

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2403

To amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1995

Mr. CLEMENT introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Small Business, Government Reform and Oversight, National Security, and Rules, 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

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## A BILL

To amend title 49, United States Code, with respect to the regulation of interstate transportation by common carriers engaged in civil aviation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Air Traffic Management System Performance Improve-  
6 ment Act of 1995”.

1 (b) TABLE OF SECTIONS.—The table of sections for  
 2 this bill is as follows:

- Sec. 1. Short title; table of sections.
- Sec. 2. Definitions.
- Sec. 3. Effective date.

#### TITLE I—GENERAL PROVISIONS

- Sec. 101. Findings.
- Sec. 102. Purposes.
- Sec. 103. Regulation of civilian air transportation and related services by the Federal Aviation Administration and the Department of Transportation.
- Sec. 104. Regulations.
- Sec. 105. Personnel and services.
- Sec. 106. Contracts.
- Sec. 107. Budget.
- Sec. 108. Facilities.
- Sec. 109. Property.
- Sec. 110. Select panel to review innovative funding mechanisms.
- Sec. 111. Transfers of funds from other Federal agencies.
- Sec. 112. Management Advisory Council.
- Sec. 113. Aircraft engine standards.

#### TITLE II—FEDERAL AVIATION ADMINISTRATION STREAMLINING PROGRAMS

- Sec. 201. Innovative program for air traffic control modernization.
- Sec. 202. Air traffic control modernization reviews.
- Sec. 203. Innovative program for Federal Aviation Administration services.

#### TITLE III—SYSTEM TO FUND CERTAIN FEDERAL AVIATION ADMINISTRATION FUNCTIONS

- Sec. 301. Findings.
- Sec. 302. Purposes.
- Sec. 303. User fees for various Federal Aviation Administration services.
- Sec. 304. User fees for air traffic control services.
- Sec. 305. Administrative provisions.
- Sec. 306. Increase in spending caps under trust fund.
- Sec. 307. Advance appropriations for Airport and Airway Trust Fund Activities.

### 3 **SEC. 2. DEFINITIONS.**

4 For the purposes of this Act the following definitions  
 5 shall apply:

6 (1) ADMINISTRATION.—The term “Administra-  
 7 tion” means the Federal Aviation Administration.

1           (2) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Federal  
3           Aviation Administration.

4           (3) FEDERAL AGENCY.—The term “Federal  
5           agency” means “agency” as defined in section  
6           551(1) of title 5, United States Code.

7           (4) SECRETARY.—The term “Secretary” means  
8           the Secretary of Transportation.

9   **SEC. 3. EFFECTIVE DATE.**

10          The provisions of this Act and the amendments made  
11          by this Act shall take effect on the date that is 30 days  
12          after the date of the enactment of this Act.

13                   **TITLE I—GENERAL PROVISIONS**

14   **SEC. 101. FINDINGS.**

15          Congress finds that:

16               (1) In many respects the Federal Aviation Ad-  
17               ministration is a unique agency, being one of the few  
18               non-defense government agencies that operates 24  
19               hours a day, 365 days of the year, while continuing  
20               to rely on outdated technology to carry out its re-  
21               sponsibilities for a state-of-the-art industry.

22               (2) The users of the air transportation system  
23               now pay 70 percent of the budget of the Federal  
24               Aviation Administration, with the remaining 30 per-  
25               cent coming from the General Fund. The General

1 Fund contribution over the years is one measure of  
2 the benefit received by the general public, military,  
3 and other users of Federal Aviation Administration's  
4 services.

5 (3) The Federal Aviation Administration must  
6 become a more efficient, effective, and different or-  
7 ganization to meet future challenges.

8 (4) The need to balance the Federal budget  
9 means that the General Fund contribution cannot be  
10 relied upon in the future to meet the Federal Avia-  
11 tion Administration's overall budget.

12 (5) Congress must keep its commitment to the  
13 users of the national air transportation system by  
14 seeking to spend all monies collected from them each  
15 year and deposited into the Airport and Airways  
16 Trust Fund.

17 (6) The aviation community and the employees  
18 of the Federal Aviation Administration must come  
19 together to improve the system. The Federal Avia-  
20 tion Administration must continue to recognize who  
21 its customers are and what their needs are, and to  
22 design and redesign the system to make safety im-  
23 provements and increase productivity.

24 (7) The Federal Aviation Administration  
25 projects that commercial operations will increase by

1 18 percent and passenger traffic by 35 percent by  
2 the year 2002. Without effective airport expansion  
3 and system modernization, these needs cannot be  
4 met.

5 (8) By the year 2003, the Federal Aviation Ad-  
6 ministration, to the extent possible, must be user  
7 supported, and have the ability to make rational  
8 short term and long term decisions.

9 (9) Absent significant and meaningful reform,  
10 future challenges and needs cannot be met.

11 (10) The Federal Aviation Administration must  
12 have a new way of doing business.

13 (11) There is widespread agreement within gov-  
14 ernment and the aviation industry that reform of the  
15 Federal Aviation Administration is essential to safe-  
16 ly and efficiently accommodate the projected growth  
17 of aviation within the next decade.

18 (12) Because the Federal Aviation Administra-  
19 tion is a unique Federal entity in that it is a partici-  
20 pant in the daily operations of an industry, and be-  
21 cause the national air transportation system faces  
22 significant problems without significant changes, the  
23 Federal Aviation Administration must be enabled to  
24 change the Federal procurement and personnel sys-  
25 tems to ensure that the Federal Aviation Adminis-

1       tration has the ability to keep pace with new tech-  
2       nology and is able to match resources with the real  
3       personnel needs of the Federal Aviation Administra-  
4       tion.

5               (13) The existing budget system does not allow  
6       for long-term planning or timely acquisition of tech-  
7       nology by the Federal Aviation Administration.

8               (14) Without reforms in the areas of procure-  
9       ment, personnel, funding, and governance, the Fed-  
10      eral Aviation Administration will continue to experi-  
11      ence delays and cost overruns in its major mod-  
12      ernization programs and needed improvements in  
13      the performance of the air traffic management sys-  
14      tem will not occur.

15              (15) All reforms should be designed to help the  
16      Federal Aviation Administration become more re-  
17      sponsive to the needs of its customers.

18 **SEC. 102. PURPOSES.**

19      The purposes of this Act are—

20              (1) to ensure that final action shall be taken on  
21      all notices of proposed rulemaking of the Federal  
22      Aviation Administration within 18 months after the  
23      date of their initiation;

1           (2) to permit the Federal Aviation Administra-  
2           tion, with Congressional review, to establish an inno-  
3           vative program for procurement reform;

4           (3) to permit the Federal Aviation Administra-  
5           tion, with Congressional review, to establish an inno-  
6           vative program for personnel reform;

7           (4) to permit the Federal Aviation Administra-  
8           tion, with Congressional review, to establish a pro-  
9           gram of incentive-based fees for services to improve  
10          air traffic management system performance and to  
11          establish appropriate levels of cost accountability for  
12          air traffic management services provided by the Fed-  
13          eral Aviation Administration;

14          (5) to establish a more autonomous and ac-  
15          countable Federal Aviation Administration within  
16          the Department of Transportation; and

17          (6) to make the Federal Aviation Administra-  
18          tion a more efficient and effective organization, able  
19          to meet the needs of a dynamic, growing industry,  
20          and to ensure the safety of the travelling public.

1 **SEC. 103. REGULATION OF CIVILIAN AIR TRANSPORTATION**  
2 **AND RELATED SERVICES BY THE FEDERAL**  
3 **AVIATION ADMINISTRATION AND DEPART-**  
4 **MENT OF TRANSPORTATION.**

5 (a) IN GENERAL.—Section 106 of title 49, United  
6 States Code, is amended—

7 (1) by striking “The Administrator” in the fifth  
8 sentence of subsection (b) and inserting “Except as  
9 provided in subsection (f) of this section or in other  
10 provisions of law, the Administrator”; and

11 (2) by amending subsection (f) to read as  
12 follows:

13 “(f) AUTHORITY OF THE SECRETARY AND THE AD-  
14 MINISTRATOR.—

15 “(1) AUTHORITY OF THE SECRETARY.—Except  
16 as provided in paragraph (2), the Secretary of  
17 Transportation shall carry out the duties and powers  
18 of the Administration.

19 “(2) AUTHORITY OF THE ADMINISTRATOR.—  
20 The Administrator—

21 “(A) is the final authority for carrying out  
22 all functions, powers, and duties of the Admin-  
23 istration relating to—

24 “(i) the appointment and employment  
25 of all officers and employees of the Admin-

1           istration (other than Presidential and po-  
2           litical appointees);

3           “(ii) the acquisition and maintenance  
4           of property and equipment of the Adminis-  
5           tration;

6           “(iii) except as otherwise provided in  
7           section 104 of the Air Traffic Management  
8           System Performance Improvement Act of  
9           1995, the promulgation of regulations,  
10          rules, orders, circulars, bulletins, and other  
11          official publications of the Administration;  
12          and

13          “(iv) any obligation imposed on the  
14          Administrator, or power conferred on the  
15          Administrator, by the Air Traffic Manage-  
16          ment System Performance Improvement  
17          Act of 1995 (or any amendment made by  
18          that Act);

19          “(B) shall offer advice and counsel to the  
20          President with respect to the appointment and  
21          qualifications of any officer or employee of the  
22          Administration to be appointed by the Presi-  
23          dent or as a political appointee;

24          “(C) may delegate, and authorize succes-  
25          sive redelegations of, to an officer or employee

1 of the Administration any function, power, or  
2 duty conferred upon the Administrator, unless  
3 such delegation is prohibited by law; and

4 “(D) except as otherwise provided for in  
5 this title, and notwithstanding any other provi-  
6 sion of law to the contrary, shall not be re-  
7 quired to coordinate, submit for approval or  
8 concurrence, or seek the advice or views of the  
9 Secretary or any other officer or employee of  
10 the Department of Transportation on any mat-  
11 ter with respect to which the Administrator is  
12 the final authority.

13 “(3) DEFINITION OF POLITICAL APPOINTEE.—  
14 For purposes of this subsection, the term ‘political  
15 appointee’ means any individual who—

16 “(A) is employed in a position on the Ex-  
17 ecutive Schedule under sections 5312 through  
18 5316 of title 5, United States Code;

19 “(B) is a limited term appointee, limited  
20 emergency appointee, or noncareer appointee in  
21 the Senior Executive Service as defined under  
22 section 3132(a) (5), (6), and (7) of title 5,  
23 United States Code, respectively; or

24 “(C) is employed in a position in the exec-  
25 utive branch of the Government of a confiden-

1            tial or policy-determining character under  
2            Schedule C of subpart C of part 213 of title 5  
3            of the Code of Federal Regulations.”.

4            (b) PRESERVATION OF EXISTING AUTHORITY.—  
5            Nothing in this Act limits any authority granted to the  
6            Administrator by statute or by delegation that was in ef-  
7            fect on the day before the date of enactment of this Act.

8            **SEC. 104. REGULATIONS.**

9            (a) IN GENERAL.—In the performance of the func-  
10            tions of the Administrator and the Administration, the  
11            Administrator is authorized to issue, rescind, and revise  
12            such regulations as are necessary to carry out those func-  
13            tions. The issuance of such regulations shall be governed  
14            by the provisions of chapter 5 of title 5, United States  
15            Code. The Administrator shall act upon all petitions for  
16            rulemaking no later than 6 months after the date such  
17            petitions are filed by dismissing such petitions, by inform-  
18            ing the petitioner of an intention to dismiss, or by issuing  
19            a notice of proposed rulemaking or advanced notice of pro-  
20            posed rulemaking. The Administrator shall issue a final  
21            regulation, or take other final action, not later than 18  
22            months after the date of publication in the Federal Reg-  
23            ister of a notice of proposed rulemaking or, in the case  
24            of an advanced notice of proposed rulemaking, if issued,  
25            not later than 24 months after that date.

1 (b) APPROVAL OF SECRETARY OF TRANSPOR-  
2 TATION.—

3 (1) GENERAL RULE.—The Administrator may  
4 not issue a proposed regulation or final regulation  
5 that is likely to result in the expenditure by State,  
6 local, and tribal governments in the aggregate, or by  
7 the private sector, of \$50,000,000 or more (adjusted  
8 annually for inflation beginning with the year follow-  
9 ing the date of enactment of this Act) in any 1 year,  
10 or any regulation which is significant, unless the  
11 Secretary of Transportation approves the issuance of  
12 the regulation in advance. For purposes of this para-  
13 graph, a regulation is significant if it is likely to—

14 (A) have an annual effect on the economy  
15 of \$100 million or more or adversely affect in  
16 a material way the economy, a sector of the  
17 economy, productivity, competition, jobs, the  
18 environment, public health or safety, or State,  
19 local, or tribal governments or communities;

20 (B) create a serious inconsistency or other-  
21 wise interfere with an action taken or planned  
22 by another agency;

23 (C) materially alter the budgetary impact  
24 of entitlements, grants, user fees, or loan pro-

1           grams or the rights and obligations of recipi-  
2           ents thereof; or

3                   (D) raise novel legal or policy issues aris-  
4           ing out of legal mandates.

5           (2) EMERGENCY ACTION.—In an emergency,  
6           the Administrator may issue a regulation described  
7           in paragraph (1) without prior approval by the Sec-  
8           retary, but any such emergency regulation is subject  
9           to ratification by the Secretary after it is issued and  
10          shall be rescinded by the Administrator within 5  
11          days (excluding Saturdays, Sundays and legal public  
12          holidays) after issuance if the Secretary fails to  
13          ratify its issuance.

14          (3) Any regulation that does not meet the cri-  
15          teria of paragraph (1), and any regulation or other  
16          action that is a routine or frequent action or a pro-  
17          cedural action, may be issued by the Administrator  
18          without review or approval by the Secretary.

19          (4) The Administrator shall submit a copy of  
20          any regulation requiring approval by the Secretary  
21          under paragraph (1) to the Secretary, who shall ei-  
22          ther approve it or return it to the Administrator  
23          with comments within 45 days after receiving it.

24          (c) PERIODIC REVIEW.—

1           (1) NEW REGULATIONS.—Beginning 3 years  
2 after the date of enactment of this Act, the Adminis-  
3 trator shall review any unusually burdensome regu-  
4 lation issued by the Administrator after the date of  
5 enactment of this Act not later than 3 years after  
6 the effective date of the regulation to determine if  
7 the cost assumptions were accurate, the benefit of  
8 the regulations, and the need to continue such regu-  
9 lations in force in their present form.

10           (2) EXISTING REGULATIONS.—The Adminis-  
11 trator may identify unusually burdensome regula-  
12 tions in force that were issued before the date of en-  
13 actment of this Act for review, more than 3 years  
14 after the date of enactment of this Act, under the  
15 criteria set forth in paragraph (1).

16           (3) UNUSUALLY BURDENSOME REGULATION.—  
17 For purposes of this subsection, the term “unusually  
18 burdensome regulation” means any regulation that  
19 results in the annual expenditure by State, local, and  
20 tribal governments in the aggregate, or by the pri-  
21 vate sector, of \$25,000,000 or more (adjusted annu-  
22 ally for inflation beginning with the year following  
23 the date of enactment of this Act) in any year.

1           (4) USE OF ADVISORY COMMITTEE.—The Ad-  
2           ministrator may, in the Administrator’s discretion,  
3           use an advisory committee to perform the review.

4 **SEC. 105. PERSONNEL AND SERVICES.**

5           (a) OFFICERS AND EMPLOYEES.—In the perform-  
6           ance of the functions of the Administrator, the Adminis-  
7           trator is authorized to appoint, transfer, and fix the com-  
8           pensation of such officers and employees, including attor-  
9           neys, as may be necessary to carry out the functions of  
10          the Administrator and the Administration. Except as oth-  
11          erwise provided by law, such officers and employees shall  
12          be appointed in accordance with the civil service laws and  
13          compensated in accordance with title 5, United States  
14          Code. In fixing compensation and benefits of officers and  
15          employees, the Administrator shall not engage in any type  
16          of bargaining nor shall he be bound by any requirement  
17          to establish such compensation or benefits at particular  
18          levels.

19          (b) EXPERTS AND CONSULTANTS.—The Adminis-  
20          trator is authorized to obtain the services of experts and  
21          consultants in accordance with section 3109 of title 5,  
22          United States Code.

23          (c) TRANSPORTATION AND PER DIEM EXPENSES.—  
24          The Administrator is authorized to pay transportation ex-

1 penses, and per diem in lieu of subsistence expenses, in  
2 accordance with chapter 57 of title 5, United States Code.

3 (d) USE OF PERSONNEL FROM OTHER AGENCIES.—

4 The Administrator is authorized to utilize the services of  
5 personnel of any other Federal agency.

6 (e) VOLUNTARY SERVICES.—

7 (1) IN GENERAL.—In exercising the authority  
8 to accept gifts and voluntary services under section  
9 326 of title 49, United States Code, and without re-  
10 gard to section 1342 of title 31 of such Code, the  
11 Administrator may not accept voluntary and uncom-  
12 pensated services if such services are used to dis-  
13 place Federal employees employed on a full-time,  
14 part-time, or seasonal basis.

15 (2) EXPENSES.—The Administrator is author-  
16 ized to provide for incidental expenses, including  
17 transportation, lodging, and subsistence for volun-  
18 teers who provide voluntary services under this sub-  
19 section.

20 (3) ADMINISTRATIVE CONCERNS.—An individ-  
21 ual who provides voluntary services under this sub-  
22 section shall not be considered a Federal employee  
23 for any purpose other than for purposes of chapter  
24 81 of title 5, United States Code, relating to com-

1       pensation for work injuries, and chapter 171 of title  
2       28, United States Code, relating to tort claims.

3 **SEC. 106. CONTRACTS.**

4       The Administrator is authorized to enter into and  
5       perform such contracts, leases, cooperative agreements, or  
6       other transactions as may be necessary to carry out the  
7       functions of the Administrator and the Administration.  
8       The Administrator may enter into such contracts, leases,  
9       cooperative agreements, and other transactions with any  
10      Federal agency or any instrumentality of the United  
11      States, any State, territory, or possession, or political sub-  
12      division thereof, any other governmental entity, or any  
13      person, firm, association, corporation, or educational insti-  
14      tution, on such terms and conditions as the Administrator  
15      may consider appropriate.

16 **SEC. 107. BUDGET.**

17      (a) IN GENERAL.—Section 48109 of title 49, United  
18      States Code, is amended to read as follows:

19 **“§48109. Budget information and legislative rec-**  
20 **ommendations and comments**

21      “(a) PREPARATION.—Beginning with the budget for  
22      first fiscal year beginning after the first fiscal year in  
23      which the Federal Aviation Administration is funded en-  
24      tirely by user fees, the Administrator shall prepare a budg-  
25      et for the Administration for each fiscal year.

1       “(b) SUBMISSION OF BUDGET TO DOT.—At the  
2 same time that agencies of the Department of Transpor-  
3 tation having jurisdiction over other modes of transpor-  
4 tation are required to submit their budgets to the Sec-  
5 retary of Transportation, the Administrator shall submit  
6 to the Secretary the budget prepared by the Adminis-  
7 trator. The budget submission shall include a statement  
8 of income and expenses and analysis of the surplus or defi-  
9 cit in the Airport and Airway Trust Fund established  
10 under section 9502 of the Internal Revenue Code of 1986,  
11 and any other such supplementary information as is nec-  
12 essary or desirable to make known about the financial con-  
13 dition and operations of the Administrator. The annual  
14 budget shall be included in the budget submitted by the  
15 President pursuant to chapter 11 of title 31, United  
16 States Code. The Secretary shall review the budget and  
17 may recommend to the Administrator modifications in the  
18 budget necessary to ensure that the budget is consistent  
19 with the need of the national transportation system. The  
20 Administrator, at its discretion, may modify the budget  
21 to adopt any recommendation made by the Secretary.

22       “(c) SUBMISSION OF BUDGET TO CONGRESS.—

23               “(1) IN GENERAL.—When the Administrator  
24 submits to the President or the Director of the Of-  
25 fice of Management and Budget any budget infor-

1 mation, legislative recommendation, or comment on  
2 legislation about amounts authorized in section  
3 48101 or 48102, the Administrator concurrently  
4 shall submit a copy of the information, recommenda-  
5 tion, or comment to the Speaker of the House of  
6 Representatives, the Committees on Transportation  
7 and Infrastructure and Appropriations of the House  
8 of Representatives, the President of the Senate, and  
9 the Committees on Commerce, Science, and Trans-  
10 portation and Appropriations of the Senate.

11 “(2) SPECIAL RULE WITH RESPECT TO ANNUAL  
12 BUDGETS.—The annual budget of the Administra-  
13 tion submitted to Congress shall include—

14 “(A) any modifications made by the Ad-  
15 ministrator under subsection (b) with respect to  
16 the budget; and

17 “(B) if the Administrator does not adopt a  
18 recommendation made by the Secretary under  
19 subsection (b), a description of the rec-  
20 ommendation and the reasons for not adopting  
21 the recommendation.

22 “(d) COST REDUCTION AND EFFICIENCY REPORT  
23 REQUIRED.—Whenever the Administrator submits a re-  
24 port, request, or proposal that contains an increase in ei-  
25 ther the budget of the Administration or any of the fees

1 imposed by the Administration, the Administrator shall  
2 submit, as a part of that report, request, or proposal—

3 “(1) an explanation that states specifically the  
4 need for the increase; and

5 “(2) a statement of any steps taken by the Ad-  
6 ministration to reduce costs and improve efficiency  
7 in order to avoid or limit the increase.”.

8 (b) CONFORMING AMENDMENT.—The analysis for  
9 chapter 481 of such title is amended by striking the item  
10 relating to section 48109 and inserting the following:

“48109. Budget information and legislative recommendations and comments.”.

11 **SEC. 108. FACILITIES.**

12 With the consent of appropriate officials, the Admin-  
13 istrator may, with or without reimbursement, use or ac-  
14 cept the services, equipment, personnel, and facilities of  
15 any other Federal agency and any other public or private  
16 agency. The Administrator may also cooperate with appro-  
17 priate officials of other public and private agencies and  
18 instrumentalities concerning the use of services, equip-  
19 ment, personnel, and facilities. The head of each Federal  
20 agency shall cooperate with the Administrator in making  
21 the services, equipment, personnel, and facilities of the  
22 Federal agency available to the Administrator. The head  
23 of a Federal agency is authorized, notwithstanding any  
24 other provision of law, to transfer to or to receive from  
25 the Administration, without reimbursement, supplies and

1 equipment other than administrative supplies or equip-  
2 ment.

3 **SEC. 109. PROPERTY.**

4 (a) ACQUISITION.—The Administrator is author-  
5 ized—

6 (1) to acquire (by purchase, lease, condemna-  
7 tion, or otherwise), construct, improve, repair, oper-  
8 ate, and maintain—

9 (A) air traffic control facilities and equip-  
10 ment;

11 (B) research and testing sites and facili-  
12 ties; and

13 (C) such other real and personal property  
14 (including office space and patents), or any in-  
15 terest therein, within and outside the continen-  
16 tal United States as the Administrator consid-  
17 ers necessary;

18 (2) to lease to others such real and personal  
19 property; and

20 (3) to provide by contract or otherwise for eat-  
21 ing facilities and other necessary facilities for the  
22 welfare of employees of the Administration at the in-  
23 stallations of the Administrator, and to purchase  
24 and maintain equipment for these facilities.

1 (b) TITLE.—Title to any property or interest therein  
2 acquired pursuant to this section shall be held by the Gov-  
3 ernment of the United States.

4 **SEC. 110. SELECT PANEL TO REVIEW INNOVATIVE FUNDING**  
5 **MECHANISMS.**

6 (a) ESTABLISHMENT.—The Administrator shall es-  
7 tablish a select panel to review and report to Congress re-  
8 garding a limited innovative program to fund specific fa-  
9 cilities and equipment projects, and to provide limited ad-  
10 ditional funding alternatives for airport capacity develop-  
11 ment. The mechanisms to be reviewed shall include loan  
12 guarantees, financial partnerships with for-profit private  
13 sector entities, government sponsored enterprises, and re-  
14 volving loan funds.

15 (b) APPOINTMENT OF MEMBERS.—The members of  
16 any panel established under this section shall consist of  
17 appropriate Federal Government officials and representa-  
18 tives of the aviation industry, Administration employees,  
19 the financial community, and State and local governments.

20 (c) TRAVEL AND PER DIEM.—Each member of the  
21 panel established under this section shall be paid actual  
22 travel expenses, and per diem in lieu of subsistence ex-  
23 penses when away from his or her usual place of residence.

24 (d) REPORT.—Not later than 6 months after the date  
25 of the appointment of the last member to the panel under

1 subsection (b), the panel shall submit to the Congress and  
2 the Administration a report on the results of the review  
3 conducted under this section.

4 (e) FEDERAL ADVISORY COMMITTEE ACT NOT TO  
5 APPLY.—The Federal Advisory Committee Act (5 U.S.C.  
6 App.) does not apply to the panel established under this  
7 section.

8 (f) TERMINATION.—The panel established under this  
9 section shall terminate on the date that is 30 days after  
10 the date of submission of the report under subsection (d).

11 **SEC. 111. TRANSFERS OF FUNDS FROM OTHER FEDERAL**  
12 **AGENCIES.**

13 The Administrator is authorized to accept transfers  
14 of unobligated balances and unexpended balances of funds  
15 appropriated to other Federal agencies to carry out func-  
16 tions transferred by this Act to the Administrator or func-  
17 tions pursuant to law to the Administrator on or after the  
18 date of the enactment of this Act.

19 **SEC. 112. MANAGEMENT ADVISORY COUNCIL.**

20 (a) ESTABLISHMENT.—Within 3 months of the date  
21 of enactment of this Act, the Administrator shall estab-  
22 lished an advisory council which shall be known as the  
23 Federal Aviation Management Advisory Council (in this  
24 section referred to as the “Council”). With respect to Fed-  
25 eral Aviation Administration management, policy, spend-

1 ing, and regulatory matters affecting the aviation indus-  
2 try, the Council may submit comments, recommended  
3 modifications, and dissenting views to the Administrator.  
4 The Administrator shall include in any submission to Con-  
5 gress, the Secretary, or the general public, and in any sub-  
6 mission for publication in the Federal Register, a descrip-  
7 tion of the comments, recommended modifications, and  
8 dissenting views received from the Council, together with  
9 the reasons for any differences between the views of the  
10 Council and the views or actions of the Administrator.

11 (b) MEMBERSHIP.—The Council shall consist of 15  
12 members, who shall consist of—

13 (1) a designee of the Secretary of Transpor-  
14 tation;

15 (2) a designee of the Secretary of Defense; and

16 (3) 13 members appointed by the Adminis-  
17 trator.

18 (c) QUALIFICATIONS.—Members appointed to the  
19 Council under this section shall be selected from among  
20 individuals who are experts in disciplines relevant to the  
21 aviation industry and who are able collectively to represent  
22 a balanced view of the issues important to air carriers,  
23 general aviation, business aviation, airports, commercial  
24 space transportation, industry and Administration em-  
25 ployees, aircraft manufacturers, and public users.

1 (d) FUNCTIONS.—

2 (1) IN GENERAL.—The Council shall provide  
3 advice and counsel to the Administrator on issues  
4 which affect or are affected by the operations of the  
5 Administrator. The Council shall function as an  
6 oversight resource for management, policy, spending,  
7 and regulatory matters under the jurisdiction of the  
8 Administration.

9 (2) PANELS AND WORKING GROUPS.—The  
10 chairman of the Council shall establish a panel or  
11 working group, from among the members of the  
12 Council, on the development of fees for various Fed-  
13 eral Aviation Administration services under section  
14 303 and for air traffic control services under section  
15 304, and may establish such additional panels and  
16 working groups, consisting of members of the Coun-  
17 cil, as may be necessary to carry out the functions  
18 of the Council.

19 (3) MEETINGS.—The Council shall meet on a  
20 regular and periodic basis or at the call of the chair-  
21 man or of the Administrator.

22 (4) ACCESS TO DOCUMENTS AND STAFF.—The  
23 Administration may give the Council appropriate ac-  
24 cess to relevant documents and personnel of the Ad-  
25 ministration.

1 (e) FEDERAL ADVISORY COMMITTEE ACT NOT TO  
2 APPLY.—The Federal Advisory Committee Act (5 U.S.C.  
3 App.) does not apply to the Council.

4 (f) ADMINISTRATIVE MATTERS.—

5 (1) TERMS OF MEMBERS.—

6 (A) 3-YEAR TERMS.—Except as provided  
7 in subparagraph (B), members of the Council  
8 appointed by the Administrator under sub-  
9 section (b)(3) shall be appointed for a term of  
10 3 years.

11 (B) INITIAL APPOINTEES.—Of the mem-  
12 bers first appointed by the Administrator—

13 (i) 4 shall be appointed for terms of  
14 1 year;

15 (ii) 5 shall be appointed for terms of  
16 2 years; and

17 (iii) 4 shall be appointed for terms of  
18 3 years.

19 (C) FILLING UNEXPIRED TERM.—An indi-  
20 vidual chosen to fill a vacancy shall be ap-  
21 pointed for the unexpired term of the member  
22 replaced.

23 (D) EXPIRATION OF TERMS.—A member  
24 whose term expires shall continue to serve until

1           the date on which the member's successor takes  
2           office.

3           (2) CHAIRMAN; VICE CHAIRMAN.—The Council  
4           shall elect a chair and a vice chair from among its  
5           members, each of whom shall serve for a term of 1  
6           year. The vice chair shall perform the duties of the  
7           chairman in the absence of the chairman.

8           (3) TRAVEL AND PER DIEM.—Each member of  
9           the Council shall be paid actual travel expenses, and  
10          per diem in lieu of subsistence expenses when away  
11          from his or her usual place of residence, in accord-  
12          ance with section 5703 of title 5, United States  
13          Code.

14          (4) DETAIL OF PERSONNEL FROM THE ADMIN-  
15          ISTRATION.—The Administrator shall make available  
16          to the Council such staff, information, and adminis-  
17          trative services and assistance as may reasonably be  
18          required to enable the Council to carry out its re-  
19          sponsibilities under this section.

20   **SEC. 113. AIRCRAFT ENGINE STANDARDS.**

21          Subsection (a)(1) of section 44715 of title 49, United  
22          States Code, is amended to read as follows:

23          “(a) STANDARDS AND REGULATIONS.—(1) To relieve  
24          and protect the public health and welfare from aircraft  
25          noise, sonic boom, and aircraft engine emissions, the Ad-

1 administrator of the Federal Aviation Administration, as he  
2 deems necessary, shall prescribe—

3 “(A) standards to measure aircraft noise and  
4 sonic boom;

5 “(B) regulations to control and abate aircraft  
6 noise and sonic boom; and

7 “(C) emission standards applicable to the emis-  
8 sion of any air pollutant from any class or classes  
9 of aircraft engines which, in the judgment of the Ad-  
10 ministrator, causes, or contributes to, air pollution  
11 which may reasonably be anticipated to endanger  
12 public health or welfare.”.

13 **TITLE II—FEDERAL AVIATION ADMINIS-**  
14 **TRATION STREAMLINING PROGRAMS**

15 **SEC. 201. INNOVATIVE PROGRAM FOR AIR TRAFFIC CON-**  
16 **TROL MODERNIZATION.**

17 (a) INNOVATIVE PROGRAM.—The Administrator shall  
18 develop and implement an innovative program under  
19 which an acquisition management system is used to pro-  
20 cure goods and services by the Administration.

21 (b) EXEMPTION FROM PROCUREMENT LAWS.—

22 (1) IN GENERAL.—Subject to paragraph (2), in  
23 carrying out the acquisition management system  
24 used under the innovative program, the Adminis-  
25 trator may waive all or any part of—

1 (A) title III of the Federal Property and  
2 Administrative Services Act of 1949 (41 U.S.C.  
3 5, and 251 through 266);

4 (B) the Office of Federal Procurement  
5 Policy Act (41 U.S.C. 401 et seq.);

6 (C) sections 8, 9, and 15 of the Small  
7 Business Act (15 U.S.C. 637, 638, and 644),  
8 but the Administrator shall provide resources  
9 for the development and implementation of a  
10 program that presents the maximum opportuni-  
11 ties, to the extent possible, for small business  
12 concerns and small business concerns owned  
13 and controlled by socially and economically dis-  
14 advantaged individuals to participate in the per-  
15 formance of contracts awarded by the Federal  
16 Aviation Administration; and

17 (D) any provision of law that, pursuant to  
18 section 34 of the Office of Federal Procurement  
19 Policy Act (41 U.S.C. 430), is listed in the Fed-  
20 eral Acquisition Regulation as being inapplica-  
21 ble—

22 (i) to contracts for the procurement of  
23 commercial items; or

1 (ii) in the case of a subcontract under  
2 the innovative program, to subcontracts for  
3 the procurement of commercial items;

4 (E) the Federal Acquisition Streamlining  
5 Act of 1994 (Public Law 103–355);

6 (F) the Service Contract Act;

7 (G) subchapter V of chapter 35 of title 31,  
8 United States Code, relating to the procure-  
9 ment protest system;

10 (H) the Brooks Automatic Data Process-  
11 ing Act (section 111 of the Federal Property  
12 and Administrative Services Act of 1949; 40  
13 U.S.C. 759);

14 (I) the Brooks Architect-Engineer Act (40  
15 U.S.C. 541–544); and

16 (J) the Federal Acquisition Regulation and  
17 any law that is not listed in subparagraphs (A)  
18 through (I) providing authority to promulgate  
19 regulations in the Federal Acquisition Regula-  
20 tion.

21 (2) The Department of Defense shall have the  
22 same exemptions from acquisition laws as are waived  
23 by the Administrator under paragraph (1) when en-  
24 gaged in joint actions to improve or replenish the  
25 national air traffic control system. The Administra-

1       tion may acquire real property, goods, and services  
2       through the Department of Defense, or other appro-  
3       priate agencies, but is bound by the acquisition laws  
4       and regulations governing those cases.

5           (3) EFFECTIVE DATE.—The Administrator may  
6       not waive the laws referred to in paragraph (1) until  
7       the expiration of the 30-day period referred to in  
8       subsection (d)(2).

9           (c) DEVELOPMENT OF ACQUISITION MANAGEMENT  
10       SYSTEM.—

11           (1) IN GENERAL.—Not later than 180 days  
12       after the effective date of this Act, the Adminis-  
13       trator, in consultation with such governmental and  
14       nongovernmental experts in acquisition management  
15       systems as the Administration may employ, shall de-  
16       velop an acquisition management system for the Ad-  
17       ministration. Notwithstanding any other provision of  
18       law to the contrary, the Administrator may, for pur-  
19       poses of this section, retain such experts under a  
20       contract awarded on a basis other than a competi-  
21       tive basis and without regard to any such provisions  
22       requiring competitive bidding or precluding sole  
23       source contract authority. In developing the system,  
24       the Administrator may utilize the services of experts  
25       and consultants under section 3109 of title 5,

1 United States Code, without regard to the limitation  
2 imposed by the last sentence of section 3109(b) of  
3 such title, and may contract on a sole source basis,  
4 notwithstanding any other provision of law to the  
5 contrary.

6 (2) REQUIREMENTS.—The acquisition manage-  
7 ment system to be developed by the Administrator  
8 under paragraph (1) shall be—

9 (A) designed to ensure that new equipment  
10 is installed and certified as quickly as possible  
11 without sacrificing safety, principles of fairness,  
12 and protection against waste, fraud, and abuse;  
13 and

14 (B) designed to ensure the best practicable  
15 acquisitions in terms of best value.

16 (d) NOTICE TO CONGRESS.—

17 (1) IN GENERAL.—Upon completion of the de-  
18 velopment of the acquisition management system,  
19 the Administrator shall submit a comprehensive plan  
20 describing the acquisition management system to the  
21 Congress. The Administrator shall also transmit  
22 with the plan a copy of all suggestions and com-  
23 ments provided to the Administration by the Depart-  
24 ment of Transportation, and by outside experts (if  
25 any), on the acquisition management system.

1           (2) DATE OF IMPLEMENTATION.—The Admin-  
2           istrator may begin to implement the acquisition  
3           management system only after the expiration of the  
4           30-day period that begins on the date on which the  
5           plan is submitted to the Congress under paragraph  
6           (1).

7           (e) EXPERT EVALUATION.—Three years after the ac-  
8           quisition management system is implemented, the Admin-  
9           istration shall employ outside experts to provide an inde-  
10          pendent evaluation of the effectiveness of the system with-  
11          in 3 months. The Administrator shall transmit a copy of  
12          the evaluation to the Committee on Commerce, Science,  
13          and Transportation of the Senate, and the Committee on  
14          Transportation and Infrastructure of the House of Rep-  
15          resentatives.

16          (f) MODIFICATIONS TO SYSTEM.—The Administrator  
17          may periodically make modifications to the acquisition  
18          management system. Any such modifications shall be sub-  
19          mitted to the Congress under subsection (d) in the same  
20          manner as the acquisition management system plan and  
21          may not be implemented until after the expiration of the  
22          30-day period beginning on the date of submission.

1 **SEC. 202. AIR TRAFFIC CONTROL MODERNIZATION RE-**  
2 **VIEWS.**

3 (a) **REQUIRED TERMINATIONS OF ACQUISITIONS.—**

4 The Administrator shall terminate any program initiated  
5 after the date of enactment of this Act and funded under  
6 the Facilities and Equipment account that—

7 (1) is more than 50 percent over the cost goal  
8 established for the program;

9 (2) fails to achieve at least 50 percent of the  
10 performance goals established for the program; or

11 (3) is more than 50 percent behind schedule as  
12 determined in accordance with the schedule goal es-  
13 tablished for the program.

14 (b) **AUTHORIZED TERMINATIONS OF ACQUI-**  
15 **TIONS.—**The Administrator shall consider terminating,  
16 under the authority of subsection (a), any substantial ac-  
17 quisition that—

18 (1) is more than 10 percent over the cost goal  
19 established for the program;

20 (2) fails to achieve at least 90 percent of the  
21 performance goals established for the program; or

22 (3) is more than 10 percent behind schedule as  
23 determined in accordance with the schedule goal es-  
24 tablished for the program.

25 (c) **EXCEPTION AND REPORT.—**

1           (1) CONTINUANCE OF PROGRAM, ETC.—Not-  
2           withstanding subsection (a), the Administrator may  
3           continue an acquisitions program required to be ter-  
4           minated under subsection (a) if the Administrator  
5           determines that termination would be inconsistent  
6           with the development or operation of the national air  
7           transportation system in a safe and efficient man-  
8           ner.

9           (2) REPORT.—If the Administrator makes a de-  
10          termination under paragraph (1), the Administrator  
11          shall transmit a copy of the determination, together  
12          with a statement of the basis for the determination,  
13          to the Committees on Appropriations of the Senate  
14          and the House of Representatives, the Committee on  
15          Commerce, Science, and Transportation of the Sen-  
16          ate, and the Committee on Transportation and In-  
17          frastructure of the House of Representatives.

18 **SEC. 203. INNOVATIVE PROGRAM FOR FEDERAL AVIATION**

19                           **ADMINISTRATION SERVICES.**

20          (a) INNOVATIVE PROGRAM.—The Administrator shall  
21          develop and implement an innovative program under  
22          which a personnel management system is used for the  
23          management, compensation, and advancement of Adminis-  
24          tration employees.

1 (b) EXEMPTION FROM CERTAIN PROVISIONS OF  
2 TITLE 5, UNITED STATES CODE.—

3 (1) IN GENERAL.—Except as otherwise pro-  
4 vided in this section, under the innovative program,  
5 the Administration shall be exempt from parts II  
6 and III of title 5, United States Code.

7 (2) EFFECTIVE DATE.—The exemption pro-  
8 vided by paragraph (1) shall not take effect until the  
9 expiration of the 30-day period specified in sub-  
10 section (d)(2).

11 (c) DEVELOPMENT OF PERSONNEL MANAGEMENT  
12 SYSTEM.—

13 (1) IN GENERAL.—Not later than 180 days  
14 after the date of enactment of this Act, the Adminis-  
15 trator, in consultation with Administration employ-  
16 ees, including designated bargaining representatives,  
17 and such governmental and nongovernmental experts  
18 in personnel management systems as the Adminis-  
19 trator may employ, shall develop a personnel man-  
20 agement system for the Administration. Notwith-  
21 standing any other provision of law to the contrary,  
22 the Administrator may, for purposes of this section,  
23 retain such experts under a contract awarded on a  
24 basis other than a competitive basis and without re-  
25 gard to any such provisions requiring competitive

1 bidding or precluding sole source contract authority.  
2 In developing the system, the Administrator may  
3 utilize the services of experts and consultants under  
4 section 3109 of title 5, United States Code, without  
5 regard to the limitation imposed by the last sentence  
6 of section 3109(b) of such title.

7 (2) GOAL.—The goal of the personnel manage-  
8 ment system to be developed by the Administrator  
9 under paragraph (1) is to provide, consistent with  
10 the requirements of this section, the Administration  
11 with the ability—

12 (A) to hire, promote, and fire employees as  
13 in the private sector;

14 (B) to establish a pay structure as needed  
15 to conduct the business of the Administration  
16 in an efficient and effective manner within  
17 available resources;

18 (C) to provide salaries designed to attract  
19 the best qualified employees within available re-  
20 sources;

21 (D) to staff facilities that are difficult to  
22 staff;

23 (E) to move personnel to those facilities  
24 where they are most needed; and

1 (F) to continue to provide an appropriate  
2 framework for labor-management relations con-  
3 cerning terms and conditions of employment.

4 (d) NOTICE TO CONGRESS.—

5 (1) IN GENERAL.—Upon development of the  
6 personnel management system under this section,  
7 the Administrator shall submit a comprehensive plan  
8 describing the personnel management system to the  
9 Congress. The Administrator shall also transmit  
10 with the plan a copy of all suggestions and com-  
11 ments provided to the Administration by the Depart-  
12 ment of Transportation, and by outside experts (if  
13 any), on the personnel management system.

14 (2) IMPLEMENTATION.—The Administration  
15 may begin to implement the personnel management  
16 system only after the expiration of the 30-day period  
17 that begins on the date the plan is submitted to the  
18 Congress.

19 (e) EXPERT EVALUATION.—Three years after the  
20 personnel management system is implemented, the Admin-  
21 istration shall employ outside experts to provide an inde-  
22 pendent evaluation of the effectiveness of the system with-  
23 in 3 months. For this purpose, the Administrator may uti-  
24 lize the services of experts and consultants under section  
25 3109 of title 5, United States Code, without regard to the

1 limitation imposed by the last sentence of section 3109(b)  
2 of such title, and may contract on a sole source basis, not-  
3 withstanding any other provision of law to the contrary.

4 (f) EMPLOYEE RIGHTS AND BENEFITS.—The enact-  
5 ment of this section shall not result in the exemption of  
6 employees of the Administration from any of the following  
7 provisions of title 5, United States Code:

8 (1) Section 2302(b) (relating to whistleblower  
9 protection).

10 (2) Sections 3308–3320 (relating to veterans’  
11 preference)

12 (3) Section 7116(b)(7) (relating to prohibition  
13 of the right to strike).

14 (4) Section 7204 (relating to antidiscrimina-  
15 tion).

16 (5) Chapter 63 (relating to leave).

17 (6) Chapter 71 (relating to labor-management  
18 relations).

19 (7) Chapter 73 (relating to suitability, security,  
20 and conduct).

21 (8) Chapter 81 (relating to compensation for  
22 work injuries).

23 (9) Chapter 83 (relating to retirement).

24 (10) Chapter 84 (relating to the Federal Em-  
25 ployees’ Retirement System).

1           (11) Chapter 85 (relating to unemployment  
2           compensation).

3           (12) Chapter 87 (relating to life insurance).

4           (13) Chapter 89 (relating to health insurance).

5           (14) Subchapter II of chapter 53 (with respect  
6           to the pay of the Administrator).

7           (g) PAY RESTRICTION.—No officer or employee of  
8           the Administration may receive an annual rate of basic  
9           pay in excess of the annual rate of basic pay payable to  
10          the Administrator.

11          (h) ETHICS.—The Administration shall be subject to  
12          Executive Order 12674 and regulations and opinions pro-  
13          mulgated by the Office of Government Ethics, including  
14          those set forth in section 2635 of title 5 of the Code of  
15          Federal Regulations.

16          (i) EMPLOYEE PROTECTIONS.—Employment rights,  
17          wages, and benefits of employees of the Administration  
18          shall not be adversely affected by reason of the enactment  
19          of this section, except for unacceptable performance or by  
20          reason of a reduction in force or reorganization, during  
21          the period commencing on the effective date of this Act  
22          and ending on the date determined under subsection  
23          (b)(2).

24          (j) LABOR-MANAGEMENT AGREEMENTS.—Except as  
25          otherwise provided by this Act, all labor-management

1 agreements covering employees of the Administration that  
2 are in effect on the effective date of this Act shall remain  
3 in effect until their normal expiration date, unless the Ad-  
4 ministrator and the exclusive bargaining representative  
5 agree to the contrary.

6 (k) MODIFICATIONS TO SYSTEM.—The Administrator  
7 may periodically make modifications to the personnel man-  
8 agement system. Any such modifications shall be submit-  
9 ted to the Congress under subsection (d) in the same man-  
10 ner as the personnel management system plan and may  
11 not be implemented until after the expiration of the 30-  
12 day period beginning on the date of submission.

13 **TITLE III—SYSTEM TO FUND CERTAIN**  
14 **FEDERAL AVIATION ADMINISTRATION**  
15 **FUNCTIONS**

16 **SEC. 301. FINDINGS.**

17 The Congress finds the following:

18 (1) The Federal Aviation Administration is rec-  
19 ognized throughout the world as a leader in aviation  
20 safety.

21 (2) The Administration certifies aircraft, en-  
22 gines, propellers and other manufactured parts.

23 (3) The Administration certifies more than 650  
24 training schools for pilots and non-pilots, more than

1 4,858 repair stations, and more than 193 mainte-  
2 nance schools.

3 (4) The Administration certifies pilot examin-  
4 ers, who are then qualified to determine if a person  
5 has the skills necessary to become a pilot.

6 (5) The Administration fully certifies more than  
7 6,000 medical examiners, each of whom is then fully  
8 qualified to medically certify the qualifications of pi-  
9 lots and non-pilots.

10 (6) The Administration fully certifies more than  
11 470 airports, and provides a limited certification for  
12 another 205 airports. Other airports in the United  
13 States are also reviewed by the Administration.

14 (7) The Administration each year performs  
15 more than 355,000 inspections.

16 (8) The Administration issues more than  
17 655,000 pilots licenses and more than 560,000 non-  
18 pilot licenses (e.g., mechanics).

19 (9) The Administration's certification means  
20 that the product meets the highest standards of  
21 safety and reliability.

22 (10) The Administration's certification means  
23 aviation-related equipment and services meet the  
24 highest standards throughout the world.

1           (11) The Administration's certification is a val-  
2 uable element for any company to sell aviation-relat-  
3 ed products throughout the world.

4           (12) The Administration certification con-  
5 stitutes a valuable license, franchise or privilege, and  
6 confers many benefits on the holders.

7           (13) The Administration also is a major pur-  
8 chaser of computers, radars and other systems need-  
9 ed to run the air traffic control system. The Admin-  
10 istration's design, acceptance, commissioning, or cer-  
11 tification of such equipment enables the private sec-  
12 tor to market those products around the world, and  
13 as such confers a benefit on the manufacturer.

14           (14) The Administration provides extensive  
15 services to public use aircraft, including the military.  
16 Federal Aviation Administration cost allocation  
17 studies attribute about 15 percent of the cost of the  
18 airway system to public use aircraft. The estimated  
19 cost of these air traffic services in 1993 was \$1.1  
20 billion. Most of these services were provided to the  
21 military. The annual appropriations from the Gen-  
22 eral Fund to the Administration have been consid-  
23 ered, in part, payment for the cost of such services,  
24 but are expected to decline in future years.

1           (15) The Administration must be able to de-  
2           sign, to the maximum extent possible, a perform-  
3           ance-based system to recover its interest and cost in  
4           its certification and purchasing systems.

5 **SEC. 302. PURPOSES.**

6           The purposes of this title are—

7           (1) to provide a financial structure for the Fed-  
8           eral Aviation Administration so that it will be able  
9           to support the future growth in the national aviation  
10          and airport system;

11          (2) to establish a program of incentive-based  
12          fees for services to improve air traffic management  
13          system performance and to establish appropriate lev-  
14          els of cost accountability for air traffic management  
15          services provided by the Federal Aviation Adminis-  
16          tration;

17          (3) to ensure that the funding obtained by user  
18          fees set by this title will be dedicated solely for the  
19          use of the Federal Aviation Administration;

20          (4) to authorize the Federal Aviation Adminis-  
21          tration to recover the costs of its services from those  
22          who benefit from the national aviation system and  
23          the services provided by the Federal Aviation Ad-  
24          ministration;

1           (5) to allow the Federal Aviation Administra-  
2           tion to develop a fee system based on the cost or  
3           value of the services provided;

4           (6) to demonstrate to each segment of the avia-  
5           tion industry the benefits of a cost-based or value-  
6           based user fee system;

7           (7) to replace the existing user charges with a  
8           new fee system as a means of achieving a more effi-  
9           cient and effective Federal Aviation Administration  
10          for the aviation transportation industry; and

11          (8) to have the Federal Aviation Administration  
12          develop fee systems that do not directly impinge  
13          upon the non-business jet and non-commercial as-  
14          pects of the general aviation community.

15 **SEC. 303. USER FEES FOR VARIOUS FEDERAL AVIATION AD-**  
16 **MINISTRATION SERVICES.**

17          (a) IN GENERAL.—Within 6 months of the date of  
18          enactment of this Act, the Administration shall submit to  
19          the Congress a performance-based fee system, to the maxi-  
20          mum extent possible, for—

21               (1) services other than air traffic control serv-  
22               ices, including safety, certification, security, training,  
23               inspection, and other activities;

24               (2) services (other than air traffic control serv-  
25               ices) provided to a foreign government; and

1 (3) air traffic control services for—

2 (A) flights over the United States or its  
3 territories by air carriers that neither arrive at  
4 nor depart from a United States airport (other  
5 than such flights by foreign government aircraft  
6 engaged on official business); and

7 (B) business jets.

8 (b) CONSIDERATIONS.—To the extent possible, the  
9 Administrator, in developing a fee system, shall consider—

10 (1) the impact on segments of the aviation in-  
11 dustry; and

12 (2) the fair value, or cost, of the service pro-  
13 vided by the Federal Aviation Administration.

14 (c) CONSULTATION WITH AFFECTED PARTIES.—In  
15 developing proposals under this section, the Administrator  
16 shall consult with representatives of the commercial avia-  
17 tion industry, the general aviation sector, airports, and  
18 other affected parties.

19 (d) USE OF EXPERTS AND CONSULTANTS.—In devel-  
20 oping the system, the Administrator may consult with  
21 such nongovernmental experts as the Administrator may  
22 employ and the Administrator may utilize the services of  
23 experts and consultants under section 3109 of title 5,  
24 United States Code, without regard to the limitation im-  
25 posed by the last sentence of section 3109(b) of such title,

1 and may contract on a sole source basis, notwithstanding  
2 any other provision of law to the contrary. Notwithstand-  
3 ing any other provision of law to the contrary, the Admin-  
4 istrator may retain such experts under a contract awarded  
5 on a basis other than a competitive basis and without re-  
6 gard to any such provisions requiring competitive bidding  
7 or precluding sole source contract authority. The Adminis-  
8 trator shall cause a copy of the proposed fee system to  
9 be printed in the Federal Register upon its submission to  
10 the Congress.

11 (e) FEES EFFECTIVE 45 DAYS AFTER SUBMIS-  
12 SION.—

13 (1) IN GENERAL.—Unless disapproved by the  
14 Congress under section 305(b), any fees proposed by  
15 the Administrator under this section shall take effect  
16 45 days after the date on which the proposal is sub-  
17 mitted to the Congress, or on such later date as the  
18 Administrator may propose. If a fee proposal is sub-  
19 mitted to the Congress less than 45 days before the  
20 date on which the Congress adjourns sine die, or less  
21 than 45 days before any 30-day period in which nei-  
22 ther House of the Congress is in session, then the  
23 fees so proposed shall not take effect unless resub-  
24 mitted under this section. Any proposal resubmitted  
25 shall be considered a new submission for applying

1 the first sentence of this paragraph to the resubmit-  
2 ted proposal.

3 (2) IMPLEMENTATION DELAYED IF TRUST  
4 FUND AMOUNTS ADEQUATE.—Beginning with fiscal  
5 year 1998, no fee proposed by the Administrator  
6 may be imposed under this section unless the sum  
7 of the outlays from the Airport and Airway Trust  
8 Fund exceeds the receipts of the Fund for the pre-  
9 ceding fiscal year.

10 (f) AGREEMENT WITH DEPARTMENT OF DE-  
11 FENSE.—Within 6 months after the date of enactment of  
12 this Act, the Administration shall enter into an agreement  
13 with the Department of Defense under which the Adminis-  
14 tration will be reimbursed for the net cost of air traffic  
15 control services provided to the Department of Defense.

16 (g) TERMINATION.—Fees imposed under this section  
17 shall terminate 3 years after going into effect, but any  
18 amounts collected before the fees terminate shall remain  
19 available until expended.

20 (h) ADDITIONAL SYSTEM PROPOSALS.—Not less  
21 than 6 months before the date on which any fee system  
22 imposed under this section terminates, the Administrator  
23 shall submit to the Congress a proposal for a fee system  
24 to replace the terminating system. Any replacement fee  
25 system proposed under this subsection shall be developed

1 in consultation with the representatives described in sub-  
2 section (c). The Administrator shall submit to the Con-  
3 gress at the same time as the proposal is submitted, a  
4 review of the effectiveness of the standards established for  
5 the fee system the proposed fee system is intended to re-  
6 place, conducted by independent experts. The proposed re-  
7 placement fee system shall take effect upon the termi-  
8 nation of the fee system it replaces unless disapproved by  
9 the Congress under subsection (d), and shall terminate 3  
10 years after going into effect.

11 (i) REPEAL.—Sections 45301, 45302, and 70118 of  
12 title 49, United States Code, are repealed.

13 **SEC. 304. USER FEES FOR AIR TRAFFIC CONTROL SERV-**  
14 **ICES.**

15 (a) IN GENERAL.—Not later than 1 year after the  
16 date of enactment of this Act, the Administrator shall sub-  
17 mit to the Congress a proposed fee system for air traffic  
18 control services. In developing the proposal, the Adminis-  
19 trator may utilize the services of experts and consultants  
20 under section 3109 of title 5, United States Code, without  
21 regard to the limitation imposed by the last sentence of  
22 section 3109(b) of such title, and may contract on a sole  
23 source basis, notwithstanding any other provision of law  
24 to the contrary, to develop air traffic control user fees  
25 based on improved system performance.

1 (b) LIMITATIONS.—

2 (1) TRUST FUND PAYORS.—Fees may not be  
3 imposed under this section on any segment of the  
4 aviation industry subject to trust fund taxes until  
5 the rate of trust fund taxes paid by that segment is  
6 reduced below the rate at which such taxes were as-  
7 sessed during fiscal year 1995.

8 (2) OTHER USERS.—Notwithstanding para-  
9 graph (1), fees imposed under this section may be  
10 imposed on any user of air traffic control services  
11 not subject to trust fund taxes, so long as any such  
12 fees are consistent with international agreements.

13 (3) LIMITATION ON AMOUNT.—The aggregate  
14 amount of fees imposed under this section in any  
15 year on any segment of the aviation industry may  
16 not exceed 110 percent of the projected difference  
17 between (1) the estimated aggregate amount that  
18 would have been collected in such year from that  
19 segment at the rates of Trust Fund taxes in effect  
20 in 1995 and (2) the estimated aggregate amount  
21 that would be collected in such year from that seg-  
22 ment at the Trust Fund tax rates reduced below the  
23 levels in effect in 1995.

24 (c) FEES EFFECTIVE 45 DAYS AFTER APPROVAL.—  
25 Unless disapproved by the Congress under section 305(b),

1 fees proposed by the Administrator under this section take  
2 effect 45 days after the date on which the proposal is sub-  
3 mitted to the Congress, or on such later date as the Ad-  
4 ministrator may propose.

5 (d) DEFINITIONS.—WHEN USED IN THIS SECTION:

6 (1) SEGMENT.—The term ‘segment’ refers to—

7 (A) commercial airlines;

8 (B) commercial cargo air carriers;

9 (C) business jets;

10 (D) general aviation; and

11 (E) public use.

12 (2) TRUST FUND TAXES.—The term ‘trust fund  
13 taxes’ means Federal taxes the receipts from which  
14 are credited in whole or in part to the Airport and  
15 Airway Trust Fund.

16 (e) TERMINATION.—Fees imposed under this section  
17 shall terminate 3 years after going into effect, but any  
18 amounts collected before the fees terminate shall remain  
19 available until expended.

20 (f) ADDITIONAL SYSTEM PROPOSALS.—Not less than  
21 6 months before the date on which any fee system imposed  
22 under this section terminates, the Administrator shall sub-  
23 mit to the Congress a proposal for a fee system to replace  
24 the terminating system. Any replacement fee system pro-  
25 posed under this subsection shall be developed in consulta-

1 tion with the Management Advisory Council established  
2 under section 112. The Administrator shall submit to the  
3 Congress at the same time as the proposal is submitted,  
4 a review of the effectiveness of the standards established  
5 for the fee system the proposed fee system is intended to  
6 replace, conducted by independent experts. Unless dis-  
7 approved by the Congress under section 305(b), the pro-  
8 posed replacement fee system shall take effect upon the  
9 termination of the fee system it replaces, and shall termi-  
10 nate 3 years after going into effect.

11 **SEC. 305. ADMINISTRATIVE PROVISIONS.**

12 (a) IN GENERAL.—

13 (1) FEES PAYABLE TO ADMINISTRATOR.—All  
14 fees imposed under this title for services performed,  
15 or materials furnished, by the Administration are  
16 payable to the Administrator.

17 (2) REFUNDS.—The Administrator may refund  
18 any fee paid by mistake or any amount paid in ex-  
19 cess of that required.

20 (3) RECEIPTS CREDITED TO ACCOUNT.—Not-  
21 withstanding section 3302 of title 31, United States  
22 Code, all fees collected by the Administration, except  
23 insurance premiums and other fees charged for the  
24 provision of insurance and deposited in the Aviation  
25 Insurance Revolving Fund and interest earned on in-

1 vestments of such Fund, (whether imposed under  
2 this section or not)—

3 (A) shall be credited to a separate account  
4 established in the Treasury and made available  
5 for Federal Aviation Administration activities  
6 as offsetting collections;

7 (B) shall be available only to the extent  
8 that the expenditures for the Administration ex-  
9 ceed the amounts made available for such ex-  
10 penditures from the Airport and Airways Trust  
11 Fund; and

12 (C) shall remain available until expended.

13 (4) INVESTMENT OF ACCOUNT BALANCE.—Any  
14 amount in the separate account established under  
15 paragraph (3)(A) of this section that is not needed  
16 for immediate disbursement shall be invested by the  
17 Secretary of the Treasury only in interest-bearing  
18 obligations of the United States, by purchasing such  
19 obligations (A) if at original issue, as the issue price,  
20 or (B) if outstanding, at the market price. The in-  
21 terest on, and proceeds from the sale or redemption  
22 of, any such obligation shall be credited to such sep-  
23 arate account.

24 (5) ANNUAL BUDGET REPORT BY ADMINIS-  
25 TRATOR.—The Administrator shall, on the same day

1 each year as the President submits the annual bud-  
2 et to the Congress, provide to the Committee on  
3 Commerce, Science, and Transportation of the Sen-  
4 ate and the Committee on Transportation and Infra-  
5 structure of the House of Representatives—

6 (A) a list of fee collections by the Adminis-  
7 tration during the preceding fiscal year;

8 (B) a list of activities by the Administra-  
9 tion during the preceding fiscal year that were  
10 supported by fee expenditures and appropria-  
11 tions;

12 (C) budget plans for significant programs,  
13 projects, and activities of the Administration,  
14 including out-year funding estimates;

15 (D) any proposed disposition of surplus  
16 fees by the Administration; and

17 (E) such other information as those com-  
18 mittees consider necessary.

19 (b) CONGRESSIONAL PROCEDURE.—

20 (1) IN GENERAL.—This subsection is enacted  
21 by the Congress as an exercise of the rulemaking  
22 power of the Senate and the House of Representa-  
23 tives, respectively, and as such these provisions are  
24 deemed to be a part of the rules of each House of  
25 the Congress, respectively, applicable only to the

1 procedure to be followed in that House for resolu-  
2 tions described in this subsection. These provisions  
3 supersede other rules of each House of the Congress  
4 only to the extent that they are inconsistent with  
5 those other rules, and they are enacted with full rec-  
6 ognition of the constitutional right of each House to  
7 change them, to the extent that they relate to the  
8 procedure of that House, in the same manner and  
9 to the same extent as any other rule of that House.

10 (2) RESOLUTION.—For purposes of this sub-  
11 section, the term “resolution” means a joint resolu-  
12 tion relating to the disapproval of a fee proposal  
13 submitted by the Administrator under section 303 or  
14 section 304, the matter after the resolving clause of  
15 which is as follows: “That the Congress disapproves  
16 the fee proposal submitted by the Administrator of  
17 the Federal Aviation Administration on —— and  
18 identified as ——.”, the first blank space being  
19 filled with the date on which the proposal was sub-  
20 mitted and the second being filled with the title or  
21 other description of the proposal. The term does not  
22 include a resolution that relates to more than one  
23 proposal.

24 (3) REFERRAL.—Upon introduction, a resolu-  
25 tion shall be referred to the Committee on Com-

1 merce, Science, and Transportation of the Senate or  
2 the Committee on Transportation and Infrastructure  
3 of the House of Representatives.

4 (4) MOTION TO DISCHARGE.—If the committee  
5 to which a resolution has been referred has not re-  
6 ported it at the end of 20 calendar days after its in-  
7 troduction, it is in order to move to discharge the  
8 committee from further consideration of that resolu-  
9 tion.

10 (5) RULES FOR MOTION TO DISCHARGE.—A  
11 motion to discharge may be made only by an individ-  
12 ual favoring the resolution, is highly privileged (ex-  
13 cept that it may not be made after the committee  
14 has reported a resolution with respect to the same  
15 proposal), and debate thereon shall be limited to not  
16 more than 1 hour, with the time divided equally be-  
17 tween those favoring and those opposing the motion.  
18 An amendment to the motion is not in order, and it  
19 is not in order to move to reconsider the vote by  
20 which the motion is agreed to or disagreed to. Mo-  
21 tions to postpone shall be decided without debate.

22 (6) EFFECT OF MOTION.—If the motion to dis-  
23 charge is agreed to or disagreed to, the motion may  
24 not be renewed, nor may another motion to dis-

1 charge the committee be made with respect to any  
2 other resolution with respect to the same proposal.

3 (7) SENATE PROCEDURE.—

4 (A) MOTION TO PROCEED.—When the  
5 committee of the Senate has reported, or has  
6 been discharged from further consideration of,  
7 a resolution, it is at any time thereafter in  
8 order (even though a previous motion to the  
9 same effect has been disagreed to) to move to  
10 proceed to the consideration of the resolution.  
11 The motion is highly privileged and is not de-  
12 batable. An amendment to the motion is not in  
13 order, and it is not in order to move to recon-  
14 sider the vote by which the motion is agreed to  
15 or disagreed to.

16 (B) LIMITATION ON DEBATE.—Debate in  
17 the Senate on the resolution shall be limited to  
18 not more than 10 hours, which shall be divided  
19 equally between those favoring and those oppos-  
20 ing the resolution. A motion further to limit de-  
21 bate is not debatable. An amendment to, or mo-  
22 tion to recommit, the resolution is not in order,  
23 and it is not in order to move to reconsider the  
24 vote by which the resolution is agreed to or dis-  
25 agreed to.

1 (C) NO DEBATE ON CERTAIN MOTIONS.—  
2 In the Senate, motions to postpone made with  
3 respect to the consideration of a resolution and  
4 motions to proceed to the consideration of other  
5 business shall be decided without debate.

6 (D) APPEALS.—Appeals from the decisions  
7 of the Chair relating to the application of the  
8 rules of the Senate to the procedure relating to  
9 a resolution shall be decided without debate.

10 (8) EFFECT OF ADOPTION OF RESOLUTION BY  
11 OTHER HOUSE.—If, before the passage by one  
12 House of the Congress of a resolution of that House,  
13 it receives from the other House a resolution, then  
14 the following procedures apply:

15 (A) The resolution of the other House shall  
16 not be referred to a committee and may not be  
17 considered in the House receiving it, except in  
18 the case of final passage as provided in sub-  
19 paragraph (B)(i).

20 (B) With respect to the resolution de-  
21 scribed in subparagraph (A) of the House re-  
22 ceiving it—

23 (i) the procedure in that House shall  
24 be the same as if no joint resolution had  
25 been received from the other House; but

1 (ii) the vote on final passage shall be  
2 on the resolution of the other House.

3 **SEC. 306. INCREASE IN SPENDING CAPS UNDER TRUST**  
4 **FUND.**

5 Section 48104(c) of title 49, United States Code, is  
6 amended by adding at the end thereof the following:

7 “This subsection shall be applied for fiscal years 1998 and  
8 1999 by substituting ‘zero percent’ for ‘50 percent’ in  
9 paragraph (1), and by substituting ‘100 percent’ for ‘70  
10 percent’. The preceding sentence shall not apply for any  
11 fiscal year for which fees imposed under section 303 of  
12 the Air Traffic Management Performance Improvement  
13 Act of 1995 are not in effect.”.

14 **SEC. 307. ADVANCE APPROPRIATIONS FOR AIRPORT AND**  
15 **AIRWAY TRUST FUND ACTIVITIES.**

16 (a) **MULTIYEAR AUTHORIZATIONS.**—Beginning with  
17 fiscal year 1997, any authorization of appropriations for  
18 an activity for which amounts are to be appropriated from  
19 the Airport and Airway Trust Fund shall provide funds  
20 for a period of not less than 3 fiscal years unless the activ-  
21 ity for which appropriations are authorized is to be con-  
22 cluded before the end of that period.

23 (b) **MULTIYEAR APPROPRIATIONS.**—Beginning with  
24 fiscal year 1997, amounts appropriated from the Airport

1 and Airway Trust Fund shall be appropriated for periods  
2 of 3 fiscal years rather than annually.

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