to the investigation of explosions, accidents, or fires.

SECTION 1 OF THE ACT OF MAY 13, 1954

(68 Stat. 92)

[Section 1. There is hereby created, subject to the direction and supervision of the President, or the head of such agency as he may designate, a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation").]

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 201 OF THE HIGHWAY SAFETY ACT OF 1966

(80 Stat. 731)

SEC. 201. The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (including chapter 4 of title 23 of the United States Code) through a National Highway Safety **[Agency] Bureau** (hereinafter referred to as the **[“Agency”] Bureau**), which he shall establish in the Department of Commerce. The **[Agency] Bureau** shall be headed by **[an Administrator] a Director** who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The **[Administrator] Director** shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him. The **[Administrator] Director** shall have no pecuniary interest in or own any stock in or bonds of any enterprise involved in (1) manufacturing motor vehicles or motor vehicles equipment, or (2) constructing highways, nor shall he engage in any other business, vocation, or employment. The **[Administrator] Director** shall perform such duties as are delegated to him by the Secretary. On highway matters the **[Administrator] Director** shall consult with the **[Federal Highway Administrator] Director of Public Roads**. The President is authorized to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the **[Agency] Bureau** and **[Administrator] Director** authorized by this section.

**SECTION 115 OF THE NATIONAL TRAFFIC AND MOTOR
VEHICLE SAFETY ACT OF 1966 (80 STAT. 718)**

SEC. 115. The Secretary shall carry out the provisions of this Act through a National Traffic Safety [Agency] *Bureau* (hereinafter referred to as the ["Agency"] *Bureau*, which he shall establish in the Department of Commerce. The *Bureau* shall be headed by a Traffic Safety [Administrator] *Director* who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate prescribed for level V of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964. The [Administrator] *Director* shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this Act. The [Administrator] *Director* shall perform such duties as are delegated to him by the Secretary.

**SECTION 3(a) OF THE MARINE RESOURCES AND
ENGINEERING DEVELOPMENT ACT OF 1966**

(80 Stat. 204)

SEC. 3. (a) There is hereby established, in the Executive Office of the President, the National Council on Marine Resources and Engineering Development (hereinafter called the "Council") which shall be composed of—

- (1) The Vice President, who shall be Chairman of the Council.
- (2) The Secretary of State.
- (3) The Secretary of the Navy.
- (4) The Secretary of the Interior.
- (5) The Secretary of Commerce.
- (6) The Chairman of the Atomic Energy Commission.
- (7) The Director of the National Science Foundation.
- (8) The Secretary of Health, Education, and Welfare.
- (9) The Secretary of [the Treasury] *Transportation*.

**SECTION 2(e) OF THE ACT OF SEPTEMBER 22, 1966,
PUBLIC LAW 89-599**

SEC. 2.

* * * * *

(e) The consent of Congress to this compact is granted subject to the further condition that the Kansas City Area Transportation District and the Kansas City Area Transportation Authority shall not acquire, construct, maintain, operate, or lease to others for maintenance and operation any interstate toll bridge or interstate toll tunnel without prior approval of the Secretary [of Commerce] *of Transportation*.

SECTION 5108(a) OF TITLE 5, UNITED STATES CODE

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of ~~2,577~~ 2,622, in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 240 hearing examiner positions under section 3105 of this title which may be placed in GS-16 and 9 such positions which may be placed in GS-17) which may be placed in GS-16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS-17 and not to exceed 12 percent of the aggregate number may be placed in GS-18. A position may be placed in GS-16, 17, or 18 only by action of, or after prior approval by, a majority of the Civil Service Commissioners.

* * * * *

SECTION 19(d)(1) OF TITLE 3, UNITED STATES CODE

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Postmaster General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development~~[.]~~, *Secretary of Transportation.*

SECTION 101 OF TITLE 5, UNITED STATES CODE

§ 101. Executive departments

The Executive departments are:

* * * * *

The Department of Housing and Urban Development. The Department of Transportation.

SUBCHAPTER II OF CHAPTER 53 OF TITLE V, UNITED STATES CODE

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$35,000:

* * * * *

- (11) *Secretary of Housing and Urban Development.*
- (12) *Secretary of Transportation.*

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$30,000:

* * * * *

[(7) Administrator of the Federal Aviation Agency.]
(7) Under Secretary of Transportation.

* * * * *

(19) Administrator, Federal Aviation Administration.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$28,500:

* * * * *

[(6) Under Secretary of Commerce for Transportation.]
(46) Assistant Secretaries of Transportation (4).
(47) Administrator, Federal Highway Administration.
(48) Administrator, Federal Railroad Administration.
(49) Administrator, Federal Maritime Administration.
(50) Chairman, National Transportation Safety Board.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$27,000:

* * * * *

[(2) Deputy Administrator of the Federal Aviation Agency.]
* * * * *
(78) Members, National Transportation Safety Board.
(79) General Counsel, Department of Transportation.
(80) Deputy Administrator, Federal Aviation Administration.
(81) Assistant Secretary for Administration, Department of Transportation.
(82) Director of Public Roads.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$26,000:

* * * * *

[(12) Associate Administrator for Administration, Federal Aviation Agency.]
[(13) Associate Administrator for Development, Federal Aviation Agency.]
[(14) Associate Administrator for Programs, Federal Aviation Agency.]

* * * * *

[(76) Federal Highway Administrator, Department of Commerce.]

* * * * *

[(82) General Counsel of the Federal Aviation Agency.]

* * * * *

[(89) Maritime Administrator, Department of Commerce.]

* * * * *

(117) *Director, National Traffic Safety Bureau.*

(118) *Director, National Highway Safety Bureau.*

§ 5317. Presidential authority to place positions at levels IV and V

In addition to the positions listed in sections 5315 and 5316 of this title, the President, from time to time, may place in levels IV and V of the Executive Schedule positions held by not to exceed [30] 39 individuals when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in an Executive agency. Such an action with respect to a position to which appointment is made by the President by and with the advice and consent of the Senate is effective only at the time of a new appointment to the position. Notice of each action taken under this section shall be published in the Federal Register, except when the President determines that the publication would be contrary to the interest of national security. The President may not take action under this section with respect to a position the pay for which is fixed at a specific rate by this subchapter or by statute enacted after August 14, 1964.

§ 5318. Presidential authority to place a position at level III

The President is further authorized to place one position in level III.

ACT OF AUGUST 1, 1956

(70 Stat. 897)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vessel operations revolving fund created by the Third Supplemental Appropriations Act, 1951, approved June 2, 1951 (Public Law 45, Eighty-second Congress; 65 Stat. 52, at 59), shall, beginning July 1, 1956, be available for expenses incurred in connection with the activation, repair, and deactivation of merchant ships chartered under the jurisdiction of the [Secretary of Commerce] Secretary of Transportation. There shall be credited to such fund all receipts on account of operations after July 1, 1956, under charters of Government-owned ships under the jurisdiction of the [Secretary of Commerce] Secretary of Transportation.

SECTION 1020 OF TITLE 18, UNITED STATES CODE

§ 1020. Highway projects.

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the [Secretary of Commerce] Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the [Secretary of Commerce] *Secretary of Transportation*; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SECTION 801(1) OF TITLE 10, UNITED STATES CODE

§ 801. Article 1. Definitions.

In this chapter:

(1) "Judge Advocate General" means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, [the General Counsel of the Department of the Treasury] *the General Counsel of the Department of Transportation*.

ADDITIONAL VIEWS OF SENATOR JAVITS

I have for some years advocated the creation of a Department of Transportation and accordingly am pleased to lend my support to legislation for this purpose. I would be remiss, however, if I did not call attention to one item which I believe the committee has erroneously failed to provide for in the new Department; to wit, an Office of Noise Abatement. There are few problems that the American public has been made more forcefully aware of than the problem of noise. The sound of the airplane as it makes its way in and out of our modern airports, the constant hum of the automobile, bus, and truck in our urban environment, the thunder of the train in the night as it rushes through rural communities are factors which affect all our lives. And yet the Federal Government has reacted to periodic public outcries with the ineffective palliative of token funds to miscellaneous agencies for research and development. This half-hearted, diffusive effort has failed to give this critical problem the attention it necessarily requires.

Last year an amendment which I introduced to deal with the noise problem was included in the 1965 Housing and Urban Development Act. The amendment called upon the then HHFA Administrator to undertake a study to determine feasible methods of reducing the economic loss and hardship suffered by homeowners as the result of the construction of airports in the vicinity of their homes, including a study of feasible methods of insulating such homes from the noise of aircraft. Findings from that study were to be made to the Congress at the *earliest* practicable date, but in *no* event later than 1 year after the date of the enactment of that law—August 10, 1965. August 10, 1966, has come and gone. I am finally informed—over a year later—that after long delays to determine who had the responsibility for noise studies, the study provided for in the 1965 Housing Act has only recently been *begun*.

I am convinced it is time the Congress specifically designated an office to conduct and coordinate all anti-noise activities. Accordingly, I offered an amendment in committee to establish an office in the new Department which would be directly responsible for conducting research and designating standards to reduce the noise when it is a nuisance. However, the committee did not accept my proposal. Instead it was agreed that the duties of the Secretary in section 4 should provide that, among other duties, he should conduct research on the problem. I sincerely regret this decision, for I feel that it does not provide for the concentrated and specific effort under the direction of a special consultant and coordinator needed to effectively eliminate the problem of noise.

But, I file these views to emphasize that the Secretary will have the broad authority to deal with the subject and hopefully will take the initiative in this area on his own.

JACOB K. JAVITS.

