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THE WHITE HOUSE

WASHINGTON

June 19, 1984

MEMORANDUM FOR RICHARD HAUSER

FROM: JAMES W. CICCONI *JWC*
SUBJECT: Impact of TEFRA on Airline Pilots

2816
The attached material outlines a problem experienced by airline pilots as a result of the enactment of TEFRA. In short, the law raised to 62 the age at which the maximum benefit could be drawn from tax-qualified pension plans. However, airline pilots are required by FAA regulation to retire at age 60. Their dilemma is obvious.

Captain Henry Duffy, president of the Airline Pilots Association, has been seeking a meeting with Buck Chapoton at Treasury to discuss this problem. Duffy has approached OPL for assistance in setting up such a meeting. Since this involves a tax matter, I thought it best that you review the request, and, if it is felt to be appropriate, that any contact with Chapoton be made by the Counsel's Office.

Thanks for your help.

cc: Doug Riggs

*talked to P. Wallin 6/28 -
P.W. will see Chapoton will
Duffy directly to set up a
meeting. So advised RH,
Cicconi, Riggs.*

[Signature]

TEFRA's Impact on Airline Pilots

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) made a number of modifications in the treatment of tax-qualified corporate pension plans. In addition to lowering both the contribution and benefit limits originally established under ERISA, it increased to 62 the age at which the maximum annual benefit could be drawn from a defined benefit pension plan. Under the new requirements established by TEFRA, any retirement prior to age 62 would result in actuarial reductions in the maximum annual benefit.

The new provisions of TEFRA overlook the unique circumstances of one group of employees who are required by the Federal government to retire prior to age 62 -- commercial airline pilots.

- For over twenty years the Federal Aviation Administration (FAA) has required by regulation (FAR 121.383(c)) that commercial pilots retire at age 60 for reasons of public safety.
- Commercial airline pilots are the only private sector employees in the United States with a Federally-mandated retirement age.
- This unique requirement was recognized by the Congress with a special exception for airline pilots to the national policy established by the Age Discrimination in Employment Act.
- Congress further acknowledged these special circumstances with a specific exclusion for airline pilots from ERISA's participation and eligibility standards (Section 410(b)(3)(B)).

The result of the conflict between the requirements of TEFRA and the FAA regulations is that airline pilots sustain a substantial penalty in potential pension benefits and are prevented from ever obtaining the benefit level available to all other retirees in tax-qualified pension plans.

While the Congress has judged it sound national policy to encourage longer working careers and has imposed a reduction in maximum pension benefits for those who choose to retire before age 62, it is clearly inequitable to apply this provision to those who, through the Federal government's action, have no choice.

We strongly urge the adoption of a correcting amendment to TEFRA to provide that the maximum benefit amount under a defined benefit pension plan is not to be reduced for the period between age 62 and any earlier retirement age mandated by the Federal government.

**N. Dollar Limits on Benefits Under Qualified Pension Plans for
Airline Pilots (sec. of the bill and sec. 415 of the Code)**

Present Law

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) reduced the overall limits on contributions and benefits under qualified pension, profit-sharing, or stock bonus plans ("qualified pension plans"). In the case of a defined benefit pension plan, the dollar limit on annual benefits was generally reduced from an annual benefit of \$136,425 to \$90,000. If benefits begin before age 62, TEFRA requires that the dollar limit be actuarially reduced to reflect the value of early payment. Using a standard mortality table and 5 percent interest, the dollar limit at age 60 is \$75,240.

Federal regulations require that commercial airline pilots retire after attaining age 60.

Reasons for Change

The committee recognizes that the TEFRA rules requiring an actuarial reduction in the dollar limits on benefits under qualified pension plans for retirement before age 62 affects commercial airline pilots who are required, by Federal regulation, to retire at age 60. The committee believes that it is inappropriate to require this actuarial reduction under these circumstances.

Explanation of Provision

Under the provision, the reduction for early retirement applies only to those airline pilots whose benefits begin before age 60 and the dollar limit for annual benefits beginning at age 60 is \$90,000.

Effective Date

The provision is effective as if included in sec. 235 of TEFRA.

Revenue Effect

This provision will decrease fiscal year budget receipts by less than \$5 million annually.

May 13, 1984

The Honorable Barber B. Conable, Jr.
U. S. House of Representatives
Washington, D. C. 20515

Dear Congressman Conable:

I am writing with regard to your upcoming deliberations in the conference committee on H.R. 4170, the Tax Reform Act of 1984.

As you know, during consideration of H.R. 4170, the Ways and Means Committee adopted an amendment offered by Congressman Charles Rangel that addresses a conflict between provisions of the Tax Equity and Fiscal Responsibility Act (TEFRA) relating to tax-qualified retirement plans and employee retirement prior to age 62, and Federal Aviation Administration regulations requiring commercial airline pilots to retire at age 60. Congressman Rangel's amendment would allow commercial airline pilots to achieve the full pension benefit allowed under a defined benefit plan at their Federally-mandated retirement age.

We greatly appreciate the Committee's recognition of this problem and your support for the effort to correct it. Retention of this amendment by the conference committee will prevent a great number of our retiring members from suffering a very substantial reduction in pension benefits and allow them to obtain the pension benefit level available under law to all other individuals who participate in such plans. As you are aware, this action is not a new precedent, but is a continuation of long-standing Congressional recognition of the unique occupational requirements of our members. It is similar to exceptions previously granted to airline pilots by Congress in the Age Discrimination in Employment Act (ADEA) and in the Employee Retirement Income Security Act (ERISA).

This matter is of great importance to our membership, and we would deeply appreciate your continued support in conference for retention of Congressman Rangel's amendment.

Thank you for considering our views.

Sincerely,

Henry A. Duffy, President

HAD:kgb

April 30, 1984

The Honorable Robert Dole
U. S. Senate
Washington, D. C. 20510

Dear Senator Dole:

During your deliberations as a conferee on the deficit reduction package (H.R. 2163) you will be dealing with a provision of concern and importance to the membership of the Air Line Pilots Association. I want to bring this matter to your attention and ask for your support in equitably resolving this issue during the conference committee proceedings.

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) modified the limits on contributions and benefits under tax-qualified retirement plans. Under TEFRA the annual limit established under a defined benefit pension plan is reduced on an actuarial basis if a benefit is paid to a participant before age 62. This requirement, however, does not take into account a conflicting Federal regulation which mandates commercial airline pilots to retire at age 60. This regulation, imposed by the Federal Aviation Administration, has been in effect for twenty-five years and was developed to enhance public safety in air travel.

The result of this conflict between two Federal requirements is that a great number of our retiring members suffer a very substantial reduction in allowable pension benefits, and are in fact prevented from ever obtaining the pension benefit level available under law to all other individuals who participate in such plans.

The House Ways & Means Committee, during consideration of H.R. 4170, the Tax Reform Act of 1984, adopted an amendment that resolves this conflict in what we believe to be an equitable manner. The Committee amendment would allow commercial airline pilots to achieve the full allowable pension benefit at their Federally-mandated retirement age.

You should be aware that this action is not a new precedent, but is a continuation of long-standing Congressional recognition of the unique occupational requirements of our members. It is similar to exceptions previously granted to airline pilots by Congress in the Age Discrimination in

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The Honorable Robert Dole
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Employment Act (ADEA) and in the Employee Retirement Income Security Act (ERISA). In addition, this particular issue was the subject of hearings held by Senator John H. Chafee in the Subcommittee on Savings, Pensions and Investment Policy last year.

As I previously noted, this matter is of great importance to our membership and we would very much appreciate your support for and concurrence with the House amendment on this issue during the conference committee.

Thank you for considering our views.

Sincerely,


Henry A. Duffy, President

HAD:kk