

104TH CONGRESS
1ST SESSION

H. R. 1441

To provide for the transfer of operating responsibility for air traffic services currently provided by the Federal Aviation Administration on behalf of the United States to a separate corporate entity, in order to provide for more efficient operation and development of these transportation services and related assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. MINETA (by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the transfer of operating responsibility for air traffic services currently provided by the Federal Aviation Administration on behalf of the United States to a separate corporate entity, in order to provide for more efficient operation and development of these transportation services and related assets, 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,*

1 **SECTION 1. TITLE; TABLE OF CONTENTS.**

2 (a) This Act may be cited as the “United States Air
3 Traffic Service Corporation Act”.

4 (b) TABLE OF CONTENTS.—

TITLE I—GENERAL

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408. Aviation facilities.

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501. Employee management and exemptions from title 5, United States Code.

502. Applicability of Government Corporation Control Act.

601. Transfer of federal personnel to the Corporation.
602. Payments to the United States, and reimbursements.
603. Transfer of facilities to the Corporation.
604. Savings provisions.
605. Administrative and budgetary transition; ethics standards.
606. Reference.
607. Separability.
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2 SEC. 101. FINDINGS AND PURPOSE.

(2) This Federal air traffic control system is integral to the United States aviation industry, a leading exporter and employer in the national economy, and contributes directly to this vital national resource and its links to an increasingly global economy.

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1 (4) The provision of more than 500,000 air traffic
2 operations and the use of over 28,000 air navigation facili-
3 ties in the National Airspace System daily by the Federal
4 Aviation Administration (FAA), operating 24 hours a day,
5 365 days a year, and the reliance of the United States
6 aviation industry on these services, constitutes a unique
7 Federal operational role, one that is increasingly burdened
8 by traditional governmental management processes.

9 (5) Air traffic control is increasingly reliant on high-
10 quality, well motivated staff and automated, electronic
11 tracking and communication systems that require state-
12 of-the-art computer equipment and applications, tech-
13 nology that advances extremely rapidly and has left cur-
14 rent air traffic control operations behind.

15 (6) Current government-wide requirements for pro-
16 curement, personnel, financial, and other fundamental ele-
17 ments of management are being updated but, despite the
18 general changes achieved to date as a result of the Na-
19 tional Performance Review, are not suited to the type of
20 operating enterprise needed to bring the United States air
21 traffic control system into the 21st century.

22 (7) Effective financing of air traffic modernization
23 can be improved by a transition from the current Federal,
24 excise-based user fees to a system of fees that more closely
25 reflect the costs of providing air traffic control services,

1 but changes of this nature are complicated by the ongoing,
2 successful effort to reduce Federal budget deficits, an ob-
3 jective which should not be undercut.

4 (8) The FAA and the Department of Defense share
5 a unique relationship as users and suppliers of air traffic
6 services, and it is vital to safe and efficient air traffic con-
7 trol and defense readiness that this relationship continue
8 to evolve under any new operational arrangement for civil-
9 ian air traffic service.

10 (9) More user input, simpler procurement methods,
11 more flexible personnel policies and incentives with im-
12 proved labor-management partnerships, greater manage-
13 ment longevity, and access to capital markets are nec-
14 essary and achievable to maintain the FAA's enviable
15 record of efficiency in air traffic management, but not
16 within the confines of a traditional Federal Government
17 agency.

18 (10) The clear success of a much smaller, but similar,
19 transfer of a long-time FAA activity (operation of Na-
20 tional and Dulles Airports) to a non-Federal operator in
21 1987 demonstrates the efficacy of creating a self-govern-
22 ing, self-financing entity to manage inherently operational
23 activities.

24 (11) Transfer legislation can relieve the Federal Gov-
25 ernment of operating roles and include the kind of safety,

1 security, national defense, international, personnel and
2 other mandates needed to guarantee that the successor en-
3 tity will not compromise any of the benefits that have been
4 produced by the FAA throughout its long and successful
5 history of air traffic control operations.

6 (b) PURPOSE.—It is declared to be the purpose of
7 Congress in this Act, pursuant to its authority under the
8 Constitution to regulate commerce among the several
9 states, to transfer operating responsibility for air traffic
10 services currently provided by the Federal Aviation Ad-
11 ministration on behalf of the United States to a separate
12 corporate entity, to provide for more efficient operation
13 and development of these services and related assets, with-
14 out any reduction in accountability for aviation safety, se-
15 curity, national defense, airport development, or other nec-
16 essary aviation functions currently entrusted to the Fed-
17 eral Aviation Administration.

18 **SEC. 102. DEFINITIONS.**

19 (a) In this Act:

20 (1) “Administrator” means the Administrator
21 of the Federal Aviation Administration.

22 (2) “Air traffic control system” means the com-
23 bination of elements used to safely and efficiently
24 monitor, direct, control, and guide aircraft in the

1 United States and United States-assigned airspace,
2 including—

3 (A) frequency licenses and physical, real,
4 personal, and intellectual property assets mak-
5 ing up facilities and systems employed to de-
6 tect, track, and guide aircraft movement;

7 (B) laws, regulations, agreements, and li-
8 censes;

9 (C) publishes procedures that explain re-
10 quired actions, activities, and techniques used
11 to assure adequate aircraft separation; and

12 (D) trained personnel with specific tech-
13 nical capabilities to satisfy the operational, en-
14 gineering, management, and planning require-
15 ments for air traffic control.

16 (3) “Corporation” means the United States Air
17 Traffic Service Corporation created under the au-
18 thority of this Act, unless otherwise specified.

19 (4) “Date of transfer” means the date the
20 United States Air Traffic Service Corporation suc-
21 ceeds to functions of the Federal Aviation Adminis-
22 tration pursuant to this Act, which shall be October
23 1, 1996, or a later date established by the Adminis-
24 trator as the date that air traffic control responsibil-
25 ities may be safely transferred to the Corporation.

1 (5) “Secretary” means the Secretary of Trans-
2 portation.

3 (b) A term used in this Act that is not defined, but
4 which is defined in subtitle VII of title 49, United States
5 Code, has the meaning set forth in that subtitle.

6 **TITLE II—TRANSFER OF AIR TRAFFIC**
7 **SERVICE FROM THE FEDERAL AVIA-**
8 **TION ADMINISTRATION**

9 **SEC. 201. ESTABLISHMENT OF THE CORPORATION.**

10 There is hereby created a body corporate to be known
11 as the United States Air Traffic Service Corporation
12 (hereinafter referred to in this Act as the Corporation).

13 **SEC. 202. STATUS AND APPLICABLE LAWS.**

14 (a) STATUS.—The Corporation—

15 (1) is a wholly owned Government corporation
16 of the United States subject to Chapter 91 of title
17 31, United States Code (Government Corporations),
18 as provided in this Act, and may not sell equity in-
19 terests in the Corporation to the public;

20 (2) is subject to the regulatory authority of the
21 Federal Aviation Administration and the safety in-
22 vestigatory authority of the National Transportation
23 Safety Board (NTSB);

24 (3) shall operate the Federal air traffic control
25 system as a business enterprise on a safe and effi-

1 cient, self-supporting, and not-for-profit basis with-
2 out Federal Government appropriations or other
3 sources of Federal financing other than transfers
4 specified in this Act;

5 (4) shall not be subject to apportionment pursu-
6 ant to section 1513(b) of title 31, United States
7 Code; and

8 (5) may establish offices in places necessary or
9 appropriate in the conduct of its business.

10 (b) LIMITED APPLICATION OF TITLE 5 U.S.C. AND
11 PERSONNEL REQUIREMENTS.—Title 5, United States
12 Code, applies to the Corporation and its employees and
13 activities only to the extent set forth in sections 501 and
14 601 of this Act. For purposes of section 5 of Public Law
15 103–226 (March 30, 1994) (the Federal Workforce Re-
16 structuring Act of 1994), the Corporation does not qualify
17 as an Executive agency (as defined by section 105 of title
18 5, United States Code.) The Corporation shall fulfill the
19 requirements of title VI of this Act, and shall establish
20 appropriate personnel policies to manage its employees
21 efficiently.

22 (c) NONAPPLICATION OF CERTAIN FEDERAL ACQUI-
23 SITION AND RELATED REQUIREMENTS.—The Corporation
24 does not qualify as a department, agency, establishment,
25 or instrumentality of the United States Government for

1 purposes of Federal laws, regulations, or other require-
2 ments concerning acquisition of supplies and services, and
3 the acquisition, use, and disposal of real and personal
4 property, including the Federal Property and Administra-
5 tive Services Act (40 U.S.C. 471, et seq.), except that the
6 Corporation does qualify as a department, agency, estab-
7 lishment, or instrumentality of the United States Govern-
8 ment for the purposes of the Davis-Bacon Act (40 U.S.C.
9 276a–276–7), the McNamara-O’Hara Service Contract
10 Act (41 U.S.C. 351, et seq.), and the Contract Work
11 Hours and Safety Standards Act (40 U.S.C. 327, et seq.),
12 and civil rights laws and regulations that are applicable
13 to Federal contractors and subcontractors.

14 (d) FEDERAL ENVIRONMENTAL REQUIREMENTS.—

15 (1) The Corporation is subject to the requirements of the
16 National Environmental Policy Act, as amended (42
17 U.S.C. 4321, et seq.), and the actions of the Corporation
18 shall be Federal actions under the Act.

19 (2) The Corporation shall be an agency of the United
20 States Government for purposes of compliance with Fed-
21 eral law relating to the environment, including laws relat-
22 ing to clean air, clean water hazardous waste, park lands,
23 wilderness areas, wildlife, and historic properties.

24 (3) The Corporation shall be subject to a State law
25 or order relating to the environment only to the extent

1 that a Federal agency should be subject to that law or
2 order as a result of an express waiver of sovereign immu-
3 nity by statute or executive order.

4 (e) TRANSFER OF AIR TRAFFIC SYSTEM.—The Fed-
5 eral Aviation Administration shall transfer its control over
6 the air traffic system in the United States to the Corpora-
7 tion on the date of transfer, in a systematic and orderly
8 manner that assures complete continuity in air traffic con-
9 trol operations.

10 (f) CONTINUED APPLICABILITY OF THE ACT.—The
11 requirements of this Act shall continue to apply to the
12 Corporation throughout its existence. No entity other than
13 the United States Air Traffic Service Corporation, De-
14 partment of Defense units providing air traffic services,
15 or entities to which the Corporation has delegated air traf-
16 fic service responsibilities or contracted with for the provi-
17 sion of air traffic control services, is authorized or per-
18 mitted to perform air traffic control services on behalf of
19 the United States.

20 **SEC. 203. BOARD OF DIRECTORS.**

21 (a) COMPOSITION AND TERMS.—(1) The powers of
22 the Corporation are vested in a Board of Directors that
23 governs the Corporation and is composed of the following
24 11 Directors, each of whom shall be a citizen of the United
25 States, and shall not be an employee of the Corporation

1 (the Corporation's employee bargaining unit representa-
2 tive excepted):

3 (A) The Secretary of Transportation, or the
4 Deputy Secretary of Transportation as designee of
5 the Secretary;

6 (B) The Secretary of Defense, or the Sec-
7 retary's designee.

8 (C) Nine individuals appointed by the President
9 of the United States, by and with the advice and
10 consent of the Senate, who have knowledge of sound
11 corporate business practice and who, by virtue of
12 background and expertise, are equipped to represent
13 the interests of—

14 (i) air traffic system commercial users sub-
15 ject to the imposition of user fees in the case
16 of four appointments, but who are not employed
17 by an airline;

18 (ii) non-commercial aviation;

19 (iii) employee bargaining units, as signified
20 by being a Corporation employee bargaining
21 unit representative;

22 (iv) airports subject to air traffic service
23 requirements; and

24 (v) sound corporate business practice in
25 the case of two appointments.

1 (2) The Chairman of the Board is chosen from
2 among the nine members specified under subparagraph
3 (a)(1)(C) of this section, by majority vote of the members
4 and shall serve until replaced by majority vote of the mem-
5 bers.

6 (3) Members other than the Secretaries shall be ap-
7 pointed to the Board for a term of 5 years except that,
8 of the members first appointed, two shall be appointed by
9 the President for 2-year terms, two shall be appointed by
10 the President for 3-year terms, and two shall be appointed
11 by the President for 4-year terms. A member may serve
12 after the expiration of that member's term until a succes-
13 sor has taken office. The Secretaries shall serve terms co-
14 incident with their appointments to their positions.

15 (b) PAY AND EXPENSES.—Each Director not em-
16 ployed by the United States Government is entitled to
17 compensation, which may be comparable to other cor-
18 porate boards when performing Board duties and powers.
19 Each Director is entitled to reimbursement for necessary
20 travel, reasonable secretarial support, and subsistence ex-
21 penses incurred in attending board meetings.

22 (c) VACANCIES.—A vacancy on the Board is filled in
23 the same way as the original selection. A member of the
24 Board may be reappointed to a position, subject to the

1 advice and consent of the Senate, but may serve no more
2 than two consecutive terms.

3 (d) REMOVAL OF BOARD MEMBERS.—A member of
4 the Board serves at the pleasure of the President.

5 (e) BOARD ACTION REQUIRED.—The Board shall
6 meet at the call of the Chairman and should meet, at a
7 minimum, on a quarterly basis. The Board shall be re-
8 sponsible for actions of the Corporation, including the fol-
9 lowing matters:

10 (1) Adoption of an annual budget and approval
11 of the Corporation's strategic plan.

12 (2) Authorization for issuance of indebtedness.

13 (3) Establishment and modification of user fees
14 and other charges to the public.

15 (4) Appointment of the Chief Executive Officer.

16 (f) BYLAWS.—The Board may adopt and amend by-
17 laws governing the operation of the Corporation. The by-
18 laws shall be consistent with this Act.

19 (g) REVIEW OF BORROWING.—The issuance of in-
20 debtedness by the Corporation may be disapproved by the
21 Secretary of Transportation if the Secretary determines
22 that the total revenues of the Corporation are insufficient
23 to satisfy obligations incurred by the Corporation, includ-
24 ing those that are held by the United States. Within 30
25 days of the receipt of a proposal for the issuance of indebt-

1 edness, the Secretary shall notify the Chairman of the
2 Board of any disapproval, with justification for a dis-
3 approval.

4 **SEC. 204. COMMITTEES OF THE BOARD; INDEPENDENT**
5 **AUDITOR.**

6 (a) CREATION OF COMMITTEES OF THE BOARD.—
7 The Board of Directors of the Corporation shall create
8 and maintain a Safety Committee and any other commit-
9 tees of the Board that are needed or desirable to carry
10 out Board responsibilities effectively.

11 (b) SAFETY COMMITTEE OF THE BOARD.—(1) The
12 Safety Committee shall include the Secretaries of Trans-
13 portation and Defense, or designees.

14 (2) It shall be the continuing duty of the Safety Com-
15 mittee to supervise the aviation safety activities of the
16 Corporation, and in particular actions taken in response
17 to safety agencies, including the Federal Aviation Admin-
18 istration and the National Transportation Safety Board.

19 (c) INDEPENDENT AUDIT AND INVESTIGATION
20 FUNCTION.—To fulfill the responsibilities of the Corpora-
21 tion as a Federal entity, as set forth in section 8G(h)(2)
22 of the Inspector General Act (Appendix 3 of title 5, United
23 States Code), the Chairman of the Board shall appoint
24 a qualified individual to establish and administer an inde-
25 pendent audit and investigatory organization that reports

1 directly to the Board of Directors of the Corporation. The
2 organization shall conduct and supervise audits and inves-
3 tigations of the economy, efficiency, and effectiveness of
4 the Corporation's programs and operations, act to detect
5 and prevent fraud, waste, and abuse in such programs and
6 operations, and make any necessary and desirable rec-
7 ommendations for corrective actions to the Board.

8 **SEC. 205. OFFICERS AND THEIR RESPONSIBILITIES.**

9 (a) APPOINTMENT AND TERMS.—(1) The Corpora-
10 tion has a Chief Executive Officer, who is selected and
11 appointed by the Board of Directors to manage the Cor-
12 poration. However, until the Board appointed pursuant to
13 section 203 of this Act makes an appointment, an individ-
14 ual with the qualifications specified by this subsection may
15 be appointed, by the President, within 30 days of the en-
16 actment of this Act, to exercise all of the authority of the
17 Corporation set forth in this Act in order to prepare the
18 Corporation to accept the transfer of air traffic control
19 responsibilities by the date of transfer. The Chief Execu-
20 tive Officer is subject to the policy guidance of the Board,
21 reports to the Board, and serves at the pleasure of the
22 Board. The Board may revoke actions of the Chief Execu-
23 tive Officer.

1 (2) The Chief Executive Officer shall be a persons
2 who, by reason of professional background and experience,
3 is especially qualified to manage the Corporation.

4 (3) The Chief Executive Officer shall—

5 (A) be responsible for the management and di-
6 rection of the Corporation, and for the exercise of all
7 powers and responsibilities of the Corporation;

8 (B) establish Corporation offices and define
9 their responsibilities and duties, with full authority
10 to reorganize the Corporation as required;

11 (C) before taking office, take an oath to bear
12 full faith and allegiance to the United States and
13 faithfully discharge the duties of the office; and

14 (D) designate an officer of the Corporation who
15 is vested with the authority to act in the capacity of
16 the Chief Executive Officer if the Chief Executive
17 Officer is absent or incapacitated.

18 (4) The Chief Executive Officer shall appoint the
19 other officers and employees of the Corporation. The Chief
20 Executive Officer may delegate to other officers or employ-
21 ees any of the functions of the Corporation. An officer,
22 employee, or agency of the Corporation is subject only to
23 the supervision of the Chief Executive Officer or des-
24 ignated subordinates of the Chief Executive Officer.

1 (b) PAY.—The Chief Executive Officer has exclusive
2 authority, subject to sections 302 and 501 of this Act, to
3 fix the pay of the officers and other employees of the Cor-
4 poration, except that the Board of Directors shall fix the
5 pay of the Chief Executive Officer. However, the President
6 shall fix the pay, at a rate not to exceed level III of the
7 Executive Schedule, of the Chief Executive Officer until
8 the Board is appointed.

9 **SEC. 206. GENERAL AUTHORITY.**

10 Except as otherwise specifically provided in this Act,
11 the Corporation—

12 (1) shall have perpetual succession in its cor-
13 porate name unless dissolved by law;

14 (2) may adopt and use a corporate seal, which
15 shall be judicially noticed;

16 (3) may acquire, purchase, lease, and hold, pos-
17 sess, use, and improve real and personal property,
18 including housing units, patents, trademarks, copy-
19 rights, and proprietary data, it considers necessary
20 in the transaction of its business, and sell, lease,
21 grant, transfer, and dispose of the real and personal
22 property it considers necessary to effectuate the pur-
23 pose of the Corporation;

24 (4) may indemnify members of the board of di-
25 rectors, the Chief Executive Officer, other officers,

1 attorneys, agents, and employees of the Corporation
2 for liabilities and expenses incurred in connection
3 with their corporate activities;

4 (5) may adopt, amend, and repeal Corporation
5 bylaws, orders and regulations governing the manner
6 in which its business may be conducted and the
7 power granted to it by law may be exercised;

8 (6) may enter into the contracts, agreements,
9 or other arrangements, including financial assist-
10 ance, it considers appropriate to conduct its business
11 with any entity, on the terms it considers appro-
12 priate, and may sue and be sued in its corporate
13 name for purposes of this paragraph;

14 (7) notwithstanding any other law, without
15 need for appropriation and without fiscal year limi-
16 tation, may retain and use its revenues and receipts
17 from whatever source, including obligations issued
18 and disposition of real and personal property, and
19 its other assets to carry out its purposes, including
20 research and development and capital investment;

21 (8) shall have the priority of the United States
22 with respect to the payment of debts out of bank-
23 rupt, insolvent, an decedents' estates;

24 (9) may accept gifts or donations of services
25 and property, including real, personal, mixed, tan-

1 gible, or intangible property, except that no gift may
2 be accepted that attaches conditions inconsistent
3 with applicable laws and regulations or is condi-
4 tioned upon or will require the expenditure of appro-
5 priated funds that are not available to the Corpora-
6 tion; provided, that the Corporation shall establish
7 written guidelines setting forth the criteria to be
8 used in determining whether the acceptance of gifts
9 or donations authorized in this subsection would re-
10 flect unfavorably upon the ability of the Corporation
11 or any employee to carry out its responsibilities or
12 official duties in a fair and objective manner, or
13 would compromise the integrity or the appearance of
14 the integrity of its programs or any official involved
15 in those programs;

16 (10) may perform such investigations, including
17 aircraft accident investigations, as it shall deem nec-
18 essary to carry out the provisions of and exercise
19 and perform its powers and duties under this Act,
20 and shall be included as a party in all NTSB acci-
21 dent investigations that involve activities of the Cor-
22 poration;

23 (11) may establish training facilities and con-
24 duct such training as it deems necessary;

1 (12) may use frequency assignments or licenses
2 (obtained from the National Telecommunications
3 and Information Administration by the Federal
4 Aviation Administration) it considers necessary to
5 effectuate the purpose of the Corporation; and

6 (13) shall have such other powers as may be in-
7 cidental, necessary or appropriate to carry out the
8 purposes this Act and of the Corporation.

9 **SEC. 207. AUTHORITY OVER MOVEMENT OF AIRCRAFT FOR**
10 **THE UNITED STATES; RELATED AUTHORITY.**

11 (a) RESPONSIBILITY FOR MOVEMENT OF AIRCRAFT
12 IN UNITED STATES AIRSPACE.—(1) As successor to the
13 Federal Aviation Administration pursuant to this Act, and
14 subject to the requirements of section 44724 of title 49,
15 United States Code (as enacted by section 409 of this Act
16 (Regulation of the United States Air Traffic Control Serv-
17 ice Corporation)), and retention by the United States of
18 exclusive sovereignty over airspace of the United States,
19 the Corporation shall exercise day-to-day operational su-
20 pervision and control over the movement of aircraft on be-
21 half of the United States that was provided by the Federal
22 Aviation Administration prior to the date of transfer.

23 (2) The Corporation shall develop and implement air-
24 space orders, procedures, and other directives with respect
25 to the use of navigable airspace. This authority includes

1 the ability to issue routine airspace actions and airspace
2 assignments and designations in accordance with rules
3 prescribed for the Corporation by the Administrator. Not-
4 withstanding the Corporation's safety functions with re-
5 gard to any orders or directives it may prescribe, respon-
6 sibility for prescribing safety standards and the policies
7 encompassing the safety structure of the National Air-
8 space system remains with the Administrator.

9 (3) The Corporation shall develop and implement air
10 traffic orders, procedures, and other directives governing
11 the flight of aircraft, for the navigation, protection, and
12 identification of aircraft, for the protection of persons and
13 property on the ground, and for the efficient utilization
14 of the navigable airspace, including procedures as to safe
15 altitudes of flight and the prevention of collision, between
16 aircraft and land or water vehicles, and between aircraft
17 and airborne objects.

18 (4) The Corporation is authorized to—

19 (A) acquire, establish, improve, dispose of, and
20 eliminate air navigation facilities wherever necessary;

21 (B) operate and maintain such air-navigation
22 facilities; and

23 (C) provide necessary facilities and personnel
24 for the management and protection of air traffic.

25 The Corporation shall update and arrange for publi-

1 cation of clearly defined routes for navigation
2 through airspace where the Corporation determines
3 that publication of such routes would promote safety
4 in air navigation.

5 (5) To encourage and allow maximum use of the navi-
6 gable airspace by civil aircraft consistent with national se-
7 curity, and subject to appropriate military authority exer-
8 cised pursuant to section 40106 of title 49, United States
9 Code, the Corporation shall recommend for issuance by
10 the Administrator, in consultation with the Secretary of
11 Defense, regulations that establish areas in the airspace
12 the Administrator decides are necessary in the interest of
13 national defense, and to restrict or prohibit flight of civil
14 aircraft that the Corporation cannot identify, locate, and
15 control with available facilities in those areas.

16 (6) The Corporation shall recommend to the Adminis-
17 trator long-range plans and policy for the orderly develop-
18 ment and use of the navigable airspace that will best meet
19 the needs of, and serve the interests of, civil aeronautics
20 and the national defense, except for needs of the armed
21 forces that are peculiar to warfare and primarily of mili-
22 tary concern. In making recommendations, the Corpora-
23 tion shall emphasize—

24 (A) providing the highest degree of safety and
25 efficiency in air commerce;

1 (B) meeting the forecasted needs of civil aero-
2 nautics; and

3 (C) meeting the requirements that the Sec-
4 retary of Defense establishes for the support of the
5 national defense.

6 (7) To implement the authority in this section, the
7 Corporation may undertake reasonable actions, including
8 action to—

9 (A) develop, alter, test, and evaluate systems,
10 procedures, facilities, and devices, and define their
11 performance characteristics, to meet the needs for
12 safe and efficient navigation and traffic control of
13 civil and military aviation, except for needs of the
14 armed forces that are peculiar to warfare and pri-
15 marily of military concern; and

16 (B) select systems, procedures, facilities, and
17 devices that will best serve those needs and promote
18 maximum coordination of air traffic control, air de-
19 fense, and range surveillance systems except for
20 needs of the armed forces that are peculiar to war-
21 fare and primarily of military concern.

22 (8) The Corporation shall establish procedures, be-
23 fore transition, to notify the Administrator and the public
24 when major changes in serve are contemplated.

1 (9) In any case where negotiations with other coun-
2 tries over airspace control and air navigation may be nec-
3 essary or desirable, the Corporation shall be subject to the
4 requirements of section 303 of this Act and shall act
5 through the Federal Aviation Administration, the Depart-
6 ment of Transportation, and the Department of State and,
7 to the degree possible, provide the Administrator with as
8 much notice as possible of requirements in this area.

9 (10) The Corporation shall refer for action by the
10 Federal Aviation Administration, pursuant to chapter 447
11 and chapters 461 through 465 of title 49, United States
12 Code, complaints against any person for violations of
13 rules, regulations, orders, and other directives issued by
14 the Corporation or by the Administrator. The Adminis-
15 trator shall take appropriate action promptly on com-
16 plaints forwarded by the Corporation, consistent with pro-
17 cedural requirements of the Administration for enforce-
18 ment of its rules, regulations, orders, and other directives.
19 The Corporation shall provide necessary assistance in any
20 enforcement action taken under this subsection. Nothing
21 in this paragraph limits or changes the current power of
22 the Administrator to take action under his or her own au-
23 thority.

24 (b) AVIATION RESEARCH AND DEVELOPMENT.—The
25 Corporation is authorized to undertake research and devel-

1 opment projects as it deems necessary to carry out the
2 purposes of this Act.

3 (c) METEOROLOGICAL SERVICES; AERONAUTICAL
4 CHARTS.—The Corporation shall be responsible for the
5 dissemination of available aviation-related meteorological
6 information to its air traffic services users in accordance
7 with published air traffic procedures.

8 (d) NON-FEDERAL FACILITIES.—The Corporation is
9 authorized to operate, contract for, maintain, and certify
10 non-federal systems and equipment used to support air
11 traffic control and air navigation.

12 **SEC. 208. AUTHORITY TO INCUR INDEBTEDNESS.**

13 (a) GENERAL AUTHORITY.—Subject to the authority
14 of the Secretary of Transportation pursuant to section
15 203(g) of this Act to disapprove the issuance of indebted-
16 ness by the Corporation, the Corporation may issue such
17 notes or other obligations as the Corporation determines
18 necessary to carry out the purposes of this subtitle, either
19 to the Secretary of the Treasury pursuant to subsection
20 (b) of this section or to private entities pursuant to sub-
21 section (c) of this section. The aggregate amount of any
22 such obligations outstanding at any one time shall not ex-
23 ceed \$15,000,000,000.

24 (b) TREASURY BORROWING.—The Corporation may
25 issue to the Secretary of the Treasury notes or other obli-

1 gations in such forms and denominations, bearing such
2 maturities, and subject to such terms and conditions, as
3 may be prescribed by the Secretary of the Treasury. Such
4 notes shall bear interest at a rate determined by the Sec-
5 retary of the Treasury, taking into consideration current
6 market yields on outstanding marketable obligations of the
7 United States of comparable maturities. The Secretary of
8 the Treasury shall purchase any notes or other obligations
9 issued hereunder, and for that purpose the Secretary is
10 authorized to use as a public debt transaction the proceeds
11 from the sale of any securities issued under chapter 31
12 of title 31, United States Code, and the purposes for which
13 securities may be issued under that Act are extended to
14 include any purchase of such notes or obligations acquired
15 by him or her under this subsection. The Secretary of the
16 Treasury may at any time sell any notes or other obliga-
17 tions acquired by him or her under this subsection.

18 (c) MARKET BORROWING.—(1) If the Corporation
19 demonstrates to the satisfaction of the Secretary of Treas-
20 ury that borrowing from the private markets would be
21 cost-effective, the Corporation is authorized to issue notes
22 and other obligations to private entities consistent with
23 this subsection.

24 (2) The Corporation may pledge its assets and pledge
25 and use its revenues and receipts for the payment of the

1 principal or interest on its obligations, for the purchase
2 or redemption thereof, and for other purposes incidental
3 thereto, including creation of reserve, sinking, and other
4 funds which may be similarly pledged and used, to such
5 extent and in such manner as the board deems necessary
6 or desirable. The Corporation is authorized to enter into
7 binding covenants with the holders of such obligations,
8 and with the trustee, if any, under any agreement entered
9 into in accordance with the issuance thereof with respect
10 to the establishment of reserve, sinking, and other funds,
11 application and use of revenues and receipts of the Cor-
12 poration, stipulations concerning the subsequent issuance
13 of obligations or the execution of leases or lease/purchases
14 relating to properties of the Corporation and such other
15 matters as the board deems necessary or desirable to en-
16 hance the marketability of such obligations. However, the
17 Corporation may not enter into covenants that have the
18 effect of conflicting with any requirement of this Act, as
19 determined by the Secretary of Transportation in approv-
20 ing the issuance of indebtedness pursuant to subsection
21 203(g) of this Act.

22 (3) Obligations issued by the Corporation under this
23 subsection shall be subject to such terms and conditions
24 as the board determines.

1 (4) Obligations issued by the Corporation under this
2 subsection shall—

3 (A) be negotiable or nonnegotiable and bearer
4 or registered instruments, as specified therein and in
5 any indenture or covenant relating thereto;

6 (B) contain a recital that they are issued under
7 this section, and such recital shall be conclusive evi-
8 dence of the regularity of the issuance of sale of
9 such obligations and of their validity; and

10 (C) be treated as an obligation or security of
11 the United States for purposes of the counterfeiting
12 and forgery provisions of title 18, United States
13 Code.

14 (b) TAXATION OF CORPORATION INDEBTEDNESS.—
15 The indebtedness of the Corporation, in whatever form,
16 shall be exempt both as to principal and interest from all
17 taxation now or hereafter imposed by a State or local tax-
18 ing authority except estate, inheritance, and gift taxes.

19 **SEC. 209. FEES AND OTHER CHARGES FOR SERVICES.**

20 (a) FEES AND OTHER CHARGES FOR SERVICES.—
21 The Corporation is authorized to and shall impose fees
22 or other charges for service that are consistent with the
23 requirements of this section. The imposition and subse-
24 quent modification of fees or other charges shall be carried
25 out by means that provide the opportunity for public com-

1 ment in writing, and for access by the public to all com-
2 ments filed in a particular action on fees or other charges.
3 Fees and charges by the Corporation may not become ef-
4 fective prior to January 1, 1997.

5 (b) POLICY FOR IMPOSITION OF FEES, CHARGES AND
6 PRACTICES.—The fees, charges and related practices of
7 the Corporation shall conform to the following policies:

8 (1) Fees, charges and practices shall not unrea-
9 sonably restrain competition by, for example, being
10 unfair, unreasonable, unjustly discriminatory among
11 current or potential users of the air traffic system,
12 or unreasonably disadvantaging new entrants.

13 (2) Fees and charges shall be consistent with
14 all obligations of the United States Government
15 under an international agreement.

16 (3) Fees and charges shall be maintained at a
17 level sufficient to assure the satisfaction of all obli-
18 gations incurred by the Corporation, including those
19 that are held by the United States.

20 (c) PAYMENT TO CORPORATION.—Fees and other
21 charges for services under this Act shall be paid directly
22 to the Corporation or its agent. The Corporation is au-
23 thorized to levy fines, interest, and penalties for late pay-
24 ment or nonpayment of fees and other charges imposed
25 under this Act.

1 (d) COST ALLOCATION STUDY.—(1) The Corporation
2 shall, as soon as practical after the date of transfer, under-
3 take a study of the allocation of all Corporation costs to
4 identifiable, discrete—

5 (A) air-traffic-service categories, distinguishing
6 at a minimum among domestic operations, foreign
7 air transportation operations to and from the United
8 States, and overflights of the United States; and

9 (B) user categories, including commercial avia-
10 tion, general aviation, and public-use aviation.

11 (2) The Corporation shall complete the cost allocation
12 study not later than 18 months after the date of transfer.
13 The study shall consider all costs incurred by the Corpora-
14 tion, and all costs incurred by the Department of Defense
15 to produce air traffic control services for civil aviation.
16 The study shall be consistent with generally accepted ac-
17 counting principles for commercial, not-for-profit entities.

18 (e) PUBLIC AIRCRAFT.—The Corporation shall not
19 impose fees or other charges for air traffic services pro-
20 vided to public aircraft, as defined in subtitle VII of title
21 49, United States Code.

22 (f) MILITARY AIRCRAFT.—The Corporation shall not
23 impose fees or other charges for air traffic services pro-
24 vided to United States military aircraft (Department of

1 Defense, Air National Guard and reserve components,
2 Coast Guard).

3 (g) GENERAL AVIATION AIRCRAFT.—The Corpora-
4 tion shall not impose fees or other charges for air traffic
5 services provided to aircraft that are not used in the busi-
6 ness of providing transportation of persons or property for
7 compensation or hire by air.

8 (h) FOREIGN AIR TRANSPORTATION.—The Corpora-
9 tion's authority to impose fees or other charges under this
10 section includes the authority to impose fees or other
11 charges for transportation of persons or property in for-
12 eign air transportation, as well as for services in the case
13 of overflights of United States airspace.

14 (i) REVIEW OF USER FEES.—(1) The actions of the
15 Corporation in exercising the authority of this section are
16 subject to review solely pursuant to the provisions of this
17 subsection.

18 (2) A user may file a complaint alleging that a fee,
19 charge or practice violates paragraph 209(b)(1) of this
20 section with the Department of Justice and seeking review
21 of any such fee, charge or practice. The Department of
22 Justice shall review each complaint and, if the Attorney
23 General concludes that as a result of such fee, charge or
24 practice, competition is likely to be unreasonably re-
25 strained, the Attorney General shall forward the complaint

1 to the Secretary of Transportation for review and action.
2 Upon review of the complaint and in consultation with the
3 Attorney General, the Secretary of Transportation may
4 disapprove a fee, charge, or practice that violates the pro-
5 visions of paragraph 209(b)(1) of this section or issue
6 such other order as will remedy that violation.

7 (3) Complaints alleging that a new fee or charge vio-
8 lates paragraph 209(b)(2) of this section may be filed with
9 the Department of Transportation, seeking review of any
10 such new fee or charge within 60 days after the user re-
11 ceives written notice of a change to the fee or charge.
12 Upon review of the complaint, the Secretary of Transpor-
13 tation may disapprove any fee or charge that violates the
14 provisions of paragraph 209(b)(2) of this section or issue
15 such other order as will remedy that violation.

16 (4) Not later than 180 days after the date of enact-
17 ment of this section, the Department of Transportation
18 shall establish such procedures, guidelines or other meas-
19 ures as may be necessary to carry out its responsibilities
20 under this section.

21 (j) TRANSITIONAL USER FEES.—(1) During the 2-
22 year period following the date of transfer, and subject to
23 the separate limitation specified in paragraph (3) of this
24 subsection, the total amount of fees or other charges im-
25 posed in any period of time on an entity in the business

1 of providing transportation to persons for compensation
2 or hire by air shall not exceed an amount that is 8.5 per-
3 cent of the total amount paid for such transportation dur-
4 ing that period of time.

5 (2) During the 2-year period following the date of
6 transfer, and subject to the separate limitation specified
7 in paragraph (3) of this subsection, the total amount of
8 fees or other charges imposed in any period of time on
9 an entity in the business of providing transportation of
10 property for compensation or hire by air shall not exceed
11 an amount that is 5.3 percent of the total amount paid
12 for such transportation during that period of time.

13 (3) During the 2-year period following the date of
14 transfer, the Corporation shall not impose fees or other
15 charges for air traffic services provided to a person travel-
16 ing in foreign air transportation that exceed the amount
17 of \$5.10 per enplaned passenger departing the United
18 States. The Corporation may impose fees or charges dur-
19 ing the 2-year period for services in the case of overflights
20 of United States airspace, consistent with the require-
21 ments of this section.

22 **SEC. 210. LIMITATION ON STATE AND LOCAL TAXATION.**

23 (a) IN GENERAL.—The Corporation, its activities,
24 and facilities shall be exempt from all taxation now or
25 hereafter imposed by a State or local taxing authority, ex-

cept the Corporation is not exempt from taxation that supports direct coverage or services provided to the Corporation, including unemployment compensation coverage and sewer and water services.

(b) DEBT OF THE CORPORATION.—The status, for purposes of taxation, of debt issued by the Corporation is set forth in section 208 of this Act.

(c) TAX LAWS APPLICABLE TO EMPLOYEES.—Nothing in this Act relieves the employees of the Corporation from the tax laws of the United States, the several States, and political subdivisions of the several States.

SEC. 211. PREEMPTION OF AUTHORITY OVER AIR TRAFFIC SERVICES.

(a) DEFINITION.—In this section, “State” means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to air traffic services authorized to be provided by the Corporation pursuant to the authority of this Act.

(2) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2

1 States that owns or operates an airport served by an air
2 carrier holding a certificate issued by the Secretary of
3 Transportation from carrying out its proprietary powers
4 and rights.

5 **SEC. 212. SUITS BY AND AGAINST THE CORPORATION.**

6 (a) JURISDICTION FOR LEGAL ACTIONS GEN-
7 ERALLY.—The United States district courts shall have
8 original jurisdiction over all actions brought by or against
9 the Corporation, except as otherwise provided in this Act.
10 Any action brought in a State court to which the Corpora-
11 tion is a party shall be removed to the appropriate United
12 States district court under the provisions of chapter 89
13 of title 28, United States Code.

14 (b) JURISDICTION FOR REVIEW OF CORPORATION
15 ORDERS AND PROCEDURES.—Notwithstanding the re-
16 quirements of subsection (a) of this section, the United
17 States Court of Appeals for the District of Columbia Cir-
18 cuit, and alternatively the Court of Appeals of the United
19 States for the circuit in which the person seeking judicial
20 review resides or has its principal place of business, have
21 exclusive jurisdiction over petitions challenging final or-
22 ders or procedures issued by the Corporation with respect
23 to its air traffic control duties and powers designated to
24 be carried out under this Act. The petition must be filed
25 not later than 60 days after the order is issued. When

1 such a petition is filed, the clerk of the Court shall imme-
2 diately send a copy of the petition to the Chief Executive
3 Officer of the Corporation. A decision by a court under
4 this section may be reviewed only by the Supreme Court
5 of the United States.

6 (c) JURISDICTION FOR REVIEW OF TAKING AND IN-
7 FRINGEMENT CLAIMS.—(1) Any action for a taking of real
8 property founded upon the Constitution or any Act of
9 Congress or any regulation of an executive department
10 shall be brought against the United States in the Court
11 of Federal Claims pursuant to section 1491(a)(1) of title
12 28, United States Code.

13 (2) Any action founded upon the infringement of any
14 patent, copyright, certificate of plant variety protection,
15 or exclusive right in a mask work shall be brought against
16 the United States in the Court of Federal Claims pursuant
17 to section 1498 of title 28, United States Code.

18 (d) FEDERAL TORT CLAIMS ACT; APPLICABILITY OF
19 TITLE 28 U.S.C.—(1) The provisions of chapter 171 and
20 all other provisions of title 28, United States Code, relat-
21 ing to tort claims shall apply to tort claims arising out
22 of activities of the Corporation.

23 (2) Unless otherwise provided in this Act, the provi-
24 sions of title 28 relating to service of process, venue, and
25 limitations of time for bringing action in suits in which

1 the United States, its officers, or employees are parties,
2 and the rules of procedure adopted under title 28 for suits
3 in which the United States, its officers, or employees are
4 parties, shall apply in like manner to suits in which the
5 Corporation, its officers, or employees are parties.

6 (e) CONDUCT OF LITIGATION.—The Department of
7 Justice shall furnish the Corporation legal representation
8 but, with the prior consent of the Attorney General, the
9 Corporation may employ attorneys by contract or other-
10 wise to conduct litigation brought by or against the Cor-
11 poration or its officers or employees in matters affecting
12 the Corporation.

13 (f) THE JUDGMENT FUND.—The Judgment Fund of
14 the United States shall not be available for the satisfaction
15 of any claims against the Corporation.

16 (g) TESTIMONY OF CORPORATION EMPLOYEES.—Ex-
17 cept with the consent of the chief legal officer of the Cor-
18 poration, employees of the Corporation may not be called
19 to or provide expert testimony in civil litigation, regardless
20 of whether the Corporation, the United States, or any of
21 its agencies is a party to such litigation. The Corporation
22 is authorized to prescribe the circumstances, if any, under
23 which employees may provide opinion or expert testimony.

1 **SEC. 213. ACQUIRING INTEREST IN PROPERTY BY EMINENT**
2 **DOMAIN.**

3 (a) **GENERAL AUTHORITY.**—(1) To the extent finan-
4 cial resources are available, the Corporation may acquire
5 by eminent domain under subsection (b) of this section
6 interests in property necessary for operational control of
7 the airspace, including airways, air traffic services, and
8 navigation aids.

9 (2) The Corporation may exercise the power of emi-
10 nent domain only if it cannot—

11 (A) acquire the interest in the property by con-
12 tract; or

13 (B) agree with the owner on the purchase price
14 for the interest.

15 (b) **CIVIL ACTIONS.**—(1) A civil action to acquire an
16 interest in property by eminent domain under subsection
17 (a) of this section must be brought in the district court
18 of the United States for the judicial district in which the
19 property is located or, if a single piece of property is lo-
20 cated in more than one judicial district, in any judicial
21 district in which any piece of the property is located. An
22 interest is condemned and taken by the Corporation for
23 its use when a declaration of taking is filed under this
24 subsection and an amount of money estimated in the dec-
25 laration to be just compensation for the interest is depos-
26 ited in the court. The declaration may be filed with the

1 complaint in the action or at any time before judgment.

2 The declaration must contain or be accompanied by—

3 (A) a statement of the public use for which the
4 interest is taken;

5 (B) a description of the property sufficient to
6 identify it;

7 (C) a statement of the interest in the property
8 taken;

9 (D) a plan showing the interest taken; and

10 (E) a statement of the amount of money the
11 Corporation estimates is just compensation for the
12 interest.

13 (2) When the declaration is filed and the deposit is
14 made under paragraph (1) of this subsection, title to the
15 property vests in the United States; on behalf of the Cor-
16 poration, in fee simple absolute or in the lesser interest
17 shown in the declaration, and the right to the money vests
18 in the person entitled to the money. When the declaration
19 is filed, the court may decide—

20 (A) the time by which, and the terms under
21 which, possession of the property is given to the Cor-
22 poration; and

23 (B) the disposition of outstanding charges relat-
24 ed to the property.

1 (3) After a hearing, the court shall make a finding
2 on the amount that is just compensation for the interest
3 in the property and enter judgment awarding that amount
4 and interest on it. The rate of interest shall be equivalent
5 to current market yields on one-year obligations of the
6 United States and is computed on the amount of award
7 less the amount deposited in the court from the date of
8 taking to the date of payment.

9 (4) On application of a party, the court may order
10 immediate payment of any part of the amount deposited
11 in the court for the compensation to be awarded. If the
12 award is more than the amount received, the court shall
13 enter judgment against the Corporation for the deficiency.

14 **SEC. 214. RELATIONSHIPS WITH FEDERAL AGENCIES.**

15 (a) DEPARTMENT OF DEFENSE.—(1) In exercising
16 and performing its powers and duties under this Act, the
17 Corporation shall maintain national defense responsibil-
18 ities exercised by the Federal Aviation Administration as
19 of the date of transfer, including air defense and defense
20 readiness support.

21 (2) The Department of Defense (DOD) and the Cor-
22 poration shall continue to share current logistics and com-
23 mand and control systems and shall agree jointly on
24 changes to existing agreements or systems, including
25 changes to current agreements on flight inspections and

1 similar services. The DOD, the Administration, and the
2 Corporation shall establish processes at the local, regional
3 and national levels to establish policy and implementing
4 procedures and to approve jointly exemptions for unique
5 military missions.

6 (3) The Corporation and DOD shall develop proc-
7 esses for the assignment of military personnel within the
8 Corporation to ensure national defense interests are safe-
9 guarded and to improve understanding and cooperation
10 between the organizations.

11 (4) The DOD shall have the same exemptions from
12 acquisition laws as the Corporation when engaged in joint
13 actions to improve or replenish the national air traffic con-
14 trol system. The Corporation retains the ability to acquire
15 real property, goods and services through DOD, or other
16 appropriate agencies, but will be bound by the acquisition
17 laws and regulations governing those cases.

18 (b) NATIONAL TELECOMMUNICATIONS AND INFOR-
19 MATION ADMINISTRATION.—The Corporation shall obtain
20 needed frequency assignments or licenses for its oper-
21 ations from the Federal Aviation Administration, which
22 retains its role as the responsible agency for representing
23 the interests of the aeronautical services before national
24 and international spectrum authorities on all national and
25 international spectrum policy and management issues in-

1 involving the United States. Each assignment or license
2 made available to the Corporation shall remain in effect
3 for the life of the facility unless the National Tele-
4 communications and Information Administration with-
5 draws the spectrum from Federal Aviation Administra-
6 tion. In such cases, the Corporation shall be given ade-
7 quate notification.

8 (c) RELATIONSHIP WITH FEDERAL LAW ENFORCE-
9 MENT AGENCIES CONCERNING CONTROLLED SUBSTANCE
10 TRACKING.—In order to assist in controlling the illegal
11 transportation of controlled substances by aircraft in
12 United States airspace, the Corporation shall offer to Fed-
13 eral law enforcement agencies, without cost and in a time-
14 ly manner, all appropriate flightplan and tracking data re-
15 lated to such transportation. In this subsection, “con-
16 trolled substance” has the meaning provided under section
17 102 of the Comprehensive Drug Abuse Prevention and
18 Control Act of 1970 (21 U.S.C. 802).

19 (d) NATIONAL WEATHER SERVICE.—As successor to
20 the Federal Aviation Administration pursuant to this Act,
21 the Corporation shall exercise all functions performed by
22 the Federal Aviation Administration under agreements
23 with the National Weather Service concerning the collec-
24 tion or dissemination of weather conditions, forecasts,

1 warnings, and reports to persons engaged in civil aero-
2 nautics.

3 **TITLE III—PERMANENT FEDERAL**
4 **REQUIREMENTS**

5 **SEC. 301. CORPORATION SUBJECT TO DIRECT FEDERAL**
6 **CONTROL IN TIME OF WAR OR NATIONAL**
7 **EMERGENCY.**

8 In the event of war or a national emergency declared
9 by the President or Congress, the President may by Exec-
10 utive order transfer to the Department of Defense any
11 functions (including powers, duties, activities, facilities,
12 and parts of functions) of the Corporation and, in connec-
13 tion with the transfer, the President may provide for ap-
14 propriate transfers of records, property, and personnel.
15 The Chief Executive Officer, in consultation with the Ad-
16 ministrator and the Department of Defense, shall develop
17 plans for the effective discharge of the responsibilities of
18 the Corporation in the event of war or national emergency.
19 The Corporation shall also comply with those provisions
20 of Executive Order 11161, or a successor authority, that
21 governed the activities of the Federal Aviation Administra-
22 tion to which the Corporation succeeded pursuant to this
23 Act.

1 **SEC. 302. COLLECTIVE BARGAINING.**

2 (a) IN GENERAL.—Employees of the Corporation
3 shall have the right to form, join, or assist labor organiza-
4 tions, and to bargain collectively through representatives
5 of their own choosing. The Corporation, within three years
6 of the date of transfer, shall establish bargaining agree-
7 ments with recognized exclusive bargaining representa-
8 tives of the Corporation’s employees, consistent with the
9 provisions of this section. In the event agreements have
10 not been reached within that period, the Corporation or
11 the exclusive bargaining representatives may refer the un-
12 resolved matters to the Federal Mediation and Concilia-
13 tion Service under subsection (c) of this section.

14 (b) LIMITED APPLICABILITY OF THE NATIONAL
15 LABOR RELATIONS ACT.—The provisions of subchapter II
16 of chapter 7 (title 29, United States Code) of the National
17 Labor Relations Act shall govern—

- 18 (1) the rights of Corporation employees to orga-
19 nize and to be represented by labor organizations;
20 (2) the recognition of labor organizations, in-
21 cluding representational elections; and
22 (3) representation rights and duties.

23 (c) MEDIATION.—Upon the request of either party or
24 on its own motion, the Federal Mediation and Conciliation
25 Service may offer mediation assistance to labor organiza-
26 tions representing Corporation employees and the Cor-

1 poration prior to their submission of a negotiation impasse
2 before the Labor Resolution Board under subsection (d).

3 (d) LABOR RESOLUTION BOARD.—A Labor Resolu-
4 tion Board shall be established for the binding resolution
5 of bargaining impasses, in the event mediation is unsuc-
6 cessful. The Labor Resolution Board shall consist of three
7 neutral members who are not employees of the Corpora-
8 tion. One member shall be designated by the Corporation
9 and one member shall be designated by the recognized ex-
10 clusive bargaining representatives of the Corporation's
11 employees. The third member, chosen from recommenda-
12 tions made by both the Corporation and the recognized
13 exclusive bargaining representatives of the Corporation's
14 employees, shall be designated by the Director of the Fed-
15 eral Mediation and Conciliation Service. Each member of
16 the Board shall receive such compensation from the Cor-
17 poration as the Corporation may fix, together with nec-
18 essary traveling and subsistence expenses while serving as
19 a member.

20 (e) PROHIBITION ON STRIKES, WORK STOPPAGES,
21 AND SLOWDOWNS.—An individual may not accept or hold
22 a position with the Corporation if such person participates
23 in a strike, work stoppage, or slowdown against the Cor-
24 poration. Any labor organization representing Corporation
25 employees is prohibited from calling or participating in a

1 strike, work stoppage, or slowdown, or condoning any such
2 actions by failing to take immediate action to prevent or
3 stop such activity.

4 (f) LABOR MANAGEMENT REPORTING AND DISCLO-
5 SURE ACT.—The provisions of chapter 11 of title 29,
6 United States Code, apply to labor organizations that have
7 or are seeking to attain recognition under the authority
8 of this section, and to the organizations' officers, agents,
9 shop stewards, other representatives, and members to the
10 extent to which the provisions would be applicable if the
11 Corporation were an employer under section 402 of title
12 29.

13 **SEC. 303. INTERNATIONAL AGREEMENTS AND ACTIVITIES.**

14 (a) CONSISTENCY WITH INTERNATIONAL OBLIGA-
15 TIONS AND LAWS OF OTHER COUNTRIES.—In exercising
16 and performing its powers and duties under this Act, the
17 Corporation shall do so consistently with any obligation
18 assumed by the United States in any treaty, convention,
19 or agreement that may be in force between the United
20 States and any foreign country or foreign countries or be-
21 tween the United States and an international organiza-
22 tion, and shall take into consideration any applicable laws
23 and requirements of foreign countries.

24 (b) INTERNATIONAL ACTIVITIES.—Subject to the
25 concurrence of the Secretaries of State and Transpor-

1 tation, and provided that the Corporation first determines
2 that activities under this section promote aviation safety
3 or United States aviation interests, the Corporation shall,
4 to the extent possible—

5 (1) enter into cooperative relationships with for-
6 eign entities to conduct, encourage, and promote the
7 development, modification, testing, evaluation, and
8 provision of systems, procedures, facilities, and de-
9 vices necessary to meet the needs for safe and effi-
10 cient air navigation and air traffic control of civil
11 aviation;

12 (2) train foreign nationals directly, or in con-
13 junction with any other United States Government
14 agency, or through any United States public or pri-
15 vate agency (including any State or municipal edu-
16 cational institution), or through any international
17 organization, in aeronautical and related subjects es-
18 sential to the orderly and safe operation of civil air-
19 craft; and

20 (3) provide operational and technical services to
21 foreign aviation authorities.

22 (c) REIMBURSEMENT FOR ACTIVITIES.—The Cor-
23 poration may accept reimbursement for the full cost of
24 providing any training, operational, or technical services
25 performed under this section from the foreign entity re-

1 ceiving such services or from an international organization
2 on behalf of the foreign entity.

3 **TITLE IV—AMENDMENTS TO FEDERAL**
4 **AVIATION LAWS**

5 **SEC. 401. ACCESS TO THE AIR TRAFFIC SYSTEM.**

6 Section 40101(c) of title 49, United States Code, is
7 amended—

8 (1) by inserting “, including regulation of the
9 Corporation,” after “of this part”; and

10 (2) by striking all after “shall consider” and in-
11 serting the following: “the requirements of national
12 defense and commercial and general aviation, and
13 the public right of freedom of transit through the
14 navigable airspace. For purposes of this subsection,
15 the public right of freedom of transit through the
16 navigable airspace includes reasonable access to air-
17 ports, airways, and airway facilities without regard
18 to category and class of aircraft.”.

19 **SEC. 402. DEFINITIONS.**

20 Section 40102(a) of title 49, United States Code, is
21 amended as follows:

22 (1) In paragraph (4), by inserting “, including
23 any facility that is owned, leased, operated or main-
24 tained by the Corporation,” before “used”;

1 (2) by redesignating paragraphs (12) through
2 (37) as paragraphs (13) through (38), respectively,
3 and by inserting after paragraph (11) the following:

4 “(12) ‘Corporation’ means the United States
5 Air Traffic Service Corporation created by the
6 ‘United States Air Traffic Service Corporation
7 Act’.”; and

8 (3) by redesignating paragraphs (38) through
9 (41) as paragraphs (40) through (43), respectively,
10 and by adding after newly redesignated paragraph
11 (38) the following:

12 “(39) ‘routine airspace action’ means any regu-
13 latory or non-regulatory action that assigns the use
14 of class D, E, or G airspace or involves Federal air-
15 ways and reporting points, as these terms are de-
16 fined in the Federal Aviation Regulations.”.

17 **SEC. 403. AIRSPACE CONTROL AND AIR TRAFFIC RULES.**

18 Section 40103(b) of title 49, United States Code, is
19 amended by striking the subsection heading and para-
20 graphs (1) and (2) and inserting the following:

21 “(b) USE OF AIRSPACE.—(1) The Administrator of
22 the Federal Aviation Administration shall develop safety
23 standards and policy for the use of the navigable airspace
24 and assign by regulation or order the safety structure for
25 use of airspace necessary to ensure the safety of aircraft.

1 Prior to the date of transfer established pursuant to the
2 United States Air Traffic Service Corporation Act, the Ad-
3 ministrator shall assign by regulation or order the use of
4 the airspace necessary to ensure the safety of aircraft and
5 the efficient use of airspace. Effective on the date of trans-
6 fer established pursuant to the United States Air Traffic
7 Service Corporation Act and thereafter, the Administrator
8 shall oversee the assignment by the Corporation of the use
9 of the airspace, within the parameters set by Administra-
10 tion regulations, orders, and directives, necessary to en-
11 sure the efficient use of airspace with no derogation in
12 safety. The Administrator may modify or revoke an as-
13 signment of the Corporation when required in the public
14 interest.

15 “(2)(A) Prior to the date of transfer established pur-
16 suant to the United States Air Traffic Service Corporation
17 Act, the Administrator shall prescribe air traffic regula-
18 tions on the flight of aircraft (including regulations on
19 safe altitudes) for navigating, protecting, and identifying
20 aircraft; protecting individuals and property on the
21 ground; using the navigable airspace efficiently; and pre-
22 venting collision between aircraft, between aircraft and
23 land or water vehicles, and between aircraft and airborne
24 objects.

1 “(B) Effective on the date of transfer established
2 pursuant to the United States Air Traffic Service Cor-
3 poration Act and thereafter, the Administrator shall set
4 safety parameters for and regulate the Corporation, and
5 have safety oversight of the Corporation’s prescription of
6 air traffic orders, procedures or other directives on the
7 flight of aircraft (including procedures on safe altitudes)
8 for navigating, protecting, and identifying aircraft; pro-
9 tecting individuals and property on the ground; using the
10 navigable airspace efficiently, preventing collision between
11 aircraft and land or water vehicles, and between aircraft
12 and airborne objects.

13 **SEC. 404. EMERGENCY POWERS.**

14 Section 40106 of title 49, United States Code, is
15 amended—

16 (1) In subsection (a), by inserting “or by the
17 Corporation” following “section 40103(b) (1) and
18 (2) of this title”;

19 (2) In subsection (a)(1), by inserting “and the
20 Corporation” after “Administration”; and

21 (3) In subsection (a)(2), by inserting “and the
22 Corporation” after “Administrator”.

23 **SEC. 405. PRESIDENTIAL TRANSFERS IN TIME OF WAR.**

24 Section 40107(b) of title 49, United States Code, is
25 amended to read as follows:

1 “(b) DURING WAR.—If war occurs, the President by
2 Executive order may transfer to the Secretary of Defense
3 a duty, power, activity, or facility of the Administrator or
4 the Corporation. In making the transfer, the President
5 may transfer records, property, officers, and employees of
6 the Administration or the Corporation to the Department
7 of Defense. The Corporation shall develop, in consultation
8 with the Administrator and the Department of Defense
9 and other affected Government agencies, plans for the ef-
10 fective discharge of the responsibilities of the Administra-
11 tion and the Corporation in the event of war.”.

12 **SEC. 406. PREEMPTION OF PRICES, ROUTES AND SERVICE**
13 **REGULATION.**

14 Section 41713(b)(1) of title 49, United States Code,
15 is amended by adding the following new sentence at the
16 end thereof: “The Corporation is also prohibited from un-
17 dertaking actions that would have the same effects as the
18 actions specified in this paragraph.”.

19 **SEC. 407. AIRWAY CAPITAL INVESTMENT PLAN; RESEARCH**
20 **AND DEVELOPMENT PLANNING.**

21 Section 44501 of title 49, United States Code, is
22 amended as follows:

23 (1) In subsection (b), insert at the end of the
24 first sentence “that does not follow the date of

1 transfer established under the United States Air
2 Traffic Service Corporation Act”.

3 (2) In subsection (c)(1), insert at the end the
4 following sentence: “In carrying out their respective
5 duties and responsibilities under this chapter and
6 under subtitle XI of this title, the Administrator and
7 the Corporation shall consult and cooperate concern-
8 ing research and development activities related to
9 the use of navigable airspace, air traffic control, and
10 air navigation, in order to avoid unnecessary dupli-
11 cation of their research and development efforts.”.

12 **SEC. 408. AVIATION FACILITIES.**

13 Sections 44502(a)(1) and 44502(f) of title 49, United
14 States Code, are amended by inserting “Prior to the date
15 of transfer established under the United States Air Traffic
16 Service Corporation Act,” at the beginning of each para-
17 graph.

18 **SEC. 409. REGULATION OF THE UNITED STATES AIR TRAF-**
19 **FIC SERVICE CORPORATION.**

20 Title 49, United States Code, is amended by inserting
21 after section 44723 the following:

22 **“§ 44724. Oversight of the United States Air Traffic**
23 **Service Corporation**

24 **“(a) OVERSIGHT OF THE UNITED STATES AIR TRAF-**
25 **FIC SERVICE CORPORATION.—**The Administrator of the

1 Federal Aviation Administration is authorized and di-
2 rected to prescribe by regulation or otherwise, minimum
3 standards and necessary requirements to assure the high-
4 est level of aviation safety in the public interest, and to
5 insure that national defense needs are met, in actions
6 taken by the Corporation. The Administration shall con-
7 tinue to prescribe long-range policy and planning and set
8 safety standards that regulate the Corporation. The Cor-
9 poration shall act within the parameters of the regulations
10 prescribed by the Federal Aviation Administration and the
11 authority of this Act to meet its mission to control air
12 traffic in a safe and efficient manner.

13 “(b) COORDINATION.—To the greatest extent pos-
14 sible, the Administrator shall encourage cooperation and
15 coordination between the Administration and the Corpora-
16 tion. The Administrator shall take appropriate action
17 promptly on recommendations made by the Corporation.

18 “(c) ADMINISTRATOR ACTION.—The Administrator,
19 pursuant to authorities under this subtitle, may direct the
20 Corporation to cease any action that the Administrator de-
21 termines may compromise aviation safety or security or
22 the national defense, or to undertake any action to assure
23 aviation safety or security or the national defense. Where
24 the Corporation has authority to prescribe orders, direc-
25 tives, actions, or assignments, the Administrator may di-

1 rect the Corporation to withdraw or revise an order, proce-
2 dure, directive, action, or assignment for reasons of safety,
3 security or the national defense. The Administrator may
4 only modify or revoke an action of the Corporation when
5 required by the safety, security, or national defense inter-
6 est or interest of the public. The Administrator's authority
7 under this subsection shall not be delegated.

8 “(d) ENFORCEMENT OF CORPORATION RULES, REG-
9 ULATIONS, ORDERS AND OTHER DIRECTIVES.—The Cor-
10 poration shall refer for action by the Administration, pur-
11 suant to subpart IV of this part, complaints against any
12 person for violations of orders, procedures, and other di-
13 rectives issued by the Corporation or by the Administra-
14 tion pursuant to the authority of this chapter. The Admin-
15 istrator shall take appropriate action promptly on com-
16 plaints referred by the Corporation. The Corporation shall
17 provide necessary assistance in any enforcement action
18 taken under this subsection. This subsection shall not be
19 construed to limit the authority of the Administrator to
20 undertake enforcement actions under this part upon the
21 Administrator's initiative.”.

1 **TITLE V—OTHER APPLICABLE STATUTES**

2 **SEC. 501. EMPLOYEE MANAGEMENT AND EXEMPTIONS**

3 **FROM TITLE 5, UNITED STATES CODE.**

4 (a) **ESTABLISHMENT OF EMPLOYEE MANAGEMENT**
5 **SYSTEM.**—The Corporation shall establish a comprehen-
6 sive system for the management, compensation, and ad-
7 vancement of Corporation employees that best serves the
8 needs of airspace management in the United States.

9 (b) **EXCLUSIVE AUTHORITY TO SET EMPLOYMENT**
10 **LEVELS AND PAY.**—The Chief Executive Officer has the
11 exclusive authority, subject to the provisions of this section
12 and section 302, to fix total compensation, including in-
13 centives and benefits, for all employees of the Corporation
14 other than the Chief Executive Officer. The Chief Execu-
15 tive Officer shall determine the appropriate level of staff-
16 ing and appoint such numbers of officers and employees
17 as needed to conduct the business of the corporation with-
18 out regard to limits imposed by Federal bodies. The Chief
19 Executive Officer has the exclusive authority to take all
20 personnel actions, including but not limited to, appoint-
21 ments, assignments, reassignments, promotions, demo-
22 tions, and terminations. Personnel actions shall be consist-
23 ent with the principles of fairness and due process. The
24 Corporation shall fulfill the obligations of statutes govern-
25 ing use of military personnel to ensure the corporation is

1 properly advised on requirements of the armed forces and
2 that national defense interests are safeguarded properly.
3 The Corporation is authorized to conduct background in-
4 vestigations, including accessing records of the Federal
5 Bureau of Investigation and other law enforcement agen-
6 cies, to determine suitability for employment. Executive
7 Order 10450 shall govern the granting of access to Na-
8 tional Security information.

9 (c) LIMITED APPLICABILITY OF TITLE 5, UNITED
10 STATES CODE.—(1) Title 5, United States Code, applies
11 to the Corporation and its employees and activities only
12 to the extent set forth in this section and section 601. Ex-
13 cept as otherwise provided in this Act, employees of the
14 Corporation qualify as officers and employees of the
15 United States.

16 (2)(A) During the three-year period that follows the
17 date of transfer, chapters 87 and 89 (Health and Life In-
18 surance) of title 5, United States Code, apply to the Cor-
19 poration. An employee of the Corporation, including any
20 employee hired during the three-year period, shall be cov-
21 ered under the provisions of chapters 87 and 89 of title
22 5, but only during this period. The Corporation shall make
23 such payments as are required under these chapters dur-
24 ing this period.

1 (B) During the three-year period that follows the
2 date of transfer, the Corporation shall negotiate replace-
3 ment health and life insurance systems that apply to its
4 employees subsequently and that, as a minimum, provide
5 not less than one life insurance and three health insurance
6 programs that are comparable with respect to employee
7 premium cost and coverage to the Federal health and life
8 insurance programs available to employees during the
9 three-year period.

10 (3) Any Federal employee who transfers to the Cor-
11 poration under section 601 and who on the day before the
12 date of transfer is subject to subchapter III of chapter
13 83 of title 5 (Retirement), United States Code, or chapter
14 84 (Federal Employees' Retirement System) of such title
15 shall, so long as continually employed by the Corporation
16 without a break in service, continue to be subject to such
17 subchapter or chapter, as the case may be. Employment
18 by the Corporation without a break in continuity of service
19 shall be considered to be employment by the United States
20 Government for purposes of such subchapter and chapter.
21 The Corporation shall be the employing agency for pur-
22 poses of section 602 and shall contribute to the Civil Serv-
23 ice Retirement and Disability Fund such sums as are re-
24 quired by section 602.

1 (4) As rapidly as practical following the date of trans-
2 fer, the Corporation shall negotiate a retirement benefits
3 system that applies to employees hired following the date
4 of transfer. Employees employed by the Corporation as of
5 that date may elect, within six months of the establish-
6 ment of such new systems, to retain coverage under title
7 5 or transfer to the new systems.

8 (5) Chapter 81 of title 5 (Compensation for Work In-
9 jury) applies to the Corporation. An employee of the Cor-
10 poration, including any employee hired after the date of
11 transfer, shall be covered under the provisions of chapter
12 81.

13 (6) An employee, as defined in section 2105 of title
14 5, United States Code, who transfers to the Corporation
15 other than under section 601 of this Act and without a
16 break in service is entitled to retain coverage, rights, and
17 benefits under chapters 81, 83, 84, 87, and 89 of title
18 5, United States Code (to the extent otherwise provided
19 by this subsection), if necessary deductions and Corpora-
20 tion contributions are deposited in the systems' funds in
21 accordance with section 602, as applicable, and if such em-
22 ployee so elects within six months of transfer to the Cor-
23 poration.

24 (7) Sections 7342, 7353, and 7351 of title 5, United
25 States Code, and Appendices 4 (Executive Personnel Fi-

1 nancial Disclosure Requirements) and 6 (Financial Disclosure Requirements of Federal Personnel) of title 5, United States Code, apply to officers and employees of the Corporation.

5 (8) The Veterans Preference Act of 1944, as amended (5 U.S.C. 3308–3320), applies to the Corporation.

7 (d) CIVIL RIGHTS PROTECTIONS IN EMPLOYMENT.—
8 The provisions of section 2000e–16 of title 42, United States Code (Employment by Federal Government) apply
10 to the employees of the Corporation.

11 (e) COLLECTIVE BARGAINING.—The provisions of the
12 Federal Service Labor-Management Relations Statute,
13 chapter 71 of title 5, United States Code, shall not apply
14 except as provided in section 601 of this Act.

15 **SEC. 502. APPLICABILITY OF GOVERNMENT CORPORATION**
16 **CONTROL ACT.**

17 (a) Section 9101(3) of title 31, United States Code,
18 is amended by adding after subparagraph (N) the following new subparagraph:

20 “(O) the United States Air Traffic Service
21 Corporation.”.

22 (b) Notwithstanding subsection (a), the following provisions of chapter 91 of title 31, United States Code, shall
23 not apply to the Corporation:
24

1 (1) Section 9102 (relating to establishing and
2 acquiring corporations), except that any subsidiaries
3 or affiliates of the Corporation shall be subject to
4 the debt limitation contained in section 208 of this
5 Act.

6 (2) Section 9103(c) (relating to budgets of
7 wholly owned Government corporations), except that
8 the budget submitted by the Corporation in accord-
9 ance with section 9103(a) shall be submitted by the
10 President without change as part of the budget sub-
11 mitted to Congress under section 1105 of title 31,
12 United States Code.

13 (3) Sections 9105–9106 (relating to audits), ex-
14 cept that the Corporation shall prepare an annual fi-
15 nancial statements audit pursuant to section 9105.

16 (4) Section 9107 (relating to accounts).

17 (5) Section 9108 (relating to obligations); ex-
18 cept that the Secretary of the Treasury shall pre-
19 scribe the timing of issuance of obligations to the
20 public.

21 (6) Section 9109 (relating to exclusion of a
22 wholly owned Government Corporation from the
23 Act).

1 (7) Section 9110 (relating to standards for de-
2 pository institutions holding securities of a Govern-
3 ment-sponsored corporation for customers).

4 **SEC. 503. EXTENSION AND AMENDMENT OF AVIATION-RE-**
5 **LATED TAXES AND TRUST FUND SPENDING**
6 **AUTHORITY.**

7 (a) AVIATION FUEL USED IN NON-COMMERCIAL
8 AVIATION.—Section 4091(b)(3)(A) of the Internal Reve-
9 nue Code of 1986 (26 U.S.C. 4091(b)(3)(A)) is amended
10 by striking “January 1, 1996” and inserting in lieu there-
11 of “January 1, 1999”.

12 (b) GASOLINE USED IN NON-COMMERCIAL AVIA-
13 TION.—Section 4041(c)(5) of the Internal Revenue Code
14 of 1986 (26 U.S.C. 4041(c)(5)) is amended by striking
15 “December 31, 1995” and inserting in lieu thereof “De-
16 cember 31, 1998”.

17 (c) TRANSPORTATION OF PASSENGERS BY AIR.—(1)
18 Section 4261 of the Internal Revenue Code of 1986 is
19 amended by striking “a tax equal to 10 percent of the
20 amount so paid” each place it appears and inserting in
21 lieu thereof “a tax equal to 1.5 percent of the amount so
22 paid, except that the tax imposed for transportation begin-
23 ning before January 1, 1997, shall be equal to 10 percent
24 of the amount so paid”.

1 (2) Section 4261(c) of the Internal Revenue Code of
2 1986 is amended by striking “a tax of \$6” and inserting
3 in lieu thereof “a tax of \$.90, except that the tax imposed
4 for transportation beginning before January 1, 1997, shall
5 be a tax of \$6,”.

6 (3) Section 4261(g) of the Internal Revenue Code of
7 1986 is amended by striking “January 1, 1996” and in-
8 serting in lieu thereof “January 1, 1999”.

9 (d) TRANSPORTATION OF PROPERTY BY AIR.—(1)
10 Section 4271 of the Internal Revenue Code of 1986 is
11 amended by striking “a tax equal to 6.25 percent of the
12 amount so paid” and inserting in lieu thereof “a tax equal
13 to .95 percent of the amount so paid, except that the tax
14 imposed for transportation beginning before January 1,
15 1997, shall be equal to 6.25 percent of the amount so
16 paid”.

17 (2) Section 4271(d) of the Internal Revenue Code of
18 1986 is amended by striking “January 1, 1996” and in-
19 serting in lieu thereof “January 1, 1999”.

20 (e) Section 9502(b) of the Trust Fund Code of 1981
21 is amended—

22 (1) by striking “January 1, 1996” each place
23 it appears and inserting in lieu thereof “January 1,
24 1999”;

1 (2) by inserting the word “and” after the semi-
2 colon at the end of paragraph (2);

3 (3) by striking “; and” at the end of paragraph
4 (3) and substituting a period in lieu thereof; and

5 (4) by deleting paragraph (4).

6 (f) Section 9502(d)(1) of the Trust Fund Code of
7 1981 is amended by striking the phrase “October 1,
8 1995” and inserting in lieu thereof “October 1, 1999”.

9 (g) Section 9502(d)(1)(A) of the Trust Fund Code
10 of 1981 is amended by striking “or the Federal Aviation
11 Administration Authorization Act of 1994” and inserting
12 “or the Federal Aviation Administration Authorization
13 Act of 1994 or the United States Air Traffic Service Cor-
14 poration Act”.

15 (h) Section 9502(f)(3) of the Trust Fund Code of
16 1981 is amended by striking “December 31, 1995” and
17 inserting in lieu thereof “December 31, 1998”.

18 **SEC. 504. TRANSFERS FROM THE AIRPORT AND AIRWAY**
19 **TRUST FUND.**

20 Section 9502(d) of the Trust Fund Code of 1981
21 (Expenditures from Airport and Airway Trust Fund) is
22 amended by the addition of new paragraphs (5), (6) and
23 (7) as follows:

24 “(5) Transfers from the Airport and Airway
25 Trust Fund to cover certain air traffic transition

1 costs. The Secretary of the Treasury shall pay from
2 the Airport and Airway Trust Fund to the United
3 States Air Traffic Service Corporation amounts
4 equivalent to the obligated but unexpended balance
5 of appropriations available on October 1, 1996, for
6 operation and maintenance of air traffic control, air
7 navigation, communications, or supporting services
8 for the airway system by the Federal Aviation Ad-
9 ministration. Such amounts shall be transferred on
10 the date of transfer under the United States Air
11 Traffic Service Corporation Act and on the basis of
12 estimates by the Secretary of Transportation. Such
13 balances received by the Corporation will be used
14 only for the purposes and in such amounts as they
15 were obligated, when held in the Trust Fund.

16 “(6) Transfers from the Airport and Airway
17 Trust Fund to cover certain air traffic facility costs.
18 The Secretary of the Treasury shall pay from the
19 Airport and Airway Trust Fund to the United
20 States Air Traffic Service Corporation amounts
21 equivalent to outlays required to meet obligations for
22 development or construction of air traffic control, air
23 navigation, or communications facilities for the air
24 traffic system entered into by the United States
25 prior to October 1, 1996. Such amounts shall be

1 transferred in the quarter immediately following the
2 quarter in which the outlays are made by the Cor-
3 poration, and on the basis of estimates by the Sec-
4 retary of the Transportation, and proper adjust-
5 ments shall be made in amounts subsequently trans-
6 ferred to the extent prior estimates were in excess
7 of or less than the credits allowed. Amounts received
8 by the Corporation will be used only for the pur-
9 poses and in such amounts as they were obligated,
10 when held in the Trust Fund.

11 “(7) Transfers from the Airport and Airway
12 Trust Fund to cover the commencement of Corpora-
13 tion services. Amounts in the Airport and Airway
14 Trust Fund shall be available, as provided by Appro-
15 priations Acts, for payment by the Secretary of the
16 Treasury to the United States Air Traffic Service
17 Corporation, which amounts are equivalent to the
18 maximum percentages allowed in section 209(j) of
19 this Act, applied to the air transportation covered by
20 that subsection which occurred on or after October
21 1, 1996, and before January 1, 1997. Such amounts
22 shall be transferred on the basis of estimates by the
23 Secretary of the Treasury, and proper adjustments
24 shall be made in amounts subsequently transferred

1 under this subsection to the extent prior estimates
2 were in excess of or less than the amount allowed.”.

3 **SEC. 505. EXCLUSION OF THE CORPORATION FROM THE**
4 **BUDGET AND BUDGET ENFORCEMENT.**

5 (a) Any increases in direct spending or reduction in
6 receipts authorized by this Act shall be exempt from the
7 requirements of section 252 of the Balanced Budget and
8 Emergency Deficit Control Act of 1985.

9 (b) Any transfer under section 9502(d)(7) of the
10 Trust Fund code of 1981, as amended by section 504 of
11 this Act, shall be exempt from the requirements of section
12 251 of the Balanced Budget and Emergency Deficit Con-
13 trol Act of 1985.

14 (c) Section 255(g)(1)(A) of the Balanced Budget and
15 Emergency Deficit Control Act of 1985 is amended by in-
16 serting after “Tennessee Valley Authority, except non-
17 power programs and activities (64–4110–0–3–999);” the
18 following: “United States Air Traffic Service Corpora-
19 tion;”.

20 (d) Notwithstanding any other provision of law, the
21 receipts and disbursements of the Corporation shall not
22 be counted as new budget authority, outlays, receipts, or
23 deficit or surplus for purposes of—

24 (1) the budget of the United States Govern-
25 ment as submitted by the President;

1 (2) the congressional budget; or

2 (3) the Balanced Budget and Emergency Defi-
3 cit Control Act of 1985.

4 **SEC. 506. DISCRETIONARY SPENDING LIMITS.**

5 (a) Upon enactment of this Act, the discretionary
6 spending limits set forth in section 601(a)(2) of the Con-
7 gressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) (as
8 adjusted in conformance with section 251 of the Balanced
9 Budget and Emergency Deficit Control Act of 1985) for
10 fiscal years 1997 through 2000 are reduced by the follow-
11 ing amounts:

12 (1) For fiscal year 1997, for the discretionary
13 category: \$6,405,000,000 in new budget authority
14 and \$4,190,000,000 in outlays.

15 (2) For fiscal year 1998; for the discretionary
16 category: \$6,870,000,000 in new budget authority
17 and \$5,586,000,000 in outlays.

18 (b) For fiscal year 1999, the comparable amount for
19 budgetary purposes shall be deemed to be \$7,449,000,000
20 in new budget authority and \$6,542,000,000 in outlays.
21 For fiscal year 2000, the comparable amount for budg-
22 etary purposes shall be deemed to be \$7,828,000,000 in
23 new budget authority and \$7,148,000,000 in outlays.

1 **VI—TRANSITION PROVISIONS**

2 **SEC. 601. TRANSFER OF FEDERAL PERSONNEL TO THE**
3 **CORPORATION.**

4 (a) TRANSFER OF EMPLOYEES TO THE CORPORA-
5 TION.—Jointly, the Administrator and the Chief Execu-
6 tive Officer shall determine which functions and which em-
7 ployees are transferred to the Corporation.

8 (b) CONTINUATION OF PERSONNEL SYSTEMS.—
9 Compensation, benefits, and other terms and conditions
10 of employment that exist for employees and officers of the
11 Federal Aviation Administration on the date of transfer
12 shall continue to apply to officers and employees of the
13 Corporation unless and until changed in accordance with
14 section 501 of this Act.

15 (c) EMPLOYEE PROTECTIONS.—Employment rights,
16 wages, and benefits of employees transferred to the Cor-
17 poration shall not be adversely affected, except for cause,
18 during the three-year period commencing on the date of
19 transfer. Thereafter, employee rights, wages and benefits
20 will be governed by the provisions of section 501 of this
21 Act.

22 (d) LABOR AGREEMENTS.—(1) In the interest of ef-
23 fective labor-management relationships, the Corporation
24 shall adopt all labor agreements that are in effect on the
25 date of transfer and shall accord full recognition to labor

1 organizations representing Corporation employees to the
2 extent that those labor organizations had been accorded
3 exclusive representative status for those employees under
4 sections 7111 and 7112 of title 5, United States Code,
5 prior to the date of transfer. Such labor agreements shall
6 remain in effect for three years from the date of transfer,
7 unless the agreements provide for a shorter duration or
8 the Corporation and the exclusive representative agree to
9 the contrary before the expiration of that three-year pe-
10 riod. For the period such labor agreements are in effect,
11 the parties will be governed by the terms and conditions
12 of those agreements and by the applicable provisions of
13 chapter 71 of title 5, United States Code, and will file
14 any unfair labor practice charges, negotiability appeals,
15 exceptions to arbitration awards and requests for assist-
16 ance to solve impasses that do not arise from the negotia-
17 tion of a new agreement with the appropriate component
18 of the Federal Labor Relations Authority.

19 (2) Disputes arising from the negotiation of a new
20 agreement will be resolved by the National Labor Rela-
21 tions Board or the Labor Resolution Board, as appro-
22 priate under section 302 of this Act.

23 (3) As of the date of transfer, determinations con-
24 cerning the appropriateness of bargaining units, or the
25 bargaining unit status of Corporation employees, or the

1 exclusive representation status of labor organizations rep-
2 resenting Corporation employees will be resolved by the
3 National Labor Relations Board under section 302 of this
4 Act.

5 (4) Any proceedings under section 7117, 7118, or
6 7122 of title 5, United States Code, pending before any
7 component of the Federal Labor Relations Authority when
8 the parties cease to be governed by the applicable provi-
9 sions of chapter 71 of title 5 will be decided and, if nec-
10 essary, defended and enforced by the Federal Labor Rela-
11 tions Authority. Any other matters involving the Corpora-
12 tion that are pending before any component of the Federal
13 Labor Relations Authority when the parties cease to be
14 governed by the applicable provisions of chapter 71 of title
15 5 will be transferred by the appropriate component of the
16 Authority to the National Labor Relations Board or the
17 Labor Resolution Board, as appropriate under section 302
18 of this Act.

19 **SEC. 602. PAYMENTS FOR EMPLOYEE BENEFITS.**

20 (a) The Corporation shall make payments as are
21 required by section 8147 of title 5, United States Code.

22 (b) The Corporation shall pay to the Civil Service
23 Retirement and Disability Fund—

1 (1) such employee deductions and agency con-
2 tributions as are required by sections 8334, 8422,
3 and 8423 of title 5, United States Code; and

4 (2) such additional agency contributions as are
5 determined necessary by the Office of Personnel
6 Management to pay, in combination with the sums
7 under paragraph (1), the normal cost (determined
8 using dynamic assumptions) of retirement benefits
9 for the employee of the Corporation who are subject
10 to subchapter III of chapter 83 of title 5, United
11 States Code.

12 (c) The Corporation shall pay to the Thrift Savings
13 Fund such employee and agency contributions as are re-
14 quired by section 8432 of title 5, United States Code.

15 **SEC. 603. TRANSFER OF FACILITIES TO THE CORPORATION.**

16 (a) IN GENERAL.—(1) The Administrator is author-
17 ized and directed to transfer, on the date of transfer or
18 as soon as practical thereafter, to the Corporation without
19 charge all right, title, and interest in, and the use, posses-
20 sion, and control of, real and personal property under Fed-
21 eral Aviation Administration jurisdiction, including fre-
22 quency licenses, patents, and software rights, of the
23 United States that are necessary and appropriate for the
24 functions being transferred to the Corporation. However,
25 the Administrator shall not transfer the Atlantic City

1 Technical Center. The Corporation shall contract for serv-
2 ices provided at this facility on the date of transfer that
3 are associated with transferring functions, at a minimum
4 for a period of one year following transfer at not less than
5 the level of activity on the date of transfer, unless that
6 level for a particular activity is unjustified.

7 (2) The Secretary of Defense is authorized and di-
8 rected to transfer to the Corporation without charge all
9 right, title, and interest in, and the use, possession, and
10 control of, real and personal property of the Department
11 of Defense located at a military installation being closed
12 or realigned if that real and personal property is used im-
13 mediately before the closure or realignment decision as a
14 functional part of the air traffic system being transferred
15 to the Corporation by this Act.

16 (b) AIR TRAFFIC CONTROL OR NAVIGATION FACILI-
17 TIES PLACED AT AIRPORTS.—The authority of the Ad-
18 ministrator pursuant to section 47107(12) of title 49,
19 United States Code, to locate existing and future air traf-
20 fic control or navigation facilities at airports without cost
21 shall continue to be available to be exercised as a condition
22 of federal financial assistance on behalf of the Corpora-
23 tion.

1 **SEC. 604. SAVINGS PROVISION.**

2 (a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—

3 All orders, determinations, rules, regulations, permits,
4 contracts, leases, certificates, licenses, agreements for real
5 and personal property, and privileges that—

6 (1) have been issued, made, granted, or allowed
7 to become effective by the President of the United
8 States, the Secretary, the Administrator, any Fed-
9 eral agency or official thereof, or by a court of com-
10 petent jurisdiction, in the performance of functions
11 which are transferred by this Act; and

12 (2) are in effect on the date of transfer, shall
13 continue in effect according to their terms until
14 modified, terminated, superseded, set aside, or re-
15 voked in accordance with law by the President of the
16 United States, the Administrator, the Corporation, a
17 court of competent jurisdiction, or by operation of
18 law.

19 (b) CONTINUED EFFECTIVENESS OF PENDING AC-

20 TIONS.—(1) The provisions of this Act shall not affect any
21 proceedings, including notices of proposed rulemaking, or
22 any application for any license, permit, certificate, or fi-
23 nancial assistance pending on the date of transfer before
24 the Department of Transportation or the Federal Aviation
25 Administration, or any officer thereof with respect to func-
26 tions transferred by this Act; but such proceedings or ap-

1 plications, to the extent that they relate to functions trans-
2 ferred, shall be continued in accord with transition regula-
3 tions promulgated by the Corporation under the authority
4 of this section. Orders issued in any such proceedings shall
5 continue in effect until modified, terminated, superseded,
6 or revoked by the Corporation, by a court of competent
7 jurisdiction, or by operation of law. Nothing in this sub-
8 section prohibits the discontinuance or modification of any
9 such proceeding under the same terms and conditions and
10 to the same extent that such proceeding could have been
11 discontinued or modified if this Act had not been enacted.

12 (2) The Secretary, the Administrator, and the Cor-
13 poration are authorized to issue transition regulations pro-
14 viding for the orderly transfer of proceedings and other-
15 wise to accomplish the orderly transfer of functions, per-
16 sonnel and property under this Act.

17 (c) CONTINUED EFFECTIVENESS OF ADMINISTRA-
18 TIVE AND JUDICIAL ACTIONS.—No cause of action by or
19 against the Department of Transportation or the Federal
20 Aviation Administration with respect to functions trans-
21 ferred by this Act, or by or against any officer thereof
22 in the official's capacity, shall abate by reason of the en-
23 actment of this Act. Causes of action and actions with re-
24 spect to a function or office transferred by this Act, or
25 other proceedings may be asserted by or against the

1 United States or an official of the Corporation, as may
2 be appropriate, and, in an action pending when this Act
3 takes effect, the court may at any time, on its own motion
4 or that of any party, enter an order which will give effect
5 to the provisions of this subsection.

6 (d) SUBSTITUTION OR ADDITION OF PARTIES TO JU-
7 DICIAL ACTIONS.—If, on the date of transfer, the Depart-
8 ment of Transportation or the Federal Aviation Adminis-
9 tration, or any officer thereof in the official's capacity, is
10 a party to an action and, under this Act, specific func-
11 tional responsibility for that action of the Department,
12 Administration, or officer is transferred to the Corpora-
13 tion, then such action shall be continued with the Chief
14 Executive Officer of the Corporation substituted or added
15 as a party.

16 (e) CONTINUED JURISDICTION OVER ACTIONS
17 TRANSFERRED.—Orders and actions of the Corporation
18 in the exercise of functions transferred by this Act shall
19 be subject to judicial review to the same extent and in
20 the same manner as if such orders and actions had been
21 by the Department of Transportation or the Federal Avia-
22 tion Administration, or any office or officer thereof, in the
23 exercise of such functions immediately preceding their
24 transfer.

1 (f) AIR TRAFFIC SERVICE LIABILITIES AND OBLIGA-
2 TIONS.—The Corporation shall assume all obligations
3 (tangible and incorporeal, present and executory) associ-
4 ated with the functions transferred under this Act on the
5 date of transfer, including leases, permits, licenses, con-
6 tracts, agreements, claims, tariffs, accounts receivable,
7 and accounts payable. All claims and actions arising in
8 tort pending on the date of transfer and arising out of
9 the alleged acts and omissions of employees who transfer
10 to the Corporation shall remain liabilities of the United
11 States. The Secretary shall assure that, before the date
12 of transfer, the Corporation has agreed to allow represent-
13 atives of the Secretary and the Attorney General such ac-
14 cess as they may require to employees and records for all
15 purposes relating to the handling of such claims.

16 (g) DEPARTMENT OF DEFENSE AGREEMENTS.—All
17 national, regional, and facility level agreements, under-
18 standings, and contracts between the Department of De-
19 fense and that portion of Federal Aviation Administration
20 transferring to the Corporation will remain in effect after
21 the date of transfer.

22 **SEC. 605. ADMINISTRATIVE AND BUDGETARY TRANSITION.**

23 (a) USE OF RESOURCES FOR TRANSITION.—For the
24 purpose of facilitating the transfers mandated by this Act,
25 the Secretary of Transportation, the Administrator of the

1 Federal Aviation Administration and the Chief Executive
2 Officer of Corporation are authorized to utilize funds pre-
3 viously appropriated to the Department of Transportation
4 or the Federal Aviation Administration for the conduct of
5 the functions being transferred by this Act, subject to ac-
6 counting.

7 (b) ASSISTANCE OF THE OFFICE OF MANAGEMENT
8 AND BUDGET.—In order to facilitate the transfers made
9 by this Act, the Director of the Office of Management and
10 Budget is authorized and directed to make such deter-
11 minations as may be necessary to resolve disputes between
12 the Secretary of Transportation, the Administrator of the
13 Federal Aviation Administration, and the Corporation re-
14 garding the division of personnel, assets, liabilities, con-
15 tracts, property, records, and unexpended balances of ap-
16 propriations, authorizations, allocations, and other funds
17 held, used, arising from, available to or to be made avail-
18 able in connection with the transfer.

19 (c) TERMINATION OF TRANSITION AUTHORITY.—
20 The authorization under this section shall terminate upon
21 completion of the transfer.

22 **SEC. 606. REFERENCE.**

23 With respect to any functions transferred by this Act
24 and exercised after the date of transfer, reference in any
25 other Federal law or executive order to the Secretary or

1 the Administrator or to the Department of Transportation
 2 or the Federal Aviation Administration or any officer or
 3 office thereof, shall be considered to refer to the Corpora-
 4 tion or the Chief Executive Officer of the Corporation, as
 5 appropriate.

6 **SEC. 607. SEPARABILITY.**

7 If a provision of this Act or its application to any
 8 person or circumstance is held invalid, neither the remain-
 9 der of this Act nor the application of the provision to other
 10 persons or circumstances shall be affected.

11 **SEC. 608. EFFECTIVE DATE.**

12 Except as otherwise specified, this Act takes effect
 13 on the date of enactment.



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