

AMENDMENT TO H.R. 2997
OFFERED BY MR. DEFAZIO OF OREGON

Strike title II and insert the following:

1 **TITLE II—FINANCIAL AND**
2 **MANAGEMENT REFORMS**

3 **SEC. 201. TRUST FUND OFF BUDGET.**

4 (a) TRUST FUND OFF BUDGET.—Section 48114 of
5 title 49, United States Code, is amended to read as fol-
6 lows:

7 **“§ 48114. Trust fund off budget**

8 “(a) AIRPORT AND AIRWAY TRUST FUND GUAR-
9 ANTEE.—Beginning October 1, 2017, receipts and dis-
10 bursements of the Airport and Airway Trust Fund estab-
11 lished under section 9502 of the Internal Revenue Code
12 of 1986 shall not be subject—

13 “(1) to any sequestration order issued under
14 the Balanced Budget and Emergency Deficit Control
15 Act of 1985 or any subsequent law requiring such
16 sequestration;

17 “(2) to apportionment pursuant to section
18 1513(b) of title 31, United States Code;

1 “(3) to appropriation and shall be authorized
2 and made available immediately for obligation and
3 expenditure; and

4 “(4) to any legal requirement, directive, or
5 other provision of law of or related to the Office of
6 Management and Budget.

7 “(b) GENERAL FUND SHARE.—In addition to
8 amounts made available under subsection (a), there is fur-
9 ther authorized to be appropriated from the general fund
10 of the Treasury such sums as may be necessary for the
11 Federal Aviation Administration Operations account.
12 Such funds shall not be subject to any sequestration order
13 issued under the Balanced Budget and Emergency Deficit
14 Control Act of 1985 or any subsequent law requiring such
15 sequestration.

16 “(c) AUTHORIZATION TO TRANSFER CERTAIN
17 FUNDS TO PREVENT REDUCED OPERATIONS AND STAFF-
18 ING.—Notwithstanding any other provision of law, within
19 any fiscal year, the Administrator may transfer, to the ac-
20 count funding Administration operations, up to 5 percent
21 of funds available for any budget activity in any other ac-
22 count of the Federal Aviation Administration to prevent
23 reduced operations and staffing of the Federal Aviation
24 Administration and to ensure a safe and efficient air
25 transportation system.”.

1 (b) ESSENTIAL AIR SERVICE.—Section 41742 of title
2 49, United States Code, is amended by striking paragraph
3 (2) of subsection (a) and inserting the following:

4 “(2) ADDITIONAL FUNDS.—Beginning October
5 1, 2017, from amounts deposited into the Airport
6 and Airway Trust Fund, the sum of \$175,000,000
7 for each fiscal year is authorized and shall be made
8 available immediately, in addition to amounts made
9 available under paragraph (1) and subsection (b),
10 for obligation and expenditure to carry out the es-
11 sential air service program under this subchapter.”.

12 **SEC. 202. FLEXIBILITY.**

13 (a) OFFICE OF MANAGEMENT AND BUDGET.—The
14 Federal Aviation Administration shall be exempt from any
15 order, directive, rule, or other requirement of the Office
16 of Management and Budget.

17 (b) OFFICE OF THE SECRETARY OF TRANSPOR-
18 TATION.—The revisions to the procurement and personnel
19 systems of the Federal Aviation Administration under sec-
20 tions 6(a) and 7(a) shall not be subject to approval, modi-
21 fication, or review by the Secretary of Transportation.

22 **SEC. 203. MANAGEMENT ADVISORY COUNCIL INPUT.**

23 (a) AIR TRAFFIC CONTROL SYSTEM PERFORM-
24 ANCE.—Chapter 401 of title 49, United States Code, is
25 amended by adding at the end the following:

1 **“§ 40131. Air traffic control system performance**

2 “(a) IN GENERAL.—The Federal Aviation Manage-
3 ment Advisory Council established under section 106(p)
4 shall, in addition to performing the responsibilities under
5 such section—

6 “(1) assess the performance of the air traffic
7 control system and the Administrator’s policy and
8 strategic decisions with respect to operation and
9 modernization of the system; and

10 “(2) make recommendations to the Adminis-
11 trator to improve the system.

12 “(b) PUBLIC RESPONSE.—The Administrator shall
13 publicly respond in writing to each recommendation of the
14 Council under subsection (a).

15 “(c) CONTENTS.—A response by the Administrator
16 under subsection (b) shall include—

17 “(1) a restatement of the recommendation to
18 which the response is directed;

19 “(2) the Administrator’s analysis of the rec-
20 ommendation;

21 “(3) if the Administrator intends to implement
22 the recommendation, a detailed schedule for imple-
23 mentation; and

24 “(4) if the Administrator does not concur in the
25 recommendation, a statement explaining the reasons
26 for such nonconcurrency.

1 “(d) PUBLICATION.—Not later than 90 days after
2 the Administrator’s receipt of a recommendation under
3 subsection (a), each response by the Administrator under
4 this section shall be posted on the internet website of the
5 Federal Aviation Administration.”.

6 (b) CONFORMING AMENDMENT.—Section 106(p)(l) is
7 amended by striking the period at the end and adding “,
8 except as provided in section 40131.”.

9 **SEC. 204. AIR TRAFFIC CONTROL FACILITY MODERNIZA-**
10 **TION AND SUSTAINMENT.**

11 (a) FACILITY MODERNIZATION SUSTAINMENT.—
12 Chapter 481 of title 49, United States Code, is amended
13 by adding at the end the following:

14 **“§ 48115. Air traffic control facility modernization**
15 **and sustainment**

16 “(a) MODERNIZATION AND SUSTAINMENT.—In any
17 fiscal year between 2018 and 2030, in addition to amounts
18 made available under section 48101, there is further au-
19 thorized to be appropriated from the uncommitted balance
20 of the Airport and Airway Trust Fund such sums as are
21 necessary to bring any air traffic control facility of the
22 Federal Aviation Administration into acceptable condition.

23 “(b) CONSULTATION.—Before taking any action
24 under subsection (a) to modernize or sustain air traffic
25 control facilities of the Federal Aviation Administration,

1 the Administrator shall consult with the exclusive bar-
2 gaining representatives of air traffic controllers and air-
3 way transportation system specialists certified under sec-
4 tion 7111 of title 5, United States Code.”.

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
6 ter 481 of title 49, United States Code, is amended by
7 inserting after the item relating to section 48114 the fol-
8 lowing:

“48115. Air traffic control facility modernization and sustainment.”.

9 **SEC. 205. ACQUISITION REFORM.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Administrator shall de-
12 velop and implement a revised system governing all of the
13 Administration’s acquisitions, including services, facilities,
14 equipment, and real, personal, and intellectual property.

15 (b) STREAMLINED PROCESS.—The system revised
16 under subsection (a) shall take advantage of the independ-
17 ence already provided by Congress from all acquisition and
18 acquisition-related laws to further streamline processes for
19 acquisitions that substantially improve the flexibility and
20 cost effectiveness of the Administration’s acquisitions
21 process. Notwithstanding any other provision of law, the
22 only rules, policies, and procedures that shall govern or
23 affect this system are those promulgated by the Adminis-
24 trator.

1 (c) DESIGN OF SYSTEM.—The system revised under
2 subsection (a) shall, at minimum—

3 (1) account for the complexity and multiple
4 stages of acquisitions of interdependent systems that
5 constitute the Next Generation Air Transportation
6 System;

7 (2) include measures for appropriate program
8 managers to verify the readiness of software-inten-
9 sive programs prior to acceptance;

10 (3) include measures for the Administrator to
11 identify and implement cost reductions across the
12 Administration according to such timelines and
13 metrics as the Administrator shall identify;

14 (4) include measures for the Administrator to
15 reliably estimate the cost of each segment with re-
16 spect to each acquisition, along with reliable esti-
17 mates of all costs that are reasonably expected to be
18 incurred as a result of such acquisition; and

19 (5) incorporate private-sector best practices for
20 major capital investments in information technology,
21 telecommunications, and other relevant systems.

22 (d) EVALUATION.—In carrying out subsection (a),
23 the Administrator shall ensure that any requirement or
24 provision of the acquisition management system of the Ad-

1 ministration in effect on the day before the date of enact-
2 ment of this Act—

3 (1) is necessary to promote transparency, ac-
4 countability, and cost effectiveness;

5 (2) shall not materially affect the Administra-
6 tion's ability to reduce costs associated with acquisi-
7 tions programs;

8 (3) is necessary to protect the interests of the
9 Administration in any potential claim or defense in
10 litigation arising from an acquisition; or

11 (4) is necessary to provide for the continuity of
12 one or more acquisition programs.

13 (e) ACQUISITION OF SERVICES.—In developing a re-
14 vised system governing the Administration's acquisitions
15 under subsection (a), the Administrator shall consult with
16 the exclusive bargaining representative of airway transpor-
17 tation system specialists certified under section 7111 of
18 title 5, United States Code, before taking any action re-
19 lated to services acquisition.

20 (f) REPORT TO CONGRESS.—Not later than 12
21 months after revising the system required under subsec-
22 tion (a), the Administrator shall submit to the Committee
23 on Transportation and Infrastructure of the House of
24 Representatives and the Committee on Commerce,

1 Science, and Transportation of the Senate a report on the
2 revised process.

3 **SEC. 206. PERSONNEL REFORM.**

4 (a) REFORM OF PERSONNEL MANAGEMENT SYS-
5 TEM.—Not later than 1 year after completion of the re-
6 view required under subsection (b), the Administrator of
7 the Federal Aviation Administration shall make changes
8 to the personnel management system developed under sec-
9 tion 40122(g) of title 49, United States Code, to improve
10 the productivity, cost effectiveness, and technical pro-
11 ficiency of that part of the Administration's workforce
12 that is not represented by an exclusive representative rec-
13 ognized under section 7111 of title 5, United States Code,
14 or eligible to be represented by such a labor organization.
15 The changes required under this subsection shall include
16 new performance incentive policies, including awards for
17 performance, and shall, notwithstanding any other provi-
18 sion of law, include procedures for the Administration to
19 take expedited personnel actions with respect to employees
20 not covered by valid collective bargaining agreements. In
21 no instance may the changes implemented under this sub-
22 section alter or otherwise affect the terms and conditions
23 of employment of any employee represented or eligible to
24 be represented by an exclusive representative recognized
25 under section 7111 of title 5, United States Code.

1 (b) REVIEW.—Not later than 6 months after the date
2 of enactment of this Act, the Administrator shall conduct
3 a comprehensive review of the legal requirements, includ-
4 ing policies, standards, rules, and orders of the Adminis-
5 tration, pertaining to the Administration’s personnel man-
6 agement system, except to the extent that such require-
7 ments may affect or relate to the terms and conditions
8 of employment or dispute resolution processes governing
9 employees who are represented or eligible to be rep-
10 resented by an exclusive bargaining representative recog-
11 nized under section 7111 of title 5, United States Code.
12 This review shall identify—

13 (1) any requirements that do not substantially
14 contribute to the system’s cost effectiveness, admin-
15 istrative flexibility, and transparency;

16 (2) any requirement not related to maintaining
17 collective bargaining and grievance process;

18 (3) any requirements not reasonably related to
19 the Administration’s efforts to maintain a strong,
20 mutually beneficial relationship between employees
21 and management of the Administration; and

22 (4) any requirements with respect to personnel
23 management that the Administration applies
24 through circulars, guidance, or other documents

1 issued by the Office of Management and Budget or
2 the Office of Personnel Management.

3 (c) REPORT.—Not later than 6 months after comple-
4 tion of the review required in subsection (b), the Adminis-
5 trator shall submit to the Committee on Transportation
6 and Infrastructure of the House of Representatives and
7 the Committee on Commerce, Science, and Transportation
8 of the Senate a report on the results of the review.

9 (d) AIR TRAFFIC CONTROLLER STAFFING.—

10 (1) STAFFING REPORT.—Section 44506(e) of
11 title 49, United States Code, is amended—

12 (A) by redesignating paragraphs (2) and
13 (3) as paragraphs (3) and (4), respectively;
14 and

15 (B) by inserting after paragraph (1) the
16 following:

17 “(2) for each facility in the system, the current
18 certified professional controller staffing levels, the
19 operational staffing targets for certified professional
20 controllers, and the anticipated certified professional
21 controller attrition for each of the next 3 years;”.

22 (2) STAFFING STANDARD.—Not later than 180
23 days after the date of enactment of this Act, the Ad-
24 ministrator of the Federal Aviation Administration
25 and the exclusive bargaining representative of air

1 traffic controllers certified under section 7111 of
2 title 5, United States Code, shall jointly develop a
3 staffing standard to determine the number of cer-
4 tified professional controllers and trainees needed to
5 operate each air traffic control facility operated by
6 the Administration. Once developed, this standard
7 shall be used for the staffing report referenced 111
8 section 44506(e) of title 49, United States Code.

9 (e) AIRWAY TRANSPORTATION SYSTEM SPECIALIST
10 STAFFING MODELS.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, the Administrator
13 shall implement, after consultation with the National
14 Academy of Sciences, and notwithstanding section
15 7106(b)(1) of title 5, United States Code, after nego-
16 tiations with the exclusive bargaining representative
17 of airway transportation system specialists certified
18 under section 7111 of title 5, United States Code,
19 appropriate airway transportation system specialists
20 staffing levels for each of the Administration's facili-
21 ties that support the National Airspace System. If
22 the Administrator and the exclusive bargaining rep-
23 resentative are unable to reach agreement, they shall
24 use the process set forth in clauses (i) through (v)

1 and (vii) of section 40122(a) (2) (C) of title 49,
2 United States Code, to resolve the dispute.

3 (2) AIRWAY TRANSPORTATION SYSTEM SPE-
4 CIALISTS PLACEMENT.—Upon determination of
5 staffing levels under paragraph (1), and notwith-
6 standing section 7106(b)(1) of title 5, United States
7 Code, the Administrator shall negotiate with the ex-
8 clusive bargaining representative of airway transpor-
9 tation system specialists certified under section 7111
10 of title 5, United States Code, to develop and imple-
11 ment measures to place airway transportation sys-
12 tem specialists at all relevant facilities of the Admin-
13 istration. If the Administrator and the exclusive bar-
14 gaining representative are unable to reach agree-
15 ment, they shall use the process set forth in clauses
16 (i) through (v) and (vii) of section 40122(a)(2)(C) of
17 title 49, United States Code, to resolve the dispute.

18 (3) AVIATION SAFETY INSPECTORS.—Notwith-
19 standing section 7106(b)(1) of title 5, United States
20 Code, the Administrator shall negotiate with the ex-
21 clusive bargaining representative of aviation safety
22 inspectors certified under section 7111 of title 5,
23 United States Code, regarding appropriate total
24 staffing levels for aviation inspectors and facilities
25 that support inspection activities of the Administra-

1 tion. If the Administrator and the exclusive bar-
2 gaining representative are unable to reach agree-
3 ment, they shall use the process set forth in clauses
4 (i) through (v) and (vii) of section 40122(a)(2)(C) of
5 title 49, United States Code, to resolve the dispute.
6 Any agreement or award shall include a plan to im-
7 plement such staffing levels.

8 **SEC. 207. ANTI-SILOS REQUIREMENT.**

9 (a) ORGANIZATIONAL STREAMLINING.—The Admin-
10 istrator shall take appropriate measures, including devel-
11 opment of internal policies and procedures, to organize the
12 Administration's assignments of personnel in a manner
13 that facilitates open communication and collaboration
14 among the Administration's employees across the Admin-
15 istration's lines of business and offices. Such measures
16 shall promote the cross-utilization of employees whenever
17 feasible to leverage the employees' knowledge and skill sets
18 across disciplines.

19 (b) REPORT TO CONGRESS.—Not later than 1 year
20 after the date of enactment of this Act, and annually
21 thereafter, the Administrator shall submit to the Com-
22 mittee on Transportation and Infrastructure of the House
23 of Representatives and the Committee on Commerce,
24 Science, and Transportation of the Senate a report on the
25 measures required under subsection (a) and the effective-

1 ness of such measures in reducing organizational barriers
2 and stovepipes.

3 **SEC. 208. AIR TRAFFIC EMPLOYEES ASSIGNED TO GUAM.**

4 (a) SERVICES FOR CERTAIN EMPLOYEES.—The Sec-
5 retary of Defense shall provide military medical treatment
6 facilities, commissary, and exchange access to employees
7 of the Federal Aviation Administration assigned to Guam,
8 their spouses, and their dependent children through the
9 Defense Enrollment Eligibility Reporting System and the
10 Real Time Automated Personnel Identification System.

11 (b) REIMBURSEMENT FOR EXPENSES.—The Admin-
12 istrator of the Federal Aviation Administration shall reim-
13 burse the Secretary of Defense for expenses incurred by
14 the Department of Defense for enrollment of Federal
15 Aviation Administration employees, their spouses, and
16 their dependent children for services provided under sub-
17 section (a).

18 **SEC. 209. TECHNICAL REVISIONS.**

19 Section 40122(g)(2) of title 49, United States Code,
20 is amended—

21 (1) in subparagraph (A), by—

22 (A) striking “(b)” after “2302”; and

23 (B) inserting “prohibited personnel prac-
24 tices and” before “whistleblower protection”;

25 (2) in subparagraph (B), by—

1 (A) inserting “3304” before “3308-3320,”;

2 and

3 (B) inserting “3330a, 3330b, 3330c, and

4 3330d,” before “relating to veterans’ pref-

5 erence.”;

6 (3) in subparagraph (I)(iii) by striking “and”

7 at the end;

8 (4) in subparagraph (J) by striking “leave.”

9 and inserting “leave; and”; and

10 (5) by inserting at the end the following.

11 “(K) section 5596 relating to back pay due

12 to unjustified personnel action.”.

