THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

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April 6, 1995

The Honorable Newt Gingrich
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed for introduction and referral to the appropriate committee is legislation entitled

The United States Air Traffic Service (USATS) Corporation Act.

For years, the Federal Aviation Administration (FAA) has operated the nation's air traffic control system safely and efficiently. However, as the industry it serves has doubled over the last two decades, the FAA's air traffic control system has not been able to grow with it. In 1978, airlines were freed from the restrictions of a heavily regulated environment, and allowed to function in a business-like manner. That freedom has produced tremendous efficiencies, improvements, and savings to the American traveling public. The air traffic control system, however, was kept under the same burdensome and inefficient restrictions that it faced when serving a smaller and less efficient industry.

Although the air traffic control system is an integral part of the aviation system -- in fact controlling the efficiency of an entire $80 billion industry -- it continues to struggle to keep pace with that dynamic and flexible industry while working under governmental laws and regulations that were never intended to govern a business-like operation. Air traffic control is unique within government. It is the only 24-hour-a-day, 365-days-a-year government operation that is directly and actively involved in the minute-by-minute activities of an entire industry.

FAA is asked to run a business-like operation within the constraints of a government bureaucracy. Because of those limitations, the government's inefficiencies quickly and inevitably become the industry's problems. In fact, it is estimated by the airlines that air traffic control delays cost them and their customers $3.6 billion a year. At a time when the airlines, one of the country's most important and productive sectors in world trade, are struggling to return to profitability, the government should not stand in the way of that recovery by refusing to change the way it operates.

Over the years, there have been numerous efforts to make that change. Five major studies in the last 10 years have called for removing air traffic control from the traditional governmental structure, and allowing it to function in a more business-like manner. In

1993, the National Commission to Ensure a Strong Competitive Airline Industry recommended placing air traffic control in a more flexible government corporation. The Vice President's National Performance Review identified the FAA air traffic control operations as a clear case where standard government procedures and requirements, even as they may be updated government-wide, will not meet the highly specialized needs of air traffic control service. The NPR recognized that the unique nature of air traffic control requires that it be treated uniquely.

The Department undertook extensive analysis of available approaches to improving the operation of air traffic control, using a multi-agency task force equipped with a wide range of expertise in government processes. That review culminated in a May 1994 interagency report that is the basis for this legislation.

Safety Considerations

The preeminent role of the government in air traffic control is to ensure that safety is maintained. The Administration's goal is to ensure that safety can be maintained and even enhanced as the number of passengers doubles in the next twenty years. Our proposal builds on the successful model in use today for the aviation system: the FAA, as the world's preeminent aviation safety regulator, overseeing corporations that can use the tools available to the private sector in providing safe and efficient services. The FAA does not design, build or maintain commercial aircraft. It does not hire or train pilots, flight attendants or mechanics. In all these cases, the FAA regulates corporations that do. Accordingly, this legislation would retain the important safety regulatory functions with the FAA, which would have authority to ensure that safety is always maintained.

Capital Investment in Air Traffic Services

Air traffic control is highly capital-intensive. In an age when life cycles of technology can be measured in months instead of decades, the system must be able to keep pace with industry and growing demand. This requires a predictable, stable source of funding and the ability to finance major capital improvements through the private markets or the Treasury. Our proposal would provide this funding stability, while at the same time eliminating reliance on General Fund contributions -- now approximately $2 billion annually -- by USATS. Importantly, the proposal would also remove USATS from burdensome federal procurement requirements that make it virtually impossible to keep pace with industry.

The Department and FAA faced a comparable situation in the early 1980's, when federal management of National and Dulles Airports (and therefore its inclusion in the unified budget) interfered with needed capital improvements at the two airports. The solution was enactment of the "Metropolitan Washington Airports Act of 1986," which transferred operating responsibilities to a regional authority and freed the facilities from the pressures of managing the federal budget and deficit. The result is nearly $2 billion in capital improvements, financed by the private sector, that are currently underway and that would not have been possible without the transfer.

Personnel Needs

The FAA's air traffic operations account for about 83 percent of its personnel, or about 40,000 employees. The vast majority of this group consists of highly specialized workers, working on shifts around-the-clock, in activities that are duplicated nowhere else outside of the military. Their staffing and compensation needs are distinct from the rest of civilian government workers. It has, for example, been difficult to staff some critical facilities in highly congested areas of the country without monetary and other inducements that are restricted or impossible under standard federal personnel law and regulation. This legislation seeks to address this serious issue by exempting air traffic control employees from most aspects of the federal personnel system, and instead placing them under a new system patterned after the best corporate models.

Structure

The goal of this legislation is to provide a structure in which the air traffic control system can meet the growing demands of aviation as safely and efficiently as possible. The vast majority of previous studies and work conducted in this Administration have concluded that this goal would be accomplished most effectively by exempting air traffic control from the traditional budget, personnel, and procurement systems of the federal government. The Administration believes that these freedoms would be provided best through the creation of a wholly owned government corporation that would operate much like a private-sector company, be funded through user fees and borrowing, and be subject to the safety regulatory oversight of the Federal Aviation Administration.

Conclusion

Through the National Performance Review and other efforts, we are re-evaluating the role of government, and how it can work better and cost less. This proposal is a significant element of those efforts. Enactment of this legislation would allow the fundamental advancement of air traffic control technology and staffing needed to support the continued growth and vitality of U.S. aviation. We ask for its early consideration and enactment.

This legislation would shift the FAA's discretionary spending for air traffic control to mandatory spending by USATS and allow USATS to finance increases in mandatory spending by borrowing. The increase in mandatory spending normally would be subject to the "pay-as-you-go" requirements of the Budget Enforcement Act of 1990. However, because the bill would reduce the discretionary caps by the amount of the shift and exempt the mandatory increases from the pay-as-you-go requirements, the Office of

Management and Budget would score the bill as having a net effect of zero for pay-as-you-go purposes. The bill would also exempt USATS spending from the sequester requirements of the Balanced Budget and Emergency Deficit Control Act of 1985, and would put the spending and receipts of the corporation off-budget.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to providing this legislation for the consideration of Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Federico Peña

Enclosures