

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

# S. 1239

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 SENATE OF THE UNITED STATES

SEPTEMBER 13 (legislative day, SEPTEMBER 5), 1995

Mr. MCCAIN (for himself, Mr. FORD, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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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”.

7 (b) TABLE OF SECTIONS.—The table of sections for  
8 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.

1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act the following definitions  
 3 shall apply:

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

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

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

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

6 **SEC. 3. EFFECTIVE DATE.**

7           The provisions of this Act and the amendments made  
8           by this Act shall take effect on the date that is 30 days  
9           after the date of the enactment of this Act.

10           **TITLE I—GENERAL PROVISIONS**

11 **SEC. 101. FINDINGS.**

12           Congress finds that:

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17           to rely on outdated technology to carry out its re-  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

19           (2) The users of the air transportation system  
20           now pay 70 percent of the budget of the Federal  
21           Aviation Administration, with the remaining 30 per-  
22           cent coming from the General Fund. The General  
23           Fund contribution over the years is one measure of  
24           the benefit received by the general public, military,

1 and other users of Federal Aviation Administration's  
2 services.

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

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

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

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

22 (7) The Federal Aviation Administration  
23 projects that commercial operations will increase by  
24 18 percent and passenger traffic by 35 percent by  
25 the year 2002. Without effective airport expansion

1 and system modernization, these needs cannot be  
2 met.

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

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

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

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

16 (12) Because the Federal Aviation Administra-  
17 tion is a unique Federal entity in that it is a partici-  
18 pant in the daily operations of an industry, and be-  
19 cause the national air transportation system faces  
20 significant problems without significant changes, the  
21 Federal Aviation Administration must be enabled to  
22 change the Federal procurement and personnel sys-  
23 tems to ensure that the Federal Aviation Adminis-  
24 tration has the ability to keep pace with new tech-  
25 nology and is able to match resources with the real

1 personnel needs of the Federal Aviation Administra-  
2 tion.

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

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

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

16 **SEC. 102. PURPOSES.**

17 The purposes of this Act are—

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

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

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

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

11 (5) to establish a more autonomous and ac-  
 12 countable Federal Aviation Administration within  
 13 the Department of Transportation; and

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

18 **SEC. 103. REGULATION OF CIVILIAN AIR TRANSPORTATION**  
 19 **AND RELATED SERVICES BY THE FEDERAL**  
 20 **AVIATION ADMINISTRATION AND DEPART-**  
 21 **MENT OF TRANSPORTATION.**

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

24 (1) by striking “The Administrator” in the fifth  
 25 sentence of subsection (b) and inserting “Except as

1 provided in subsection (f) of this section or in other  
2 provisions of law, the Administrator”]; and

3 (2) by amending subsection (f) to read as  
4 follows:

5 “(f) AUTHORITY OF THE SECRETARY AND THE AD-  
6 MINISTRATOR.—

7 “(1) AUTHORITY OF THE SECRETARY.—Except  
8 as provided in paragraph (2), the Secretary of  
9 Transportation shall carry out the duties and powers  
10 of the Administration.

11 “(2) AUTHORITY OF THE ADMINISTRATOR.—  
12 The Administrator—

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

16 “(i) the appointment and employment  
17 of all officers and employees of the Admin-  
18 istration (other than Presidential and po-  
19 litical appointees);

20 “(ii) the acquisition and maintenance  
21 of property and equipment of the Adminis-  
22 tration;

23 “(iii) except as otherwise provided in  
24 section 104 of the Air Traffic Management  
25 System Performance Improvement Act of

1           1995, the promulgation of regulations,  
2           rules, orders, circulars, bulletins, and other  
3           official publications of the Administration;  
4           and

5           “(iv) any obligation imposed on the  
6           Administrator, or power conferred on the  
7           Administrator, by the Air Traffic Manage-  
8           ment System Performance Improvement  
9           Act of 1995 (or any amendment made by  
10          that Act);

11          “(B) shall offer advice and counsel to the  
12          President with respect to the appointment and  
13          qualifications of any officer or employee of the  
14          Administration to be appointed by the Presi-  
15          dent or as a political appointee;

16          “(C) may delegate, and authorize succes-  
17          sive redelegations of, to an officer or employee  
18          of the Administration any function, power, or  
19          duty conferred upon the Administrator, unless  
20          such delegation is prohibited by law; and

21          “(D) except as otherwise provided for in  
22          this title, and notwithstanding any other provi-  
23          sion of law to the contrary, shall not be re-  
24          quired to coordinate, submit for approval or  
25          concurrence, or seek the advice or views of the

1 Secretary or any other officer or employee of  
2 the Department of Transportation on any mat-  
3 ter with respect to which the Administrator is  
4 the final authority.

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

8 “(A) is employed in a position on the Ex-  
9 ecutive Schedule under sections 5312 through  
10 5316 of title 5, United States Code;

11 “(B) is a limited term appointee, limited  
12 emergency appointee, or noncareer appointee in  
13 the Senior Executive Service as defined under  
14 section 3132(a) (5), (6), and (7) of title 5,  
15 United States Code, respectively; or

16 “(C) is employed in a position in the exec-  
17 utive branch of the Government of a confiden-  
18 tial or policy-determining character under  
19 Schedule C of subpart C of part 213 of title 5  
20 of the Code of Federal Regulations.”.

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

1 **SEC. 104. REGULATIONS.**

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

19 (b) APPROVAL OF SECRETARY OF TRANSPORTATION.—  
20

21 (1) GENERAL RULE.—The Administrator may  
22 not issue a proposed regulation or final regulation  
23 that is likely to result in the expenditure by State,  
24 local, and tribal governments in the aggregate, or by  
25 the private sector, of \$50,000,000 or more (adjusted  
26 annually for inflation beginning with the year follow-

1 ing the date of enactment of this Act) in any 1 year,  
2 or any regulation which is significant, unless the  
3 Secretary of Transportation approves the issuance of  
4 the regulation in advance. For purposes of this para-  
5 graph, a regulation is significant if it is likely to—

6 (A) have an annual effect on the economy  
7 of \$100 million or more or adversely affect in  
8 a material way the economy, a sector of the  
9 economy, productivity, competition, jobs, the  
10 environment, public health or safety, or State,  
11 local, or tribal governments or communities;

12 (B) create a serious inconsistency or other-  
13 wise interfere with an action taken or planned  
14 by another agency;

15 (C) materially alter the budgetary impact  
16 of entitlements, grants, user fees, or loan pro-  
17 grams or the rights and obligations of recipi-  
18 ents thereof; or

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

21 (2) EMERGENCY ACTION.—In an emergency,  
22 the Administrator may issue a regulation described  
23 in paragraph (1) without prior approval by the Sec-  
24 retary, but any such emergency regulation is subject  
25 to ratification by the Secretary after it is issued and

1 shall be rescinded by the Administrator within 5  
2 days (excluding Saturdays, Sundays and legal public  
3 holidays) after issuance if the Secretary fails to  
4 ratify its issuance.

5 (3) Any regulation that does not meet the cri-  
6 teria of paragraph (1), and any regulation or other  
7 action that is a routine or frequent action or a pro-  
8 cedural action, may be issued by the Administrator  
9 without review or approval by the Secretary.

10 (4) The Administrator shall submit a copy of  
11 any regulation requiring approval by the Secretary  
12 under paragraph (1) to the Secretary, who shall ei-  
13 ther approve it or return it to the Administrator  
14 with comments within 45 days after receiving it.

15 (c) PERIODIC REVIEW.—

16 (1) NEW REGULATIONS.—Beginning 3 years  
17 after the date of enactment of this Act, the Adminis-  
18 trator shall review any unusually burdensome regu-  
19 lation issued by the Administrator after the date of  
20 enactment of this Act not later than 3 years after  
21 the effective date of the regulation to determine if  
22 the cost assumptions were accurate, the benefit of  
23 the regulations, and the need to continue such regu-  
24 lations in force in their present form.

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

7           (3) UNUSUALLY BURDENSOME REGULATION.—  
8           For purposes of this subsection, the term “unusually  
9           burdensome regulation” means any regulation that  
10          results in the annual expenditure by State, local, and  
11          tribal governments in the aggregate, or by the pri-  
12          vate sector, of \$25,000,000 or more (adjusted annu-  
13          ally for inflation beginning with the year following  
14          the date of enactment of this Act) in any year.

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

18 **SEC. 105. PERSONNEL AND SERVICES.**

19          (a) OFFICERS AND EMPLOYEES.—In the perform-  
20          ance of the functions of the Administrator, the Adminis-  
21          trator is authorized to appoint, transfer, and fix the com-  
22          pensation of such officers and employees, including attor-  
23          neys, as may be necessary to carry out the functions of  
24          the Administrator and the Administration. Except as oth-  
25          erwise provided by law, such officers and employees shall

1 be appointed in accordance with the civil service laws and  
2 compensated in accordance with title 5, United States  
3 Code. In fixing compensation and benefits of officers and  
4 employees, the Administrator shall not engage in any type  
5 of bargaining nor shall he be bound by any requirement  
6 to establish such compensation or benefits at particular  
7 levels.

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

12 (c) TRANSPORTATION AND PER DIEM EXPENSES.—  
13 The Administrator is authorized to pay transportation ex-  
14 penses, and per diem in lieu of subsistence expenses, in  
15 accordance with chapter 57 of title 5, United States Code.

16 (d) USE OF PERSONNEL FROM OTHER AGENCIES.—  
17 The Administrator is authorized to utilize the services of  
18 personnel of any other Federal agency.

19 (e) VOLUNTARY SERVICES.—

20 (1) IN GENERAL.—In exercising the authority  
21 to accept gifts and voluntary services under section  
22 326 of title 49, United States Code, and without re-  
23 gard to section 1342 of title 31 of such Code, the  
24 Administrator may not accept voluntary and uncom-  
25 pensated services if such services are used to dis-

1 place Federal employees employed on a full-time,  
2 part-time, or seasonal basis.

3 (2) EXPENSES.—The Administrator is author-  
4 ized to provide for incidental expenses, including  
5 transportation, lodging, and subsistence for volun-  
6 teers who provide voluntary services under this sub-  
7 section.

8 (3) ADMINISTRATIVE CONCERNS.—An individ-  
9 ual who provides voluntary services under this sub-  
10 section shall not be considered a Federal employee  
11 for any purpose other than for purposes of chapter  
12 81 of title 5, United States Code, relating to com-  
13 pensation for work injuries, and chapter 171 of title  
14 28, United States Code, relating to tort claims.

15 **SEC. 106. CONTRACTS.**

16 The Administrator is authorized to enter into and  
17 perform such contracts, leases, cooperative agreements, or  
18 other transactions as may be necessary to carry out the  
19 functions of the Administrator and the Administration.  
20 The Administrator may enter into such contracts, leases,  
21 cooperative agreements, and other transactions with any  
22 Federal agency or any instrumentality of the United  
23 States, any State, territory, or possession, or political sub-  
24 division thereof, any other governmental entity, or any  
25 person, firm, association, corporation, or educational insti-

1 tution, on such terms and conditions as the Administrator  
2 may consider appropriate.

3 **SEC. 107. BUDGET.**

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

6 **“§48109. Budget information and legislative rec-**  
7 **ommendations and comments**

8 “(a) PREPARATION.—Beginning with the budget for  
9 first fiscal year beginning after the first fiscal year in  
10 which the Federal Aviation Administration is funded en-  
11 tirely by user fees, the Administrator shall prepare a budg-  
12 et for the Administration for each fiscal year.

13 “(b) SUBMISSION OF BUDGET TO DOT.—At the  
14 same time that agencies of the Department of Transpor-  
15 tation having jurisdiction over other modes of transpor-  
16 tation are required to submit their budgets to the Sec-  
17 retary of Transportation, the Administrator shall submit  
18 to the Secretary the budget prepared by the Adminis-  
19 trator. The budget submission shall include a statement  
20 of income and expenses and analysis of the surplus or defi-  
21 cit in the Airport and Airway Trust Fund established  
22 under section 9502 of the Internal Revenue Code of 1986,  
23 and any other such supplementary information as is nec-  
24 essary or desirable to make known about the financial con-  
25 dition and operations of the Administrator. The annual

1 budget shall be included in the budget submitted by the  
2 President pursuant to chapter 11 of title 31, United  
3 States Code. The Secretary shall review the budget and  
4 may recommend to the Administrator modifications in the  
5 budget necessary to ensure that the budget is consistent  
6 with the need of the national transportation system. The  
7 Administrator, at its discretion, may modify the budget  
8 to adopt any recommendation made by the Secretary.

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

10 “(1) IN GENERAL.—When the Administrator  
11 submits to the President or the Director of the Of-  
12 fice of Management and Budget any budget infor-  
13 mation, legislative recommendation, or comment on  
14 legislation about amounts authorized in section  
15 48101 or 48102, the Administrator concurrently  
16 shall submit a copy of the information, recommenda-  
17 tion, or comment to the Speaker of the House of  
18 Representatives, the Committees on Transportation  
19 and Infrastructure and Appropriations of the House  
20 of Representatives, the President of the Senate, and  
21 the Committees on Commerce, Science, and Trans-  
22 portation and Appropriations of the Senate.

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

1           “(A) any modifications made by the Ad-  
 2           ministrator under subsection (b) with respect to  
 3           the budget; and

4           “(B) if the Administrator does not adopt a  
 5           recommendation made by the Secretary under  
 6           subsection (b), a description of the rec-  
 7           ommendation and the reasons for not adopting  
 8           the recommendation.

9           “(d) COST REDUCTION AND EFFICIENCY REPORT  
 10          REQUIRED.—Whenever the Administrator submits a re-  
 11          port, request, or proposal that contains an increase in ei-  
 12          ther the budget of the Administration or any of the fees  
 13          imposed by the Administration, the Administrator shall  
 14          submit, as a part of that report, request, or proposal—

15                 “(1) an explanation that states specifically the  
 16                 need for the increase; and

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

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

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

23          **SEC. 108. FACILITIES.**

24                 With the consent of appropriate officials, the Admin-  
 25          istrator may, with or without reimbursement, use or ac-

1 cept the services, equipment, personnel, and facilities of  
2 any other Federal agency and any other public or private  
3 agency. The Administrator may also cooperate with appro-  
4 priate officials of other public and private agencies and  
5 instrumentalities concerning the use of services, equip-  
6 ment, personnel, and facilities. The head of each Federal  
7 agency shall cooperate with the Administrator in making  
8 the services, equipment, personnel, and facilities of the  
9 Federal agency available to the Administrator. The head  
10 of a Federal agency is authorized, notwithstanding any  
11 other provision of law, to transfer to or to receive from  
12 the Administration, without reimbursement, supplies and  
13 equipment other than administrative supplies or equip-  
14 ment.

15 **SEC. 109. PROPERTY.**

16 (a) ACQUISITION.—The Administrator is author-  
17 ized—

18 (1) to acquire (by purchase, lease, condemna-  
19 tion, or otherwise), construct, improve, repair, oper-  
20 ate, and maintain—

21 (A) air traffic control facilities and equip-  
22 ment;

23 (B) research and testing sites and facili-  
24 ties; and

1 (C) such other real and personal property  
2 (including office space and patents), or any in-  
3 terest therein, within and outside the continen-  
4 tal United States as the Administrator consid-  
5 ers necessary;

6 (2) to lease to others such real and personal  
7 property; and

8 (3) to provide by contract or otherwise for eat-  
9 ing facilities and other necessary facilities for the  
10 welfare of employees of the Administration at the in-  
11 stallations of the Administrator, and to purchase  
12 and maintain equipment for these facilities.

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

16 **SEC. 110. SELECT PANEL TO REVIEW INNOVATIVE FUNDING**  
17 **MECHANISMS.**

18 (a) ESTABLISHMENT.—The Administrator shall es-  
19 tablish a select panel to review and report to Congress re-  
20 garding a limited innovative program to fund specific fa-  
21 cilities and equipment projects, and to provide limited ad-  
22 ditional funding alternatives for airport capacity develop-  
23 ment. The mechanisms to be reviewed shall include loan  
24 guarantees, financial partnerships with for-profit private

1 sector entities, government sponsored enterprises, and re-  
2 volving loan funds.

3 (b) APPOINTMENT OF MEMBERS.—The members of  
4 any panel established under this section shall consist of  
5 appropriate Federal Government officials and representa-  
6 tives of the aviation industry, Administration employees,  
7 the financial community, and State and local governments.

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

12 (d) REPORT.—Not later than 6 months after the date  
13 of the appointment of the last member to the panel under  
14 subsection (b), the panel shall submit to the Congress and  
15 the Administration a report on the results of the review  
16 conducted under this section.

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

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

1 **SEC. 111. TRANSFERS OF FUNDS FROM OTHER FEDERAL**  
2 **AGENCIES.**

3 The Administrator is authorized to accept transfers  
4 of unobligated balances and unexpended balances of funds  
5 appropriated to other Federal agencies to carry out func-  
6 tions transferred by this Act to the Administrator or func-  
7 tions pursuant to law to the Administrator on or after the  
8 date of the enactment of this Act.

9 **SEC. 112. MANAGEMENT ADVISORY COUNCIL.**

10 (a) ESTABLISHMENT.—Within 3 months of the date  
11 of enactment of this Act, the Administrator shall estab-  
12 lished an advisory council which shall be known as the  
13 Federal Aviation Management Advisory Council (in this  
14 section referred to as the “Council”). With respect to Fed-  
15 eral Aviation Administration management, policy, spend-  
16 ing, and regulatory matters affecting the aviation indus-  
17 try, the Council may submit comments, recommended  
18 modifications, and dissenting views to the Administrator.  
19 The Administrator shall include in any submission to Con-  
20 gress, the Secretary, or the general public, and in any sub-  
21 mission for publication in the Federal Register, a descrip-  
22 tion of the comments, recommended modifications, and  
23 dissenting views received from the Council, together with  
24 the reasons for any differences between the views of the  
25 Council and the views or actions of the Administrator.

1 (b) MEMBERSHIP.—The Council shall consist of 15  
2 members, who shall consist of—

3 (1) a designee of the Secretary of Transpor-  
4 tation;

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

6 (3) 13 members appointed by the Adminis-  
7 trator.

8 (c) QUALIFICATIONS.—Members appointed to the  
9 Council under this section shall be selected from among  
10 individuals who are experts in disciplines relevant to the  
11 aviation industry and who are able collectively to represent  
12 a balanced view of the issues important to air carriers,  
13 general aviation, business aviation, airports, commercial  
14 space transportation, industry and Administration em-  
15 ployees, aircraft manufacturers, and public users.

16 (d) FUNCTIONS.—

17 (1) IN GENERAL.—The Council shall provide  
18 advice and counsel to the Administrator on issues  
19 which affect or are affected by the operations of the  
20 Administrator. The Council shall function as an  
21 oversight resource for management, policy, spending,  
22 and regulatory matters under the jurisdiction of the  
23 Administration.

24 (2) PANELS AND WORKING GROUPS.—The  
25 chairman of the Council shall establish a panel or

1 working group, from among the members of the  
2 Council, on the development of fees for various Fed-  
3 eral Aviation Administration services under section  
4 303 and for air traffic control services under section  
5 304, and may establish such additional panels and  
6 working groups, consisting of members of the Coun-  
7 cil, as may be necessary to carry out the functions  
8 of the Council.

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

12 (4) ACCESS TO DOCUMENTS AND STAFF.—The  
13 Administration may give the Council appropriate ac-  
14 cess to relevant documents and personnel of the Ad-  
15 ministration.

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

19 (f) ADMINISTRATIVE MATTERS.—

20 (1) TERMS OF MEMBERS.—

21 (A) 3-YEAR TERMS.—Except as provided  
22 in subparagraph (B), members of the Council  
23 appointed by the Administrator under sub-  
24 section (b)(3) shall be appointed for a term of  
25 3 years.

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

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

5 (ii) 5 shall be appointed for terms of  
6 2 years; and

7 (iii) 4 shall be appointed for terms of  
8 3 years.

9 (C) FILLING UNEXPIRED TERM.—An indi-  
10 vidual chosen to fill a vacancy shall be ap-  
11 pointed for the unexpired term of the member  
12 replaced.

13 (D) EXPIRATION OF TERMS.—A member  
14 whose term expires shall continue to serve until  
15 the date on which the member's successor takes  
16 office.

17 (2) CHAIRMAN; VICE CHAIRMAN.—The Council  
18 shall elect a chair and a vice chair from among its  
19 members, each of whom shall serve for a term of 1  
20 year. The vice chair shall perform the duties of the  
21 chairman in the absence of the chairman.

22 (3) TRAVEL AND PER DIEM.—Each member of  
23 the Council shall be paid actual travel expenses, and  
24 per diem in lieu of subsistence expenses when away  
25 from his or her usual place of residence, in accord-

1       ance with section 5703 of title 5, United States  
2       Code.

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

9       **SEC. 113. AIRCRAFT ENGINE STANDARDS.**

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

12       “(a) STANDARDS AND REGULATIONS.—(1) To relieve  
13       and protect the public health and welfare from aircraft  
14       noise, sonic boom, and aircraft engine emissions, the Ad-  
15       ministrator of the Federal Aviation Administration, as he  
16       deems necessary, shall prescribe—

17               “(A) standards to measure aircraft noise and  
18       sonic boom;

19               “(B) regulations to control and abate aircraft  
20       noise and sonic boom; and

21               “(C) emission standards applicable to the emis-  
22       sion of any air pollutant from any class or classes  
23       of aircraft engines which, in the judgment of the Ad-  
24       ministrator, causes, or contributes to, air pollution

1 which may reasonably be anticipated to endanger  
2 public health or welfare.”.

3 **TITLE II—FEDERAL AVIATION ADMINIS-**  
4 **TRATION STREAMLINING PROGRAMS**

5 **SEC. 201. INNOVATIVE PROGRAM FOR AIR TRAFFIC CON-**  
6 **TROL MODERNIZATION.**

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

11 (b) EXEMPTION FROM PROCUREMENT LAWS.—

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

16 (A) title III of the Federal Property and  
17 Administrative Services Act of 1949 (41 U.S.C.  
18 5, and 251 through 266);

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

21 (C) sections 8, 9, and 15 of the Small  
22 Business Act (15 U.S.C. 637, 638, and 644),  
23 but the Administrator shall provide resources  
24 for the development and implementation of a  
25 program that presents the maximum opportuni-

1 ties, to the extent possible, for small business  
2 concerns and small business concerns owned  
3 and controlled by socially and economically dis-  
4 advantaged individuals to participate in the per-  
5 formance of contracts awarded by the Federal  
6 Aviation Administration; and

7 (D) any provision of law that, pursuant to  
8 section 34 of the Office of Federal Procurement  
9 Policy Act (41 U.S.C. 430), is listed in the Fed-  
10 eral Acquisition Regulation as being inapplica-  
11 ble—

12 (i) to contracts for the procurement of  
13 commercial items; or

14 (ii) in the case of a subcontract under  
15 the innovative program, to subcontracts for  
16 the procurement of commercial items;

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

19 (F) the Service Contract Act;

20 (G) subchapter V of chapter 35 of title 31,  
21 United States Code, relating to the procure-  
22 ment protest system;

23 (H) the Brooks Automatic Data Process-  
24 ing Act (section 111 of the Federal Property

1 and Administrative Services Act of 1949; 40  
2 U.S.C. 759);

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

5 (J) the Federal Acquisition Regulation and  
6 any law that is not listed in subparagraphs (A)  
7 through (I) providing authority to promulgate  
8 regulations in the Federal Acquisition Regula-  
9 tion.

10 (2) The Department of Defense shall have the  
11 same exemptions from acquisition laws as are waived  
12 by the Administrator under paragraph (1) when en-  
13 gaged in joint actions to improve or replenish the  
14 national air traffic control system. The Administra-  
15 tion may acquire real property, goods, and services  
16 through the Department of Defense, or other appro-  
17 priate agencies, but is bound by the acquisition laws  
18 and regulations governing those cases.

19 (3) EFFECTIVE DATE.—The Administrator may  
20 not waive the laws referred to in paragraph (1) until  
21 the expiration of the 30-day period referred to in  
22 subsection (d)(2).

23 (c) DEVELOPMENT OF ACQUISITION MANAGEMENT  
24 SYSTEM.—

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

21           (2) REQUIREMENTS.—The acquisition manage-  
22 ment system to be developed by the Administrator  
23 under paragraph (1) shall be—

24                   (A) designed to ensure that new equipment  
25 is installed and certified as quickly as possible

1 without sacrificing safety, principles of fairness,  
2 and protection against waste, fraud, and abuse;  
3 and

4 (B) designed to ensure the best practicable  
5 acquisitions in terms of best value.

6 (d) NOTICE TO CONGRESS.—

7 (1) IN GENERAL.—Upon completion of the de-  
8 velopment of the acquisition management system,  
9 the Administrator shall submit a comprehensive plan  
10 describing the acquisition management system to the  
11 Congress. The Administrator shall also transmit  
12 with the plan a copy of all suggestions and com-  
13 ments provided to the Administration by the Depart-  
14 ment of Transportation, and by outside experts (if  
15 any), on the acquisition management system.

16 (2) DATE OF IMPLEMENTATION.—The Admin-  
17 istrator may begin to implement the acquisition  
18 management system only after the expiration of the  
19 30-day period that begins on the date on which the  
20 plan is submitted to the Congress under paragraph  
21 (1).

22 (e) EXPERT EVALUATION.—Three years after the ac-  
23 quisition management system is implemented, the Admin-  
24 istration shall employ outside experts to provide an inde-  
25 pendent evaluation of the effectiveness of the system with-

1 in 3 months. The Administrator shall transmit a copy of  
2 the evaluation to the Committee on Commerce, Science,  
3 and Transportation of the Senate, and the Committee on  
4 Transportation and Infrastructure of the House of Rep-  
5 resentatives.

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

13 **SEC. 202. AIR TRAFFIC CONTROL MODERNIZATION RE-**  
14 **VIEWS.**

15 (a) REQUIRED TERMINATIONS OF ACQUISITIONS.—  
16 The Administrator shall terminate any program initiated  
17 after the date of enactment of this Act and funded under  
18 the Facilities and Equipment account that—

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

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

23 (3) is more than 50 percent behind schedule as  
24 determined in accordance with the schedule goal es-  
25 tablished for the program.

1 (b) AUTHORIZED TERMINATIONS OF ACQUISI-  
2 TIONS.—The Administrator shall consider terminating,  
3 under the authority of subsection (a), any substantial ac-  
4 quisition that—

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

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

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

12 (c) EXCEPTION AND REPORT.—

13 (1) CONTINUANCE OF PROGRAM, ETC.—Not-  
14 withstanding subsection (a), the Administrator may  
15 continue an acquisitions program required to be ter-  
16 minated under subsection (a) if the Administrator  
17 determines that termination would be inconsistent  
18 with the development or operation of the national air  
19 transportation system in a safe and efficient man-  
20 ner.

21 (2) REPORT.—If the Administrator makes a de-  
22 termination under paragraph (1), the Administrator  
23 shall transmit a copy of the determination, together  
24 with a statement of the basis for the determination,  
25 to the Committees on Appropriations of the Senate

1 and the House of Representatives, the Committee on  
2 Commerce, Science, and Transportation of the Sen-  
3 ate, and the Committee on Transportation and In-  
4 frastructure of the House of Representatives.

5 **SEC. 203. INNOVATIVE PROGRAM FOR FEDERAL AVIATION**  
6 **ADMINISTRATION SERVICES.**

7 (a) INNOVATIVE PROGRAM.—The Administrator shall  
8 develop and implement an innovative program under  
9 which a personnel management system is used for the  
10 management, compensation, and advancement of Adminis-  
11 tration employees.

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

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

18 (2) EFFECTIVE DATE.—The exemption pro-  
19 vided by paragraph (1) shall not take effect until the  
20 expiration of the 30-day period specified in sub-  
21 section (d)(2).

22 (c) DEVELOPMENT OF PERSONNEL MANAGEMENT  
23 SYSTEM.—

24 (1) IN GENERAL.—Not later than 180 days  
25 after the date of enactment of this Act, the Adminis-

1       trator, in consultation with Administration employ-  
2       ees, including designated bargaining representatives,  
3       and such governmental and nongovernmental experts  
4       in personnel management systems as the Adminis-  
5       trator may employ, shall develop a personnel man-  
6       agement system for the Administration. Notwith-  
7       standing any other provision of law to the contrary,  
8       the Administrator may, for purposes of this section,  
9       retain such experts under a contract awarded on a  
10      basis other than a competitive basis and without re-  
11      gard to any such provisions requiring competitive  
12      bidding or precluding sole source contract authority.  
13      In developing the system, the Administrator may  
14      utilize the services of experts and consultants under  
15      section 3109 of title 5, United States Code, without  
16      regard to the limitation imposed by the last sentence  
17      of section 3109(b) of such title.

18           (2) GOAL.—The goal of the personnel manage-  
19      ment system to be developed by the Administrator  
20      under paragraph (1) is to provide, consistent with  
21      the requirements of this section, the Administration  
22      with the ability—

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

1 (B) to establish a pay structure as needed  
2 to conduct the business of the Administration  
3 in an efficient and effective manner within  
4 available resources;

5 (C) to provide salaries designed to attract  
6 the best qualified employees within available re-  
7 sources;

8 (D) to staff facilities that are difficult to  
9 staff;

10 (E) to move personnel to those facilities  
11 where they are most needed; and

12 (F) to continue to provide an appropriate  
13 framework for labor-management relations con-  
14 cerning terms and conditions of employment.

15 (d) NOTICE TO CONGRESS.—

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

1           (2) IMPLEMENTATION.—The Administration  
2           may begin to implement the personnel management  
3           system only after the expiration of the 30-day period  
4           that begins on the date the plan is submitted to the  
5           Congress.

6           (e) EXPERT EVALUATION.—Three years after the  
7           personnel management system is implemented, the Admin-  
8           istration shall employ outside experts to provide an inde-  
9           pendent evaluation of the effectiveness of the system with-  
10          in 3 months. For this purpose, the Administrator may uti-  
11          lize the services of experts and consultants under section  
12          3109 of title 5, United States Code, without regard to the  
13          limitation imposed by the last sentence of section 3109(b)  
14          of such title, and may contract on a sole source basis, not-  
15          withstanding any other provision of law to the contrary.

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

20               (1) Section 2302(b) (relating to whistleblower  
21               protection).

22               (2) Sections 3308–3320 (relating to veterans’  
23               preference)

24               (3) Section 7116(b)(7) (relating to prohibition  
25               of the right to strike).

1           (4) Section 7204 (relating to antidiscrimina-  
2           tion).

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

4           (6) Chapter 71 (relating to labor-management  
5           relations).

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

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

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

11          (10) Chapter 84 (relating to the Federal Em-  
12          ployees' Retirement System).

13          (11) Chapter 85 (relating to unemployment  
14          compensation).

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

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

17          (14) Subchapter II of chapter 53 (with respect  
18          to the pay of the Administrator).

19          (g) PAY RESTRICTION.—No officer or employee of  
20          the Administration may receive an annual rate of basic  
21          pay in excess of the annual rate of basic pay payable to  
22          the Administrator.

23          (h) ETHICS.—The Administration shall be subject to  
24          Executive Order 12674 and regulations and opinions pro-  
25          mulgated by the Office of Government Ethics, including

1 those set forth in section 2635 of title 5 of the Code of  
2 Federal Regulations.

3 (i) EMPLOYEE PROTECTIONS.—Employment rights,  
4 wages, and benefits of employees of the Administration  
5 shall not be adversely affected by reason of the enactment  
6 of this section, except for unacceptable performance or by  
7 reason of a reduction in force or reorganization, during  
8 the period commencing on the effective date of this Act  
9 and ending on the date determined under subsection  
10 (b)(2).

11 (j) LABOR-MANAGEMENT AGREEMENTS.—Except as  
12 otherwise provided by this Act, all labor-management  
13 agreements covering employees of the Administration that  
14 are in effect on the effective date of this Act shall remain  
15 in effect until their normal expiration date, unless the Ad-  
16 ministrator and the exclusive bargaining representative  
17 agree to the contrary.

18 (k) MODIFICATIONS TO SYSTEM.—The Administrator  
19 may periodically make modifications to the personnel man-  
20 agement system. Any such modifications shall be submit-  
21 ted to the Congress under subsection (d) in the same man-  
22 ner as the personnel management system plan and may  
23 not be implemented until after the expiration of the 30-  
24 day period beginning on the date of submission.

1 **TITLE III—SYSTEM TO FUND CERTAIN**  
2 **FEDERAL AVIATION ADMINISTRATION**  
3 **FUNCTIONS**

4 **SEC. 301. FINDINGS.**

5 The Congress finds the following:

6 (1) The Federal Aviation Administration is rec-  
7 ognized throughout the world as a leader in aviation  
8 safety.

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

11 (3) The Administration certifies more than 650  
12 training schools for pilots and non-pilots, more than  
13 4,858 repair stations, and more than 193 mainte-  
14 nance schools.

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

18 (5) The Administration fully certifies more than  
19 6,000 medical examiners, each of whom is then fully  
20 qualified to medically certify the qualifications of pi-  
21 lots and non-pilots.

22 (6) The Administration fully certifies more than  
23 470 airports, and provides a limited certification for  
24 another 205 airports. Other airports in the United  
25 States are also reviewed by the Administration.

1           (7) The Administration each year performs  
2 more than 355,000 inspections.

3           (8) The Administration issues more than  
4 655,000 pilots licenses and more than 560,000 non-  
5 pilot licenses (e.g., mechanics).

6           (9) The Administration's certification means  
7 that the product meets the highest standards of  
8 safety and reliability.

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

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

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

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

1           (14) The Administration provides extensive  
2 services to public use aircraft, including the military.  
3 Federal Aviation Administration cost allocation  
4 studies attribute about 15 percent of the cost of the  
5 airway system to public use aircraft. The estimated  
6 cost of these air traffic services in 1993 was \$1.1  
7 billion. Most of these services were provided to the  
8 military. The annual appropriations from the Gen-  
9 eral Fund to the Administration have been consid-  
10 ered, in part, payment for the cost of such services,  
11 but are expected to decline in future years.

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

16 **SEC. 302. PURPOSES.**

17 The purposes of this title are—

18           (1) to provide a financial structure for the Fed-  
19 eral Aviation Administration so that it will be able  
20 to support the future growth in the national aviation  
21 and airport system;

22           (2) to establish a program of incentive-based  
23 fees for services to improve air traffic management  
24 system performance and to establish appropriate lev-  
25 els of cost accountability for air traffic management

1 services provided by the Federal Aviation Adminis-  
2 tration;

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

6 (4) to authorize the Federal Aviation Adminis-  
7 tration to recover the costs of its services from those  
8 who benefit from the national aviation system and  
9 the services provided by the Federal Aviation Ad-  
10 ministration;

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

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

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

21 (8) to have the Federal Aviation Administration  
22 develop fee systems that do not directly impinge  
23 upon the non-business jet and non-commercial as-  
24 pects of the general aviation community.

1 **SEC. 303. USER FEES FOR VARIOUS FEDERAL AVIATION AD-**  
2 **MINISTRATION SERVICES.**

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

7 (1) services other than air traffic control serv-  
8 ices, including safety, certification, security, training,  
9 inspection, and other activities;

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

12 (3) air traffic control services for—

13 (A) flights over the United States or its  
14 territories by air carriers that neither arrive at  
15 nor depart from a United States airport (other  
16 than such flights by foreign government aircraft  
17 engaged on official business); and

18 (B) business jets.

19 (b) **CONSIDERATIONS.**—To the extent possible, the  
20 Administrator, in developing a fee system, shall consider—

21 (1) the impact on segments of the aviation in-  
22 dustry; and

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

25 (c) **CONSULTATION WITH AFFECTED PARTIES.**—In  
26 developing proposals under this section, the Administrator

1 shall consult with representatives of the commercial avia-  
2 tion industry, the general aviation sector, airports, and  
3 other affected parties.

4 (d) USE OF EXPERTS AND CONSULTANTS.—In devel-  
5 oping the system, the Administrator may consult with  
6 such nongovernmental experts as the Administrator may  
7 employ and the Administrator may utilize the services of  
8 experts and consultants under section 3109 of title 5,  
9 United States Code, without regard to the limitation im-  
10 posed by the last sentence of section 3109(b) of such title,  
11 and may contract on a sole source basis, notwithstanding  
12 any other provision of law to the contrary. Notwithstand-  
13 ing any other provision of law to the contrary, the Admin-  
14 istrator may retain such experts under a contract awarded  
15 on a basis other than a competitive basis and without re-  
16 gard to any such provisions requiring competitive bidding  
17 or precluding sole source contract authority. The Adminis-  
18 trator shall cause a copy of the proposed fee system to  
19 be printed in the Federal Register upon its submission to  
20 the Congress.

21 (e) FEES EFFECTIVE 45 DAYS AFTER SUBMIS-  
22 SION.—

23 (1) IN GENERAL.—Unless disapproved by the  
24 Congress under section 305(b), any fees proposed by  
25 the Administrator under this section shall take effect

1 45 days after the date on which the proposal is sub-  
2 mitted to the Congress, or on such later date as the  
3 Administrator may propose. If a fee proposal is sub-  
4 mitted to the Congress less than 45 days before the  
5 date on which the Congress adjourns sine die, or less  
6 than 45 days before any 30-day period in which nei-  
7 ther House of the Congress is in session, then the  
8 fees so proposed shall not take effect unless resub-  
9 mitted under this section. Any proposal resubmitted  
10 shall be considered a new submission for applying  
11 the first sentence of this paragraph to the resubmit-  
12 ted proposal.

13 (2) IMPLEMENTATION DELAYED IF TRUST  
14 FUND AMOUNTS ADEQUATE.—Beginning with fiscal  
15 year 1998, no fee proposed by the Administrator  
16 may be imposed under this section unless the sum  
17 of the outlays from the Airport and Airway Trust  
18 Fund exceeds the receipts of the Fund for the pre-  
19 ceding fiscal year.

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

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

5 (h) ADDITIONAL SYSTEM PROPOSALS.—Not less  
6 than 6 months before the date on which any fee system  
7 imposed under this section terminates, the Administrator  
8 shall submit to the Congress a proposal for a fee system  
9 to replace the terminating system. Any replacement fee  
10 system proposed under this subsection shall be developed  
11 in consultation with the representatives described in sub-  
12 section (c). The Administrator shall submit to the Con-  
13 gress at the same time as the proposal is submitted, a  
14 review of the effectiveness of the standards established for  
15 the fee system the proposed fee system is intended to re-  
16 place, conducted by independent experts. The proposed re-  
17 placement fee system shall take effect upon the termi-  
18 nation of the fee system it replaces unless disapproved by  
19 the Congress under subsection (d), and shall terminate 3  
20 years after going into effect.

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

1 **SEC. 304. USER FEES FOR AIR TRAFFIC CONTROL SERV-**  
2 **ICES.**

3 (a) IN GENERAL.—Not later than 1 year after the  
4 date of enactment of this Act, the Administrator shall sub-  
5 mit to the Congress a proposed fee system for air traffic  
6 control services. In developing the proposal, the Adminis-  
7 trator may utilize the services of experts and consultants  
8 under section 3109 of title 5, United States Code, without  
9 regard to the limitation imposed by the last sentence of  
10 section 3109(b) of such title, and may contract on a sole  
11 source basis, notwithstanding any other provision of law  
12 to the contrary, to develop air traffic control user fees  
13 based on improved system performance.

14 (b) LIMITATIONS.—

15 (1) TRUST FUND PAYORS.—Fees may not be  
16 imposed under this section on any segment of the  
17 aviation industry subject to trust fund taxes until  
18 the rate of trust fund taxes paid by that segment is  
19 reduced below the rate at which such taxes were as-  
20 sessed during fiscal year 1995.

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

1           (3) LIMITATION ON AMOUNT.—The aggregate  
2           amount of fees imposed under this section in any  
3           year on any segment of the aviation industry may  
4           not exceed 110 percent of the projected difference  
5           between (1) the estimated aggregate amount that  
6           would have been collected in such year from that  
7           segment at the rates of Trust Fund taxes in effect  
8           in 1995 and (2) the estimated aggregate amount  
9           that would be collected in such year from that seg-  
10          ment at the Trust Fund tax rates reduced below the  
11          levels in effect in 1995.

12          (c) FEES EFFECTIVE 45 DAYS AFTER APPROVAL.—  
13          Unless disapproved by the Congress under section 305(b),  
14          fees proposed by the Administrator under this section take  
15          effect 45 days after the date on which the proposal is sub-  
16          mitted to the Congress, or on such later date as the Ad-  
17          ministrator may propose.

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

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

20                       (A) commercial airlines;

21                       (B) commercial cargo air carriers;

22                       (C) business jets;

23                       (D) general aviation; and

24                       (E) public use.

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

5           (e) TERMINATION.—Fees imposed under this section  
6           shall terminate 3 years after going into effect, but any  
7           amounts collected before the fees terminate shall remain  
8           available until expended.

9           (f) ADDITIONAL SYSTEM PROPOSALS.—Not less than  
10          6 months before the date on which any fee system imposed  
11          under this section terminates, the Administrator shall sub-  
12          mit to the Congress a proposal for a fee system to replace  
13          the terminating system. Any replacement fee system pro-  
14          posed under this subsection shall be developed in consulta-  
15          tion with the Management Advisory Council established  
16          under section 112. The Administrator shall submit to the  
17          Congress at the same time as the proposal is submitted,  
18          a review of the effectiveness of the standards established  
19          for the fee system the proposed fee system is intended to  
20          replace, conducted by independent experts. Unless dis-  
21          approved by the Congress under section 305(b), the pro-  
22          posed replacement fee system shall take effect upon the  
23          termination of the fee system it replaces, and shall termi-  
24          nate 3 years after going into effect.

1 **SEC. 305. ADMINISTRATIVE PROVISIONS.**

2 (a) IN GENERAL.—

3 (1) FEES PAYABLE TO ADMINISTRATOR.—All  
4 fees imposed under this title for services performed,  
5 or materials furnished, by the Administration are  
6 payable to the Administrator.

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

10 (3) RECEIPTS CREDITED TO ACCOUNT.—Not-  
11 withstanding section 3302 of title 31, United States  
12 Code, all fees collected by the Administration, except  
13 insurance premiums and other fees charged for the  
14 provision of insurance and deposited in the Aviation  
15 Insurance Revolving Fund and interest earned on in-  
16 vestments of such Fund, (whether imposed under  
17 this section or not)—

18 (A) shall be credited to a separate account  
19 established in the Treasury and made available  
20 for Federal Aviation Administration activities  
21 as offsetting collections;

22 (B) shall be available only to the extent  
23 that the expenditures for the Administration ex-  
24 ceed the amounts made available for such ex-  
25 penditures from the Airport and Airways Trust  
26 Fund; and

1 (C) shall remain available until expended.

2 (4) INVESTMENT OF ACCOUNT BALANCE.—Any  
3 amount in the separate account established under  
4 paragraph (3)(A) of this section that is not needed  
5 for immediate disbursement shall be invested by the  
6 Secretary of the Treasury only in interest-bearing  
7 obligations of the United States, by purchasing such  
8 obligations (A) if at original issue, as the issue price,  
9 or (B) if outstanding, at the market price. The in-  
10 terest on, and proceeds from the sale or redemption  
11 of, any such obligation shall be credited to such sep-  
12 arate account.

13 (5) ANNUAL BUDGET REPORT BY ADMINIS-  
14 TRATOR.—The Administrator shall, on the same day  
15 each year as the President submits the annual budg-  
16 et to the Congress, provide to the Committee on  
17 Commerce, Science, and Transportation of the Sen-  
18 ate and the Committee on Transportation and Infra-  
19 structure of the House of Representatives—

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

22 (B) a list of activities by the Administra-  
23 tion during the preceding fiscal year that were  
24 supported by fee expenditures and appropria-  
25 tions;

1 (C) budget plans for significant programs,  
2 projects, and activities of the Administration,  
3 including out-year funding estimates;

4 (D) any proposed disposition of surplus  
5 fees by the Administration; and

6 (E) such other information as those com-  
7 mittees consider necessary.

8 (b) CONGRESSIONAL PROCEDURE.—

9 (1) IN GENERAL.—This subsection is enacted  
10 by the Congress as an exercise of the rulemaking  
11 power of the Senate and the House of Representa-  
12 tives, respectively, and as such these provisions are  
13 deemed to be a part of the rules of each House of  
14 the Congress, respectively, applicable only to the  
15 procedure to be followed in that House for resolu-  
16 tions described in this subsection. These provisions  
17 supersede other rules of each House of the Congress  
18 only to the extent that they are inconsistent with  
19 those other rules, and they are enacted with full rec-  
20 ognition of the constitutional right of each House to  
21 change them, to the extent that they relate to the  
22 procedure of that House, in the same manner and  
23 to the same extent as any other rule of that House.

24 (2) RESOLUTION.—For purposes of this sub-  
25 section, the term “resolution” means a joint resolu-

1       tion relating to the disapproval of a fee proposal  
2       submitted by the Administrator under section 303 or  
3       section 304, the matter after the resolving clause of  
4       which is as follows: “That the Congress disapproves  
5       the fee proposal submitted by the Administrator of  
6       the Federal Aviation Administration on —— and  
7       identified as ——.”, the first blank space being  
8       filled with the date on which the proposal was sub-  
9       mitted and the second being filled with the title or  
10      other description of the proposal. The term does not  
11      include a resolution that relates to more than one  
12      proposal.

13           (3) REFERRAL.—Upon introduction, a resolu-  
14      tion shall be referred to the Committee on Com-  
15      merce, Science, and Transportation of the Senate or  
16      the Committee on Transportation and Infrastructure  
17      of the House of Representatives.

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

24           (5) RULES FOR MOTION TO DISCHARGE.—A  
25      motion to discharge may be made only by an individ-

1 ual favoring the resolution, is highly privileged (ex-  
2 cept that it may not be made after the committee  
3 has reported a resolution with respect to the same  
4 proposal), and debate thereon shall be limited to not  
5 more than 1 hour, with the time divided equally be-  
6 tween those favoring and those opposing the motion.  
7 An amendment to the motion is not in order, and it  
8 is not in order to move to reconsider the vote by  
9 which the motion is agreed to or disagreed to. Mo-  
10 tions to postpone shall be decided without debate.

11 (6) EFFECT OF MOTION.—If the motion to dis-  
12 charge is agreed to or disagreed to, the motion may  
13 not be renewed, nor may another motion to dis-  
14 charge the committee be made with respect to any  
15 other resolution with respect to the same proposal.

16 (7) SENATE PROCEDURE.—

17 (A) MOTION TO PROCEED.—When the  
18 committee of the Senate has reported, or has  
19 been discharged from further consideration of,  
20 a resolution, it is at any time thereafter in  
21 order (even though a previous motion to the  
22 same effect has been disagreed to) to move to  
23 proceed to the consideration of the resolution.  
24 The motion is highly privileged and is not de-  
25 batable. An amendment to the motion is not in

1 order, and it is not in order to move to recon-  
2 sider the vote by which the motion is agreed to  
3 or disagreed to.

4 (B) LIMITATION ON DEBATE.—Debate in  
5 the Senate on the resolution shall be limited to  
6 not more than 10 hours, which shall be divided  
7 equally between those favoring and those oppos-  
8 ing the resolution. A motion further to limit de-  
9 bate is not debatable. An amendment to, or mo-  
10 tion to recommit, the resolution is not in order,  
11 and it is not in order to move to reconsider the  
12 vote by which the resolution is agreed to or dis-  
13 agreed to.

14 (C) NO DEBATE ON CERTAIN MOTIONS.—  
15 In the Senate, motions to postpone made with  
16 respect to the consideration of a resolution and  
17 motions to proceed to the consideration of other  
18 business shall be decided without debate.

19 (D) APPEALS.—Appeals from the decisions  
20 of the Chair relating to the application of the  
21 rules of the Senate to the procedure relating to  
22 a resolution shall be decided without debate.

23 (8) EFFECT OF ADOPTION OF RESOLUTION BY  
24 OTHER HOUSE.—If, before the passage by one  
25 House of the Congress of a resolution of that House,

1 it receives from the other House a resolution, then  
2 the following procedures apply:

3 (A) The resolution of the other House shall  
4 not be referred to a committee and may not be  
5 considered in the House receiving it, except in  
6 the case of final passage as provided in sub-  
7 paragraph (B)(i).

8 (B) With respect to the resolution de-  
9 scribed in subparagraph (A) of the House re-  
10 ceiving it—

11 (i) the procedure in that House shall  
12 be the same as if no joint resolution had  
13 been received from the other House; but

14 (ii) the vote on final passage shall be  
15 on the resolution of the other House.

16 **SEC. 306. INCREASE IN SPENDING CAPS UNDER TRUST**  
17 **FUND.**

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

20 “This subsection shall be applied for fiscal years 1998 and  
21 1999 by substituting ‘zero percent’ for ‘50 percent’ in  
22 paragraph (1), and by substituting ‘100 percent’ for ‘70  
23 percent’. The preceding sentence shall not apply for any  
24 fiscal year for which fees imposed under section 303 of

1 the Air Traffic Management Performance Improvement  
2 Act of 1995 are not in effect.”.

3 **SEC. 307. ADVANCE APPROPRIATIONS FOR AIRPORT AND**  
4 **AIRWAY TRUST FUND ACTIVITIES.**

5 (a) MULTIYEAR AUTHORIZATIONS.—Beginning with  
6 fiscal year 1997, any authorization of appropriations for  
7 an activity for which amounts are to be appropriated from  
8 the Airport and Airway Trust Fund shall provide funds  
9 for a period of not less than 3 fiscal years unless the activ-  
10 ity for which appropriations are authorized is to be con-  
11 cluded before the end of that period.

12 (b) MULTIYEAR APPROPRIATIONS.—Beginning with  
13 fiscal year 1997, amounts appropriated from the Airport  
14 and Airway Trust Fund shall be appropriated for periods  
15 of 3 fiscal years rather than annually.

○

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S 1239 IS—3

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S 1239 IS—5