

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5274

To improve the safety and convenience of air travel by establishing the Federal Aviation Administration as an independent Federal agency.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1994

Mr. OBERSTAR introduced the following bill; which was referred to the Committee on Public Works and Transportation

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## A BILL

To improve the safety and convenience of air travel by establishing the Federal Aviation Administration as an independent Federal agency.

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.**

4       This Act may be cited as the “Independent Federal  
5       Aviation Administration Act of 1994”.

6       **SEC. 2. ESTABLISHMENT AND ORGANIZATIONAL STRUC-**  
7       **TURE.**

8       There is established as an independent establishment  
9       in the executive branch the Federal Aviation Administra-  
10      tion. The Administration shall succeed the Federal Avia-

1 tion Administration of the Department of Transportation  
2 as such department is in existence on the day before the  
3 effective date of this Act.

4 **SEC. 3. OFFICERS OF ADMINISTRATION.**

5 (a) ADMINISTRATOR.—

6 (1) APPOINTMENT.—The Administration shall  
7 be headed by an Administrator, who shall be ap-  
8 pointed by the President, by and with the advice and  
9 consent of the Senate, to a 5-year term of office.

10 (2) FUNCTIONS.—The Administrator—

11 (A) shall carry out all functions trans-  
12 ferred to the Administrator by this Act; and

13 (B) shall have authority and control over  
14 all personnel, programs, and activities of the  
15 Administration.

16 (3) COMPENSATION.—The Administrator shall  
17 be compensated at the rate prescribed for level II of  
18 the Executive Schedule.

19 (b) DEPUTY ADMINISTRATOR.—

20 (1) APPOINTMENT.—There shall be in the Ad-  
21 ministration a Deputy Administrator, who shall be  
22 appointed by the President, by and with the advice  
23 and consent of the Senate.

24 (2) FUNCTIONS.—The Deputy Administrator—

1 (A) shall perform such functions and have  
2 such duties and powers as the Administrator  
3 may prescribe;

4 (B) shall act for and perform the functions  
5 of the Administrator when the Administrator is  
6 absent or unable to serve and when the office  
7 of the Administrator is vacant; and

8 (C) shall, to the maximum extent prac-  
9 ticable, assure that procurement actions of the  
10 Administration take advantage of all methods  
11 available to expedite the procurement process.

12 (3) COMPENSATION.—The Deputy Adminis-  
13 trator shall be compensated at the rate prescribed  
14 for level III of the Executive Schedule.

15 (c) ASSOCIATE ADMINISTRATORS.—

16 (1) APPOINTMENT.—The Administrator shall  
17 appoint Associate Administrators who shall each  
18 have such duties as may be prescribed by the Ad-  
19 ministrator.

20 (2) COMPENSATION.—Each Associate Adminis-  
21 trator appointed under this subsection shall be com-  
22 pensated at the rate prescribed for level IV of the  
23 Executive Schedule.

24 (d) CHIEF COUNSEL.—

1           (1) APPOINTMENT.—There shall be in the Ad-  
2           ministration a chief counsel, who shall be appointed  
3           by the Administrator.

4           (2) FUNCTIONS.—The Chief Counsel shall be  
5           the chief legal officer for all legal matters arising  
6           from the activities of the Administration.

7           (3) COMPENSATION.—The Chief Counsel shall  
8           be compensated at the rate prescribed for level IV  
9           of the Executive Schedule.

10 **SEC. 4. FUNCTIONS OF ADMINISTRATOR.**

11           (a) IN GENERAL.—The Administrator shall—

12                 (1) exercise all powers and discharge all duties  
13                 of the Administration; and

14                 (2) carry out all functions, powers, and duties  
15                 relating to aviation safety that are vested in the Sec-  
16                 retary of Transportation on the day before the effec-  
17                 tive date of this Act.

18           (b) EXISTING LAW.—Except as otherwise provided  
19           by this Act, in carrying out the functions of the Adminis-  
20           tration under this Act, the Administrator shall be subject  
21           to all provisions of law to which the Administrator was  
22           subject on the day before the effective date of this Act  
23           (including part A of subtitle VII of title 49, United States  
24           Code) to the extent such provisions are not inconsistent  
25           with this Act.

1 (c) NOT SUBJECT TO ENTITIES CREATED BY EXEC-  
2 UTIVE ORDER.—The Administrator shall not submit deci-  
3 sions for the approval of, and shall not be bound by the  
4 decisions or recommendations of, any committee, board,  
5 or other organization created by Executive Order.

6 **SEC. 5. TRANSFERS AND INCIDENTAL PROVISIONS.**

7 (a) TRANSFERS.—The following are transferred to  
8 the Federal Aviation Administration established by section  
9 2:

10 (1) FUNCTIONS OF FAA.—All functions vested  
11 by law on the day before the effective date of this  
12 Act in the Federal Aviation Administration in the  
13 Department of Transportation or its Administrator,  
14 and all functions vested by law on the day before the  
15 effective date of this Act in the Secretary of Trans-  
16 portation or the Department of Transportation  
17 which are administered through the Federal Aviation  
18 Administration (including budgetary and procure-  
19 ment functions) or related to the Federal Aviation  
20 Administration, including the following:

21 (A) All of such functions established by the  
22 Federal Aviation Act of 1958, as in effect on  
23 July 4, 1994, other than those functions—

1 (i) exercised under section 305 of that  
2 Act relating to fostering the development  
3 of civil aeronautics and air commerce;

4 (ii) exercised by the Secretary of  
5 Transportation under title IV of that Act  
6 as successor to the Civil Aeronautics  
7 Board; and

8 (iii) exercised by the Secretary of  
9 Transportation under titles XI or XII of  
10 that Act relative to international air com-  
11 merce.

12 (B) All of such functions carried out under  
13 section 6(c) of the Department of Transpor-  
14 tation Act (49 U.S.C. 1655(c)) along with all  
15 functions, duties, and powers which at any time  
16 had been vested in the Administrator of the  
17 Federal Aviation Administration prior to the re-  
18 vision of title 49, United States Code, by Public  
19 Law 97-449.

20 (C) All of such functions carried out under  
21 the Airport and Airway Improvement Act of  
22 1982, as in effect on July 4, 1994.

23 (D) All of such functions carried out under  
24 the Hazardous Materials Transportation Act, as  
25 in effect on July 4, 1994, to the extent that

1           such Act pertains to the transportation of haz-  
2           ardous materials by air.

3           (E) All of such functions carried out under  
4           the Independent Safety Board Act of 1974, as  
5           in effect on July 4, 1994, to the extent it re-  
6           lates to transportation by air.

7           (F) All of such functions carried out under  
8           the Aviation Safety and Noise Abatement Act  
9           of 1979, as in effect on July 4, 1994.

10          (2) INCIDENTAL FUNCTIONS.—All functions of  
11          the Department of Transportation and of the Fed-  
12          eral Aviation Administration in the Department of  
13          Transportation on the day before the effective date  
14          of this Act which are incidental to, helpful to, or  
15          necessary for, the performance of the functions  
16          transferred by paragraph (1), or which relate pri-  
17          marily to those functions.

18          (3) PERSONNEL, PROPERTY, RECORDS, AND  
19          FUNDS.—So much of the personnel, property,  
20          records, funds, accounts, and unexpended balances  
21          of appropriations, allocations, and other funds of the  
22          Department of Transportation and the Federal  
23          Aviation Administration as are employed, used, held,  
24          available, or to be made available in connection with  
25          the functions transferred by paragraphs (1) and (2).

1 (b) NO REDUCTION IN CLASSIFICATION OR COM-  
2 PENSATION.—The personnel transferred under this sec-  
3 tion shall be transferred without reduction in classification  
4 or compensation.

5 (c) EXERCISE OF FUNCTIONS BY ADMINISTRATOR.—  
6 The Administrator of the Federal Aviation Administration  
7 shall exercise all functions transferred by subsection (a)  
8 of this section and any other function vested by any law  
9 in the Federal Aviation Administration or the Adminis-  
10 trator of the Federal Aviation Administration after the  
11 date of the enactment of this Act.

12 **SEC. 6. RULES; REGULATIONS.**

13 In the performance of functions pursuant to this Act,  
14 the Administrator may make, promulgate, issue, rescind,  
15 and amend rules and regulations in accordance with chap-  
16 ter 5 of title 5, United States Code.

17 **SEC. 7. DELEGATION.**

18 (a) IN GENERAL.—Except as otherwise provided in  
19 this Act, the Administrator may delegate functions to offi-  
20 cers and employees of the Administration, and may au-  
21 thorize successive redelegations of such functions in the  
22 Administration, as the Administrator considers necessary  
23 or appropriate.

24 (b) ADMINISTRATOR REMAINS RESPONSIBLE.—A  
25 delegation of functions by the Administrator under this



1 section or under any other provision of this Act shall not  
2 relieve the Administrator of responsibility for the adminis-  
3 tration of such functions.

4 **SEC. 8. SUPPLEMENTAL PERSONNEL AND SERVICES.**

5 (a) EXPERTS AND CONSULTANTS.—In addition to  
6 the officers provided for by section 3, the Administrator  
7 may obtain the services of experts and consultants in ac-  
8 cordance with section 3109 of title 5, United States Code.

9 (b) PERSONNEL OF OTHER AGENCIES.—Upon re-  
10 quest of the Administrator, the head of any Federal agen-  
11 cy may detail, on a reimbursable basis, any of the person-  
12 nel of such agency to assist the Administrator in carrying  
13 out functions of the Administration.

14 (c) VOLUNTEER SERVICES.—

15 (1) IN GENERAL.—The Administrator may ac-  
16 cept voluntary services of individuals in accordance  
17 with the provisions of section 3111 of title 5, United  
18 States Code and without regard to the provisions of  
19 section 1342 of title 31, United States Code, if such  
20 services will not be used to displace Federal employ-  
21 ees employed on a full-time, part-time, or seasonal  
22 basis.

23 (2) INCIDENTAL EXPENSES.—The Adminis-  
24 trator may provide for incidental expenses, including  
25 transportation, lodging, and subsistence, for persons

1 who provide voluntary services pursuant to this sub-  
2 section to the Administrator.

3 (3) NOT FEDERAL EMPLOYEES.—An individual  
4 who provides voluntary services to the Administrator  
5 pursuant to this subsection shall not be considered  
6 to be a Federal employee for any purpose other than  
7 for purposes of chapter 81 of title 5, United States  
8 Code (relating to compensation for work injuries)  
9 and chapter 171 of title 28, United States Code (re-  
10 lating to tort claims).

11 **SEC. 9. CONTRACTS.**

12 The Administrator may, without regard to the provi-  
13 sions of section 3324 of title 31, United States Code, and  
14 subject to appropriations Acts, enter into and perform  
15 contracts, leases, cooperative agreements, and other trans-  
16 actions, on such terms and conditions as the Adminis-  
17 trator considers appropriate, with any Federal agency or  
18 any instrumentality of the United States, with any State,  
19 territory, or possession, with any political subdivision  
20 thereof, and with any person, (including any educational  
21 institution) as may be necessary to carry out the functions  
22 of the Administrator and the Administration.

1 **SEC. 10. USE OF SERVICES, EQUIPMENT, PERSONNEL, AND**  
2 **FACILITIES OF OTHER AGENCIES.**

3 (a) IN GENERAL.—With the consent of the appro-  
4 priate agency, the Administrator may, with or without re-  
5 imbursement, use the services, equipment, personnel, and  
6 facilities of Federal agencies and other public and private  
7 agencies, and may cooperate with other public and private  
8 agencies in the use of services, equipment, personnel, and  
9 facilities.

10 (b) COOPERATION OF OTHER FEDERAL AGENCIES.—  
11 The head of each Federal agency shall cooperate fully with  
12 the Administrator in making the services, equipment, per-  
13 sonnel, and facilities of the Federal agency available to  
14 the Administrator.

15 (c) SUPPLIES AND EQUIPMENT.—Notwithstanding  
16 any other provision of law, the head of a Federal agency  
17 may transfer to or receive from the Administration, with-  
18 out reimbursement, supplies and equipment, other than  
19 administrative supplies and equipment.

20 **SEC. 11. ACQUISITION AND MAINTENANCE OF PROPERTY.**

21 (a) IN GENERAL.—The Administrator may—

22 (1) acquire (by purchase, lease, condemnation,  
23 or otherwise), construct, improve, repair, operate,  
24 and maintain—

25 (A) air traffic control facilities and equip-  
26 ment,

1 (B) research and testing sites and facili-  
2 ties, and

3 (C) such other real and personal property  
4 (including office space and patents), and any  
5 interest therein within or outside the continen-  
6 tal United States,

7 as the Administrator considers necessary;

8 (2) lease to others such real and personal prop-  
9 erty; and

10 (3) provide by contract or otherwise for eating  
11 facilities and other necessary facilities for the wel-  
12 fare of employees of the Administration at its instal-  
13 lations and purchase and maintain equipment for  
14 such facilities.

15 (b) TITLE TO PROPERTY.—Title to any property or  
16 interest therein acquired pursuant to this section shall be  
17 in the United States.

18 (c) LIMITATION.—The authority granted by sub-  
19 section (a) shall be available only with respect to facilities  
20 of a special purpose nature that cannot readily be reas-  
21 signed from similar Federal activities and are not other-  
22 wise available for assignment to the Administration by the  
23 Administrator of General Services.

24 (d) CONTRACTS AND LEASES SUBJECT TO APPRO-  
25 PRIATIONS.—The authority of the Administrator to enter

1 into contracts and leases under this section shall be to  
2 such extent and in such amounts as are provided in appro-  
3 priation Acts.

4 **SEC. 12. TRANSFERS OF FUNDS FROM OTHER FEDERAL**  
5 **AGENCIES.**

6 The Administrator may accept transfers from other  
7 Federal agencies of funds which are available to carry  
8 out—

9 (1) functions transferred by this Act to the Ad-  
10 ministrator; or

11 (2) functions assigned by law to the Adminis-  
12 trator after the date of the enactment of this Act.

13 **SEC. 13. SEAL OF ADMINISTRATION.**

14 The Administration shall cause a seal of office to be  
15 made for the Administration of such design as the Admin-  
16 istrator shall approve, and judicial notice shall be taken  
17 of such seal.

18 **SEC. 14. STATUS OF ADMINISTRATION UNDER CERTAIN**  
19 **LAWS.**

20 For purposes of chapter 9 of title 5, United States  
21 Code, the Administration is an independent regulatory  
22 agency.

1 **SEC. 15. SAVINGS PROVISIONS.**

2 (a) IN GENERAL.—All orders, determinations, rules,  
3 regulations, permits, contracts, certificates, licenses, and  
4 privileges—

5 (1) which have been issued, made, granted, or  
6 allowed to become effective by the President, any  
7 Federal department or agency or official thereof, or  
8 by a court of competent jurisdiction, in regard to  
9 functions which are transferred under this Act to  
10 the Administration on or after the date of the enact-  
11 ment of this Act; and

12 (2) which are in effect on the effective date of  
13 this Act;

14 shall continue in effect according to their terms until  
15 modified, terminated, superseded, set aside, or revoked in  
16 accordance with law by the President, the Administrator  
17 or other authorized official, by a court of competent juris-  
18 diction, or by operation of law.

19 (b) PENDING LICENSES, PERMITS, CERTIFICATES,  
20 AND FINANCIAL ASSISTANCE.—

21 (1) IN GENERAL.—This Act shall not affect any  
22 proceedings or any application for any license, per-  
23 mit, certificate, or financial assistance pending on  
24 the effective date of this Act, and such proceedings  
25 and applications, to the extent that they relate to  
26 functions so transferred, shall be continued.

1           (2) PROCEEDINGS.—Orders shall be issued in  
2 proceedings referred to in paragraph (1), appeals  
3 shall be taken therefrom, and payments shall be  
4 made pursuant to such orders, as if this Act had not  
5 been enacted, and orders issued in any such proceed-  
6 ings shall continue in effect until modified, termi-  
7 nated, superseded, or revoked by a duly authorized  
8 official, by a court of competent jurisdiction, or by  
9 operation of law.

10           (3) DISCONTINUANCE OR MODIFICATION.—  
11 Nothing in this subsection shall be considered to  
12 prohibit the discontinuance or modification of any  
13 proceeding under the same terms and conditions and  
14 to the same extent that such proceeding could have  
15 been discontinued or modified if this Act had not  
16 been enacted.

17           (c) PENDING SUITS.—

18           (1) IN GENERAL.—This Act shall not affect  
19 suits commenced before the effective date of this  
20 Act.

21           (2) PROCEEDINGS.—In all suits referred to in  
22 paragraph (1), proceedings shall be had, appeals  
23 taken, and judgments rendered in the same manner  
24 and effect as if this Act had not been enacted.

25           (d) INTERIM APPOINTMENTS.—

1 (1) IN GENERAL.—In any case involving an of-  
2 ficer required by this Act to be appointed by and  
3 with the advice and consent of the Senate who has  
4 not entered office on the effective date of this Act,  
5 the President may designate the person who served  
6 as such officer on the day before the effective date  
7 of this Act to act in such office until the office is  
8 filled as provided by this Act.

9 (2) COMPENSATION.—A person designated to  
10 act in an office under paragraph (1) shall receive  
11 compensation at the rate of pay provided by this Act  
12 for the office in which the person acts.

13 **SEC. 16. BUDGETARY TREATMENT OF THE AIRPORT AND**  
14 **AIRWAY TRUST FUND.**

15 (a) IN GENERAL.—Notwithstanding any other provi-  
16 sion of law, the receipts and disbursements of the Airport  
17 and Airway Trust Fund allocable to the transportation-  
18 related operations of such Trust Fund, including disburse-  
19 ments for administrative expenses incurred in connection  
20 with such Trust Fund—

21 (1) shall not be included in the totals of—

22 (A) the budget of the United States Gov-  
23 ernment as submitted by the President, or



1 (B) the congressional budget (including al-  
2 locations of budget authority and outlays pro-  
3 vided therein);

4 (2) shall be exempt from any general budget  
5 limitation imposed by statute on expenditures and  
6 net lending (budget outlays) of the United States  
7 Government; and

8 (3) shall be exempt from any order issued  
9 under part C of the Balanced Budget and Emer-  
10 gency Deficit Control Act of 1985.

11 (b) EFFECTIVE DATE.—Subsection (a) shall take ef-  
12 fect October 1, 1995.

13 **SEC. 17. LAWS AND REGULATIONS.**

14 Except as otherwise provided in this Act, all laws,  
15 rules, and regulations in effect and applicable to the Fed-  
16 eral Aviation Administration of the Department of Trans-  
17 portation or to the Administrator of such Administration  
18 on the date immediately preceding the effective date of  
19 this Act shall, on and after such effective date, be applica-  
20 ble to the Federal Aviation Administration and the Ad-  
21 ministrator established by this Act, until such law, rule,  
22 or regulation is repealed or otherwise modified or amend-  
23 ed.

1 **SEC. 18. REPEAL.**

2 Section 106 of title 49, United States Code (relating  
3 to the establishment of the Federal Aviation Administra-  
4 tion in the Department of Transportation), is repealed.

5 **SEC. 19. DEFINITIONS.**

6 For the purposes of this Act, the following definitions  
7 apply:

8 (1) ADMINISTRATION.—The term “Administra-  
9 tion” means the Federal Aviation Administration es-  
10 tablished by section 2.

11 (2) ADMINISTRATOR.—The term “Adminis-  
12 trator” means the Administrator of the Federal  
13 Aviation Administration appointed under section 3.

14 **SEC. 20. EFFECTIVE DATE.**

15 Except as provided in section 16(b), this Act shall  
16 take effect 180 days after the date of its enactment.

○

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