

TITLE OR OTHER IDENTIFICATION

S. 3880

Eno  
Center for  
Transportation

To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes.

APPROVED

RECOMMENDATIONS

AUG 23 1958

Bureau of the Budget -- approval  
Department of Defense -- approval  
Department of Commerce -- approval  
Civil Aeronautics Board -- does not recommend disapproval  
Airways Modernization Board -- approval, but recommends  
statement  
Federal Communications Commission -- no objection  
Department of State -- no objection  
General Services Administration -- no objection  
Post Office Department -- no objection



Introduced by: Senator A. S. Monroney  
(D., Oklahoma) for self and others

Coordinated by: Bureau of the Budget



Eno

Center for  
Transportation

EXECUTIVE OFFICE OF THE PRESIDENT  
BUREAU OF THE BUDGET  
WASHINGTON 25, D. C.

AUG 21 1958

✓  
Last Day  
8/26/58

My dear Mr. President:

On August 14, 1958, the Executive Clerk notified this office that S. 3880, "To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes", has been received at the White House and requested reports and recommendations thereon.

While the bill codifies and supersedes the Air Commerce Act of 1926, the Civil Aeronautics Act of 1938, and the Airways Modernization Act of 1957, its principal objective is to establish a new Federal Aviation Agency with sufficient powers to enable it to provide for the safe and efficient use of the navigable airspace by both civil and military aircraft. The Agency will be independent of the existing departments and agencies and will be headed by an Administrator and Deputy Administrator appointed by the President by and with the advice and consent of the Senate.

The legislation carries out the more important organizational recommendations set forth in your message to the Congress of June 13, 1958, and Mr. Edward P. Curtis' report on "Aviation Facilities Planning". The only significant exception is the retention of the primary responsibility for accident investigation in the Civil Aeronautics Board. This omission will not detract materially from the other important improvements in aviation organization provided for in the bill.

The Administrator of the Federal Aviation Agency is given paramount authority to regulate the use of the airspace subject to certain exceptions in military emergencies. He is charged with developing, acquiring, establishing, improving, operating and maintaining such facilities and equipment as may be needed to regulate and control air traffic and air navigation. The function of prescribing and revising rules, regulations and minimum standards governing aircraft, aircraft components, aircraft servicing and repair, and the operation of aircraft in flight is also lodged in the Administrator.





The Federal Aviation Agency will assume the functions, unexpended funds, property and personnel of the Civil Aeronautics Administration of the Department of Commerce and the Airways Modernization Board, and both of these organizations will cease to exist. The air safety regulatory functions of the Civil Aeronautics Board will also be taken over by the new Agency together with appropriate funds, personnel, property and records; but the Board will retain its responsibility for the economic regulation of air carriers and the investigation of accidents. These reorganizations will take effect 60 days after the first Administrator takes office. The legislation also contemplates that insofar as practicable the air traffic management functions of the Department of Defense will be transferred to the Federal Aviation Agency. These transfers can be ordered by the President at such time or times as the readiness of the Agency, national defense considerations or other revelant factors may dictate.

A new feature relating to accident investigation is the provision for Special Boards of Inquiry to look into disasters involving substantial questions of public safety. These boards will be established at the initiative of the Civil Aeronautics Board and will consist of two public members appointed by the President and a member of the Civil Aeronautics Board as Chairman.

The legislation provides for civilian control of the Federal Aviation Agency and at the same time assures that national defense requirements will be taken into account. The Administrator must be a civilian, but unless the Administrator is a former regular officer the Deputy Administrator may be an officer on active duty with one of the armed services. Provision is made for members of the Army, Navy, Air Force, Marine Corps and Coast Guard to be detailed to the Agency to perform services under the direction and control of the Administrator. The Administrator may also utilize the services and facilities of other agencies, with their consent, and similarly permit facilities of the Federal Aviation Agency to be used by other agencies. Military authorities may authorize deviations by military aircraft from air traffic rules, but this can be done only in the event of a military emergency or urgent military necessity and then only after prior notice is given the Administrator. These and other provisions will make possible effective civil-military cooperation in air traffic management matters.

The Administrator is required by the legislation to develop plans for the effective discharge of the responsibilities of the Agency in time of war. Legislation to provide legal force to such plans must be submitted to the Congress on or before January 1, 1960.





In the interim the President is empowered to transfer any functions of the Agency to the Department of Defense in time of war.

The Administrator is also directed to study personnel problems inherent in the agency, including the need for special provisions to assure the responsiveness and security status of essential personnel in fulfilling national defense requirements. Appropriate recommendations for needed legislation are to be made to the Congress on or before January 1, 1960.

Provision is made for monitoring by the Administrator of proposed construction or alteration of airports and missile sites to assure that the effects on the utilization of airspace are taken into account. No Federal funds may be expended for civilian airports or air navigation facilities without certification by the Administrator as to their necessity. No military airport or missile or rocket site may be acquired or substantially modified unless prior notice is given the Administrator so he may advise as to the effect on the use of airspace. Even when Federal funds are not involved prior notice to the Administrator is required.

The agencies most directly affected by the legislation are the Department of Defense, the Department of Commerce, the Civil Aeronautics Board, and the Airways Modernization Board. The Department of Defense and the Department of Commerce both recommended approval of the bill without reservation.

The Civil Aeronautics Board notes that while endorsing the concept of a single air traffic management agency it had opposed the transfer of air safety rule-making functions from the Board to the Federal Aviation Agency for "functional reasons." The Board does not, however, recommend withholding of approval from the bill as enacted.

The Airways Modernization Board recommends the approval of the bill, but it expresses concern lest the legislative history cast doubt on the status of the Federal Aviation Agency as a part of the Executive Branch under the full direction and control of the President. The Chairman of the Board therefore recommends that a statement (as set forth in his letter) be released when the bill is signed. It is our belief that the Agency is clearly executive in nature and that the President's supervisory authority is not significantly infringed by the language of the bill as enacted. A statement is, therefore, more likely to raise questions than resolve doubts, and the Bureau of the Budget recommends against one.

Of the agencies less directly affected by the bill as enacted the Federal Communications Commission assumes that its statutory

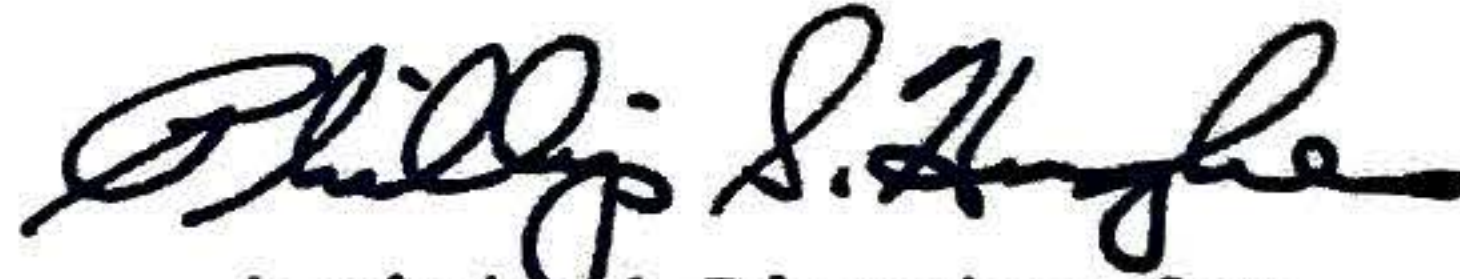




authority over frequencies will not be affected and on this basis has no objection to the bill becoming law. The Department of State, the Post Office Department and the General Services Administration interpose no objection to the approval of the bill as enacted.

The Bureau of the Budget recommends approval of this measure.

Respectfully yours,



Assistant Director for  
Legislative Reference



The President

The White House

Enclosures





Eno

Center for  
Transportation

CIVIL AERONAUTICS BOARD  
WASHINGTON 25

AUG 18 1958

Mr. Phillip S. Hughes  
Assistant Director for  
Legislative Reference  
Bureau of the Budget  
Washington 25, D. C.

Dear Mr. Hughes:

This is in reply to your communication of August 15, 1958, requesting the Board's views on Enrolled Bill S. 3880, a bill "To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes."

The Board's views on S. 3880 have been set forth in testimony and reports submitted to the Committees on Interstate and Foreign Commerce of the Senate and the House. I trust that the text of the Board's testimony and reports have been made available to you. In brief, the Board strongly endorsed legislation to create a single aviation authority which would be responsible for the research, development, installation, maintenance, and operation of aviation facilities and services relating to air traffic control. The Board was opposed, however, to the transfer of the quasi-legislative air safety rule-making functions from the Board to the Federal Aviation Agency for functional reasons.

The Board's views were considered by the Congress. Under the circumstances the Board does not recommend the withholding of Executive approval from the bill enacted by the Congress.

Sincerely yours,

Vice Chairman



BUREAU OF THE BUDGET

AUG 18 4 21 PM '58

RECEIVED





Center for  
Transportation

DEPARTMENT OF COMMERCE  
THE SECRETARY OF COMMERCE  
WASHINGTON 25, D. C.

AUG 19 1958

The Honorable  
The Director  
Bureau of the Budget  
Washington 25, D.C.

Dear Mr. Director:

This letter is in reply to your request of August 15, 1958 for the views of this Department with respect to S. 3880, an enrolled enactment

"To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes."

S. 3880 would provide for the establishment of an independent aviation agency. The legislation conforms generally to the recommendations made by the Administration for the modification of the legislation as originally proposed.

The Department of Commerce recommends approval by the President of S. 3880.

Enactment of this legislation would involve no expenditure of funds by this Department.

Sincerely yours,



*William C. Sullivan*

Secretary of Commerce

BUREAU OF THE BUDGET

AUG 13 11 12 AM '58

RECEIVED





DEPARTMENT OF THE AIR FORCE  
WASHINGTON

AUG 18 1958

Dear Mr. Director:

Reference is made to your request for a report on S. 3880, 85th Congress, an enrolled bill "To create a Civil Aeronautics Board and a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft". The Secretary of Defense has delegated to this Department the responsibility of expressing the views of the Department of Defense on this enrolled bill.

The Department of Defense recommends approval of S. 3880.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely yours,

LYLE S. GARLOCK  
Assistant Secretary of the Air Force

Honorable Maurice H. Stans  
Director  
Bureau of the Budget



BUREAU OF THE BUDGET

AUG 18 2 13 PM '58

RECEIVED





Center for  
Transportation

DEPARTMENT OF STATE  
WASHINGTON

August 19 1958


Dear Mr. Stans:

Reference is made to Mr. Hughes' communication of August 15, 1958, enclosing for the comment of the Department of State a copy of enrolled bill S.3880, "To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes".

The Department's views with respect to an earlier version of S.3880 were set forth in the Department's letter of June 14, 1958. Although certain changes suggested in that letter have not been adopted, the Department interposes no objection to the approval of S.3880 as enacted by the Congress.

Sincerely yours,

For the Secretary of State:

  
William B. Macomber, Jr.  
Assistant Secretary

The Honorable  
Maurice H. Stans, Director,  
Bureau of the Budget.



RECEIVED  
AUG 19 2 03 PM '58  
BUREAU OF THE BUDGET



Eno

Center for  
Transportation

AIRWAYS MODERNIZATION BOARD

Washington 25, D. C.

August 18, 1958

MEMORANDUM FOR: Mr. Phillip S. Hughes  
Bureau of the Budget

SUBJECT: Enrolled Bill, S. 3880



This is in response to your request for views on enrolled bill, S. 3880.

1. One aspect of the legislative history of the Federal Aviation Act gives the Department of Defense and myself real cause for concern, namely, whether it is sufficiently clear that the new agency is part of the Executive Branch of the Government and subject to the direction and control of the President.

2. As you know, the President made it most clear in his message to the Congress of June 13, 1958, as did Under Secretary MacIntyre and I in our testimony at the hearings, that the Federal Aviation Agency should be established within the Executive Branch. This intended status for the agency was requested, at least to the extent that functions to be performed by the new Administrator affect the national defense, on the basis of the Constitutional responsibilities of the President as Commander-in-Chief. Certain vital military functions affecting the national defense are vested in the new Administrator by this legislation. For instance, the Act repeals Section 4 of the Air Commerce Act of 1926, under which the President had authority to set apart airspace reservations for national defense purposes and vests this function in the new Administrator, to be exercised under his rule-making power. It is believed that serious Constitutional issues are posed by the Act unless the Administrator exercises such a function under the authority and control of the President.

3. Up to a point well along in the legislative process, it was not felt that any serious question existed as to the intention of the Congress to place this new agency in the Executive Branch under the direction and control of the President. In the first place, the title of the bill, S. 3880, was amended in passing the Senate to delete the word "independent" from the phrase "independent Federal Aviation Agency." Second, unlike the provisions relating to the members of the Civil Aeronautics Board contained in the Act, it is provided that the Administrator shall be appointed by the President without any established term and without any limitations upon the power of the President to remove the Administrator. Third, the bill, until amended



in the House, had provided that reports to the Congress be submitted through the President. A House amendment incorporated in the bill as finally enacted, providing for the submission of reports of the agency to both Congress and the President, appears to have preserved recognition of the status of the agency as part of the Executive Branch, both in light of the fact that the comparable provision relating to the Board requires a report only to the Congress, and because it would otherwise seem inappropriate to submit the report to the President at all. Fourth, the new agency is to be jointly staffed with civilians and military personnel who actually work for the Administrator and are not merely assigned as liaison between their respective military departments and the new agency. Moreover, the bill would permit an officer on active duty to be Deputy Administrator. These elements of military participation strengthened further the interpretation that the agency was clearly intended to be located in the Executive Branch. For the foregoing reasons, it was not felt necessary to propose a specific amendment to the bill which would have made this intention crystal clear.

4. The Senate Report on S. 3880 contained nothing necessarily in conflict with the aim of the Administration in this area. It indicated that the agency would be independent of any other Government agency, unlike the Civil Aeronautics Administration, but responsible to the Congress, the President and the public. The report did discuss the fear which had been expressed that, by giving safety rule-making to this new agency, Congress would be divesting itself of its present supervisory powers over the exercise of such functions. The report also indicated that the bill was not intended to make the new Administrator in any way less responsible to the Congress in this area than is the Civil Aeronautics Board. Although this raised some question as to the status of the agency in the exercise of its rule-making power, it was felt, on balance, that the intent of the Congress, as expressed in the language of the bill in the form passed by the Senate, was still sufficiently clear that the agency was to be in the Executive Branch. The House Report further strengthened the legislative history from our point of view, particularly in light of earlier rumblings during the House hearings in favor of creating an agency independent of the Executive Branch. The House Report contained only the following statement on this point, which can hardly be taken as an expression of intent to create a new agency independent of the President:

"It is the intent of the legislation that the Administrator shall discharge his rulemaking powers in a fair and impartial manner to promote the public interest and to provide for the national defense. It is intended that these powers shall be







exercised in accordance with constitutional and statutory safeguards applicable to other agencies of the Government that have been granted similar rulemaking authority by the Congress."

5. The House debate on the bill prior to the conference, however, served to create some doubt as to the intent of Congress on the status of the new agency. Following statements by the Committee Chairman, Congressman Oren Harris, who was also the manager of the bill on the floor, and by the ranking minority member, Congressman Wolverton, Congressman Flynt undertook a lengthy analysis of the bill, including a discussion of the Committee amendments. In explaining the amendment which modified the reporting requirement so that reports of the agency would be submitted directly to both the Congress and the President, rather than through the President to the Congress, Mr. Flynt stated that it was felt by many of the committee that the new agency should have the necessary degree of independence from the Executive Branch to permit the submission of reports to the Congress even though there might be objections to certain phases of a report in the Executive Branch. In further elaboration of these views, Congressman Flynt made the following statement:

"Your committee felt this to be very important because the Congress by the provisions of this legislation is transferring to the Administrator of the Federal Aviation Agency many duties and responsibilities and functions which are by expressed provision within the realm of the legislative branch. Mr. Speaker, it is not the purpose of this legislation for the Congress of the United States to abdicate its powers or its responsibilities in the field of aviation to the executive branch and for that purpose the Federal Aviation Agency is created as nearly an independent agency as words and phrases can make it and it is the legislative intent of your committee that the Federal Aviation Agency is and shall be an independent agency of Government, and not a part of the executive branch. ...."

6. It has been this statement, made on the House floor by a member of the Committee and attributing this intent to the Committee, which has aroused the concern of the Department of Defense and myself. It is felt that the President, in signing the bill, should indicate his interpretation of the legislation on this point and should also indicate his belief that this interpretation not only flows from the language of the enrolled enactment itself but also is necessary under the Constitution, insofar as powers affecting national defense interests are concerned, in view of the President's responsibilities as Commander-in-Chief. Since the President's statement of interpretation



Eno

-4-

would be made during the legislative process, it would be legally significant in interpreting the Act in the future. It is apparent that the President could have vetoed (and probably even pocket vetoed) this legislation, were it not his belief that the Agency has been created within the Executive Branch. It might even be considered his Constitutional duty to veto the bill if it were not sufficiently clear that the agency is within the Executive Branch at least so far as military functions of the agency are concerned.

It is recommended that the following statement be included in a message which the President would sign along with his signing the Federal Aviation Act:

"In my Message to the Congress of June 13, 1958, I recommended that the Congress enact at the earliest practical date legislation establishing a Federal Aviation Agency in the Executive Branch of the Government, and that the new agency be given the powers required for effective performance of the responsibilities to be assigned to it. I wish to express my thanks for the prompt action taken by Congress in line with this recommendation.

"I have had the Federal Aviation Act, as passed by the Congress, carefully studied to determine the precise nature and status of this agency. This study has been necessary in light of the military functions vested in the new agency and the responsibilities which I have under the Constitution as Commander-in-Chief. Such functions of a military nature quite evidently cannot be placed in an agency not subject to my authority and control.

"I am satisfied that the Act as passed by the Congress has established this agency in the Executive Branch under the direction and control of the President. (In making clear my interpretation of the Act, I must also stress that there is no intention that the Administrator should not be fully responsive to the statutory policies and standards established by the Congress.) In the performance of rulemaking functions, he must, of course, fully comply with the safeguards set forth in the Administrative Procedures Act."

OFFICE OF THE BUDGET



NOV 13 3 00 PM '58  
E. R. Quesada  
Chairman



# GENERAL SERVICES ADMINISTRATION

Washington 25, D. C.



Center  
Transportation

AUG 19 1958

Honorable Maurice H. Stans  
Director  
Bureau of the Budget  
Washington 25, D. C.

Dear Mr. Stans:

By referral dated August 15, 1958 from the Assistant Director for Legislative Reference, your Bureau requested the views of the General Services Administration on Enrolled Bill S. 3880, an Act "To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes."

To the extent that S. 3880 affects the functions and operations of the General Services Administration, we are not opposed to Presidential approval of this measure.

Sincerely yours

FRANKLIN FLOETE  
Administrator



RECEIVED  
JUN 12 2 51 PM '58  
BUREAU OF THE BUDGET





Center for  
Transportation

Office of the Postmaster General  
Washington 25, D. C.

AUG 19 1958

Honorable Maurice H. Stans  
Director, Bureau of the Budget  
Washington 25, D. C.



Dear Mr. Stans:

Reference is made to the request of the Assistant Director for Legislative Reference, Bureau of the Budget, for an expression of the views of this Department with respect to facsimile of enrolled enactment of Congress

S. 3880, "To continue the Civil Aeronautics Board as an agency of the United States, to create a Federal Aviation Agency, to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft, and for other purposes."

1. Purpose of the measure. Greater safety in air transportation seems to be the main purpose of this measure. In addition to conferring on a new agency which would be created by the bill many of the existing controls and safety measures exercised by the Civil Aeronautics Administration and the Civil Aeronautics Board, the legislation would expand the authority of the new agency to include a measure of control over military aviation.
2. Department's position. This Department endorses the objectives of this bill. The legislation would not, in our opinion, affect the mail transportation service. To the contrary, the effectiveness of the new agency in bringing about greater safety in aviation for the protection of passengers and crews would represent a greater safety for mail also.



# Eno

Center for  
Transportation

2

3. Timing.

This Department has no recommendation as to the time the measure should be signed by the President.

4. Cost or savings.

The measure will not affect the revenues or expenditures of this Department.

5. Recommendation of  
Presidential action.

This Department will interpose no objections to the approval of the measure.

Sincerely yours,



Postmaster General



RECEIVED BY THE BUDGET

JUN 12 2 03 PM '28

RECEIVED



Eno

Center for  
Transportation

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON 25, D. C.

AUG 19 1958

IN REPLY REFER TO:  
3200

Mr. Phillip S. Hughes  
Assistant Director for  
Legislative Reference  
Bureau of the Budget  
Executive Office of the President  
Washington 25, D. C.

Dear Mr. Hughes: Re: Enrolled Bill S. 3880

This is with reference to the Bureau's request of August 15, 1958 that the Commission comment within 48 hours on the "Federal Aviation Act of 1958" which has recently passed both Houses of Congress.

In response to an earlier request by the Bureau, the Commission on June 13, 1958 submitted comments on a proposed amendment to this bill which had been prepared by the Airways Modernization Board. In that letter the Commission set forth its views regarding other aspects of the legislation as well. Having reviewed the present bill the Commission has no comments beyond those set forth at that time, specifically, that the research and development functions of the new agency's Administrator are not regarded as altering the statutory authority of the Commission over the allocation of frequencies in the radio spectrum; and that the Commission anticipates that it will continue to consult with the appropriate Governmental body before acting on applications which propose the construction of radio towers that might constitute a hazard to air navigation.

On the basis of the foregoing assumptions the Commission has no objections to the bill becoming law in its present form.

Sincerely yours,

*Robert E. Lee*  
Acting Chairman



RECEIVED OF THE BUDGET

AUG 13 11 11 AM '58

RECEIVED