

94TH CONGRESS
2D SESSION

H. R. 12165

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1976

Mr. RONCALIO introduced the following bill; which was referred jointly to the
Committees on Public Works and Transportation and Ways and Means

A BILL

To establish an independent United States Air Traffic Services
Corporation, 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 SHORT TITLE

4 SECTION 1. This Act may be cited as the "United States
5 Air Traffic Services Corporation Act of 1976".

6 FINDINGS

7 SEC. 2. The Congress hereby finds and declares:

8 (1) A former independent agency of the United States
9 known as the Federal Aviation Agency was established by
10 the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)
11 to provide for the regulation and promotion of civil aviation

1 in such manner as to best foster its development and safety,
2 and to provide for the safe and efficient use of the airspace by
3 both civil and military aircraft, and for other purposes.

4 (2) Under provisions of the Department of Transpor-
5 tation Act (49 U.S.C. 1651 et seq.), the Federal Aviation
6 Agency was established as an integral component of the
7 Department of Transportation and its name was changed to
8 the Federal Aviation Administration. The functions, powers,
9 and duties of the former Federal Aviation Agency, and of
10 the Administrator and other officers and offices thereof, were
11 transferred to and vested in the Secretary of Transportation.

12 (3) Since October 15, 1966, the date of enactment of
13 the Department of Transportation Act (49 U.S.C. 1651 et
14 seq.), the relationship between the Federal Aviation Admin-
15 istration and the Office of the Secretary of Transportation has
16 been characterized by arbitrary and capricious control exer-
17 cised by the Office of the Secretary of Transportation over
18 the entire range of Federal Aviation Administration activi-
19 ties. Such excessive and unreasonable control, exceeding the
20 intent of the Congress as expressed in the Department of
21 Transportation Act and its legislative history, has had dele-
22 terious and debilitating effects on the conduct of the vital
23 aviation safety mission intended to be performed by the
24 Federal Aviation Administration. The resultant misplace-
25 ment of authority and responsibility between the Office of the

1 Secretary of Transportation and the Federal Aviation Ad-
2 ministration is manifest in all managerial and operational
3 areas.

4 (4) It has become apparent that the proper conduct
5 of the responsibilities associated with civil aviation develop-
6 ment and safety—

7 (A) requires prompt, vigorous, and unencumbered
8 action by an independent Federal aviation corporation,
9 notably to identify and remedy problem areas;

10 (B) demands that the head of such a corporation
11 be free to make determinations which, in the exercise
12 of his best independent judgment, are necessary; and

13 (C) calls for the elimination of confusion as to the
14 functional role of the Federal Aviation Administration
15 arising from the existing institutional relationship which
16 places the Federal Aviation Administration in a posi-
17 tion subservient to that of another organization of the
18 Federal Government.

19 ESTABLISHMENT OF CORPORATION

20 SEC. 3. (a) There is hereby established the United
21 States Air Traffic Services Corporation (hereafter in this
22 Act referred to as the "Corporation") as a body corporate.
23 The Corporation shall be an instrumentality of the United
24 States and shall have succession until dissolved by an Act
25 of Congress.

1 (b) The principal office of the Corporation shall be
2 located in or near the District of Columbia. The Corpora-
3 tion may establish such branch offices in appropriate regions
4 of the United States as may be deemed necessary by the
5 Board of Directors of the Corporation to carry out the pur-
6 poses of this Act.

7 (c) The Corporation shall have a capital stock of
8 ————— subscribed by the United States, payment of
9 which shall be subject to call in whole or in part by the
10 Board of Directors.

11 (d) The Corporation shall have the same fiscal year as
12 that of the United States Government.

13 BOARD OF DIRECTORS

14 SEC. 4. (a) The management of the Corporation is
15 vested in a Board of Directors (hereafter in this Act referred
16 to as the "Board") consisting of ten members: the Presi-
17 dent of the Corporation, who shall be a nonvoting member
18 and who shall be appointed pursuant to section 5 (a) (1)
19 of this Act, and nine individuals appointed by the President
20 of the United States with the advice and consent of the
21 Senate. One of the members appointed by the President
22 shall be from each of the following categories of background
23 and expertise and shall be selected from three nominees pre-
24 sented by duly recognized organizations representing such
25 category:

1 (1) Scheduled commercial air transportation.

2 (2) Nonscheduled commercial air transportation
3 (includes business/corporate).

4 (3) Personal (private) air transportation.

5 (4) Military aviation.

6 (5) State and local aviation (includes airports)

7 (6) Organized aviation labor.

8 (7) Aircraft manufacturing.

9 (8) Users of air transportation (consumers).

10 (9) Environmentalists directly associated with avi-
11 ation matters.

12 (b) Each director shall serve for a term of office
13 of nine years from the date of appointment, except that the
14 first directors appointed to the Board shall serve terms be-
15 ginning on the date of the enactment of this Act and ending
16 at one-year intervals, to be designated by the President at
17 the time of appointment, such that each director shall have
18 a term which terminates at the end of a different one-year
19 period after such enactment and that no director shall have
20 a term for a period in excess of nine years.

21 (c) Any vacancy on the Board shall be filled in the
22 same manner and from the same category of background and
23 expertise in which the original appointment was made. Any
24 individual appointed to fill a vacancy occurring prior to the
25 expiration of the term for which his predecessor was ap-

1 pointed shall be appointed only for the remainder of such
2 term.

3 (d) (1) Each director who is not a full-time officer
4 or employee of the United States shall be entitled to re-
5 ceive the daily equivalent of the annual rate of basic pay
6 in effect for grade GS-18 of the General Schedule (sub-
7 chapter III of title 5, United States Code) for each day
8 (including traveltime) during which he is engaged in the
9 actual performance of duties vested in the Board. Each
10 director who is a full-time officer or employee of the United
11 States shall continue to receive the salary of his regular
12 position when engaged in the performance of the duties
13 vested in the Board.

14 (2) While away from their homes or regular places of
15 business in the actual performance of duties vested in the
16 Board, directors shall be allowed travel expenses, including
17 per diem in lieu of subsistence, in the same manner as per-
18 sons employed intermittently in the Government service are
19 allowed expenses under section 5703 of title 5 of the United
20 States Code.

21 (e) (1) A Chairman of the Board shall be elected by
22 majority vote of the Board for a regular term, as deter-
23 mined by the Board.

24 (2) The Board shall meet no less often than once every

1 six months. The Board shall meet at such other times by
2 call of the Chairman.

3 (3) Six voting members of the Board shall constitute
4 a quorum for the conduct of business. Decisions of the Board
5 shall be made by majority vote.

6 APPOINTMENT AND COMPENSATION OF OFFICERS AND
7 EMPLOYEES

8 SEC. 5. (a) (1) The Board shall appoint a President
9 and a Deputy President of the Corporation and such other
10 officers as it determines are necessary to carry out the func-
11 tions of the Corporation without regard to the provisions
12 of title 5, United States Code, governing appointments in
13 the competitive service, and without regard to the political
14 affiliation of such officers. The officers of the Corporation
15 shall serve at the pleasure of the Board and shall exercise
16 such powers and duties as the Board may prescribe.

17 (2) The President and Deputy President of the Corpo-
18 ration shall be paid at per annum gross rates determined by
19 the Board.

20 (b) So far as the Board determines necessary to effect
21 the purposes of this Act, the Board's policies under this sub-
22 section may disregard the provisions of title 5, United States
23 Code, governing appointments in the competitive service,
24 and the provisions of chapter 51 and subchapter III of chap-

1 ter 53 of such title, relating to classification and General
2 Schedule pay rates.

3 (c) The Board may procure by contract the tem-
4 perary (not in excess of one year) or intermittent services
5 of experts or consultants, or organizations thereof, without
6 regard to the provisions of title 5, United States Code, gov-
7 erning appointments in the competitive service, and to the
8 provisions of chapter 51 and subchapter III of chapter 53
9 of such title. Such procurement shall be made without regard
10 to the political affiliation of such experts, consultants, or
11 organizations.

12 (d) Any person who, on the effective date of this Act,
13 held a position compensated in accordance with the Execu-
14 tive Schedule, and who, without a break in service, is ap-
15 pointed in the Corporation to a position having duties com-
16 parable to those performed immediately preceding his
17 appointment shall continue to be compensated in his new
18 position at not less than the rate provided for his previous
19 position, for the duration of his service in his new position.

20 POWERS OF BOARD OF DIRECTORS

21 SEC. 6. (a) The Board of Directors shall be responsible
22 for the exercise of all powers and the discharge of all duties
23 of the Corporation, and shall have full authority and control
24 over all personnel and activities.

25 (b) In carrying out its functions, powers, and duties

1 under this Act, the Board shall be governed by all appli-
2 cable statutes, including the policy standards set forth in
3 the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.).

4 (c) Decisions of the Board made pursuant to its exer-
5 cise of the functions, powers, and duties enumerated in the
6 Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)
7 shall be administratively final, and appeals as authorized by
8 law shall be taken directly to the National Transportation
9 Safety Board or to any court of competent jurisdiction,
10 as appropriate.

11 (d) The Board shall not submit its decisions for the
12 approval of, nor be bound by the decisions or recommenda-
13 tions of, any committee, board, or other organization cre-
14 ated by Executive order.

15 CORPORATE POWERS

16 SEC. 7. (a) Subject to all applicable laws of the United
17 States and of any State in which the Corporation operates,
18 the Corporation shall have the power—

19 (1) to sue and be sued, complain, and defend in
20 any court of competent jurisdiction;

21 (2) to adopt, alter, and use a corporate seal for
22 the sole and exclusive use of the Corporation;

23 (3) to adopt, alter, or amend bylaws not incon-
24 sistent with this Act;

1 (4) to contract and be contracted with;

2 (5) to acquire, control, hold, lease, and dispose of
3 such real, personal, or mixed property as may be neces-
4 sary to carry out the Corporate purposes;

5 (6) to change, if the Corporation determines that
6 change is appropriate, the rates of tax imposed under
7 subsection (c) of section 4041 (relating to tax on special
8 fuels), section 4261 (relating to tax on transportation
9 of persons by air), section 4271 (relating to tax on
10 transportation of property by air, and section 4491
11 (relating to tax on use of civil aircraft) of the Internal
12 Revenue Code of 1954; and

13 (7) to do any other act and thing necessary and
14 proper to carry out the corporate purpose.

15 (b) For purposes of this section, the term "State"
16 includes the District of Columbia.

17 TRANSFERS TO CORPORATION

18 SEC. 8. (a) There are hereby transferred to and vested
19 in the Corporation all functions, powers, and duties of the
20 Secretary of Transportation and other officers and offices
21 of the Department of Transportation, including those func-
22 tions, powers, and duties of the Secretary of Transportation
23 which are exercised by the Administrator of the Federal
24 Aviation Administration, under the following laws and pro-
25 visions of law:

1 (1) The Act of September 7, 1957, as amended
2 (71 Stat. 629).

3 (2) The Federal Aviation Act of 1958 (49 U.S.C.
4 1301 et seq.).

5 (3) Section 6(c) of the Department of Transpor-
6 tation Act (49 U.S.C. 1655 (c)).

7 (4) The Airport and Airway Development Act
8 of 1970 (49 U.S.C. 1701 et seq.).

9 (5) The Airport and Airway Revenue Act of
10 1970.

11 (6) The Hazardous Materials Transportation Act
12 (88 Stat. 2156 et seq.), to the extent that such Act
13 pertains to the transportation of hazardous materials
14 by air.

15 (b) The personnel, assets, liabilities, contracts, prop-
16 erty, records, and unexpended balances of appropriations,
17 authorizations, allocations, and other funds employed, held,
18 used, arising from, available or to be made available, of the
19 Department of Transportation (which are related to the area
20 of civil aviation) are hereby transferred from the Secre-
21 tary of Transportation and the Administrator of the Fed-
22 eral Aviation Administration (to the extent assigned by the
23 Secretary to the Administrator of the Federal Aviation
24 Administration) to the Corporation.

25 (c) In any case where all of the functions, powers, and

1 duties of any office or agency are transferred pursuant to
2 this Act, such office or agency shall lapse on the date such
3 transfer is effective.

4 **CORPORATE INDEPENDENCE**

5 **SEC. 9.** (a) Whenever the Corporation transmits any
6 budget estimate, request, or information, or any recommen-
7 dation, testimony, or comment on any legislation or legis-
8 lative proposal to the President of the United States or to
9 the Office of Management and Budget, it shall concurrently
10 submit a copy thereof to the Congress.

11 (b) No officer or agency of the United States shall
12 have any authority to require the Corporation to submit
13 any budget estimate, request, or information, or any recom-
14 mendation, testimony, or comment on legislation to any
15 officer or agency of the United States for approval, com-
16 ment, or review prior to the submission of such recommen-
17 dation, testimony, or comment to the Congress.

18 **AMENDMENTS TO OTHER LAWS**

19 **SEC. 10.** (a) The Department of Transportation Act
20 (49 U.S.C. 1651 et seq.) is amended as follows:

21 (1) Section 3 of such Act (49 U.S.C. 1652) is
22 amended—

23 (A) by amending paragraph (1) of subsection
24 (c) to read as follows:

25 “ (1) There is hereby established within the Department

1 a Federal Highway Administration and a Federal Railroad
2 Administration. Each of these components shall be headed by
3 an Administrator. The Administrators shall be appointed
4 by the President, by and with the advice and consent of the
5 Senate.”;

6 (B) by striking out paragraph (2) of subsection
7 (c) ; and

8 (C) by renumbering paragraphs (3) and (4) of
9 subsection (c) as paragraphs (2) and (3), respec-
10 tively, and renumbering all references to such para-
11 graphs accordingly.

12 (2) Section 4 of such Act (49 U.S.C. 1653) is
13 amended—

14 (A) in subsection (a), by striking out “with par-
15 ticular attention to aircraft noise” and inserting in lieu
16 thereof “with the exception of aircraft noise”; and

17 (B) in subsection (b) (1) by striking out “the
18 Federal Aviation Act of 1958, as amended (49 U.S.C.
19 1301 et seq.) ;”.

20 (3) Section 6 of such Act (49 U.S.C. 1655) is
21 amended—

22 (A) by striking out subsection (c) ; and

23 (B) by relettering the subsections of such section
24 as subsections (a) and (b), respectively, and reletter-
25 ing all references to such subsections accordingly.

1 (4) Section 9 of such Act (49 U.S.C. 1656) is
2 amended—

3 (A) by striking out subsection (f) ; and

4 (B) by relettering the subsections of such section
5 as subsections (a) through (p), respectively, and re-
6 lettering all references to such subsections accordingly.

7 (b) Subchapter II (relating to executive schedule pay
8 rates) of chapter 53 of title 5 of the United States Code
9 is amended as follows:

10 (1) Section 5313 of such subchapter is amended by
11 striking out “ (19) Administrator, Federal Aviation Admin-
12 istration.”.

13 (2) Section 5315 of such subchapter is amended by
14 striking out “ (80) Deputy Administrator, Federal Aviation
15 Administration.”

16 (c) Section 504 of the Independent Safety Board Act
17 of 1974 (88 Stat. 2198) is amended—

18 (1) by amending the second sentence of paragraph
19 (1) of subsection (a) to read as follows: “The Board
20 may request the Secretary of Transportation (hereafter
21 in this title referred to as the “Secretary”), or the
22 President of the United States Air Traffic Services
23 Corporation in the case of aircraft accidents, to make
24 investigations with regard to such accidents and to

1 report to the Board the facts, conditions, and circum-
2 stances thereof (except in accidents where misfeasance
3 or nonfeasance by the Federal Government is alleged),
4 and the Secretary or his designees, or the President
5 of the United States Air Traffic Services Corporation
6 or his designees in the case of aircraft accidents, are
7 authorized to make such investigations.”; and

8 (2) by striking out “Secretary of Transportation”
9 in subsection (a) (9) (A) and inserting in lieu thereof
10 “the United States Air Traffic Services Corporation”.

11 (d) Section 208 of the Airport and Airway Revenue
12 Act of 1970 is amended—

13 (1) in subsection (c) thereof—

14 (A) by striking out in paragraph (1) of such
15 subsection “Secretary of Transportation” and in-
16 serting in lieu thereof “United States Air Traffic
17 Services Corporation”; and

18 (B) by striking out in paragraph (2) of such
19 subsection “Secretary of the Treasury” each time
20 it appears therein and inserting in lieu thereof
21 “United States Air Traffic Services Corporation”;
22 and

23 (2) in subsection (f) thereof—

24 (A) by striking out in paragraph (1) of such

1 subsection “, as provided by appropriation Acts,”
2 and inserting in lieu thereof “to the United States
3 Air Traffic Services Corporation”;

4 (B) by striking out in paragraph (2) of such
5 subsection “Secretary of the Treasury” and insert-
6 ing in lieu thereof “United States Air Traffic
7 Services Corporation”; and

8 (C) by striking out in paragraph (3) of such
9 subsection “Secretary of the Treasury” immediately
10 before “shall pay from” and inserting in lieu thereof
11 “United States Air Traffic Services Corporation”.

12 (e) (1) Section 4041 of the Internal Revenue Code of
13 1954 (relating to tax on special fuels) is amended by
14 redesignating subsections (f), (g), and (h) as (g), (h),
15 and (i), respectively, and by inserting after subsection (e)
16 the following new subsection:

17 “(f) REVISION OF TAX BY THE UNITED STATES AIR
18 TRAFFIC SERVICES CORPORATION.—If, under section 7 of
19 the United States Air Traffic Services Corporation Act of
20 1976, the United States Air Traffic Services Corporation
21 changes the rate of tax imposed by subsection (e) such
22 changed rate shall apply in lieu of the rate contained in such
23 subsection with respect to any liquid used after the effective
24 date of such change.”.

1 (2) Section 4261 of such Code (relating to tax on
2 transportation of persons by air) is amended by adding
3 after subsection (c) the following new subsection:

4 “(f) REVISION OF TAX BY THE UNITED STATES AIR
5 TRAFFIC SERVICES CORPORATION.—If, under section 7
6 of the United States Air Traffic Services Corporation Act
7 of 1976, the United States Air Traffic Services Corporation
8 changes the rate of any tax imposed by this section, such
9 changed rate shall apply in lieu of the rate contained in
10 this section with respect to transportation beginning after
11 the effective date of such change.”.

12 (3) Section 4271 of such Code (relating to tax of trans-
13 portation of property by air) is amended by redesignating
14 subsection (d) as subsection (e) and inserting after sub-
15 section (c) the following new subsection:

16 “(d) REVISION OF TAX BY THE UNITED STATES AIR
17 TRAFFIC SERVICES CORPORATION.—If, under section 7 of
18 the United States Air Traffic Services Corporation Act of
19 1976, the United States Air Traffic Services Corporation
20 changes the rate of any tax imposed by subsection (a), such
21 changed rate shall apply in lieu of the rate contained in such
22 subsection with respect to transportation beginning after the
23 effective date of such change.”.

24 (4) Section 4491 of such Code (relating to tax on the

1 use of civil aircraft) is amended by redesignating subsection
2 (e) as subsection (f) and inserting after subsection (d)
3 the following new subsection:

4 “(e) REVISION OF TAX BY THE UNITED STATES AIR
5 TRAFFIC SERVICES CORPORATION.—If, under section 7
6 of the United States Air Traffic Services Corporation Act
7 of 1976, the United States Air Traffic Services Corporation
8 changes the rate of any tax imposed by subsection (a), such
9 changed rate shall apply in lieu of the rate contained in such
10 subsection with respect to use beginning after the effective
11 date of such change.”.

12 SAVING PROVISIONS

13 SEC. 11. (a) All orders, determinations, rules, regula-
14 tions, permits, contracts, certificates, licenses, and privi-
15 leges—

16 (1) which have been issued, made, granted, or
17 allowed to become effective—

18 (A) under any provision of law amended by
19 this Act, or

20 (B) in the exercise of functions, powers, or
21 duties which are transferred under this Act,

22 by (i) any department or agency, any functions of
23 which are transferred by this Act, or by (ii) any court

24 of competent jurisdiction; and

1 (2) which are in effect at the time this Act takes
2 effect.

3 shall continue in effect according to their terms until modi-
4 fied, terminated, superseded, set aside, or repealed by the
5 Board, by any court of competent jurisdiction, or by opera-
6 tion of law.

7 (b) The provisions of this Act shall not affect any pro-
8 ceedings pending at the time this section takes effect before
9 any department or agency (or component thereof), functions
10 of which are transferred by this Act; but such proceedings,
11 to the extent that they relate to functions so transferred,
12 shall be continued before the Corporation. Such proceedings,
13 to the extent they do not relate to functions so transferred,
14 shall be continued before the department or agency before
15 which they were pending at the time of such transfer. In
16 either case orders shall be issued in such proceedings, appeals
17 shall be taken therefrom, and payments shall be made
18 pursuant to such orders, as if this Act had not been enacted;
19 and orders issued in any such proceedings shall continue in
20 effect until modified, terminated, superseded, or repealed
21 by the Board, by any court of competent jurisdiction, or by
22 operation of law.

23 (c) (1) Except as provided in paragraph (2) —

24 (A) the provisions of this Act shall not affect suits

1 commenced prior to the date this section takes effect;
2 and

3 (B) in all such suits proceedings shall be had,
4 appeals taken, and judgments rendered, in the same
5 manner and effect as if this Act had not been enacted.
6 No suit, action, or other proceeding commenced by or against
7 any officer in his official capacity as an officer of any depart-
8 ment or agency, functions of which are transferred by this
9 Act, shall abate by reason of the enactment of this Act. No
10 cause of action by or against any department or agency,
11 functions of which are transferred by this Act, or by or
12 against any officer thereof in his official capacity shall abate
13 by reason of the enactment of this Act. Causes of actions,
14 suits, actions, or other proceedings may be asserted by or
15 against the United States or such official of the Corporation
16 as may be appropriate and, in any litigation pending when
17 this section takes effect, the court may at any time, on its
18 own motion or that of any party, enter an order which will
19 give effect to the provisions of this subsection.

20 (2) If before the date on which this Act takes effect,
21 any department or agency, or officer thereof in his official
22 capacity, is a party to a suit, and under this Act—

23 (A) such department or agency is transferred
24 to the Corporation, or

1 (B) any function of such department, agency, or
2 officer is transferred to the Corporation
3 then such suit shall be continued by the Corporation (except
4 in the case of a suit not involving functions transferred to
5 the Corporation, in which case the suit shall be continued
6 by the department, agency, or officer which was a party to
7 the suit prior to the effective date of this Act).

8 (d) With respect to any function, power, or duty trans-
9 ferred by this Act and exercised after the effective date of
10 this Act, reference in any other Federal law to any depart-
11 ment or agency, officer or office so transferred or functions
12 of which are so transferred shall be deemed to mean the
13 officer or corporation in which this Act vests such function
14 after such transfer.

15 APPROPRIATIONS AUTHORIZED

16 SEC. 12. (a) There are authorized to be appropriated
17 to carry out the purposes of this Act for each fiscal year an
18 amount equal to 50 per centum of the amount set forth as
19 the total funding requirement of the Corporation for such
20 fiscal year.

21 (b) Notwithstanding any other provision of this Act,
22 the Corporation may not expend from the Airport and Air-
23 way Trust Fund any amount in excess of the amount ap-

1 propriated to the Corporation pursuant to subsection (a)
2 of this section.

3 **EFFECTIVE DATE**

4 **SEC. 13.** This Act shall take effect ninety days after the
5 date of its enactment.

94TH CONGRESS
2D SESSION

H. R. 12165

A BILL

To establish an independent United States Air-Traffic Services Corporation, and for other purposes.

By Mr. ROSENBLAU

FEBRUARY 26, 1976

Referred jointly to the Committees on Public Works
and Transportation and Ways and Means