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"Federal Aviation Administration Operational Staffing in Proposed
Fiscal Year 1975 Budget"

[booklet]

FEDERAL AVIATION ADMINISTRATION OPERATIONAL STAFFING IN PRO- POSED FISCAL YEAR 1995 BUDGET

(103-48)

HEARINGS

BEFORE THE
SUBCOMMITTEE ON AVIATION
OF THE
COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS
SECOND SESSION

MARCH 9 AND 17, 1994

Printed for the use of the
Committee on Public Works and Transportation



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SENATE FAA REFORM BILL SYNOPSIS
S. 1239

Governance

- * Keeps FAA within DOT.
- * Administrator to exercise authority over FAA acquisitions and personnel (except for appointment of political appointees).
- * 3 months after enactment, management advisory council (representing broad spectrum of users and labor) to be established to advise FAA on management, policy, spending, and regulatory matters.

Regulations

- * Regulations with aggregate annual costs of \$50 Million or more, or otherwise meeting criteria of President Clinton's Executive Order requiring OMB review, require approval of Secretary.
- * Provides performance standards by requiring FAA to take action on petitions for rule changes within 6 months, NPRMs within 18 months, and ANPRMS within 24 months.
- * New rules imposing \$25 Million annual costs on state, local, or tribal governments, or on the private sector to be reviewed by the Administrator within 3 years.

Procurement/Personnel Reform

- * Within 180 days, Administrator to develop innovative acquisitions management and personnel systems, with advice from governmental and non-governmental experts, and to provide proposal to Congress. Views of DOT on new systems to be included in submission to Congress.
- * 30 days after receipt by Congress of such systems, the Administrator may implement such systems.
- * Administrator given broad authority to waive many current personnel (title 5) and procurement law provisions in establishing systems, with certain exceptions. For example, Administrator may establish compensation systems for FAA employees but may not change veterans' preference or leave and retirement systems; in acquisitions area, Administrator may waive Small Business Act and instead develop goals for small business and DBE participants in FAA's procurements.

* Administrator required to terminate an F&E funded acquisitions program, if it experiences 50% increase in cost or schedule growth or meets less than 50% of its performance goals, unless he determines that termination of the program would not be consistent with the safety or efficiency of the national air transportation system, and provides Congress with a written rationale. Includes an early warning system by requiring the Administrator to consider the termination of a substantial acquisition program experiencing 10% cost or schedule growth or not meeting 90% of its goals. Only F&E programs initiated after enactment subject to this provision.

Financial Reform

Non-air traffic user fees:

* Within 6 months, FAA to establish and transmit to Congress a system of non-air traffic user fees for agency services (including services provided to a foreign government) to support the FAA's activities. Air traffic-related user fees could, however, be imposed on international overflights and business jets. Fees to be developed in consultation with users.

* Fees go into effect 45 days after transmittal to Congress, unless disapproved.

* To extent possible, fees to consider impact on segments of the aviation industry, and the fair value or cost of the service provided by the FAA.

* Beginning in FY 1998, no fee may be imposed unless the outlays from the Airport and Airway Trust Fund exceed the user taxes in the prior year.

* Fees terminate 3 years after going into effect, but the Administrator is required to submit to the Congress a proposal for a new fee system to replace the old one not less than 6 months before its termination.

Air Traffic Control Fees:

* Within 1 year, the Administrator shall submit to Congress a proposed fee system for air traffic control services to take effect in 45 days unless disapproved by Congress.

* Bill contemplates long-term conversion to performance-based user fees from current Trust Fund taxes. However, fees may not be imposed for air traffic control services on a segment of the aviation industry until the rate of Trust Fund taxes on that segment is reduced below the 1995 level (except in the case of users not subject to Trust Fund taxes).

* In any year, the air traffic fees imposed in a year on a segment of aviation may not exceed 110% of the projected difference in such year between what would have been collected in that year from that segment under the 1995 tax rates and what is estimated to be collected from that segment under the reduced Trust Fund tax rates.

* Air traffic fees terminate 3 years after imposition, and the Administrator is required to develop (in consultation with the Management Advisory Council) and submit a new proposal to the Congress at least 6 months before termination of the existing fee system.

Miscellaneous Fee/Financial Reform Provisions:

* Goal of fee systems is to achieve, to the extent possible, a user supported system by year 2003.

* Fees collected under either system are defined as offsetting collections (i.e., not scored in budget process), and are placed in a separate account in the Treasury to be used solely by the Administrator.

* Fees may only be used to the extent that FAA's expenditures exceed the amounts made available for such expenditures to the FAA from the Trust Fund.

* FAA to provide an annual budget report to authorizing committees on fee collections.

* Within 6 months, FAA and DOD must reach an agreement, pursuant to which FAA will be reimbursed by DOD for the net cost of air traffic services.

* Select panel to review innovative programs (including government sponsored enterprises) for financing specific facilities and equipment projects and to provide limited additional funding alternatives for airport capacity development. Report due to FAA and the Congress within 6 months.

* Establishes 3 year FAA authorization and appropriations cycle beginning in FY 1997.

* Contemplates most FAA funding, including all operations, from new fee system. Residual trust fund to be used only to finance a portion of FAA's total capital expenditures.

Miscellaneous

* FAA to prescribe aircraft engine emission standards. (Note: Provision opposed by EPA.)

[Staff Discussion Draft]

SEPTEMBER 13, 1995

104TH CONGRESS
1ST SESSION

S. _____

B. 11
95 to
be
introduced

To amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER — (legislative day, MONTH —), 1995

Mr. MCCAIN (for himself and Mr. FORD) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF SECTIONS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Air Traffic Management System Performance Improve-
6 ment Act of 1995”.

1 (b) TABLE OF SECTIONS.—The table of sections for
 2 this bill is as follows:

Sec. 1. Short title; table of sections

Sec. 2. Definitions

Sec. 3. Effective date

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings

Sec. 102. Purposes

Sec. 103. Regulation of civilian air transportation and related services by the
 Federal Aviation Administration and the Department of Transportation

Sec. 104. Regulations

Sec. 105. Personnel and services

Sec. 106. Contracts

Sec. 107. Budget

Sec. 108. Facilities

Sec. 109. Property

Sec. 110. Select panel to review innovative funding mechanisms

Sec. 111. Transfers of funds from other Federal agencies

Sec. 112. Management Advisory Council

Sec. 113. Aircraft engine standards

TITLE II—FEDERAL AVIATION ADMINISTRATION STREAMLINING PROGRAMS

Sec. 201. Innovative program for air traffic control modernization

Sec. 202. Air traffic control modernization reviews

Sec. 203. Innovative program for Federal Aviation Administration services

TITLE III—SYSTEM TO FUND CERTAIN FEDERAL AVIATION AD- MINISTRATION FUNCTIONS

Sec. 301. Findings

Sec. 302. Purposes

Sec. 303. User fees for various Federal Aviation Administration services

Sec. 304. User fees for air traffic control services

Sec. 305. Administrative provisions

Sec. 306. Increase in spending caps under trust fund

Sec. 307. Advance appropriations for Airport and Airway Trust Fund Activities

3 SEC. 2. DEFINITIONS.

4 For the purposes of this Act the following definitions
 5 shall apply:

6 (1) ADMINISTRATION.—The term “Administra-
 7 tion” means the Federal Aviation Administration.

8 (2) ADMINISTRATOR.—The term “Adminis-
 9 trator” means the Administrator of the Federal
 10 Aviation Administration.

1 (3) FEDERAL AGENCY.—The term “Federal
2 agency” means “agency” as defined in section
3 551(1) of title 5, United States Code.

4 (4) SECRETARY.—The term “Secretary” means
5 the Secretary of Transportation.

6 SEC. 3. EFFECTIVE DATE.

7 The provisions of this Act and the amendments made
8 by this Act shall take effect on the date that is 30 days
9 after the date of the enactment of this Act.

10 TITLE I—GENERAL PROVISIONS

11 SEC. 101. FINDINGS.

12 Congress finds that—

13 (1) In many respects the Federal Aviation Ad-
14 ministration is a unique agency, being one of the few
15 non-defense government agencies that operates 24
16 hours a day, 365 days of the year, while continuing
17 to rely on outdated technology to carry out its re-
18 sponsibilities for a state-of-the-art industry.

19 (2) The users of the air transportation system
20 now pay 70 percent of the budget of the Federal
21 Aviation Administration, with the remaining 30 per-
22 cent coming from the General Fund. The General
23 Fund contribution over the years is one measure of
24 the benefit received by the general public, military,

1 and other users of Federal Aviation Administration's
2 services.

3 (3) The Federal Aviation Administration must
4 become a more efficient, effective, and different or-
5 ganization to meet future challenges.

6 (4) The need to balance the Federal budget
7 means that the General Fund contribution cannot be
8 relied upon in the future to meet the Federal Avia-
9 tion Administration's overall budget.

10 (5) Congress must keep its commitment to the
11 users of the national air transportation system by
12 seeking to spend all monies collected from them each
13 year and deposited into the Airport and Airways
14 Trust Fund.

15 (6) The aviation community and the employees
16 of the Federal Aviation Administration must come
17 together to improve the system. The Federal Avia-
18 tion Administration must continue to recognize who
19 its customers are and what their needs are, and to
20 design and redesign the system to make safety im-
21 provements and increase productivity.

22 (7) The Federal Aviation Administration
23 projects that commercial operations will increase by
24 18 percent and passenger traffic by 35 percent by
25 the year 2002. Without effective airport expansion

1 and system modernization, these needs cannot be
2 met.

3 (8) By the year 2003, the Federal Aviation Ad-
4 ministration, to the extent possible, must be user
5 supported, and have the ability to make rational
6 short term and long term decisions.

7 (9) Absent significant and meaningful reform,
8 future challenges and needs cannot be met.

9 (10) The Federal Aviation Administration must
10 have a new way of doing business.

11 (11) There is widespread agreement within gov-
12 ernment and the aviation industry that reform of the
13 Federal Aviation Administration is essential to safe-
14 ly and efficiently accommodate the projected growth
15 of aviation within the next decade.

16 (12) Because the Federal Aviation Administra-
17 tion is a unique Federal entity in that it is a partici-
18 pant in the daily operations of an industry, and be-
19 cause the national air transportation system faces
20 significant problems without significant changes, the
21 Federal Aviation Administration must be enabled to
22 change the Federal procurement and personnel sys-
23 tems to ensure that the Federal Aviation Adminis-
24 tration has the ability to keep pace with new tech-
25 nology and is able to match resources with the real

1 personnel needs of the Federal Aviation Administra-
2 tion.

3 (13) The existing budget system does not allow
4 for long-term planning or timely acquisition of tech-
5 nology by the Federal Aviation Administration.

6 (14) Without reforms in the areas of procure-
7 ment, personnel, funding, and governance, the Fed-
8 eral Aviation Administration will continue to experi-
9 ence delays and cost overruns in its major mod-
10 ernization programs and needed improvements in
11 the performance of the air traffic management sys-
12 tem will not occur.

13 (15) All reforms should be designed to help the
14 Federal Aviation Administration become more re-
15 sponsive to the needs of its customers.

16 **SEC. 102. PURPOSES.**

17 The purposes of this Act are—

18 (1) to ensure that final action shall be taken on
19 all notices of proposed rulemaking of the Federal
20 Aviation Administration within 18 months after the
21 date of their initiation;

22 (2) to permit the Federal Aviation Administra-
23 tion, with Congressional review, to establish an inno-
24 vative program for procurement reform;

1 (3) to permit the Federal Aviation Administra-
2 tion, with Congressional review, to establish an inno-
3 vative program for personnel reform;

4 (4) to permit the Federal Aviation Administra-
5 tion, with Congressional review, to establish a pro-
6 gram of incentive-based fees for services to improve
7 air traffic management system performance and to
8 establish appropriate levels of cost accountability for
9 air traffic management services provided by the Fed-
10 eral Aviation Administration;

11 (5) to establish a more autonomous and ac-
12 countable Federal Aviation Administration within
13 the Department of Transportation; and

14 (6) to make the Federal Aviation Administra-
15 tion a more efficient and effective organization, able
16 to meet the needs of a dynamic, growing industry,
17 and to ensure the safety of the travelling public.

18 **SEC. 103. REGULATION OF CIVILIAN AIR TRANSPORTATION**
19 **AND RELATED SERVICES BY THE FEDERAL**
20 **AVIATION ADMINISTRATION AND DEPART-**
21 **MENT OF TRANSPORTATION.**

22 (a) IN GENERAL.—Section 106 of title 49, United
23 States Code, is amended—

24 (1) by striking “The Administrator” in the fifth
25 sentence of subsection (b) and inserting “Except as

1 provided in subsection (f) of this section or in other
2 provisions of law, the Administrator"; and

3 (2) by amending subsection (f) to read as fol-
4 lows:

5 "(f) AUTHORITY OF THE SECRETARY AND THE AD-
6 MINISTRATOR.—

7 "(1) AUTHORITY OF THE SECRETARY.—Except
8 as provided in paragraph (2), the Secretary of
9 Transportation shall carry out the duties and powers
10 of the Administration.

11 "(2) AUTHORITY OF THE ADMINISTRATOR.—
12 The Administrator—

13 "(A) is the final authority for carrying out
14 all functions, powers, and duties of the Admin-
15 istration relating to—

16 "(i) the appointment and employment
17 of all officers and employees of the Admin-
18 istration (other than Presidential and po-
19 litical appointees);

20 "(ii) the acquisition and maintenance
21 of property and equipment of the Adminis-
22 tration;

23 "(iii) except as otherwise provided in
24 section 104 of the Air Traffic Management
25 System Performance Improvement Act of

1 1995, the promulgation of regulations,
2 rules, orders, circulars, bulletins, and other
3 official publications of the Administration;
4 and

5 “(iv) any obligation imposed on the
6 Administrator, or power conferred on the
7 Administrator, by the Air Traffic Manage-
8 ment System Performance Improvement
9 Act of 1995 (or any amendment made by
10 that Act);

11 “(B) shall offer advice and counsel to the
12 President with respect to the appointment and
13 qualifications of any officer or employee of the
14 Administration to be appointed by the Presi-
15 dent or as a political appointee;

16 “(C) may delegate, and authorize succes-
17 sive redelegations of, to an officer or employee
18 of the Administration any function, power, or
19 duty conferred upon the Administrator, unless
20 such delegation is prohibited by law; and

21 “(D) except as otherwise provided for in
22 this title, and notwithstanding any other provi-
23 sion of law to the contrary, shall not be re-
24 quired to coordinate, submit for approval or
25 concurrence, or seek the advice or views of the

1 Secretary or any other officer or employee of
2 the Department of Transportation on any mat-
3 ter with respect to which the Administrator is
4 the final authority.

5 “(3) DEFINITION OF POLITICAL APPOINTEE.—
6 For purposes of this subsection, the term ‘political
7 appointee’ means any individual who—

8 “(A) is employed in a position on the Ex-
9 ecutive Schedule under sections 5312 through
10 5316 of title 5, United States Code;

11 “(B) is a limited term appointee, limited
12 emergency appointee, or noncareer appointee in
13 the Senior Executive Service as defined under
14 section 3132(a) (5), (6), and (7) of title 5,
15 United States Code, respectively; or

16 “(C) is employed in a position in the exec-
17 utive branch of the Government of a confiden-
18 tial or policy-determining character under
19 Schedule C of subpart C of part 213 of title 5
20 of the Code of Federal Regulations.”.

21 (b) PRESERVATION OF EXISTING AUTHORITY.—
22 Nothing in this Act limits any authority granted to the
23 Administrator by statute or by delegation that was in ef-
24 fect on the day before the date of enactment of this Act.

1 SEC. 104. REGULATIONS.

2 (a) IN GENERAL.—In the performance of the func-
3 tions of the Administrator and the Administration, the
4 Administrator is authorized to issue, rescind, and revise
5 such regulations as are necessary to carry out those func-
6 tions. The issuance of such regulations shall be governed
7 by the provisions of chapter 5 of title 5, United States
8 Code. The Administrator shall act upon all petitions for
9 rulemaking no later than 6 months after the date such
10 petitions are filed by dismissing such petitions, by inform-
11 ing the petitioner of an intention to dismiss, or by issuing
12 a notice of proposed rulemaking or advanced notice of pro-
13 posed rulemaking. The Administrator shall issue a final
14 regulation, or take other final action, not later than 18
15 months after the date of publication in the Federal Reg-
16 ister of a notice of proposed rulemaking or, in the case
17 of an advanced notice of proposed rulemaking, if issued,
18 not later than 24 months after that date.

19 (b) APPROVAL OF SECRETARY OF TRANSPOR-
20 TATION.—

21 (1) GENERAL RULE.—The Administrator may
22 not issue a proposed regulation or final regulation
23 that is likely to result in the expenditure by State,
24 local, and tribal governments in the aggregate, or by
25 the private sector, of \$50,000,000 or more (adjusted
26 annually for inflation beginning with the year follow-

1 ing the date of enactment of this Act) in any 1 year,
2 or any regulation which is significant, unless the
3 Secretary of Transportation approves the issuance of
4 the regulation in advance. For purposes of this para-
5 graph, a regulation is significant if it is likely to—

6 (A) have an annual effect on the economy
7 of \$100 million or more or adversely affect in
8 a material way the economy, a sector of the
9 economy, productivity, competition, jobs, the
10 environment, public health or safety, or State,
11 local, or tribal governments or communities;

12 (B) create a serious inconsistency or other-
13 wise interfere with an action taken or planned
14 by another agency;

15 (C) materially alter the budgetary impact
16 of entitlements, grants, user fees, or loan pro-
17 grams or the rights and obligations of recipi-
18 ents thereof; or

19 (D) raise novel legal or policy issues aris-
20 ing out of legal mandates.

21 (2) EMERGENCY ACTION.—In an emergency,
22 the Administrator may issue a regulation described
23 in paragraph (1) without prior approval by the Sec-
24 retary, but any such emergency regulation is subject
25 to ratification by the Secretary after it is issued and

1 shall be rescinded by the Administrator within 5
2 days (excluding Saturdays, Sundays and legal public
3 holidays) after issuance if the Secretary fails to rat-
4 ify its issuance.

5 (3) Any regulation that does not meet the cri-
6 teria of paragraph (1), and any regulation or other
7 action that is a routine or frequent action or a pro-
8 cedural action, may be issued by the Administrator
9 without review or approval by the Secretary.

10 (4) The Administrator shall submit a copy of
11 any regulation requiring approval by the Secretary
12 under paragraph (1) to the Secretary, who shall ei-
13 ther approve it or return it to the Administrator
14 with comments within 45 days after receiving it.

15 (c) PERIODIC REVIEW.—

16 (1) NEW REGULATIONS.—Beginning 3 years
17 after the date of enactment of this Act, the Adminis-
18 trator shall review any unusually burdensome regu-
19 lation issued by the Administrator after the date of
20 enactment of this Act not later than 3 years after
21 the effective date of the regulation to determine if
22 the cost assumptions were accurate, the benefit of
23 the regulations, and the need to continue such regu-
24 lations in force in their present form.

1 (2) EXISTING REGULATIONS.—The Adminis-
2 trator may identify unusually burdensome regula-
3 tions in force that were issued before the date of en-
4 actment of this Act for review, more than 3 years
5 after the date of enactment of this Act, under the
6 criteria set forth in paragraph (1).

7 (3) UNUSUALLY BURDENSOME REGULATION.—
8 For purposes of this subsection, the term “unusually
9 burdensome regulation” means any regulation that
10 results in the annual expenditure by State, local, and
11 tribal governments in the aggregate, or by the pri-
12 vate sector, of \$25,000,000 or more (adjusted annu-
13 ally for inflation beginning with the year following
14 the date of enactment of this Act) in any year.

15 (4) USE OF ADVISORY COMMITTEE.—The Ad-
16 ministrator may, in the Administrator’s discretion,
17 use an advisory committee to perform the review.

18 SEC. 105. PERSONNEL AND SERVICES.

19 (a) OFFICERS AND EMPLOYEES.—In the perform-
20 ance of the functions of the Administrator, the Adminis-
21 trator is authorized to appoint, transfer, and fix the com-
22 pensation of such officers and employees, including attor-
23 neys, as may be necessary to carry out the functions of
24 the Administrator and the Administration. Except as oth-
25 erwise provided by law, such officers and employees shall

1 be appointed in accordance with the civil service laws and
2 compensated in accordance with title 5, United States
3 Code. In fixing compensation and benefits of officers and
4 employees, the Administrator shall not engage in any type
5 of bargaining nor shall he be bound by any requirement
6 to establish such compensation or benefits at particular
7 levels.

8 (b) EXPERTS AND CONSULTANTS.—The Adminis-
9 trator is authorized to obtain the services of experts and
10 consultants in accordance with section 3109 of title 5,
11 United States Code.

12 (c) TRANSPORTATION AND PER DIEM EXPENSES.—
13 The Administrator is authorized to pay transportation ex-
14 penses, and per diem in lieu of subsistence expenses, in
15 accordance with chapter 57 of title 5, United States Code.

16 (d) USE OF PERSONNEL FROM OTHER AGENCIES.—
17 The Administrator is authorized to utilize the services of
18 personnel of any other Federal agency.

19 (e) VOLUNTARY SERVICES.—

20 (1) IN GENERAL.—In exercising the authority
21 to accept gifts and voluntary services under section
22 326 of title 49, United States Code, and without re-
23 gard to section 1342 of title 31 of such Code, the
24 Administrator may not accept voluntary and uncom-
25 pensated services if such services are used to dis-

1 place Federal employees employed on a full-time,
2 part-time, or seasonal basis.

3 (2) EXPENSES.—The Administrator is author-
4 ized to provide for incidental expenses, including
5 transportation, lodging, and subsistence for volun-
6 teers who provide voluntary services under this sub-
7 section.

8 (3) ADMINISTRATIVE CONCERNS.—An individ-
9 ual who provides voluntary services under this sub-
10 section shall not be considered a Federal employee
11 for any purpose other than for purposes of chapter
12 81 of title 5, United States Code, relating to com-
13 pensation for work injuries, and chapter 171 of title
14 28, United States Code, relating to tort claims.

15 **SEC. 106. CONTRACTS.**

16 The Administrator is authorized to enter into and
17 perform such contracts, leases, cooperative agreements, or
18 other transactions as may be necessary to carry out the
19 functions of the Administrator and the Administration.
20 The Administrator may enter into such contracts, leases,
21 cooperative agreements, and other transactions with any
22 Federal agency or any instrumentality of the United
23 States, any State, territory, or possession, or political sub-
24 division thereof, any other governmental entity, or any
25 person, firm, association, corporation, or educational insti-

1 tution, on such terms and conditions as the Administrator
2 may consider appropriate.

3 **SEC. 107. BUDGET.**

4 (a) IN GENERAL.—Section 48109 of title 49, United
5 States Code, is amended to read as follows:

6 “§ 48109. Budget information and legislative recommendations
7 and comments

8 “(a) PREPARATION.—Beginning with the budget for
9 first fiscal year beginning after the first fiscal year in
10 which the Federal Aviation Administration is funded en-
11 tirely by user fees, the Administrator shall prepare a budg-
12 et for the Administration for each fiscal year.

13 “(b) SUBMISSION OF BUDGET TO DOT.—At the
14 same time that agencies of the Department of Transpor-
15 tation having jurisdiction over other modes of transpor-
16 tation are required to submit their budgets to the Sec-
17 retary of Transportation, the Administrator shall submit
18 to the Secretary the budget prepared by the Adminis-
19 trator. The budget submission shall include a statement
20 of income and expenses and analysis of the surplus or defi-
21 cit in the Airport and Airway Trust Fund established
22 under section 9502 of the Internal Revenue Code of 1986,
23 and any other such supplementary information as is nec-
24 essary or desirable to make known about the financial con-
25 dition and operations of the Administrator. The annual

1 budget shall be included in the budget submitted by the
2 President pursuant to chapter 11 of title 31, United
3 States Code. The Secretary shall review the budget and
4 may recommend to the Administrator modifications in the
5 budget necessary to ensure that the budget is consistent
6 with the need of the national transportation system. The
7 Administrator, at its discretion, may modify the budget
8 to adopt any recommendation made by the Secretary.

9 “(c) SUBMISSION OF BUDGET TO CONGRESS.—

10 “(1) IN GENERAL.—When the Administrator
11 submits to the President or the Director of the Of-
12 fice of Management and Budget any budget infor-
13 mation, legislative recommendation, or comment on
14 legislation about amounts authorized in section
15 48101 or 48102, the Administrator concurrently
16 shall submit a copy of the information, recommenda-
17 tion, or comment to the Speaker of the House of
18 Representatives, the Committees on Transportation
19 and Infrastructure and Appropriations of the House
20 of Representatives, the President of the Senate, and
21 the Committees on Commerce, Science, and Trans-
22 portation and Appropriations of the Senate.

23 “(2) SPECIAL RULE WITH RESPECT TO ANNUAL
24 BUDGETS.—The annual budget of the Administra-
25 tion submitted to Congress shall include—

1 “(A) any modifications made by the Ad-
2 ministrator under subsection (b) with respect to
3 the budget; and

4 “(B) if the Administrator does not adopt a
5 recommendation made by the Secretary under
6 subsection (b), a description of the rec-
7 ommendation and the reasons for not adopting
8 the recommendation.

9 “(d) COST REDUCTION AND EFFICIENCY REPORT
10 REQUIRED.—Whenever the Administrator submits a re-
11 port, request, or proposal that contains an increase in ei-
12 ther the budget of the Administration or any of the fees
13 imposed by the Administration, the Administrator shall
14 submit, as a part of that report, request, or proposal—

15 “(1) an explanation that states specifically the
16 need for the increase; and

17 “(2) a statement of any steps taken by the Ad-
18 ministration to reduce costs and improve efficiency
19 in order to avoid or limit the increase.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 481 of such title is amended by striking the item
22 relating to section 48109 and inserting the following:

 “48109. Budget information and legislative recommendations and comments.”.

23 SEC. 108. FACILITIES.

24 With the consent of appropriate officials, the Admin-
25 istrator may, with or without reimbursement, use or ac-

1 cept the services, equipment, personnel, and facilities of
2 any other Federal agency and any other public or private
3 agency. The Administrator may also cooperate with appro-
4 priate officials of other public and private agencies and
5 instrumentalities concerning the use of services, equip-
6 ment, personnel, and facilities. The head of each Federal
7 agency shall cooperate with the Administrator in making
8 the services, equipment, personnel, and facilities of the
9 Federal agency available to the Administrator. The head
10 of a Federal agency is authorized, notwithstanding any
11 other provision of law, to transfer to or to receive from
12 the Administration, without reimbursement, supplies and
13 equipment other than administrative supplies or equip-
14 ment.

15 SEC. 109. PROPERTY.

16 (a) ACQUISITION.—The Administrator is author-
17 ized—

18 (1) to acquire (by purchase, lease, condemna-
19 tion, or otherwise), construct, improve, repair, oper-
20 ate, and maintain—

21 (A) air traffic control facilities and equip-
22 ment;

23 (B) research and testing sites and facili-
24 ties; and

1 (C) such other real and personal property
2 (including office space and patents), or any in-
3 terest therein, within and outside the continen-
4 tal United States as the Administrator consid-
5 ers necessary;

6 (2) to lease to others such real and personal
7 property; and

8 (3) to provide by contract or otherwise for eat-
9 ing facilities and other necessary facilities for the
10 welfare of employees of the Administration at the in-
11 stallations of the Administrator, and to purchase
12 and maintain equipment for these facilities.

13 (b) TITLE.—Title to any property or interest therein
14 acquired pursuant to this section shall be held by the Gov-
15 ernment of the United States.

16 **SEC. 110. SELECT PANEL TO REVIEW INNOVATIVE FUNDING**
17 **MECHANISMS.**

18 (a) ESTABLISHMENT.—The Administrator shall es-
19 tablish a select panel to review and report to Congress re-
20 garding a limited innovative program to fund specific fa-
21 cilities and equipment projects, and to provide limited ad-
22 ditional funding alternatives for airport capacity develop-
23 ment. The mechanisms to be reviewed shall include loan
24 guarantees, financial partnerships with for-profit private

1 sector entities, government sponsored enterprises, and re-
2 volving loan funds.

3 (b) APPOINTMENT OF MEMBERS.—The members of
4 any panel established under this section shall consist of
5 appropriate Federal Government officials and representa-
6 tives of the aviation industry, Administration employees,
7 the financial community, and State and local governments.

8 (c) TRAVEL AND PER DIEM.—Each member of the
9 panel established under this section shall be paid actual
10 travel expenses, and per diem in lieu of subsistence ex-
11 penses when away from his or her usual place of residence.

12 (d) REPORT.—Not later than 6 months after the date
13 of the appointment of the last member to the panel under
14 subsection (b), the panel shall submit to the Congress and
15 the Administration a report on the results of the review
16 conducted under this section.

17 (e) FEDERAL ADVISORY COMMITTEE ACT NOT TO
18 APPLY.—The Federal Advisory Committee Act (5 U.S.C.
19 App.) does not apply to the panel established under this
20 section.

21 (f) TERMINATION.—The panel established under this
22 section shall terminate on the date that is 30 days after
23 the date of submission of the report under subsection (d).

1 SEC. 111. TRANSFERS OF FUNDS FROM OTHER FEDERAL
2 AGENCIES.

3 The Administrator is authorized to accept transfers
4 of unobligated balances and unexpended balances of funds
5 appropriated to other Federal agencies to carry out func-
6 tions transferred by this Act to the Administrator or func-
7 tions pursuant to law to the Administrator on or after the
8 date of the enactment of this Act.

9 SEC. 112. MANAGEMENT ADVISORY COUNCIL.

10 (a) ESTABLISHMENT.—Within 3 months of the date
11 of enactment of this Act, the Administrator shall estab-
12 lished an advisory council which shall be known as the
13 Federal Aviation Management Advisory Council (in this
14 section referred to as the “Council”). With respect to Fed-
15 eral Aviation Administration management, policy, spend-
16 ing, and regulatory matters affecting the aviation indus-
17 try, the Council may submit comments, recommended
18 modifications, and dissenting views to the Administrator.
19 The Administrator shall include in any submission to Con-
20 gress, the Secretary, or the general public, and in any sub-
21 mission for publication in the Federal Register, a descrip-
22 tion of the comments, recommended modifications, and
23 dissenting views received from the Council, together with
24 the reasons for any differences between the views of the
25 Council and the views or actions of the Administrator.

1 (b) MEMBERSHIP.—The Council shall consist of 15
2 members, who shall consist of—

3 (1) a designee of the Secretary of Transpor-
4 tation;

5 (2) a designee of the Secretary of Defense; and

6 (3) 13 members appointed by the Adminis-
7 trator.

8 (c) QUALIFICATIONS.—Members appointed to the
9 Council under this section shall be selected from among
10 individuals who are experts in disciplines relevant to the
11 aviation industry and who are able collectively to represent
12 a balanced view of the issues important to air carriers,
13 general aviation, business aviation, airports, commercial
14 space transportation, industry and Administration em-
15 ployees, aircraft manufacturers, and public users.

16 (d) FUNCTIONS.—

17 (1) IN GENERAL.—The Council shall provide
18 advice and counsel to the Administrator on issues
19 which affect or are affected by the operations of the
20 Administrator. The Council shall function as an
21 oversight resource for management, policy, spending,
22 and regulatory matters under the jurisdiction of the
23 Administration.

24 (2) PANELS AND WORKING GROUPS.—The
25 chairman of the Council shall establish a panel or

1 working group, from among the members of the
2 Council, on the development of fees for air traffic
3 control services under section 304, and may estab-
4 lish such additional panels and working groups, con-
5 sisting of members of the Council, as may be nec-
6 essary to carry out the functions of the Council.

7 (3) MEETINGS.—The Council shall meet on a
8 regular and periodic basis or at the call of the chair-
9 man or of the Administrator.

10 (4) ACCESS TO DOCUMENTS AND STAFF.—The
11 Administration may give the Council appropriate ac-
12 cess to relevant documents and personnel of the Ad-
13 ministration.

14 (e) FEDERAL ADVISORY COMMITTEE ACT NOT TO
15 APPLY.—The Federal Advisory Committee Act (5 U.S.C.
16 App.) does not apply to the Council.

17 (f) ADMINISTRATIVE MATTERS.—

18 (1) TERMS OF MEMBERS.—

19 (A) 3-YEAR TERMS.—Except as provided
20 in subparagraph (B), members of the Council
21 appointed by the Administrator under sub-
22 section (b)(3) shall be appointed for a term of
23 3 years.

24 (B) INITIAL APPOINTEES.—Of the mem-
25 bers first appointed by the Administrator—

1 (i) 4 shall be appointed for terms of
2 1 year;

3 (ii) 5 shall be appointed for terms of
4 2 years; and

5 (iii) 4 shall be appointed for terms of
6 3 years.

7 (C) FILLING UNEXPIRED TERM.—An indi-
8 vidual chosen to fill a vacancy shall be ap-
9 pointed for the unexpired term of the member
10 replaced.

11 (D) EXPIRATION OF TERMS.—A member
12 whose term expires shall continue to serve until
13 the date on which the member's successor takes
14 office.

15 (2) CHAIRMAN; VICE CHAIRMAN.—The Council
16 shall elect a chair and a vice chair from among its
17 members, each of whom shall serve for a term of 1
18 year. The vice chair shall perform the duties of the
19 chairman in the absence of the chairman.

20 (3) TRAVEL AND PER DIEM.—Each member of
21 the Council shall be paid actual travel expenses, and
22 per diem in lieu of subsistence expenses when away
23 from his or her usual place of residence, in accord-
24 ance with section 5703 of title 5, United States
25 Code.

1 (4) DETAIL OF PERSONNEL FROM THE ADMIN-
2 ISTRATION.—The Administrator shall make available
3 to the Council such staff, information, and adminis-
4 trative services and assistance as may reasonably be
5 required to enable the Council to carry out its re-
6 sponsibilities under this section.

7 **SEC. 113. AIRCRAFT ENGINE STANDARDS.**

8 Subsection (a)(1) of section 44715 of title 49, United
9 States Code, is amended to read as follows:

10 “(a) STANDARDS AND REGULATIONS.—(1) To relieve
11 and protect the public health and welfare from aircraft
12 noise, sonic boom, and aircraft engine emissions, the Ad-
13 ministrator of the Federal Aviation Administration, as he
14 deems necessary, shall prescribe—

15 “(A) standards to measure aircraft noise and
16 sonic boom;

17 “(B) regulations to control and abate aircraft
18 noise and sonic boom; and

19 “(C) emission standards applicable to the emis-
20 sion of any air pollutant from any class or classes
21 of aircraft engines which, in the judgment of the Ad-
22 ministrator, causes, or contributes to, air pollution
23 which may reasonably be anticipated to endanger
24 public health or welfare.”.

1 TITLE II—FEDERAL AVIATION
 2 ADMINISTRATION STREAMLINING PROGRAMS
 3 SEC. 201. INNOVATIVE PROGRAM FOR AIR TRAFFIC CON-
 4 TROL MODERNIZATION.

5 (a) INNOVATIVE PROGRAM.—The Administrator shall
 6 develop and implement an innovative program under
 7 which an acquisition management system is used to pro-
 8 cure goods and services by the Administration.

9 (b) EXEMPTION FROM PROCUREMENT LAWS.—

10 (1) IN GENERAL.—Subject to paragraph (2), in
 11 carrying out the acquisition management system
 12 used under the innovative program, the Adminis-
 13 trator may waive all or any part of—

14 (A) title III of the Federal Property and
 15 Administrative Services Act of 1949 (41 U.S.C.
 16 5, and 251 through 266);

17 (B) the Office of Federal Procurement
 18 Policy Act (41 U.S.C. 401 et seq.);

19 (C) sections 8, 9, and 15 of the Small ^{to the} ^{extent possible}
 20 Business Act (15 U.S.C. 637, 638, and 644),
 21 but the Administrator shall provide ^{resources for the} ~~reasonable~~
 22 ~~development and implementation of a program~~
 23 ~~opportunities to small business concerns and~~
 24 ~~that presents the maximum opportunities for~~
 25 ~~small business concerns owned and controlled~~
Small business concerns ~~by socially and economically disadvantaged indi-~~
~~viduals to be awarded contracts;~~
~~individuals to participate in the~~
~~performance of~~
~~contracts awarded by the FAA.~~

1 (D) any provision of law that, pursuant to
2 section 34 of the Office of Federal Procurement
3 Policy Act (41 U.S.C. 430), is listed in the Fed-
4 eral Acquisition Regulation as being inapplica-
5 ble—

6 (i) to contracts for the procurement of
7 commercial items; or

8 (ii) in the case of a subcontract under
9 the innovative program, to subcontracts for
10 the procurement of commercial items;

11 (E) the Federal Acquisition Streamlining
12 Act of 1994 (Public Law 103-355);

13 (F) the Service Contract Act;

14 (G) subchapter V of chapter 35 of title 31,
15 United States Code, relating to the procure-
16 ment protest system;

17 (H) the Brooks Automatic Data Process-
18 ing Act (section 111 of the Federal Property
19 and Administrative Services Act of 1949; 40
20 U.S.C. 759);

21 (I) the Brooks Architect-Engineer Act (40
22 U.S.C. §§ 541-544); and

23 (J) the Federal Acquisition Regulation and
24 any law that is not listed in subparagraphs (A)
25 through (I) providing authority to promulgate

1 regulations in the Federal Acquisition Regula-
2 tion.

3 (2) The Department of Defense shall have the
4 same exemptions from acquisition laws as are waived
5 by the Administrator under paragraph (1) when en-
6 gaged in joint actions to improve or replenish the
7 national air traffic control system. The Administra-
8 tion may acquire real property, goods, and services
9 through the Department of Defense, or other appro-
10 priate agencies, but is bound by the acquisition laws
11 and regulations governing those cases.

12 (3) EFFECTIVE DATE.—The Administrator may
13 not waive the laws referred to in paragraph (1) until
14 the expiration of the 30-day period referred to in
15 subsection (d)(2).

16 (c) DEVELOPMENT OF ACQUISITION MANAGEMENT
17 SYSTEM.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the effective date of this Act, the Adminis-
20 trator, in consultation with such governmental and
21 nongovernmental experts in acquisition management
22 systems as the Administration may employ, shall de-
23 velop an acquisition management system for the Ad-
24 ministration. Notwithstanding any other provision of
25 law to the contrary, the Administrator may, for pur-

1 poses of this section, retain such experts under a
2 contract awarded on a basis other than a competi-
3 tive basis and without regard to any such provisions
4 requiring competitive bidding or precluding sole
5 source contract authority. In developing the system,
6 the Administrator may utilize the services of experts
7 and consultants under section 3109 of title 5, Unit-
8 ed States Code, without regard to the limitation im-
9 posed by the last sentence of section 3109(b) of such
10 title, and may contract on a sole source basis, not-
11 withstanding any other provision of law to the con-
12 trary.

13 (2) REQUIREMENTS.—The acquisition manage-
14 ment system to be developed by the Administrator
15 under paragraph (1) shall be

16 (A) designed to ensure that new equipment
17 is installed and certified as quickly as possible
18 without sacrificing safety, principles of fairness,
19 and protection against waste, fraud, and abuse;
20 and

21 (B) designed to ensure the best practicable
22 acquisitions in terms of best value.

23 (d) NOTICE TO CONGRESS.—

24 (1) IN GENERAL.—Upon completion of the de-
25 velopment of the acquisition management system,

1 the Administrator shall submit a comprehensive plan
2 describing the acquisition management system to the
3 Congress. The Administrator shall also transmit
4 with the plan a copy of all suggestions and com-
5 ments provided to the Administration by the Depart-
6 ment of Transportation, and by outside experts (if
7 any), on the acquisition management system.

8 (2) DATE OF IMPLEMENTATION.—The Admin-
9 istrator may begin to implement the acquisition
10 management system only after the expiration of the
11 30-day period that begins on the date on which the
12 plan is submitted to the Congress under paragraph
13 (1).

14 (e) EXPERT EVALUATION.—Three years after the ac-
15 quisition management system is implemented, the Admin-
16 istration shall employ outside experts to provide an inde-
17 pendent evaluation of the effectiveness of the system with-
18 in 3 months. The Administrator shall transmit a copy of
19 the evaluation to the Committee on Commerce, Science,
20 and Transportation of the Senate, and the Committee on
21 Transportation and Infrastructure of the House of Rep-
22 resentatives.

23 (f) MODIFICATIONS TO SYSTEM.—The Administrator
24 may periodically make modifications to the acquisition
25 management system. Any such modifications shall be sub-

1 mitted to the Congress under subsection (d) in the same
2 manner as the acquisition management system plan and
3 may not be implemented until after the expiration of the
4 30-day period beginning on the date of submission.

5 SEC. 202. AIR TRAFFIC CONTROL MODERNIZATION RE-
6 VIEWS.

7 (a) REQUIRED TERMINATIONS OF ACQUISITIONS.—

8 The Administrator shall terminate any program initiated
9 after the date of enactment of this Act and funded under
10 the Facilities and Equipment account that—

11 (1) is more than 50 percent over the cost goal
12 established for the program;

13 (2) fails to achieve at least 50 percent of the
14 performance goals established for the program; or

15 (3) is more than 50 percent behind schedule as
16 determined in accordance with the schedule goal es-
17 tablished for the program.

18 (b) AUTHORIZED TERMINATIONS OF ACQUISI-
19 TIONS.—The Administrator shall consider terminating,
20 under the authority of subsection (a), any substantial ac-
21 quisition that—

22 (1) is more than 10 percent over the cost goal
23 established for the program;

24 (2) fails to achieve at least 90 percent of the
25 performance goals established for the program; or

1 (3) is more than 10 percent behind schedule as
2 determined in accordance with the schedule goal es-
3 tablished for the program.

4 (c) EXCEPTION AND REPORT.—

5 (1) CONTINUANCE OF PROGRAM, ETC.—Not-
6 withstanding subsection (a), the Administrator may
7 continue an acquisitions program required to be ter-
8 minated under subsection (a) if the Administrator
9 determines that termination would be inconsistent
10 with the development or operation of the national air
11 transportation system in a safe and efficient man-
12 ner.

13 (2) REPORT.—If the Administrator makes a de-
14 termination under paragraph (1), the Administrator
15 shall transmit a copy of the determination, together
16 with a statement of the basis for the determination,
17 to the Committees on Appropriations of the Senate
18 and the House of Representatives, the Committee on
19 Commerce, Science, and Transportation of the Sen-
20 ate, and the Committee on Transportation and In-
21 frastructure of the House of Representatives.

22 **SEC. 203. INNOVATIVE PROGRAM FOR FEDERAL AVIATION**

23 **ADMINISTRATION SERVICES.**

24 (a) INNOVATIVE PROGRAM.—The Administrator shall
25 develop and implement an innovative program under

1 which a personnel management system is used for the
2 management, compensation, and advancement of Adminis-
3 tration employees.

4 (b) EXEMPTION FROM CERTAIN PROVISIONS OF
5 TITLE 5, UNITED STATES CODE.—

6 (1) IN GENERAL.—Except as otherwise pro-
7 vided in this section, under the innovative program,
8 the Administration shall be exempt from parts II
9 and III of title 5, United States Code.

10 (2) EFFECTIVE DATE.—The exemption pro-
11 vided by paragraph (1) shall not take effect until the
12 expiration of the 30-day period specified in sub-
13 section (d)(2).

14 (c) DEVELOPMENT OF PERSONNEL MANAGEMENT
15 SYSTEM.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this Act, the Adminis-
18 trator, in consultation with Administration employ-
19 ees, including designated bargaining representatives,
20 and such governmental and nongovernmental experts
21 in personnel management systems as the Adminis-
22 trator may employ, shall develop a personnel man-
23 agement system for the Administration. Notwith-
24 standing any other provision of law to the contrary,
25 the Administrator may, for purposes of this section,

1 retain such experts under a contract awarded on a
2 basis other than a competitive basis and without re-
3 gard to any such provisions requiring competitive
4 bidding or precluding sole source contract authority.
5 In developing the system, the Administrator may
6 utilize the services of experts and consultants under
7 section 3109 of title 5, United States Code, without
8 regard to the limitation imposed by the last sentence
9 of section 3109(b) of such title.

10 (2) GOAL.—The goal of the personnel manage-
11 ment system to be developed by the Administrator
12 under paragraph (1) is to provide, consistent with
13 the requirements of this section, the Administration
14 with the ability—

15 (A) to hire, promote, and fire employees as
16 in the private sector;

17 (B) to establish a pay structure as needed
18 to conduct the business of the Administration
19 in an efficient and effective manner within
20 available resources;

21 (C) to provide salaries designed to attract
22 the best qualified employees within available re-
23 sources;

24 (D) to staff facilities that are difficult to
25 staff;

1 (E) to move personnel to those facilities
2 where they are most needed; and

3 (F) to continue to provide an appropriate
4 framework for labor-management relations con-
5 cerning terms and conditions of employment.

6 (d) NOTICE TO CONGRESS.—

7 (1) IN GENERAL.—Upon development of the
8 personnel management system under this section,
9 the Administrator shall submit a comprehensive plan
10 describing the personnel management system to the
11 Congress. The Administrator shall also transmit
12 with the plan a copy of all suggestions and com-
13 ments provided to the Administration by the Depart-
14 ment of Transportation, and by outside experts (if
15 any), on the personnel management system.

16 (2) IMPLEMENTATION.—The Administration
17 may begin to implement the personnel management
18 system only after the expiration of the 30-day period
19 that begins on the date the plan is submitted to the
20 Congress.

21 (e) EXPERT EVALUATION.—Three years after the
22 personnel management system is implemented, the Admin-
23 istration shall employ outside experts to provide an inde-
24 pendent evaluation of the effectiveness of the system with-
25 in 3 months. For this purpose, the Administrator may uti-

1 lize the services of experts and consultants under section
2 3109 of title 5, United States Code, without regard to the
3 limitation imposed by the last sentence of section 3109(b)
4 of such title, and may contract on a sole source basis, not-
5 withstanding any other provision of law to the contrary.

6 (f) EMPLOYEE RIGHTS AND BENEFITS.—The enact-
7 ment of this section shall not result in the exemption of
8 employees of the Administration from any of the following
9 provisions of title 5, United States Code:

10 (1) Section 2302(b) (relating to whistleblower
11 protection).

12 (2) Sections 3308-3320 (relating to veterans'
13 preference)

14 (3) Section 7116(b)(7) (relating to prohibition
15 of the right to strike).

16 (4) Section 7204 (relating to antidiscrimina-
17 tion).

18 (5) Chapter 63 (relating to leave).

19 (6) Chapter 71 (relating to labor-management
20 relations).

21 (7) Chapter 73 (relating to suitability, security,
22 and conduct).

23 (8) Chapter 81 (relating to compensation for
24 work injuries).

25 (9) Chapter 83 (relating to retirement).

1 (10) Chapter 84 (relating to the Federal Em-
2 ployees' Retirement System).

3 (11) Chapter 85 (relating to unemployment
4 compensation).

5 (12) Chapter 87 (relating to life insurance).

6 (13) Chapter 89 (relating to health insurance).

7 (14) Subchapter II of chapter 53 (with respect
8 to the pay of the Administrator).

9 (g) PAY RESTRICTION.—No officer or employee of
10 the Administration may receive an annual rate of basic
11 pay in excess of the annual rate of basic pay payable to
12 the Administrator.

13 (h) ETHICS.—The Administration shall be subject to
14 Executive Order 12674 and regulations and opinions pro-
15 mulgated by the Office of Government Ethics, including
16 those set forth in section 2635 of title 5 of the Code of
17 Federal Regulations.

18 (i) EMPLOYEE PROTECTIONS.—Employment rights,
19 wages, and benefits of employees of the Administration
20 shall not be adversely affected by reason of the enactment
21 of this section, except for unacceptable performance or by
22 reason of a reduction in force or reorganization, during
23 the period commencing on the effective date of this Act
24 and ending on the date determined under subsection
25 (b)(2).

1 (j) LABOR-MANAGEMENT AGREEMENTS.—Except as
2 otherwise provided by this Act, all labor-management
3 agreements covering employees of the Administration that
4 are in effect on the effective date of this Act shall remain
5 in effect until their normal expiration date, unless the Ad-
6 ministrator and the exclusive bargaining representative
7 agree to the contrary.

8 (k) MODIFICATIONS TO SYSTEM.—The Administrator
9 may periodically make modifications to the personnel man-
10 agement system. Any such modifications shall be submit-
11 ted to the Congress under subsection (d) in the same man-
12 ner as the personnel management system plan and may
13 not be implemented until after the expiration of the 30-
14 day period beginning on the date of submission.

15 TITLE III—SYSTEM TO FUND CERTAIN FED-
16 ERAL AVIATION ADMINISTRATION FUNC-
17 TIONS

18 SEC. 301. FINDINGS.

19 The Congress finds the following:

20 (1) The Federal Aviation Administration is rec-
21 ognized throughout the world as a leader in aviation
22 safety.

23 (2) The Administration certifies aircraft, en-
24 gines, propellers and other manufactured parts.

1 (3) The Administration certifies more than 650
2 training schools for pilots and non-pilots, more than
3 4,858 repair stations, and more than 193 mainte-
4 nance schools.

5 (4) The Administration certifies pilot examin-
6 ers, who are then qualified to determine if a person
7 has the skills necessary to become a pilot.

8 (5) The Administration fully certifies more than
9 6,000 medical examiners, each of whom is then fully
10 qualified to medically certify the qualifications of pi-
11 lots and non-pilots.

12 (6) The Administration fully certifies more than
13 470 airports, and provides a limited certification for
14 another 205 airports. Other airports in the United
15 States are also reviewed by the Administration.

16 (7) The Administration each year performs
17 more than 355,000 inspections.

18 (8) The Administration issues more than
19 655,000 pilots licenses and more than 560,000 non-
20 pilot licenses (e.g., mechanics).

21 (9) The Administration's certification means
22 that the product meets the highest standards of
23 safety and reliability.

1 (10) The Administration's certification means
2 aviation-related equipment and services meet the
3 highest standards throughout the world.

4 (11) The Administration's certification is a val-
5 uable element for any company to sell aviation-relat-
6 ed products throughout the world.

7 (12) The Administration certification con-
8 stitutes a valuable license, franchise or privilege, and
9 confers many benefits on the holders.

10 (13) The Administration also is a major pur-
11 chaser of computers, radars and other systems need-
12 ed to run the air traffic control system. The Admin-
13 istration's design, acceptance, commissioning, or cer-
14 tification of such equipment enables the private sec-
15 tor to market those products around the world, and
16 as such confers a benefit on the manufacturer.

17 (14) The Administration provides extensive
18 services to public use aircraft, including the military.
19 Federal Aviation Administration cost allocation
20 studies attribute about 15 percent of the cost of the
21 airway system to public use aircraft. The estimated
22 cost of these air traffic services in 1993 was \$1.1
23 billion. Most of these services were provided to the
24 military. The annual appropriations from the Gen-
25 eral Fund to the Administration have been consid-

1 ered, in part, payment for the cost of such services,
2 but are expected to decline in future years.

3 (15) The Administration must be able to de-
4 sign, to the maximum extent possible, a perform-
5 ance-based system to recover its interest and cost in
6 its certification and purchasing systems.

7 SEC. 302. PURPOSES.

8 The purposes of this title are—

9 (1) to provide a financial structure for the Fed-
10 eral Aviation Administration so that it will be able
11 to support the future growth in the national aviation
12 and airport system;

13 (2) to establish a program of incentive-based
14 fees for services to improve air traffic management
15 system performance and to establish appropriate lev-
16 els of cost accountability for air traffic management
17 services provided by the Federal Aviation Adminis-
18 tration;

19 (3) to ensure that the funding obtained by user
20 fees set by this title will be dedicated solely for the
21 use of the Federal Aviation Administration;

22 (4) to authorize the Federal Aviation Adminis-
23 tration to recover the costs of its services from those
24 who benefit from the national aviation system and

1 the services provided by the Federal Aviation Ad-
2 ministration;

3 (5) to allow the Federal Aviation Administra-
4 tion to develop a fee system based on the cost or
5 value of the services provided;

6 (6) to demonstrate to each segment of the avia-
7 tion industry the benefits of a cost-based or value-
8 based user fee system;

9 (7) to replace the existing user charges with a
10 new fee system as a means of achieving a more effi-
11 cient and effective Federal Aviation Administration
12 for the aviation transportation industry; and

13 (8) to have the Federal Aviation Administration
14 develop fee systems that do not directly impinge
15 upon the non-business jet and non-commercial as-
16 pects of the general aviation community.

17 **SEC. 303. USER FEES FOR VARIOUS FEDERAL AVIATION AD-**
18 **MINISTRATION SERVICES.**

19 (a) **IN GENERAL.**—Within 6 months of the date of
20 enactment of this Act, the Administration shall submit to
21 the Congress a performance-based fee system, to the maxi-
22 mum extent possible, for—

23 (1) services other than air traffic control serv-
24 ices, including safety, certification, security, training,
25 inspection, and other activities;

1 (2) services (other than air traffic control serv-
2 ices) provided to a foreign government ; and

3 (3) air traffic control services for—

4 (A) flights over the United States or its
5 territories by air carriers that neither arrive at
6 nor depart from a United States airport (other
7 than such flights by foreign government aircraft
8 engaged on official business); and

9 (B) business jets.

10 (b) CONSIDERATIONS.—To the extent possible, the
11 Administrator, in developing a fee system, shall consider—

12 (1) the impact on segments of the aviation in-
13 dustry; and

14 (2) the fair value, or cost, of the service pro-
15 vided by the Federal Aviation Administration.

16 (c) CONSULTATION WITH AFFECTED PARTIES.—In
17 developing proposals under this section, the Administrator
18 shall consult with representatives of the commercial avia-
19 tion industry, the general aviation sector, airports, and
20 other affected parties.

21 (d) USE OF EXPERTS AND CONSULTANTS.—In devel-
22 oping the system, the Administrator may consult with
23 such nongovernmental experts as the Administrator may
24 employ and the Administrator may utilize the services of
25 experts and consultants under section 3109 of title 5,

1 United States Code, without regard to the limitation im-
2 posed by the last sentence of section 3109(b) of such title,
3 and may contract on a sole source basis, notwithstanding
4 any other provision of law to the contrary. Notwithstand-
5 ing any other provision of law to the contrary, the Admin-
6 istrator may retain such experts under a contract awarded
7 on a basis other than a competitive basis and without re-
8 gard to any such provisions requiring competitive bidding
9 or precluding sole source contract authority. The Adminis-
10 trator shall cause a copy of the proposed fee system to
11 be printed in the Federal Register upon its submission to
12 the Congress.

13 (e) FEES EFFECTIVE 45 DAYS AFTER SUBMIS-
14 SION.—

15 (1) IN GENERAL.—Unless disapproved by the
16 Congress under section 305(b), any fees proposed by
17 the Administrator under this section shall take effect
18 45 days after the date on which the proposal is sub-
19 mitted to the Congress, or on such later date as the
20 Administrator may propose. If a fee proposal is sub-
21 mitted to the Congress less than 45 days before the
22 date on which the Congress adjourns sine die, or less
23 than 45 days before any 30-day period in which nei-
24 ther House of the Congress is in session, then the
25 fees so proposed shall not take effect unless resub-

1 mitted under this section. Any proposal resubmitted
2 shall be considered a new submission for applying
3 the first sentence of this paragraph to the resubmit-
4 ted proposal.

5 (2) IMPLEMENTATION DELAYED IF TRUST
6 FUND AMOUNTS ADEQUATE.—Beginning with fiscal
7 year 1998, no fee proposed by the Administrator
8 may be imposed under this section unless the sum
9 of the outlays from the Airport and Airway Trust
10 Fund exceeds the receipts of the Fund for the pre-
11 ceding fiscal year.

12 (f) AGREEMENT WITH DEPARTMENT OF DEFENSE.—
13 Within 6 months after the date of enactment of this Act,
14 the Administration shall enter into an agreement with the
15 Department of Defense under which the Administration
16 will be reimbursed for the net cost of air traffic control
17 services provided to the Department of Defense.

18 (g) TERMINATION.—Fees imposed under this section
19 shall terminate 3 years after going into effect, but any
20 amounts collected before the fees terminate shall remain
21 available until expended.

22 (h) ADDITIONAL SYSTEM PROPOSALS.—Not less
23 than 6 months before the date on which any fee system
24 imposed under this section terminates, the Administrator
25 shall submit to the Congress a proposal for a fee system

1 to replace the terminating system. Any replacement fee
2 system proposed under this subsection shall be developed
3 in consultation with the representatives described in sub-
4 section (c). The Administrator shall submit to the Con-
5 gress at the same time as the proposal is submitted, a
6 review of the effectiveness of the standards established for
7 the fee system the proposed fee system is intended to re-
8 place, conducted by independent experts. The proposed re-
9 placement fee system shall take effect upon the termi-
10 nation of the fee system it replaces unless disapproved by
11 the Congress under subsection (d), and shall terminate 3
12 years after going into effect.

13 (i) REPEAL.—Sections 45301, 45302, and 70118 of
14 title 49, United States Code, are repealed.

15 **SEC. 304. USER FEES FOR AIR TRAFFIC CONTROL SERV-**
16 **ICES.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of enactment of this Act, the Administrator shall sub-
19 mit to the Congress a proposed fee system for air traffic
20 control services. In developing the proposal, the Adminis-
21 trator may utilize the services of experts and consultants
22 under section 3109 of title 5, United States Code, without
23 regard to the limitation imposed by the last sentence of
24 section 3109(b) of such title, and may contract on a sole
25 source basis, notwithstanding any other provision of law

1 to the contrary, to develop air traffic control user fees
2 based on improved system performance.

3 (b) LIMITATIONS.—

4 (1) TRUST FUND PAYORS.—Fees may not be
5 imposed under this section on any segment of the
6 aviation industry subject to trust fund taxes until
7 the rate of trust fund taxes paid by that segment is
8 reduced below the rate at which such taxes were as-
9 sessed during fiscal year 1995.

10 (2) OTHER USERS.—Notwithstanding para-
11 graph (1), fees imposed under this section may be
12 imposed on any user of air traffic control services
13 not subject to trust fund taxes, so long as any such
14 fees are consistent with international agreements.

15 (3) LIMITATION ON AMOUNT.—The aggregate
16 amount of fees imposed under this section in any
17 year on any segment of the aviation industry may
18 not exceed 110 percent of the projected difference
19 between (1) the estimated aggregate amount that
20 would have been collected in such year from that
21 segment at the rates of Trust Fund taxes in effect
22 in 1995 and (2) the estimated aggregate amount
23 that would be collected in such year from that seg-
24 ment at the Trust Fund tax rates reduced below the
25 levels in effect in 1995.

1 (c) FEES EFFECTIVE 45 DAYS AFTER APPROVAL.—
2 Unless disapproved by the Congress under section 305(b),
3 fees proposed by the Administrator under this section take
4 effect 45 days after the date on which the proposal is sub-
5 mitted to the Congress, or on such later date as the Ad-
6 ministrator may propose.

7 (d) DEFINITIONS.—WHEN USED IN THIS SECTION—

8 (1) SEGMENT.—The term 'segment' refers to—

9 (A) commercial airlines;

10 (B) commercial cargo air carriers;

11 (C) business jets;

12 (D) general aviation; and

13 (E) public use.

14 (2) TRUST FUND TAXES.—The term 'trust fund
15 taxes' means Federal taxes the receipts from which
16 are credited in whole or in part to the Airport and
17 Airway Trust Fund.

18 (e) TERMINATION.—Fees imposed under this section
19 shall terminate 3 years after going into effect, but any
20 amounts collected before the fees terminate shall remain
21 available until expended.

22 (f) ADDITIONAL SYSTEM PROPOSALS.—Not less than
23 6 months before the date on which any fee system imposed
24 under this section terminates, the Administrator shall sub-
25 mit to the Congress a proposal for a fee system to replace

1 the terminating system. Any replacement fee system pro-
2 posed under this subsection shall be developed in consulta-
3 tion with the Management Advisory Council established
4 under section 112. The Administrator shall submit to the
5 Congress at the same time as the proposal is submitted,
6 a review of the effectiveness of the standards established
7 for the fee system the proposed fee system is intended to
8 replace, conducted by independent experts. Unless dis-
9 approved by the Congress under section 305(b), the pro-
10 posed replacement fee system shall take effect upon the
11 termination of the fee system it replaces, and shall termi-
12 nate 3 years after going into effect.

13 **SEC. 305. ADMINISTRATIVE PROVISIONS.**

14 (a) IN GENERAL.—

15 (1) FEES PAYABLE TO ADMINISTRATOR.—All
16 fees imposed under this title for services performed,
17 or materials furnished, by the Administration are
18 payable to the Administrator.

19 (2) REFUNDS.—The Administrator may refund
20 any fee paid by mistake or any amount paid in ex-
21 cess of that required.

22 (3) RECEIPTS CREDITED TO ACCOUNT.—Not-
23 withstanding section 3302 of title 31, United States
24 Code, all fees collected by the Administration, except
25 insurance premiums and other fees charged for the

1 provision of insurance and deposited in the Aviation
2 Insurance Revolving Fund and interest earned on in-
3 vestments of such Fund, (whether imposed under
4 this section or not)—

5 (A) shall be credited to a separate account
6 established in the Treasury and made available
7 for Federal Aviation Administration activities
8 as offsetting collections;

9 (B) shall be available only to the extent
10 that the expenditures for the Administration ex-
11 ceed the amounts made available for such ex-
12 penditures from the Airport and Airways Trust
13 Fund; and

14 (C) shall remain available until expended.

15 (4) INVESTMENT OF ACCOUNT BALANCE.—Any
16 amount in the separate account established under
17 paragraph (3)(A) of this section that is not needed
18 for immediate disbursement shall be invested by the
19 Secretary of the Treasury only in interest-bearing
20 obligations of the United States, by purchasing such
21 obligations (A) if at original issue, as the issue price,
22 or (B) if outstanding, at the market price. The in-
23 terest on, and proceeds from the sale or redemption
24 of, any such obligation shall be credited to such sep-
25 arate account.

1 (5) ANNUAL BUDGET REPORT BY ADMINIS-
2 TRATOR.—The Administrator shall, on the same day
3 each year as the President submits the annual budg-
4 et to the Congress, provide to the Committee on
5 Commerce, Science, and Transportation of the Sen-
6 ate and the Committee on Transportation and Infra-
7 structure of the House of Representatives—

8 (A) a list of fee collections by the Adminis-
9 tration during the preceding fiscal year;

10 (B) a list of activities by the Administra-
11 tion during the preceding fiscal year that were
12 supported by fee expenditures and appropria-
13 tions;

14 (C) budget plans for significant programs,
15 projects, and activities of the Administration,
16 including out-year funding estimates;

17 (D) any proposed disposition of surplus
18 fees by the Administration; and

19 (E) such other information as those com-
20 mittees consider necessary.

21 (b) CONGRESSIONAL PROCEDURE.—

22 (1) IN GENERAL.—This subsection is enacted
23 by the Congress as an exercise of the rulemaking
24 power of the Senate and the House of Representa-
25 tives, respectively, and as such these provisions are

1 deemed to be a part of the rules of each House of
2 the Congress, respectively, applicable only to the
3 procedure to be followed in that House for resolu-
4 tions described in this subsection. These provisions
5 supersede other rules of each House of the Congress
6 only to the extent that they are inconsistent with
7 those other rules, and they are enacted with full rec-
8 ognition of the constitutional right of each House to
9 change them, to the extent that they relate to the
10 procedure of that House, in the same manner and
11 to the same extent as any other rule of that House.

12 (2) RESOLUTION.—For purposes of this sub-
13 section, the term “resolution” means a joint resolu-
14 tion relating to the disapproval of a fee proposal
15 submitted by the Administrator under section 303 or
16 section 304, the matter after the resolving clause of
17 which is as follows: “That the Congress disapproves
18 the fee proposal submitted by the Administrator of
19 the Federal Aviation Administration on — and
20 identified as —.”, the first blank space being
21 filled with the date on which the proposal was sub-
22 mitted and the second being filled with the title or
23 other description of the proposal. The term does not
24 include a resolution that relates to more than one
25 proposal.

1 (3) REFERRAL.—Upon introduction, a resolu-
2 tion shall be referred to the Committee on Com-
3 merce, Science, and Transportation of the Senate or
4 the Committee on Transportation and Infrastructure
5 of the House of Representatives.

6 (4) MOTION TO DISCHARGE.—If the committee
7 to which a resolution has been referred has not re-
8 ported it at the end of 20 calendar days after its in-
9 troduction, it is in order to move to discharge the
10 committee from further consideration of that resolu-
11 tion.

12 (5) RULES FOR MOTION TO DISCHARGE.—A
13 motion to discharge may be made only by an individ-
14 ual favoring the resolution, is highly privileged (ex-
15 cept that it may not be made after the committee
16 has reported a resolution with respect to the same
17 proposal), and debate thereon shall be limited to not
18 more than 1 hour, with the time divided equally be-
19 tween those favoring and those opposing the motion.
20 An amendment to the motion is not in order, and it
21 is not in order to move to reconsider the vote by
22 which the motion is agreed to or disagreed to. Mo-
23 tions to postpone shall be decided without debate.

24 (6) EFFECT OF MOTION.—If the motion to dis-
25 charge is agreed to or disagreed to, the motion may

1 not be renewed, nor may another motion to dis-
2 charge the committee be made with respect to any
3 other resolution with respect to the same proposal.

4 (7) SENATE PROCEDURE.—

5 (A) MOTION TO PROCEED.—When the
6 committee of the Senate has reported, or has
7 been discharged from further consideration of,
8 a resolution, it is at any time thereafter in
9 order (even though a previous motion to the
10 same effect has been disagreed to) to move to
11 proceed to the consideration of the resolution.
12 The motion is highly privileged and is not de-
13 batable. An amendment to the motion is not in
14 order, and it is not in order to move to recon-
15 sider the vote by which the motion is agreed to
16 or disagreed to.

17 (B) LIMITATION ON DEBATE.—Debate in
18 the Senate on the resolution shall be limited to
19 not more than 10 hours, which shall be divided
20 equally between those favoring and those oppos-
21 ing the resolution. A motion further to limit de-
22 bate is not debatable. An amendment to, or mo-
23 tion to recommit, the resolution is not in order,
24 and it is not in order to move to reconsider the

1 vote by which the resolution is agreed to or dis-
2 agreed to.

3 (C) NO DEBATE ON CERTAIN MOTIONS.—

4 In the Senate, motions to postpone made with
5 respect to the consideration of a resolution and
6 motions to proceed to the consideration of other
7 business shall be decided without debate.

8 (D) APPEALS.—Appeals from the decisions
9 of the Chair relating to the application of the
10 rules of the Senate to the procedure relating to
11 a resolution shall be decided without debate.

12 (8) EFFECT OF ADOPTION OF RESOLUTION BY
13 OTHER HOUSE.—If, before the passage by one
14 House of the Congress of a resolution of that House,
15 it receives from the other House a resolution, then
16 the following procedures apply:

17 (A) The resolution of the other House shall
18 not be referred to a committee and may not be
19 considered in the House receiving it, except in
20 the case of final passage as provided in sub-
21 paragraph (B)(i).

22 (B) With respect to the resolution de-
23 scribed in subparagraph (A) of the House re-
24 ceiving it—

1 (i) the procedure in that House shall
2 be the same as if no joint resolution had
3 been received from the other House; but

4 (ii) the vote on final passage shall be
5 on the resolution of the other House.

6 **SEC. 306. INCREASE IN SPENDING CAPS UNDER TRUST**
7 **FUND.**

8 Section 48104(c) of title 49, United States Code, is
9 amended by adding at the end thereof the following:

10 "This subsection shall be applied for fiscal years 1998 and
11 1999 by substituting 'zero percent' for '50 percent' in
12 paragraph (1), and by substituting '100 percent' for '70
13 percent'. The preceding sentence shall not apply for any
14 fiscal year for which fees imposed under section 303 of
15 the Air Traffic Management Performance Improvement
16 Act of 1995 are not in effect."

17 **SEC. 307. ADVANCE APPROPRIATIONS FOR AIRPORT AND**
18 **AIRWAY TRUST FUND ACTIVITIES.**

19 (a) **MULTIYEAR AUTHORIZATIONS.**—Beginning with
20 fiscal year 1997, any authorization of appropriations for
21 an activity for which amounts are to be appropriated from
22 the Airport and Airway Trust Fund shall provide funds
23 for a period of not less than 3 fiscal years unless the activ-
24 ity for which appropriations are authorized is to be con-
25 cluded before the end of that period.

1 (b) MULTIYEAR APPROPRIATIONS.—Beginning with
2 fiscal year 1997, amounts appropriated from the Airport
3 and Airway Trust Fund shall be appropriated for periods
4 of 3 fiscal years rather than annually.

○

SENATE FAA REFORM BILL SYNOPSIS
S. 1239

Governance

- * Keeps FAA within DOT.
- * Administrator to exercise authority over FAA acquisitions and personnel (except for appointment of political appointees).
- * 3 months after enactment, management advisory council (representing broad spectrum of users and labor) to be established to advise FAA on management, policy, spending, and regulatory matters.

Regulations

- * Regulations with aggregate annual costs of \$50 Million or more, or otherwise meeting criteria of President Clinton's Executive Order requiring OMB review, require approval of Secretary.
- * Provides performance standards by requiring FAA to take action on petitions for rule changes within 6 months, NPRMs within 18 months, and ANPRMS within 24 months.
- * New rules imposing \$25 Million annual costs on state, local, or tribal governments, or on the private sector to be reviewed by the Administrator within 3 years.

Procurement/Personnel Reform

- * Within 180 days, Administrator to develop innovative acquisitions management and personnel systems, with advice from governmental and non-governmental experts, and to provide proposal to Congress. Views of DOT on new systems to be included in submission to Congress.
- * 30 days after receipt by Congress of such systems, the Administrator may implement such systems.
- * Administrator given broad authority to waive many current personnel (title 5) and procurement law provisions in establishing systems, with certain exceptions. For example, Administrator may establish compensation systems for FAA employees but may not change veterans' preference or leave and retirement systems; in acquisitions area, Administrator may waive Small Business Act and instead develop goals for small business and DBE participants in FAA's procurements.

* Administrator required to terminate an F&E funded acquisitions program, if it experiences 50% increase in cost or schedule growth or meets less than 50% of its performance goals, unless he determines that termination of the program would not be consistent with the safety or efficiency of the national air transportation system, and provides Congress with a written rationale. Includes an early warning system by requiring the Administrator to consider the termination of a substantial acquisition program experiencing 10% cost or schedule growth or not meeting 90% of its goals. Only F&E programs initiated after enactment subject to this provision.

Financial Reform

Non-air traffic user fees:

* Within 6 months, FAA to establish and transmit to Congress a system of non-air traffic user fees for agency services (including services provided to a foreign government) to support the FAA's activities. Air traffic-related user fees could, however, be imposed on international overflights and business jets. Fees to be developed in consultation with users.

* Fees go into effect 45 days after transmittal to Congress, unless disapproved.

* To extent possible, fees to consider impact on segments of the aviation industry, and the fair value or cost of the service provided by the FAA.

* Beginning in FY 1998, no fee may be imposed unless the outlays from the Airport and Airway Trust Fund exceed the user taxes in the prior year.

* Fees terminate 3 years after going into effect, but the Administrator is required to submit to the Congress a proposal for a new fee system to replace the old one not less than 6 months before its termination.

Air Traffic Control Fees:

* Within 1 year, the Administrator shall submit to Congress a proposed fee system for air traffic control services to take effect in 45 days unless disapproved by Congress.

* Bill contemplates long-term conversion to performance-based user fees from current Trust Fund taxes. However, fees may not be imposed for air traffic control services on a segment of the aviation industry until the rate of Trust Fund taxes on that segment is reduced below the 1995 level (except in the case of users not subject to Trust Fund taxes).

* In any year, the air traffic fees imposed in a year on a segment of aviation may not exceed 110% of the projected difference in such year between what would have been collected in that year from that segment under the 1995 tax rates and what is estimated to be collected from that segment under the reduced Trust Fund tax rates.

* Air traffic fees terminate 3 years after imposition, and the Administrator is required to develop (in consultation with the Management Advisory Council) and submit a new proposal to the Congress at least 6 months before termination of the existing fee system.

Miscellaneous Fee/Financial Reform Provisions:

* Goal of fee systems is to achieve, to the extent possible, a user supported system by year 2003.

* Fees collected under either system are defined as offsetting collections (i.e., not scored in budget process), and are placed in a separate account in the Treasury to be used solely by the Administrator.

* Fees may only be used to the extent that FAA's expenditures exceed the amounts made available for such expenditures to the FAA from the Trust Fund.

* FAA to provide an annual budget report to authorizing committees on fee collections.

* Within 6 months, FAA and DOD must reach an agreement, pursuant to which FAA will be reimbursed by DOD for the net cost of air traffic services.

* Select panel to review innovative programs (including government sponsored enterprises) for financing specific facilities and equipment projects and to provide limited additional funding alternatives for airport capacity development. Report due to FAA and the Congress within 6 months.

* Establishes 3 year FAA authorization and appropriations cycle beginning in FY 1997.

* Contemplates most FAA funding, including all operations, from new fee system. Residual trust fund to be used only to finance a portion of FAA's total capital expenditures.

Miscellaneous

* FAA to prescribe aircraft engine emission standards. (Note: Provision opposed by EPA.)

9/11/95

THE WHITE HOUSE

Michael Deich (NEC)

Bob Litan (OMB)

Kitty Higgins

Jennifer O'Connor (111)

Here are FAA Budget
impact numbers, explanation.

we need to resolve where
we are with the legislation
and it's press conference tomorrow
~~Michael~~ ~~do you~~ do we need to meet or
do a
conference
call?

Step

FY 1996 FAA OPERATIONS

IMPACT OF SENATE MARK

FY 1996 President's Budget	\$4,711 million
Senate mark	<u>4,550 million</u>
Senate cut.....	\$ 161 million

- o The Senate reduces resources to operate and maintain the air traffic control system. FAA is a 24-hour-a-day, 365-day-a-year operation. With more people flying than ever before, it is particularly important that FAA has the resources to ensure the safety of the flying public. FAA anticipates that as many as 300 air traffic controllers will retire in FY 1996. The cut in funding may mean that FAA won't be able to hire people to fill those controller vacancies.
- o The Senate reductions will adversely affect FAA's ability to meet threats to U.S. aviation and its passengers both domestically and internationally. Given the recent terrorist threats in Los Angeles and New York, full funding is especially critical.
- o FAA's operating expenses are primarily salaries --- over 75%. Cuts in funding means cuts in staff. The largest staff are the FAA employees who operate and maintain the air traffic control system and inspect and certify the aircraft and the crew that fly those aircraft.
- o The Senate cut the funds FAA requested for 253 additional safety and certification inspectors. With increasing aviation activity and the technological complexity of the aviation industry, FAA must have adequate staffing.
- o FAA will not jeopardize safety. If they don't have the resources to ensure that we are flying safely, they will simply have to cut back on services.
- o The Senate level will require cutting back on services and even closing as many as 25 flight service stations and low level towers.

MEMORANDUM FOR THE PRESIDENT

FROM: Alice M. Rivlin
Director

SUBJECT: Federal Aviation Administration (FAA) Funding and Organizational Reform Issues - INFORMATION

Summary

This memorandum provides an update on (1) recent air traffic control equipment outages and the FAA's response, (2) the FAA's near-term funding situation in light of pending FY 1996 Congressional appropriations action and (3) long-term FAA reform efforts. Recent FAA equipment outages, such as the one Tuesday morning in Chicago, and related press reports have heightened public perception that the Nation's aviation system may be becoming unsafe. This perception, however, is incorrect. The FAA maintains backup capability and procedures to ensure air traffic safety during these crises. Also, the FAA is taking steps to address equipment outages.

To meet FAA's needs, we are working with the appropriators to ensure adequate FAA funding for FY 1996 and are seeking to enact FAA reform legislation. This legislation would provide the FAA with long-term relief from procurement, personnel, and financing restrictions. The recent outages, while problematic, provide an opportunity to advance this strategy. We will use them to demonstrate the need for short-term funding and long-term reform.

Recent Chicago Equipment Outage

On the mid-night shift on Monday September 11, 1995, the Chicago Air Route Traffic Control Center switched from the primary computer used to display flight information on controllers' screens to a backup computer in order to perform routine scheduled maintenance. The Center experienced difficulty bringing the primary computer back online. At 9:15 a.m. CDT, when the Center again tried to restore the primary computer, the primary backup was lost. The Center switched to the secondary backup for 25 minutes until the primary backup was restored.

At no time was aviation safety jeopardized. The primary backup provides virtually all the information that the primary computer does, and permits operations to continue without change. The secondary backup is more labor intensive. As a result, the FAA held aircraft on the ground and imposed temporary flight restrictions to manage the workload. One operational error occurred. Two aircraft came within 3.2 miles of each other, FAA separation standards in this case was 5 miles. FAA reports that at no time was there any risk to the aircraft.

A team of technical experts is on-site now to assist in the restoration of the primary computer and diagnose the cause. FAA Administrator Hinson will visit the Center tomorrow, September 13, to review the situation.

FAA Equipment Outage Action Plan

The FAA operates approximately 30,000 pieces of equipment. Overall, this equipment is available 99.6 percent of the time. Reliability has improved over the last five years. Nevertheless, the FAA experiences about 20,000 scheduled and unscheduled equipment outages annually. Most are minor and have no affect on air travel or safety. The FAA designs its systems with multiple layers of backup to maximize safety (failsafe systems).

In response to the recent spate of computer failures, the FAA has implemented an action plan to control the problem. The computers in question are 30 years old. Therefore, additional outages will occur. The FAA's strategy is to minimize the number and duration of these outages and improve backup procedures. The FAA does not believe that its ability to address these outages is constrained by resource limitations at this juncture.

Specifically, the FAA will hire 116 new maintenance technicians, improve the training of technicians who maintain this equipment, and review each air traffic control center's emergency and backup procedures with both FAA and outside technical experts. In the mid-term, FAA will replace aging computers in five critical air traffic control centers 16 months earlier than planned. In the longer term, the FAA has improved the management of the ongoing FAA equipment modernization program to ensure that new advanced equipment is deployed as quickly as possible. (Attachment A provides additional detail regarding this Action Plan.)

FY 1996 Appropriations Action

As shown in the table below, the House provided \$104 million and the Senate \$154 million less than you requested for FAA operational expenses in FY 1996. The Department of Transportation believes that the FAA requires an additional \$40 to \$50 million over the Senate level to avoid restrictions on safety related activities.

1996 FAA Operations (in millions of dollars)

<u>1995</u> <u>Enacted</u>	<u>President's</u> <u>Request</u>	<u>House</u> <u>Mark</u>	<u>Senate</u> <u>Mark</u>	<u>House Less Request</u> <u>Dollars</u>	<u>Percent</u>	<u>Senate Less Request</u> <u>Dollars</u>	<u>Percent</u>
\$4,583	\$4,704	\$4,600	\$4,560*	-\$104	-2.2%	-\$144	-3.1%

* Includes \$10 million in new user fees.

The House provided \$1.1 billion more than you requested for the Department of Transportation in total; the Senate provided \$88 million less (including \$300 million provided

the Coast Guard in the Senate Defense appropriation bill). Both the House and Senate tended to fund infrastructure programs at the expense of operational, safety, and research programs.

The Conference Committee markup of the Transportation appropriations bill is scheduled for Thursday September 14th. EOP and Secretary Peña's staff are meeting with key members and/or staff on the appropriations conference committee to urge the Congress to shift \$50 million from highway or other infrastructure programs, including airport improvement grants, to the FAA. However, at the end of the day, if these funds are not shifted, Secretary Peña will recommend that the Transportation bill be signed. Under these circumstances, the FAA would take steps to ensure adequate safety of the aviation system. If necessary, this would include slowing selected flights in congested corridors and lengthening the time required to certify new aircraft designs.

FAA Reform

To address the FAA's long-term needs, in April the Administration proposed legislation to remove the FAA's air traffic control system from Federal procurement, personnel and budget systems. A government corporation would be created to operate air traffic control using businesslike procedures. It would have the ability to finance its needs outside of the Federal budget environment. Even with new technologies, it will be difficult for the FAA to meet projected increases in air traffic without budget increases, assuming current work-load estimates are borne out. These increases will be hard, if not impossible, to finance in the current budget environment.

The Department and the FAA have been in intensive negotiations with the Senate Commerce Committee regarding a proposal to reform the FAA without creating a government corporation. There is much to support in this proposal, including personnel and procurement reform and some budgetary relief. At the same time, the House Transportation and Infrastructure Committee introduced its FAA reform bill September 7th. Secretary Peña issued a press release stating that he would recommend that you veto the House bill because it creates an independent FAA not subject to Executive Branch oversight.

Senators McCain and Ford held a press conference Tuesday, September 12th, to announce the introduction of their bill. Secretary Peña and FAA Administrator Hinson attended. The Senate Commerce Committee bill is a positive development. Secretary Peña was publicly supportive of the bill but announced his plans to continue to work with Congress to improve it.

Attachment

ATTACHMENT A

FAA ACTION PLAN for EQUIPMENT OUTAGES

- All emergency operating procedures are being revised and updated if necessary.
- A directive has been sent to all technicians and engineers on August 11 directing them to review the local facility procedures and backup capabilities and to notify Washington FAA headquarters if they have any doubts or questions.
- Expert teams from FAA headquarters and the FAA Technical Center will visit each air traffic control center beginning on August 21 and review emergency and backup procedures. Review will be completed by November 15.
- Within 60 days, an outside expert in power systems and backup procedures will complete a review of our systems in each air traffic control center.
- New training courses will begin in October to better train technicians on maintenance procedures for the FAA's 30 year old computer system.
- 116 new technicians will be hired by September 30, 1995.
- Refresher training for air traffic controllers in the use of backup systems will be in place by September 30, 1995.
- The FAA Administrator announced a commitment for a \$65 million plan to replace computers in five of the most critical air traffic facilities. This plan will replace computers in Chicago, New York, Washington, Ft. Worth, and Cleveland some 16 months earlier than a larger permanent computer replacement program which is already underway.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

21-Aug-1995 01:48pm

TO: Harold Ickes
TO: Stephen B. Silverman
TO: Jennifer M. O'Connor

FROM: Michael D. Deich
 National Economic Council

SUBJECT: POTUS' outyear ATC budget

during the conference call Ann Bormolini raised the question of whether the Administration's outyear budget numbers were adequate. i think her concerns are misplaced. the POTUS' 96 Budget assumed that Congress would adopt the Administration's proposal to create a government Air Traffic Services Corporation. under the proposal, the corporation would be allowed to borrow money off-budget beginning in '97, and so would face NO funding constraints in outyears. Ann's concerns about outyear funding will be relevant for preparation of the '97 budget request, however, if the Administration does not renew its call for the creation of an ATC corporation.

DRAFT**MEMORANDUM FOR THE CHIEF OF STAFF**

FROM: Alice M. Rivlin Federico Peña
Director Secretary of Transportation

SUBJECT: Federal Aviation Administration (FAA) Funding and Organizational Reform Issue - INFORMATION

Summary

The FAA operates a national aviation system 24 hours a day, 365 days a year. It is used by 1.5 million passengers (both business and pleasure) who use the system daily and every year businesses ship 21 billion tons of cargo. The system also provides over 8 million U.S. jobs. The FAA mission is to operate this system safely and efficiently. It is within this context that this memorandum addresses the short term and longer term challenges FAA faces in meeting mission requirements during the current debate over the role and size of the Federal government.

Recent Chicago Equipment Outage

On the mid-night shift on Monday, September 11, 1995, the Chicago Air Route Traffic Control Center switched from the primary computer used to display flight information on controllers' screens to a backup computer in order to perform routine scheduled maintenance. The Center experienced difficulty bringing the primary computer back online. At 9:15 a.m. CDT, when the Center again tried to restore the primary computer, the primary backup was lost. The Center switched to the secondary backup for 25 minutes until the primary backup was restored.

At no time was aviation safety jeopardized. The primary backup provides virtually all the information that the primary computer does, and permits operations to continue without change. The secondary backup is more labor intensive. As a result the FAA held aircraft on the ground and imposed temporary flight restrictions to manage the workload. One operational error occurred. Two aircraft came within 3.2 miles of each other. FAA separation standards in this case was 5 miles. FAA reports that at no time was there any risk to the aircraft.

Recent FAA equipment outages, such as the one Tuesday morning in Chicago, and related press reports have heightened public perception that the Nation's aviation system may be becoming unsafe. This perception, however, is incorrect. The FAA maintains backup capability and procedures to ensure air traffic safety during these crises.

FAA Equipment Outage Action Plan

The FAA operates approximately 30,000 pieces of navigational and communications equipment. Overall, this equipment is available 99.4 percent of the time. Reliability has improved over the last five years. Nevertheless, the FAA experiences about 20,000 unscheduled equipment outages annually. Most are minor and have no effect on air travel or safety. The FAA designs its systems with multiple layers of backup to maximize safety (fail-safe systems).

In response to the recent spate of electrical power and equipment failures, the FAA has implemented an aggressive action plan. The computers in question are 30 years old. Therefore, additional outages will occur. The FAA's strategy is to minimize the number and duration of these outages and improve backup procedures. The FAA does not believe that its ability to address these outages is constrained by resource limitations IF the funding requests for FY 96 and FY 97 are met.

Specifically, the FAA will hire 116 new maintenance technicians by the end of this fiscal year, improve the training of technicians who maintain this equipment, and review each air route traffic control center's emergency and backup procedures with both FAA and outside technical experts by the end of November. In the mid-term, FAA will replace aging computers in five critical air route traffic control centers, 16 months earlier than planned. This replacement equipment will be operational at the first location in October of 1997, and operational at the fifth and last location in February of 1998. In the longer term, the FAA has improved the management of the ongoing FAA equipment modernization program to ensure that new advanced equipment is deployed as quickly as possible. (Attachment A provides additional detail regarding this Action Plan.)

Funding

The FAA cannot provide its existing level of services under the House mark of \$4.6 billion in FY 96. The Senate mark of \$4.55 billion compounds these problems in FY 96, largely through its 50 percent reduction in ATRA (Air Traffic Revitalization Act) premium pay. This is the number one issue for the unionized air traffic controllers.

As shown in the table below, the Administration's 96 budget request for FAA Operations was cut by \$110 million by the House and \$160 million by the Senate.

1996 FAA Operations
(dollars in millions)

<u>1995 Enacted</u>	<u>President's Request</u>	<u>House Mark</u>	<u>Difference</u>	<u>Senate Mark</u>	<u>Difference</u>
4,583	4,710	4,600	-110	4,550	-160

Note: FY 1996 amounts include funding for the Office of Commercial Space Transportation.

DOT, OMB and the White House have urged members to increase the FAA's FY 96 budget to the level requested in the President's budget. Senator Hatfield is insisting that the air traffic controller ATRA pay is reduced before raising the Senate mark. We strongly advise that we not concede to his demand because of the extremely negative reaction that this would cause within the controller workforce. Markup on the appropriations bill is scheduled for Tuesday, September 19. Today we are informing Congress of the Administration's position on this issue.

Personnel

Approximately 60 percent of the FAA workforce is unionized. Several unions represent FAA employees, and partnerships have been forged between the agency and most of its unions. The largest union, National Air Traffic Controllers Association (NATCA), with a bargaining unit of 15,000, has been particularly effective in raising issues to the media. NATCA joined with the Administration earlier in promoting the benefits that an air traffic corporation offered, effectively identifying equipment problems as representative of the need for improvements in personnel, acquisition, and finance for the FAA. Recently, however, NATCA has adjusted its strategy with the media. It has used equipment problems as the vehicle to express concern about the safety of the aviation system, and to underscore the criticality of its membership to that system. Part of the motivation for this recent activity may be NATCA's expressed concerns over reductions in retirement benefits, the elimination of the 5 percent pay increase which stemmed from ATRA, and reduction in other employee compensations being discussed by Congress, as well as the potential reductions in force and furloughs which could be caused by a reduced FAA budget. NATCA leadership is also facing a national election next year, and will be required to renegotiate its contract with the FAA in 1997. The combination of these factors has resulted in a strained relationship between NATCA and the agency, and a continuous stream of negative press stories. FAA and DOT are examining strategies to improve future efforts with the union.

FAA has 8,200 technicians who maintain air traffic equipment. Approximately 1,500 will be eligible to retire in FY 1996. Historically, approximately 3.7 percent of the workforce retire each year. That would come to about 300 maintenance technicians in FY 1996. However, if legislative changes are made in how retirement benefits are calculated, the number of actual retirements could increase significantly. Many of the technicians eligible to retire are those certified to maintain the old equipment that is breaking down.

FAA staffing reflects imbalances between facilities. This is caused by an aviation industry which relocates hubs, maintenance bases, etc., with a resultant need to adjust the FAA employees assigned to that function. It is also caused by the geographic randomness of where retirements will occur, and by employees' reluctance to work in certain locations. Current contractual constraints, restrictions in personnel rules which govern employee moves, and the inability of FAA to pay for all required moves of employees, limit the agency's ability to quickly shift its workforce among its facilities.

In many ways, the FAA workforce is facing new requirements which will require significant training to ensure the appropriate level of technical competence. For example, as new technologies are introduced into the National Airspace System, maintenance technicians must learn how to repair and service the new technology while continuing to maintain existing, old equipment until it is replaced. Similarly, air traffic controllers must be trained in the use of the new equipment. For both types of employees, that training must be choreographed to coincide with delivery of the new equipment. The need for training for both old and new systems will increase as we experience retirements in the workforce and prepare to backfill these positions. Safety inspectors must receive training to ensure currency with evolving developments in the airline industry, so that the personnel assigned the oversight responsibility for aviation safety are fully qualified to provide that service.

For FY 96, FAA has planned to increase the safety inspector workforce by 261 in order to address existing workloads, but it appears that in conference the Senate is conceding to the House mark of an increase of only 131. An inability to increase the safety workforce at the level requested in FY 96 will result in fewer safety inspections and surveillance activities, as well as a slowdown in the certification of new entrants.

DOT is proposing for FY 1997 the hiring of an additional 422 in the safety workforce and 500 in the air traffic controller workforce in FY 97.

Security

The intelligence community has reported that the threat within the United States from foreign terrorists has increased. Accordingly, FAA has been working on a strategy to increase the security measures required of air carriers and airport operators to ensure the safety of the traveling public. The complexity of the U.S. aviation system makes the implementation of additional measures very costly, because of the additional equipment and people that will be needed, and also from the flight delays associated with the measures. I am looking closely at the FAA's proposal, and will shortly be presenting the White House staff with recommendations, including options and the obstacles we see in its implementation. We can expect this issue to be a major concern to the industry with serious public policy issues associated with it; i.e., is this a government responsibility to fund or a private sector responsibility. Questions will also be raised about the extent to which the government as a whole is organized to effectively counter and manage this sort

of new threat. In the short term, the FAA must raise the level of aviation security to counter the increased danger of potential terrorist attacks in retaliation for certain judicial and extradition actions.

Legislation

Central to FAA's ability to meet the challenges of today and tomorrow is significant reform of the agency - focusing on three key areas: procurement, personnel, and financing. These three areas formed the core of the original United States Air Traffic Services Corporation (USATS) proposal and we believe are also embodied in S.1239, the FAA Streamlining Act of 1995, introduced in the Senate by Senators McCain, Ford, and Hollings on September 13, and to be introduced in the House by Representative Bob Clement. We urge active and vocal support by the Administration for this proposal. S.1239 would begin to ensure FAA has a budget that can properly match funds with needs; a purchasing system which can guarantee timely installation of future technology; and hiring practices that can put people where we need them most.

Communications Plan

The Clinton Administration and the FAA have done an outstanding job of maintaining the world's highest standard of aviation safety and efficiency, and addressing the many problems that were inherited from previous administrations. For example, operations over the past 12 months have increased 3.4 percent while delays are down 13 percent. Since 1992, the FAA has streamlined for greater efficiency and productivity, trimming its annual budget by \$600 million and reducing its workforce by 5,000 employees. Among its other accomplishments, this Administration also completely restructured the FAA's long delayed modernization program to get it back on track and on budget, which saved taxpayers \$1.6 billion and breathed new life into plans to upgrade the nation's air traffic control system. Also, the reliability of the national airspace system is up to a record high of 99.4%.

Unfortunately, that message is being overwhelmed in the media by controversies related to aging equipment and other issues that the public perceives as safety threats. To put this in perspective, 40,000 people died on our nation's highway in 1994 and there were 264 fatalities due to scheduled commercial airline accidents. While one death is too many, the media, especially the national media, focused an inordinate amount of coverage on aviation fatalities compared to highway deaths. In fact, there has never been an air carrier accident because of an equipment outage.

Our challenge is to correct this public perception with the simple and compelling message that the FAA and the Clinton Administration understand the problems, have a comprehensive plan in place to address them, and minimize future equipment failures. Our overall message should be:

- For 2 1/2 years, the Clinton Administration has urged Congress to act on FAA reform, specifically personnel, procurement and financing. The Administration's proposal to corporatize air traffic control addressed these issues and drove the reform debate..
- The McCain/Ford bill is a very important step toward reform and we support its thrust.
- The Clinton Administration welcomes the upcoming debate in Congress and hopes a meaningful reform bill will be sent to the President for his signature this year.
- For FY 96 the President has proposed that the FAA has adequate funding to carry out its mission, but we need Congressional support.
- Our FAA reform proposals were supported by air traffic controllers and maintenance people, we support the continuation of the 5% pay premium, and we have been "on their side."

We will plan an aggressive schedule of media events with the Secretary and Administrator Hinson — at the regional and national levels — to increase the visibility of those events, attract broad media attention and provide an effective vehicle for the Administration's message.

Conclusion

Immediate action is necessary on the part of the Administration if we wish to maintain a safe and efficient national aviation system. In addition to the action plan outlined in this memorandum on the ATC equipment outages, a concerted Administration effort should be mounted in three areas:

Funding: Need to send a strong unequivocal signal of Administration support for full FAA funding in FY 96 transportation appropriations bill and in formulation of the Administration's FY 97 budget.

Legislation: Strong Administration support for three key areas of legislative change--personnel, procurement, and financial security. This includes support for the procurement and personnel reform contained in the Senate version of the FY 96 appropriations bill as well as active and visible Administration support for the McCain/Ford/Hollings FAA reform bill especially its financing provisions.

Media: Identify and develop opportunities for articulating Administration accomplishments and future challenges.



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

SEP 18 1995

Jeffrey O'Connor

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Alice M. Rivlin *AMR* Federico Peña
Director Secretary of Transportation

SUBJECT: Federal Aviation Administration (FAA) Funding and Organizational Reform Issue - INFORMATION

Summary

There have been increasing concerns in the media, with the public, and in parts of the Administration, regarding the safety of the Nation's aviation system. This issue has been dramatized by recent equipment interruptions. Aviation safety is not now a problem. However, there are problems with some outdated equipment that needs replacement. There are also personnel, funding, and security issues that need attention. The FAA has an action plan to address the equipment problem. Proposed 1996 Congressional funding levels could restrict FAA's safety activities. OMB, DOT, and the White House are taking steps to ensure adequate 1996 funding for FAA.

What is needed is a long-term solution to address FAA's underlying problems. The Administration proposed such a solution in its plan to corporatize air traffic control. This proposal highlighted the need for FAA reform. The Congress is now moving on this issue, adopting many of our proposals. A dramatic public event could be built around the issue of FAA reform emphasizing that we were in the vanguard of this effort.

The FAA has the ability and wherewithal to take the appropriate steps to ensure aviation safety. However, given the size and complexity of the system, interruptions and incidents will continue. We can expect to see more press coverage of these incidents fed by controllers' dissatisfaction with Congressional proposals to cut pay and pension benefits. We have opposed cuts to controller pay and are implementing a communications plan to disseminate better the Administration's accomplishments in this area.

Equipment Interruptions

Issues

On the mid-night shift of Monday, September 11, 1995, the Chicago Air Route Traffic Control Center switched from the primary computer used to display flight information on controllers' screens to a backup computer in order to perform routine scheduled

maintenance. The Center experienced difficulty bringing the primary computer back online. At 9:15 a.m. CDT, when the Center again tried to restore the primary computer, the primary backup was lost. The Center switched to the secondary backup for 25 minutes until the primary backup was restored.

At no time was aviation safety jeopardized. The primary backup provides virtually all the information that the primary computer does, and permits operations to continue without change. The secondary backup is more labor intensive. As a result, the FAA held aircraft on the ground and imposed temporary flight restrictions to manage the workload. One operational error occurred. Two aircraft came within 3.2 miles of each other. FAA separation standards in this case was 5 miles. FAA reports that at no time was there any risk to the aircraft.

Recent FAA equipment outages, such as the one last Tuesday morning in Chicago, and related press reports have heightened public perception that the Nation's aviation system may be becoming unsafe. This perception, however, is incorrect. The FAA maintains backup capability and procedures to ensure air traffic safety during these crises.

Interruption Action Plan

The FAA operates approximately 30,000 pieces of navigational and communications equipment. Overall, this equipment is available 99.4 percent of the time. Reliability has improved over the last five years. Nevertheless, the FAA experiences about 20,000 unscheduled equipment outages annually. Most are minor and have no effect on air travel or safety. On rare occasion, there is a major occurrence as in Oakland. The FAA designs its systems with multiple layers of backup to maximize safety (fail-safe systems).

In response to the recent spate of electrical power and equipment failures, the FAA has implemented an aggressive action plan. The computers in question are 30 years old. Therefore, additional outages will occur. The FAA's strategy is to minimize the number and duration of these outages and improve backup procedures.

- Short-term: The FAA will:
 - ▶ conclude hiring 116 new maintenance technicians by the end of this fiscal year,
 - ▶ improve the training of technicians who maintain this equipment, and
 - ▶ review each air route traffic control center's emergency and backup procedures with both FAA and outside technical experts by the end of November (See attachment A),
 - ▶ Also, the FAA is installing state-of-the-art power conditioning systems in each of the Centers to ensure stable electrical power. The new systems are installed and operating in 10 Centers at present.

- Mid-term: The FAA will replace aging computers in five critical air route traffic control centers 16 months earlier than permanent replacement program. This replacement equipment will be operational at the first location in October of 1997, and operational at the fifth and last location in February of 1998.
- Long-term: The FAA has improved the management of the ongoing FAA equipment modernization program to ensure that new advanced equipment is deployed as quickly as possible. Beginning in 1998, the FAA will begin deploying modernized radar display equipment, called Display Channel Replacements (DSR), in all 21 Centers. The DSRs will improve safety and flight routing. Similar safety enhancements are planned for the tower and terminal (airport vicinity) environments, including the Standard Terminal Automation Replacement System (STARS). STARS is being procured under streamlined procedures which will save eight months on the delivery time. (Attachment B provides additional detail regarding these steps.)

The FAA does not believe that its ability to address these interruptions is constrained by resource limitations as long as the 1996 budgets for the FAA's operational ("Operations") and equipment purchase ("Facilities and equipment") accounts closely approximate the Administration's request. More interruptions will occur in the future, but at the Administration's request level, the margin of safety in the system will increase over Congressionally proposed levels.

Funding

Issues

The House cut FAA Operations by \$110 million and the Senate cut it by \$150 million from the Administration's request. The FAA believes that these reductions are ill-advised and that it would struggle to provide its existing level of services under either level. To maintain safety levels, the FAA may close Flight Service Stations, which primarily assist general aviation pilots; close low-activity towers at small airports, and not increase safety workforces as planned. The FAA proposed to hire 261 safety inspectors in 1996, Congressionally-proposed levels will only fund 131 inspectors. This reduction will result in fewer safety inspections and surveillance activities in 1996; as well as a slowdown in the certification of new airlines ("new entrants").

The 1996 Senate mark compounds these problems through its 50 percent reduction in air traffic controllers' premium pay. Premium pay (a 5 percent bonus) was instituted in 1981 in the immediate aftermath of the controllers' strike, to reward those controllers who stayed on the job. **Premium pay is the number one issue for the unionized air traffic controllers.**

The FAA is funded through four appropriation accounts: Operations, Facilities and equipment, Research, and Airport Grants. The Operations and Facilities and equipment accounts are the most related to safety in the near term. As shown in the table below, the Administration's 1996 budget request for FAA Operations was cut \$111 million by the House and \$151 million by the Senate. FAA Facilities and equipment was increased in the House by \$23 million, and cut in the Senate by \$97 million.

1996 FAA FUNDING
(in millions of dollars)

	1995 <u>Enacted</u>	Pres. <u>Request</u>	House <u>Mark</u>	Senate <u>Mark</u>	<u>House Less Request</u>		<u>Senate Less Request</u>	
					<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>
Operations	4,572	4,711	4,600	4,560*	-111	-2.4%	-151	-3.2%
Facilities & Equipment	1,960	1,917	1,940	1,820	+23	+1.2%	-97	-5.1%

* Includes \$10 million in new user fees.

Funding Action Plan

DOT, OMB and the White House have urged Members to increase the FAA's 1996 budget to the level requested in the President's budget. Senator Hatfield is insisting that the air traffic controller premium pay be reduced before raising the Senate mark. We strongly advise that we not concede to his demand because of the negative reaction that this would cause within the controller workforce. As described below, it will only lead to more negative publicity for the FAA from the controllers. The Transportation Appropriations Committee conferees are scheduled to meet Tuesday, September 19. We have met with both Members and staff to inform them of the Administration's position on this issue.

Personnel

General Issues

FAA staffing is not appropriately distributed throughout its facilities. This is caused by an aviation industry which relocates hubs, maintenance bases, etc., with a resultant need to reassign FAA employees to other facilities. It is also caused by the geographic randomness of where retirements occur, and by employees' reluctance to work in certain locations. Current constraints negotiated by the FAA into the union contract, restrictions in personnel rules which govern employee moves, and the limited funding for personnel relocations, restrict the agency's ability to shift quickly its workforce among its facilities.

As we await new technology to replace our aging systems, workforce training continues

to be a critical issue. As new technologies are introduced, maintenance technicians must learn how to repair and service them while continuing to maintain existing, old equipment until it is replaced. Air traffic controllers need to be trained on the use of the new equipment. For both groups of employees, that training must be choreographed to coincide with delivery of the new equipment. Increased technician retirements would also increase the need for training. Safety inspectors also need training to remain current with evolving developments in the airline industry to ensure they are qualified to perform meaningful safety inspections.

Air Traffic Controllers - Issues

Approximately 60 percent of the FAA workforce is unionized. Several unions represent FAA employees, and partnerships have been forged between the agency and most of its unions. The largest union, National Air Traffic Controllers Association (NATCA), with a bargaining unit of 15,000, has been particularly effective in raising issues to the media.

NATCA joined with the Administration earlier in promoting the air traffic corporation. NATCA effectively identified equipment problems as representative of the need for improvements in personnel, acquisition, and finance for the FAA. Recently, however, NATCA has adjusted its strategy with the media. It has used equipment problems as the vehicle to express concern about the safety of the aviation system, and to underscore the criticality of its membership to that system. NATCA's three fundamental issues are: (1) premium pay, (2) possible negative retirement changes by Congress, and (3) locality/complexity pay.

NATCA leadership is also facing a national election next year (that is creating a number of disagreements within NATCA), and will be required to renegotiate its contract with the FAA in CY 1997. The combination of these factors has resulted in a strained relationship between NATCA and the FAA. It has also led to a continuous stream of negative press stories fed by the union.

Maintenance Technicians/Safety Inspectors - Issues

FAA has 8,200 technicians who maintain air traffic equipment. Approximately 1,500 will be eligible to retire in 1996. Historically, approximately 3.7 percent of the workforce retires each year. Therefore, about 300 maintenance technicians could retire in 1996. However, if proposed government-wide legislative changes are made in how retirement benefits are calculated (e.g., "high five" versus "high three"), the number of actual retirements could increase significantly. Many technicians eligible to retire are those certified to maintain the old equipment that is breaking down.

The FAA proposes to hire additional safety inspectors in 1996 and 1997 to meet workload demands. Funding will be required to bring these new employees onboard and train them appropriately.

Personnel Action Plan

Air Traffic Controllers

- The FAA and DOT are examining strategies to improve future efforts with the union. These include a high level meeting with the union leadership to identify those issues that the FAA and DOT can join NATCA in supporting, and to define future opportunities for cooperation.
- The Administration is continuing to voice strong support for premium pay in conversations with the unions.
- FAA is seeking reform of the personnel system in S. 1239, the FAA Streamlining Act of 1995. This would give us the ability to consider offering geographic or job complex pay.

Maintenance Technicians/ Safety Inspectors

- As described under the funding section, the FAA planned to hire 261 additional safety inspectors in 1996, but proposed funding levels would only support 131. We are working to increase this funding level to permit additional hires.
- The appropriate number of additional safety inspectors and air traffic controllers will be a central issue as the Administration reviews the FAA's 1997 budget request. The DOT budget request for the FAA, which has not been received yet by OMB, proposes to hire an additional 422 employees in the safety workforce and 500 employees in the air traffic controller workforce.
- FAA is proposing that consideration be given to exempting critical safety and maintenance employees from government-wide retirement being considered by Congress. This issue will require further coordination with OPM and others.

Security

Issues

The intelligence community has reported that the threat within the United States from foreign terrorists has increased. Accordingly, FAA has been working on a strategy to increase the security measures required of air carriers and airport operators to ensure the safety of the traveling public. The complexity of the U.S. aviation system makes the implementation of additional measures very costly, because of the additional equipment and people that will be needed, and also from the flight delays associated with the

measures.

Security Action Plan

Secretary Peña is looking closely at the FAA's proposal, and will shortly be presenting the White House staff (NSC, NEC, OMB, etc.) with recommendations, including options and the obstacles to its implementation. This issue is expected to be a major concern to the industry. A critical issue will be whether funding is a government or a private sector responsibility. Questions will also be raised about the extent to which the government as a whole is organized to counter and manage this sort of new threat. In the short term, the FAA must raise the level of aviation security this week to counter the current threat level. These stepped up security measures may be criticized by the airlines and airports.

Legislation

Issues

Central to the FAA's ability to meet current and future challenges is significant reform of the agency, focusing on three key areas: procurement, personnel, and financing. These formed the core of the Administration's United States Air Traffic Services Corporation (USATS) proposal which received little Congressional support. We have worked on a new approach embodied in S. 1239, the FAA Streamlining Act of 1995, introduced in the Senate by Senators McCain, Ford, and Hollings on September 13, and to be introduced in the House by Representative Bob Clement.

Hearings on S. 1239 are scheduled for late September with a Subcommittee markup expected by the end of the month. Separate legislation (H.R. 2276) has been introduced in the House by Aviation Subcommittee Chairman Jimmy Duncan (R-TN) and Ranking Minority Member James Oberstar (D-MN). While the Duncan bill would provide personnel and procurement reform, it would make the FAA a separate independent agency and take the Airport and Airway Trust Fund off-budget. Secretary Peña has stated publicly that he would recommend to the President that this bill be vetoed.

Legislative Action Plan

Active and vocal support should be given to S. 1239 by the Administration, while still seeking improvements. It would begin to ensure that the FAA has a budget that can properly match funds with needs; a purchasing system which can guarantee timely installation of future technology; and hiring practices that can put people where we need them most.

Communications

Issues

The Clinton Administration and the FAA have done an outstanding job of maintaining the world's highest standard of aviation safety and efficiency, and addressing the many problems that were inherited from previous administrations. For example, operations over the past 12 months have increased 3.4 percent while delays are down 13 percent. Since 1992, the FAA has streamlined for greater efficiency and productivity, trimming its annual budget by \$600 million and reducing its workforce by 5,000 employees. Among its other accomplishments, this Administration also completely restructured the FAA's long delayed modernization program (AAS) to get it back on track and on budget. Also, the reliability of the national airspace system is up to a record high of 99.4%.

Unfortunately, that message is being overwhelmed in the media by controversies related to aging equipment and other perceived safety threats. To put this in perspective, 40,000 people died on our Nation's highways in 1994 and 264 people died in scheduled commercial airline accidents. While one death is too many, the media, especially the national media, focused an inordinate amount of coverage on aviation fatalities compared to highway deaths. In fact, there has never been an air carrier accident because of an equipment outage.

Communications Action Plan

Our challenge is to correct this public perception with the simple and compelling message that the FAA and the Clinton Administration understand the problems, have a comprehensive plan in place to address them, and we must minimize future equipment failures. Our message should include:

- The FAA operates the safest aviation system in the world. The FAA's equipment is available over 99 percent of the time. Its reliability has increased in recent years.
- FAA reform is vital to meet the challenges of a system facing potentially strong growth -- in ten years there is projected to be more than 300 million additional passengers annually.
- Since the FAA's inception in 1967, many administrations and Congresses have tried and failed to reform the FAA. Real FAA reform is achievable now.
- For 2 ½ years, the Clinton Administration has urged Congress to act on FAA reform, specifically personnel, procurement and financing. The Administration's proposal to corporatize air traffic control, submitted to Congress in April, addressed these issues and drove the reform debate we are hearing today in Congress and the media.

- The McCain/Ford bill is a very important step toward reform and we support its thrust.
- The Clinton Administration welcomes the upcoming debate in Congress and hopes a meaningful reform bill will be sent to the President for his signature this year.
- For 1996 the President has proposed that the FAA has adequate funding to carry out its mission, but we need Congressional support.
- Our FAA reform proposals were supported by air traffic controllers and maintenance people and we have been, and will continue to be, "on their side". In discussions with the unions, we would support the continuation of the 5% pay premium.

We will plan an aggressive schedule of media events with Secretary Peña and Administrator Hinson — at the regional and national levels — to increase the visibility of those events, attract broad media attention and provide an effective vehicle for the Administration's message.

Conclusion

Immediate action is necessary on the part of the Administration if we wish to maintain a safe and efficient national aviation system. In addition to the action plan outlined in this memorandum on the ATC equipment outages, a concerted Administration effort should be mounted in three areas:

Funding: Need to send a strong unequivocal signal of Administration support for full FAA funding in 1996 transportation appropriations bill. Adequate FAA funding should be included in the Administration's 1997 budget.

Legislation: Strong Administration support for three key areas of legislative change--personnel, procurement, and financial security. This includes support for the procurement and personnel reform contained in the Senate version of the 1996 appropriations bill as well as active and visible Administration support for the McCain/Ford/Hollings FAA reform bill, especially its financing provisions.

Communications: Identify and develop opportunities for delivering positive messages about accomplishments and plans to address future challenges.

Attachments

Attachment A

ADDITIONAL INITIATIVES:

In addition to the visits to the Centers we have started or completed the following actions.

A computer based simulation training lesson on transitioning to backup systems is under development.

We have committed to hire up to 50 additional controllers for the Chicago Center. We received over 40 bids from within the Great Lakes Region and we will select at least 14 of the 40. A nationwide bid is still open.

On September 7, Senator Simon issued a press release that said the GAO and NTSB have concluded that we are on the right path with our plans for interim computers (DCCR) to replace the aging computers in Chicago. Senator Simon said both agencies "found that air traffic control in Chicago and elsewhere is safe." GAO and NTSB concerns are focused on staffing, training, funding and old computers.

ATC OUTAGE ACTION PLAN

Current Actions

- Visits to all 21 ARTCC's to:
 - Review emergency procedures
 - Review transition planning
 - Review backup capabilities
- Emergency operating procedures will be updated per team report
 - New contingency plan drafted and coordinated
- Outside technical "Blue Ribbon" team will visit 4 ARTCC's and review power systems and backup capabilities with recommendations
- Air Traffic Controller Refresher training
 - Center procedures and backup capabilities Video tape
 - Terminal procedures and backup capabilities Video tape
- Hiring additional 116 technicians
 - Status to date -- 40 hired
- Begin new training courses for technicians on maintenance of 30-year-old systems (such as DCC)

Due Date

- Site Visit Completion - 9/15
- Consolidated Report - 11/15

November 15
August 30

- Site Work Completion - 10/4
- Draft Report - 10/23
- Final Report - 11/8

- Mailed to ARTCCs 8/25
- Coordinated with union 9/7
- Mailed to ATCTs 9/13

September 30

- Beginning October 95
- Completion June 96

CLOSED ACTIONS**DUE DATE**

- Senior Engineer reviewed Oakland outage of August 10
-- Report completed
- General Notice to field directing all to review local
facility procedures and backup capabilities
- In addition, the ACEPs program (per attached memo)
has been temporarily put on hold for three weeks to evaluate
problems associated with that installation.

August 11

August 18

August 10



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

SEP 18 1995

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Alice M. Rivlin *AMR* Federico Peña
Director Secretary of Transportation

SUBJECT: Federal Aviation Administration (FAA) Funding and Organizational Reform Issue - INFORMATION

Summary

There have been increasing concerns in the media, with the public, and in parts of the Administration, regarding the safety of the Nation's aviation system. This issue has been dramatized by recent equipment interruptions. Aviation safety is not now a problem. However, there are problems with some outdated equipment that needs replacement. There are also personnel, funding, and security issues that need attention. The FAA has an action plan to address the equipment problem. Proposed 1996 Congressional funding levels could restrict FAA's safety activities. OMB, DOT, and the White House are taking steps to ensure adequate 1996 funding for FAA.

What is needed is a long-term solution to address FAA's underlying problems. The Administration proposed such a solution in its plan to corporatize air traffic control. This proposal highlighted the need for FAA reform. The Congress is now moving on this issue, adopting many of our proposals. A dramatic public event could be built around the issue of FAA reform emphasizing that we were in the vanguard of this effort.

The FAA has the ability and wherewithal to take the appropriate steps to ensure aviation safety. However, given the size and complexity of the system, interruptions and incidents will continue. We can expect to see more press coverage of these incidents fed by controllers' dissatisfaction with Congressional proposals to cut pay and pension benefits. We have opposed cuts to controller pay and are implementing a communications plan to disseminate better the Administration's accomplishments in this area.

Equipment Interruptions

Issues

On the mid-night shift of Monday, September 11, 1995, the Chicago Air Route Traffic Control Center switched from the primary computer used to display flight information on controllers' screens to a backup computer in order to perform routine scheduled

maintenance. The Center experienced difficulty bringing the primary computer back online. At 9:15 a.m. CDT, when the Center again tried to restore the primary computer, the primary backup was lost. The Center switched to the secondary backup for 25 minutes until the primary backup was restored.

At no time was aviation safety jeopardized. The primary backup provides virtually all the information that the primary computer does, and permits operations to continue without change. The secondary backup is more labor intensive. As a result, the FAA held aircraft on the ground and imposed temporary flight restrictions to manage the workload. One operational error occurred. Two aircraft came within 3.2 miles of each other. FAA separation standards in this case was 5 miles. FAA reports that at no time was there any risk to the aircraft.

Recent FAA equipment outages, such as the one last Tuesday morning in Chicago, and related press reports have heightened public perception that the Nation's aviation system may be becoming unsafe. This perception, however, is incorrect. The FAA maintains backup capability and procedures to ensure air traffic safety during these crises.

Interruption Action Plan

The FAA operates approximately 30,000 pieces of navigational and communications equipment. Overall, this equipment is available 99.4 percent of the time. Reliability has improved over the last five years. Nevertheless, the FAA experiences about 20,000 unscheduled equipment outages annually. Most are minor and have no effect on air travel or safety. On rare occasion, there is a major occurrence as in Oakland. The FAA designs its systems with multiple layers of backup to maximize safety (fail-safe systems).

In response to the recent spate of electrical power and equipment failures, the FAA has implemented an aggressive action plan. The computers in question are 30 years old. Therefore, additional outages will occur. The FAA's strategy is to minimize the number and duration of these outages and improve backup procedures.

- Short-term: The FAA will:
 - ▶ conclude hiring 116 new maintenance technicians by the end of this fiscal year,
 - ▶ improve the training of technicians who maintain this equipment, and
 - ▶ review each air route traffic control center's emergency and backup procedures with both FAA and outside technical experts by the end of November (See attachment A),
 - ▶ Also, the FAA is installing state-of-the-art power conditioning systems in each of the Centers to ensure stable electrical power. The new systems are installed and operating in 10 Centers at present.

- Mid-term: The FAA will replace aging computers in five critical air route traffic control centers 16 months earlier than permanent replacement program. This replacement equipment will be operational at the first location in October of 1997, and operational at the fifth and last location in February of 1998.
- Long-term: The FAA has improved the management of the ongoing FAA equipment modernization program to ensure that new advanced equipment is deployed as quickly as possible. Beginning in 1998, the FAA will begin deploying modernized radar display equipment, called Display Channel Replacements (DSR), in all 21 Centers. The DSRs will improve safety and flight routing. Similar safety enhancements are planned for the tower and terminal (airport vicinity) environments, including the Standard Terminal Automation Replacement System (STARS). STARS is being procured under streamlined procedures which will save eight months on the delivery time. (Attachment B provides additional detail regarding these steps.)

The FAA does not believe that its ability to address these interruptions is constrained by resource limitations as long as the 1996 budgets for the FAA's operational ("Operations") and equipment purchase ("Facilities and equipment") accounts closely approximate the Administration's request. More interruptions will occur in the future, but at the Administration's request level, the margin of safety in the system will increase over Congressionally proposed levels.

Funding

Issues

The House cut FAA Operations by \$110 million and the Senate cut it by \$150 million from the Administration's request. The FAA believes that these reductions are ill-advised and that it would struggle to provide its existing level of services under either level. To maintain safety levels, the FAA may close Flight Service Stations, which primarily assist general aviation pilots; close low-activity towers at small airports, and not increase safety workforces as planned. The FAA proposed to hire 261 safety inspectors in 1996, Congressionally-proposed levels will only fund 131 inspectors. This reduction will result in fewer safety inspections and surveillance activities in 1996; as well as a slowdown in the certification of new airlines ("new entrants").

The 1996 Senate mark compounds these problems through its 50 percent reduction in air traffic controllers' premium pay. Premium pay (a 5 percent bonus) was instituted in 1981 in the immediate aftermath of the controllers' strike, to reward those controllers who stayed on the job. **Premium pay is the number one issue for the unionized air traffic controllers.**

The FAA is funded through four appropriation accounts: Operations, Facilities and equipment, Research, and Airport Grants. The Operations and Facilities and equipment accounts are the most related to safety in the near term. As shown in the table below, the Administration's 1996 budget request for FAA Operations was cut \$111 million by the House and \$151 million by the Senate. FAA Facilities and equipment was increased in the House by \$23 million, and cut in the Senate by \$97 million.

1996 FAA FUNDING
(in millions of dollars)

	1995 <u>Enacted</u>	Pres. <u>Request</u>	House <u>Mark</u>	Senate <u>Mark</u>	<u>House Less Request</u>		<u>Senate Less Request</u>	
					<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>
Operations	4,572	4,711	4,600	4,560*	-111	-2.4%	-151	-3.2%
Facilities & Equipment	1,960	1,917	1,940	1,820	+23	+1.2%	-97	-5.1%

* Includes \$10 million in new user fees.

Funding Action Plan

DOT, OMB and the White House have urged Members to increase the FAA's 1996 budget to the level requested in the President's budget. Senator Hatfield is insisting that the air traffic controller premium pay be reduced before raising the Senate mark. We strongly advise that we not concede to his demand because of the negative reaction that this would cause within the controller workforce. As described below, it will only lead to more negative publicity for the FAA from the controllers. The Transportation Appropriations Committee conferees are scheduled to meet Tuesday, September 19. We have met with both Members and staff to inform them of the Administration's position on this issue.

Personnel

General Issues

FAA staffing is not appropriately distributed throughout its facilities. This is caused by an aviation industry which relocates hubs, maintenance bases, etc., with a resultant need to reassign FAA employees to other facilities. It is also caused by the geographic randomness of where retirements occur, and by employees' reluctance to work in certain locations. Current constraints negotiated by the FAA into the union contract, restrictions in personnel rules which govern employee moves, and the limited funding for personnel relocations, restrict the agency's ability to shift quickly its workforce among its facilities.

As we await new technology to replace our aging systems, workforce training continues

to be a critical issue. As new technologies are introduced, maintenance technicians must learn how to repair and service them while continuing to maintain existing, old equipment until it is replaced. Air traffic controllers need to be trained on the use of the new equipment. For both groups of employees, that training must be choreographed to coincide with delivery of the new equipment. Increased technician retirements would also increase the need for training. Safety inspectors also need training to remain current with evolving developments in the airline industry to ensure they are qualified to perform meaningful safety inspections.

Air Traffic Controllers - Issues

Approximately 60 percent of the FAA workforce is unionized. Several unions represent FAA employees, and partnerships have been forged between the agency and most of its unions. The largest union, National Air Traffic Controllers Association (NATCA), with a bargaining unit of 15,000, has been particularly effective in raising issues to the media.

NATCA joined with the Administration earlier in promoting the air traffic corporation. NATCA effectively identified equipment problems as representative of the need for improvements in personnel, acquisition, and finance for the FAA. Recently, however, NATCA has adjusted its strategy with the media. It has used equipment problems as the vehicle to express concern about the safety of the aviation system, and to underscore the criticality of its membership to that system. NATCA's three fundamental issues are: (1) premium pay, (2) possible negative retirement changes by Congress, and (3) locality/complexity pay.

NATCA leadership is also facing a national election next year (that is creating a number of disagreements within NATCA), and will be required to renegotiate its contract with the FAA in CY 1997. The combination of these factors has resulted in a strained relationship between NATCA and the FAA. It has also led to a continuous stream of negative press stories fed by the union.

Maintenance Technicians/Safety Inspectors - Issues

FAA has 8,200 technicians who maintain air traffic equipment. Approximately 1,500 will be eligible to retire in 1996. Historically, approximately 3.7 percent of the workforce retires each year. Therefore, about 300 maintenance technicians could retire in 1996. However, if proposed government-wide legislative changes are made in how retirement benefits are calculated (e.g., "high five" versus "high three"), the number of actual retirements could increase significantly. Many technicians eligible to retire are those certified to maintain the old equipment that is breaking down.

The FAA proposes to hire additional safety inspectors in 1996 and 1997 to meet workload demands. Funding will be required to bring these new employees onboard and train them appropriately.

Personnel Action Plan

Air Traffic Controllers

- The FAA and DOT are examining strategies to improve future efforts with the union. These include a high level meeting with the union leadership to identify those issues that the FAA and DOT can join NATCA in supporting, and to define future opportunities for cooperation.
- The Administration is continuing to voice strong support for premium pay in conversations with the unions.
- FAA is seeking reform of the personnel system in S. 1239, the FAA Streamlining Act of 1995. This would give us the ability to consider offering geographic or job complex pay.

Maintenance Technicians/ Safety Inspectors

- As described under the funding section, the FAA planned to hire 261 additional safety inspectors in 1996, but proposed funding levels would only support 131. We are working to increase this funding level to permit additional hires.
- The appropriate number of additional safety inspectors and air traffic controllers will be a central issue as the Administration reviews the FAA's 1997 budget request. The DOT budget request for the FAA, which has not been received yet by OMB, proposes to hire an additional 422 employees in the safety workforce and 500 employees in the air traffic controller workforce.
- FAA is proposing that consideration be given to exempting critical safety and maintenance employees from government-wide retirement being considered by Congress. This issue will require further coordination with OPM and others.

Security

Issues

The intelligence community has reported that the threat within the United States from foreign terrorists has increased. Accordingly, FAA has been working on a strategy to increase the security measures required of air carriers and airport operators to ensure the safety of the traveling public. The complexity of the U.S. aviation system makes the implementation of additional measures very costly, because of the additional equipment and people that will be needed, and also from the flight delays associated with the

measures.

Security Action Plan

Secretary Peña is looking closely at the FAA's proposal, and will shortly be presenting the White House staff (NSC, NEC, OMB, etc.) with recommendations, including options and the obstacles to its implementation. This issue is expected to be a major concern to the industry. A critical issue will be whether funding is a government or a private sector responsibility. Questions will also be raised about the extent to which the government as a whole is organized to counter and manage this sort of new threat. In the short term, the FAA must raise the level of aviation security this week to counter the current threat level. These stepped up security measures may be criticized by the airlines and airports.

Legislation

Issues

Central to the FAA's ability to meet current and future challenges is significant reform of the agency, focusing on three key areas: procurement, personnel, and financing. These formed the core of the Administration's United States Air Traffic Services Corporation (USATS) proposal which received little Congressional support. We have worked on a new approach embodied in S. 1239, the FAA Streamlining Act of 1995, introduced in the Senate by Senators McCain, Ford, and Hollings on September 13, and to be introduced in the House by Representative Bob Clement.

Hearings on S. 1239 are scheduled for late September with a Subcommittee markup expected by the end of the month. Separate legislation (H.R. 2276) has been introduced in the House by Aviation Subcommittee Chairman Jimmy Duncan (R-TN) and Ranking Minority Member James Oberstar (D-MN). While the Duncan bill would provide personnel and procurement reform, it would make the FAA a separate independent agency and take the Airport and Airway Trust Fund off-budget. Secretary Peña has stated publicly that he would recommend to the President that this bill be vetoed.

Legislative Action Plan

Active and vocal support should be given to S. 1239 by the Administration, while still seeking improvements. It would begin to ensure that the FAA has a budget that can properly match funds with needs; a purchasing system which can guarantee timely installation of future technology; and hiring practices that can put people where we need them most.

Communications

Issues

The Clinton Administration and the FAA have done an outstanding job of maintaining the world's highest standard of aviation safety and efficiency, and addressing the many problems that were inherited from previous administrations. For example, operations over the past 12 months have increased 3.4 percent while delays are down 13 percent. Since 1992, the FAA has streamlined for greater efficiency and productivity, trimming its annual budget by \$600 million and reducing its workforce by 5,000 employees. Among its other accomplishments, this Administration also completely restructured the FAA's long delayed modernization program (AAS) to get it back on track and on budget. Also, the reliability of the national airspace system is up to a record high of 99.4%.

Unfortunately, that message is being overwhelmed in the media by controversies related to aging equipment and other perceived safety threats. To put this in perspective, 40,000 people died on our Nation's highways in 1994 and 264 people died in scheduled commercial airline accidents. While one death is too many, the media, especially the national media, focused an inordinate amount of coverage on aviation fatalities compared to highway deaths. In fact, there has never been an air carrier accident because of an equipment outage.

Communications Action Plan

Our challenge is to correct this public perception with the simple and compelling message that the FAA and the Clinton Administration understand the problems, have a comprehensive plan in place to address them, and we must minimize future equipment failures. Our message should include:

- The FAA operates the safest aviation system in the world. The FAA's equipment is available over 99 percent of the time. Its reliability has increased in recent years.
- FAA reform is vital to meet the challenges of a system facing potentially strong growth -- in ten years there is projected to be more than 300 million additional passengers annually.
- Since the FAA's inception in 1967, many administrations and Congresses have tried and failed to reform the FAA. Real FAA reform is achievable now.
- For 2 ½ years, the Clinton Administration has urged Congress to act on FAA reform, specifically personnel, procurement and financing. The Administration's proposal to corporatize air traffic control, submitted to Congress in April, addressed these issues and drove the reform debate we are hearing today in Congress and the media.

- The McCain/Ford bill is a very important step toward reform and we support its thrust.
- The Clinton Administration welcomes the upcoming debate in Congress and hopes a meaningful reform bill will be sent to the President for his signature this year.
- For 1996 the President has proposed that the FAA has adequate funding to carry out its mission, but we need Congressional support.
- Our FAA reform proposals were supported by air traffic controllers and maintenance people and we have been, and will continue to be, "on their side". In discussions with the unions, we would support the continuation of the 5% pay premium.

We will plan an aggressive schedule of media events with Secretary Peña and Administrator Hinson — at the regional and national levels — to increase the visibility of those events, attract broad media attention and provide an effective vehicle for the Administration's message.

Conclusion

Immediate action is necessary on the part of the Administration if we wish to maintain a safe and efficient national aviation system. In addition to the action plan outlined in this memorandum on the ATC equipment outages, a concerted Administration effort should be mounted in three areas:

Funding: Need to send a strong unequivocal signal of Administration support for full FAA funding in 1996 transportation appropriations bill. Adequate FAA funding should be included in the Administration's 1997 budget.

Legislation: Strong Administration support for three key areas of legislative change--personnel, procurement, and financial security. This includes support for the procurement and personnel reform contained in the Senate version of the 1996 appropriations bill as well as active and visible Administration support for the McCain/Ford/Hollings FAA reform bill, especially its financing provisions.

Communications: Identify and develop opportunities for delivering positive messages about accomplishments and plans to address future challenges.

Attachments

Attachment A

ADDITIONAL INITIATIVES:

In addition to the visits to the Centers we have started or completed the following actions.

A computer based simulation training lesson on transitioning to backup systems is under development.

We have committed to hire up to 50 additional controllers for the Chicago Center. We received over 40 bids from within the Great Lakes Region and we will select at least 14 of the 40. A nationwide bid is still open.

On September 7, Senator Simon issued a press release that said the GAO and NTSB have concluded that we are on the right path with our plans for interim computers (DCCR) to replace the aging computers in Chicago. Senator Simon said both agencies "found that air traffic control in Chicago and elsewhere is safe." GAO and NTSB concerns are focused on staffing, training, funding and old computers.

ATC OUTAGE ACTION PLAN

Current Actions

Due Date

- Visits to all 21 ARTCC's to:
 - Review emergency procedures
 - Review transition planning
 - Review backup capabilities
- Emergency operating procedures will be updated per team report
 - New contingency plan drafted and coordinated
- Outside technical "Blue Ribbon" team will visit 4 ARTCC's and review power systems and backup capabilities with recommendations
- Air Traffic Controller Refresher training
 - Center procedures and backup capabilities Video tape
 - Terminal procedures and backup capabilities Video tape
- Hiring additional 116 technicians
 - Status to date -- 40 hired
- Begin new training courses for technicians on maintenance of 30-year-old systems (such as DCC)

- Site Visit Completion - 9/15
- Consolidated Report - 11/15

November 15
August 30

- Site Work Completion - 10/4
- Draft Report - 10/23
- Final Report - 11/8

- Mailed to ARTCCs 8/25
- Coordinated with union 9/7
- Mailed to ATCTs 9/13

September 30

- Beginning October 95
- Completion June 96

CLOSED ACTIONS

- Senior Engineer reviewed Oakland outage of August 10
-- Report completed
- General Notice to field directing all to review local
facility procedures and backup capabilities
- In addition, the ACEP's program (per attached memo)
has been temporarily put on hold for three weeks to evaluate
problems associated with that installation.

DUE DATE

August 11

August 18

August 10