

Calendar No. 363

104TH CONGRESS
2^D SESSION

S. 1239

[Report No. 104-251]

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.

APRIL 10, 1996

Reported under authority of the order of the Senate of
March 29, 1996 with an amendment

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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

APRIL 10, 1996

Reported under authority of the order of the Senate of March 29, 1996 by
Mr. PRESSLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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,*

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

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

5 (b) **TABLE OF SECTIONS.**—The table of sections for
 6 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.

9 (3) **FEDERAL AGENCY.**—The term “Federal
10 agency” means “agency” as defined in section
11 551(1) of title 5, United States Code.

12 (4) **SECRETARY.**—The term “Secretary” means
13 the Secretary of Transportation.

14 **SEC. 3. EFFECTIVE DATE.**

15 The provisions of this Act and the amendments made
16 by this Act shall take effect on the date that is 30 days
17 after the date of the enactment of this Act.

18 **TITLE I—GENERAL PROVISIONS**

19 **SEC. 101. FINDINGS.**

20 Congress finds that:

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25 to rely on outdated technology to carry out its re-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

1 (2) The users of the air transportation system
2 now pay 70 percent of the budget of the Federal
3 Aviation Administration, with the remaining 30 per-
4 cent coming from the General Fund. The General
5 Fund contribution over the years is one measure of
6 the benefit received by the general public, military,
7 and other users of Federal Aviation Administration's
8 services.

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

12 (4) The need to balance the Federal budget
13 means that the General Fund contribution cannot be
14 relied upon in the future to meet the Federal Avia-
15 tion Administration's overall budget.

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

21 (6) The aviation community and the employees
22 of the Federal Aviation Administration must come
23 together to improve the system. The Federal Avia-
24 tion Administration must continue to recognize who
25 its customers are and what their needs are, and to

1 design and redesign the system to make safety im-
2 provements and increase productivity.

3 (7) The Federal Aviation Administration
4 projects that commercial operations will increase by
5 18 percent and passenger traffic by 35 percent by
6 the year 2002. Without effective airport expansion
7 and system modernization, these needs cannot be
8 met.

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

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

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

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

22 (12) Because the Federal Aviation Administra-
23 tion is a unique Federal entity in that it is a partici-
24 pant in the daily operations of an industry, and be-
25 cause the national air transportation system faces

1 significant problems without significant changes, the
2 Federal Aviation Administration must be enabled to
3 change the Federal procurement and personnel sys-
4 tems to ensure that the Federal Aviation Adminis-
5 tration has the ability to keep pace with new tech-
6 nology and is able to match resources with the real
7 personnel needs of the Federal Aviation Administra-
8 tion.

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

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

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

22 **SEC. 102. PURPOSES.**

23 The purposes of this Act are—

24 (1) to ensure that final action shall be taken on
25 all notices of proposed rulemaking of the Federal

1 Aviation Administration within 18 months after the
2 date of their initiation;

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

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

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

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

19 ~~(6)~~ to make the Federal Aviation Administra-
20 tion a more efficient and effective organization, able
21 to meet the needs of a dynamic, growing industry,
22 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 execu-
 25 tive 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 TRANSPORTATION.—

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 “(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 **IEWS.**

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 ceeding 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 budget
2 et to the Congress, provide to the Committee on
3 Commerce, Science, and Transportation of the Senate
4 and the Committee on Transportation and Infrastructure
5 of the House of Representatives—

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

8 (B) a list of activities by the Administration
9 during the preceding fiscal year that were
10 supported by fee expenditures and appropriations;
11

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 committees
18 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 Representatives,
23 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 (S) 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(e) 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.

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

4 (a) *SHORT TITLE.*—This Act may be cited as the “Air
5 Traffic Management System Performance Improvement Act
6 of 1996”.

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

Sec. 114. Rural air fare study.

*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.

Sec. 204. Conforming amendment.

*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 funds.

Sec. 307. Advance appropriations for Airport and Airway Trust Fund activities.

Sec. 308. Sense of the Senate.

Sec. 309. Rural Air Service Survival Act.

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 Avia-*
8 *tion Administration.*

9 (3) *SECRETARY.*—*The term “Secretary” means*
10 *the Secretary of Transportation.*

11 **SEC. 3. EFFECTIVE DATE.**

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

15 **TITLE I—GENERAL PROVISIONS**

16 **SEC. 101. FINDINGS.**

17 *The Congress finds the following:*

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

1 (2) *The users of the air transportation system*
2 *now pay 70 percent of the budget of the Federal Avia-*
3 *tion Administration, with the remaining 30 percent*
4 *coming from the General Fund. The General Fund*
5 *contribution over the years is one measure of the bene-*
6 *fit received by the general public, military, and other*
7 *users of Federal Aviation Administration's services.*

8 (3) *The Federal Aviation Administration must*
9 *become a more efficient, effective, and different orga-*
10 *nization to meet future challenges.*

11 (4) *The need to balance the Federal budget*
12 *means that it may become more and more difficult to*
13 *obtain sufficient General Fund contributions to meet*
14 *the Federal Aviation Administration's future budget*
15 *needs.*

16 (5) *Congress must keep its commitment to the*
17 *users of the national air transportation system by*
18 *seeking to spend all monies collected from them each*
19 *year and deposited into the Airport and Airway*
20 *Trust Fund. Existing surpluses representing past re-*
21 *ceipts must also be spent for the purposes for which*
22 *such funds were collected.*

23 (6) *The aviation community and the employees*
24 *of the Federal Aviation Administration must come to-*
25 *gether to improve the system. The Federal Aviation*

1 *Administration must continue to recognize who its*
2 *customers are and what their needs are, and to design*
3 *and redesign the system to make safety improvements*
4 *and increase productivity.*

5 *(7) The Federal Aviation Administration*
6 *projects that commercial operations will increase by*
7 *18 percent and passenger traffic by 35 percent by the*
8 *year 2002. Without effective airport expansion and*
9 *system modernization, these needs cannot be met.*

10 *(8) By the year 2003, the Federal Aviation Ad-*
11 *ministration, to the extent possible, should be user*
12 *supported, and have the ability to make rational*
13 *short term and long term decisions.*

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

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

18 *(11) There is widespread agreement within gov-*
19 *ernment and the aviation industry that reform of the*
20 *Federal Aviation Administration is essential to safely*
21 *and efficiently accommodate the projected growth of*
22 *aviation within the next decade.*

23 *(12) To the extent that the Congress determines*
24 *that certain segments of the aviation community are*
25 *not required to pay all of the costs of the government*

1 *services which they require and benefits which they*
2 *receive, the Congress should appropriate the difference*
3 *between such costs and any receipts received from*
4 *such segment.*

5 *(13) Prior to the imposition of any new charges*
6 *or user fees on segments of the industry, an independ-*
7 *ent review must be performed to assess the funding*
8 *needs and assumptions for operations, capital spend-*
9 *ing, and airport infrastructure.*

10 *(14) An independent, thorough, and complete*
11 *study and assessment must be performed of the costs*
12 *to the Federal Aviation Administration driven by*
13 *each segment of the aviation system for safety and*
14 *operational services, including the use of the air traf-*
15 *fic control system.*

16 *(15) Because the Federal Aviation Administra-*
17 *tion is a unique Federal entity in that it is a partici-*
18 *part 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 Administra-*
24 *tion has the ability to keep pace with new technology*

1 *and is able to match resources with the real personnel*
2 *needs of the Federal Aviation Administration.*

3 (16) *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 (17) *Without reforms in the areas of procure-*
7 *ment, personnel, funding, and governance, the Federal*
8 *Aviation Administration will continue to experience*
9 *delays and cost overruns in its major modernization*
10 *programs and needed improvements in the perform-*
11 *ance of the air traffic management system will not*
12 *occur.*

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

16 (19) *General Federal Aviation Administration*
17 *functions, including inspections and administrative*
18 *and overhead costs not directly related to service ac-*
19 *tivities, should continue to be funded by appropri-*
20 *ations.*

21 **SEC. 102. PURPOSES.**

22 *The purposes of this Act are—*

23 (1) *to ensure that final action shall be taken on*
24 *all notices of proposed rulemaking of the Federal*

1 *Aviation Administration within 18 months after the*
2 *date of their publication;*

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

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

9 *(4) to permit the Federal Aviation Administra-*
10 *tion, with Congressional review, to establish a pro-*
11 *gram to improve air traffic management system per-*
12 *formance and to establish appropriate levels of cost*
13 *accountability for air traffic management services*
14 *provided by the Federal Aviation Administration;*

15 *(5) to establish a more autonomous and account-*
16 *able Federal Aviation Administration within the De-*
17 *partment of Transportation; and*

18 *(6) to make the Federal Aviation Administration*
19 *a more efficient and effective organization, able to*
20 *meet the needs of a dynamic, growing industry, and*
21 *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 striking subsection (f) and inserting the
12 following:

13 “(f) *AUTHORITY OF THE SECRETARY AND THE ADMIN-*
14 *ISTRATOR.*—

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

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

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

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

1 *tration (other than Presidential and politi-*
2 *cal appointees);*

3 *“(ii) the acquisition, operation, and*
4 *maintenance of property and equipment of*
5 *the Administration;*

6 *“(iii) except as otherwise provided in*
7 *paragraph (3), the promulgation of regula-*
8 *tions, rules, orders, circulars, bulletins, and*
9 *other official publications of the Adminis-*
10 *tration; and*

11 *“(iv) any obligation imposed on the*
12 *Administrator, or power conferred on the*
13 *Administrator, by the Air Traffic Manage-*
14 *ment System Performance Improvement Act*
15 *of 1996 (or any amendment made by that*
16 *Act);*

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

22 *“(C) may delegate, and authorize successive*
23 *redelegations of, to an officer or employee of the*
24 *Administration any function, power, or duty*

1 *conferred upon the Administrator, unless such*
2 *delegation is prohibited by law; and*

3 “(D) *except as otherwise provided for in*
4 *this title, and notwithstanding any other provi-*
5 *sion of law to the contrary, shall not be required*
6 *to coordinate, submit for approval or concur-*
7 *rence, or seek the advice or views of the Secretary*
8 *or any other officer or employee of the Depart-*
9 *ment of Transportation on any matter with re-*
10 *spect to which the Administrator is the final au-*
11 *thority.*

12 “(3) *DEFINITION OF POLITICAL APPOINTEE.—*
13 *For purposes of this subsection, the term ‘political ap-*
14 *pointee’ means any individual who—*

15 “(A) *is employed in a position on the Exec-*
16 *utive Schedule under sections 5312 through 5316*
17 *of title 5;*

18 “(B) *is a limited term appointee, limited*
19 *emergency appointee, or noncareer appointee in*
20 *the Senior Executive Service as defined under*
21 *section 3132(a) (5), (6), and (7) of title 5, re-*
22 *spectively; or*

23 “(C) *is employed in a position in the execu-*
24 *tive branch of the Government of a confidential*
25 *or policy-determining character under Schedule*

1 *C of subpart C of part 213 of title 5 of the Code*
 2 *of Federal Regulations.”.*

3 **(b) PRESERVATION OF EXISTING AUTHORITY.**—*Noth-*
 4 *ing in this Act or the amendments made by this Act limits*
 5 *any authority granted to the Administrator by statute or*
 6 *by delegation that was in effect on the day before the date*
 7 *of enactment of this Act.*

8 **SEC. 104. REGULATIONS.**

9 *Section 106(f) of title 49, United States Code, as*
 10 *amended by section 103, is further amended—*

11 (1) *by redesignating paragraph (3) as para-*
 12 *graph (4); and*

13 (2) *by inserting after paragraph (2) the follow-*
 14 *ing:*

15 “(3) **REGULATIONS.**—

16 “(A) **IN GENERAL.**—*In the performance of*
 17 *the functions of the Administrator and the Ad-*
 18 *ministration, the Administrator is authorized to*
 19 *issue, rescind, and revise such regulations as are*
 20 *necessary to carry out those functions. The issu-*
 21 *ance of such regulations shall be governed by the*
 22 *provisions of chapter 5 of title 5. The Adminis-*
 23 *trator shall act upon all petitions for rulemaking*
 24 *no later than 6 months after the date such peti-*
 25 *tions are filed by dismissing such petitions, by*

1 *informing the petitioner of an intention to dis-*
2 *miss, or by issuing a notice of proposed rule-*
3 *making or advanced notice of proposed rule-*
4 *making. The Administrator shall issue a final*
5 *regulation, or take other final action, not later*
6 *than 18 months after the date of publication in*
7 *the Federal Register of a notice of proposed rule-*
8 *making or, in the case of an advanced notice of*
9 *proposed rulemaking, if issued, not later than 24*
10 *months after that date.*

11 “(B) APPROVAL OF SECRETARY OF TRANS-
12 PORTATION.—

13 “(i) *The Administrator may not issue*
14 *a proposed regulation or final regulation*
15 *that is likely to result in the expenditure by*
16 *State, local, and tribal governments in the*
17 *aggregate, or by the private sector, of*
18 *\$50,000,000 or more (adjusted annually for*
19 *inflation beginning with the year following*
20 *the date of enactment of the Air Traffic*
21 *Management System Performance Improve-*
22 *ment Act of 1996) in any 1 year, or any*
23 *regulation which is significant, unless the*
24 *Secretary of Transportation approves the*
25 *issuance of the regulation in advance. For*

1 *purposes of this paragraph, a regulation is*
2 *significant if it is likely to—*

3 *“(I) have an annual effect on the*
4 *economy of \$100 million or more or*
5 *adversely affect in a material way the*
6 *economy, a sector of the economy, pro-*
7 *ductivity, competition, jobs, the envi-*
8 *ronment, public health or safety, or*
9 *State, local, or tribal governments or*
10 *communities;*

11 *“(II) create a serious inconsist-*
12 *ency or otherwise interfere with an ac-*
13 *tion taken or planned by another agen-*
14 *cy;*

15 *“(III) materially alter the budg-*
16 *etary impact of entitlements, grants,*
17 *user fees, or loan programs or the*
18 *rights and obligations of recipients*
19 *thereof; or*

20 *“(IV) raise novel legal or policy*
21 *issues arising out of legal mandates.*

22 *“(i) In an emergency, the Adminis-*
23 *trator may issue a regulation described in*
24 *clause (i) without prior approval by the*
25 *Secretary, but any such emergency regula-*

1 *tion is subject to ratification by the Sec-*
2 *retary after it is issued and shall be re-*
3 *scinded by the Administrator within 5 days*
4 *(excluding Saturdays, Sundays, and legal*
5 *public holidays) after issuance if the Sec-*
6 *retary fails to ratify its issuance.*

7 *“(iii) Any regulation that does not*
8 *meet the criteria of clause (i), and any reg-*
9 *ulation or other action that is a routine or*
10 *frequent action or a procedural action, may*
11 *be issued by the Administrator without re-*
12 *view or approval by the Secretary.*

13 *“(iv) The Administrator shall submit a*
14 *copy of any regulation requiring approval*
15 *by the Secretary under clause (i) to the Sec-*
16 *retary, who shall either approve it or return*
17 *it to the Administrator with comments*
18 *within 45 days after receiving it.*

19 *“(C) PERIODIC REVIEW.—(i) Beginning on*
20 *the date which is 3 years after the date of enact-*
21 *ment of the Air Traffic Management System Per-*
22 *formance Improvement Act of 1996, the Admin-*
23 *istrator shall review any unusually burdensome*
24 *regulation issued by the Administrator after the*
25 *date of enactment of the Air Traffic Management*

1 *System Performance Improvement Act of 1996*
2 *beginning not later than 3 years after the effec-*
3 *tive date of the regulation to determine if the cost*
4 *assumptions were accurate, the benefit of the reg-*
5 *ulations, and the need to continue such regula-*
6 *tions in force in their present form.*

7 “(ii) *The Administrator may identify for*
8 *review under the criteria set forth in clause (i)*
9 *unusually burdensome regulations that were is-*
10 *ssued before the date of enactment of the Air Traf-*
11 *fic Management System Performance Improve-*
12 *ment Act of 1996 and that have been in force for*
13 *more than 3 years.*

14 “(iii) *For purposes of this subparagraph,*
15 *the term ‘unusually burdensome regulation’*
16 *means any regulation that results in the annual*
17 *expenditure by State, local, and tribal govern-*
18 *ments in the aggregate, or by the private sector,*
19 *of \$25,000,000 or more (adjusted annually for*
20 *inflation beginning with the year following the*
21 *date of enactment of the Air Traffic Management*
22 *System Performance Act of 1996) in any year.*

23 “(iv) *The periodic review of regulations*
24 *may be performed by advisory committees and*

1 *the Management Advisory Council established*
2 *under subsection (p).”.*

3 **SEC. 105. PERSONNEL AND SERVICES.**

4 *Section 106 of title 49, United States Code, is amended*
5 *by adding at the end the following new subsection:*

6 “(l) *PERSONNEL AND SERVICES.*—

7 “(1) *OFFICERS AND EMPLOYEES.*—*Upon develop-*
8 *ment of a personnel management system under sec-*
9 *tion 40122(c), the Administrator is authorized, in the*
10 *performance of the functions of the Administrator, to*
11 *appoint, transfer, and fix the compensation of such*
12 *officers and employees, including attorneys, as may*
13 *be necessary to carry out the functions of the Admin-*
14 *istrator and the Administration. Except as otherwise*
15 *provided by law, such officers and employees shall be*
16 *appointed in accordance with the civil service laws*
17 *and compensated in accordance with title 5. In fixing*
18 *compensation and benefits of officers and employees,*
19 *the Administrator shall not engage in any type of*
20 *bargaining, except to the extent provided for in sec-*
21 *tion 40122(c), nor shall the Administrator be bound*
22 *by any requirement to establish such compensation or*
23 *benefits at particular levels.*

24 “(2) *EXPERTS AND CONSULTANTS.*—*The Admin-*
25 *istrator is authorized to obtain the services of experts*

1 *and consultants in accordance with section 3109 of*
2 *title 5.*

3 “(3) *TRANSPORTATION AND PER DIEM EX-*
4 *PENSES.—The Administrator is authorized to pay*
5 *transportation expenses, and per diem in lieu of sub-*
6 *sistence expenses, in accordance with chapter 57 of*
7 *title 5.*

8 “(4) *USE OF PERSONNEL FROM OTHER AGEN-*
9 *CIES.—The Administrator is authorized to utilize the*
10 *services of personnel of any other Federal agency (as*
11 *such term is defined under section 551(1) of title 5).*

12 “(5) *VOLUNTARY SERVICES.—*

13 “(A) *IN GENERAL.—(i) In exercising the*
14 *authority to accept gifts and voluntary services*
15 *under section 326 of this title, and without re-*
16 *gard to section 1342 of title 31, the Adminis-*
17 *trator may not accept voluntary and uncompen-*
18 *sated services if such services are used to displace*
19 *Federal employees employed on a full-time, part-*
20 *time, or seasonal basis.*

21 “(ii) *The Administrator is authorized to*
22 *provide for incidental expenses, including trans-*
23 *portation, lodging, and subsistence for volunteers*
24 *who provide voluntary services under this sub-*
25 *section.*

1 “(iii) *An individual who provides vol-*
2 *untary services under this subsection shall not be*
3 *considered a Federal employee for any purpose*
4 *other than for purposes of chapter 81 of title 5,*
5 *relating to compensation for work injuries, and*
6 *chapter 171 of title 28, relating to tort claims.”.*

7 **SEC. 106. CONTRACTS.**

8 *Section 106(l) of title 49, United States Code, as added*
9 *by section 105 of this Act, is amended by adding at the*
10 *end the following new paragraph.*

11 “(6) *CONTRACTS.—The Administrator is author-*
12 *ized to enter into and perform such contracts, leases,*
13 *cooperative agreements, or other transactions as may*
14 *be necessary to carry out the functions of the Admin-*
15 *istrator and the Administration. The Administrator*
16 *may enter into such contracts, leases, cooperative*
17 *agreements, and other transactions with any Federal*
18 *agency (as such term is defined in section 551(1) of*
19 *title 5) or any instrumentality of the United States,*
20 *any State, territory, or possession, or political sub-*
21 *division thereof, any other government entity, or any*
22 *person, firm, associates, corporation, or educational*
23 *institution, on such terms and conditions as the Ad-*
24 *ministrator may consider appropriate.”.*

1 **SEC. 107. BUDGET.**

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

4 **“§48109. Budget information and legislative rec-**
5 **ommendations and comments**

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

11 “(b) *SUBMISSION OF BUDGET TO DOT.*—At the same
12 time that agencies of the Department of Transportation
13 having jurisdiction over other modes of transportation are
14 required to submit their budgets to the Secretary of Trans-
15 portation, the Administrator shall submit to the Secretary
16 the budget prepared by the Administrator. The budget sub-
17 mission shall include a statement of income and expenses
18 and analysis of the surplus or deficit in the Airport and
19 Airway Trust Fund established under section 9502 of the
20 Internal Revenue Code of 1986, and any other such supple-
21 mentary information as is necessary or desirable to make
22 known about the financial condition and operations of the
23 Administration. The annual budget shall be included in the
24 budget submitted by the President pursuant to chapter 11
25 of title 31, United States Code. The Secretary shall review
26 the budget and may recommend to the Administrator modi-

1 *fications in the budget necessary to ensure that the budget*
2 *is consistent with the needs of the national transportation*
3 *system. The Administrator may modify the budget to adopt*
4 *any recommendation made by the Secretary.*

5 “(c) *SUBMISSION OF BUDGET TO CONGRESS.*—

6 “(1) *IN GENERAL.*—*When the Administrator sub-*
7 *mits to the President or the Director of the Office of*
8 *Management and Budget any budget information,*
9 *legislative recommendation, or comment on legislation*
10 *about amounts authorized in section 48101 or 48102,*
11 *the Administrator concurrently shall submit a copy of*
12 *the information, recommendation, or comment to the*
13 *Speaker of the House of Representatives, the Commit-*
14 *tees on Transportation and Infrastructure and Ap-*
15 *propriations of the House of Representatives, the*
16 *President of the Senate, and the Committees on Com-*
17 *merce, Science, and Transportation and Appropria-*
18 *tions of the Senate.*

19 “(2) *SPECIAL RULE WITH RESPECT TO ANNUAL*
20 *BUDGETS.*—*The annual budget of the Administration*
21 *submitted to Congress shall include—*

22 “(A) *any modifications made by the Ad-*
23 *ministrator under subsection (b) with respect to*
24 *the budget; and*

1 “(B) if the Administrator does not adopt a
2 recommendation made by the Secretary under
3 subsection (b), a description of the recommenda-
4 tion and the reasons for not adopting the rec-
5 ommendation.

6 “(d) *COST REDUCTION AND EFFICIENCY REPORT RE-*
7 *QUIRED.*—Whenever the Administrator submits a report,
8 request, or proposal that contains an increase in either the
9 budget of the Administration or any of the fees imposed by
10 the Administration, the Administrator shall submit, as a
11 part of that report, request, or proposal—

12 “(1) an explanation that states specifically the
13 need for the increase; and

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

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

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

20 **SEC. 108. FACILITIES.**

21 Section 106 of title 49, United States Code, as amend-
22 ed by section 105 of this Act, is further amended by adding
23 at the end the following new subsection:

24 “(m) *COOPERATION BY ADMINISTRATOR.*—With the
25 consent of appropriate officials, the Administrator may,

1 *with or without reimbursement, use or accept the services,*
2 *equipment, personnel, and facilities of any other Federal*
3 *agency (as such term is defined in section 551(1) of title*
4 *5) and any other public or private entity. The Adminis-*
5 *trator may also cooperate with appropriate officials of other*
6 *public and private agencies and instrumentalities concern-*
7 *ing the use of services, equipment, personnel, and facilities.*
8 *The head of each Federal agency shall cooperate with the*
9 *Administrator in making the services, equipment, person-*
10 *nel, and facilities of the Federal agency available to the Ad-*
11 *ministrator. The head of a Federal agency is authorized,*
12 *notwithstanding any other provision of law, to transfer to*
13 *or to receive from the Administration, without reimburse-*
14 *ment, supplies and equipment other than administrative*
15 *supplies or equipment.”.*

16 **SEC. 109. PROPERTY.**

17 *Section 106 of title 49, United States Code, as amend-*
18 *ed by section 108 of this Act, is further amended by adding*
19 *at the end the following new subsection:*

20 *“(n) ACQUISITION.—*

21 *“(1) IN GENERAL.—The Administrator is au-*
22 *thorized—*

23 *“(A) to acquire (by purchase, lease, con-*
24 *demnation, or otherwise), construct, improve, re-*
25 *pair, operate, and maintain—*

1 “(i) air traffic control facilities and
2 equipment;

3 “(ii) research and testing sites and fa-
4 cilities; and

5 “(iii) such other real and personal
6 property (including office space and pat-
7 ents), or any interest therein, within and
8 outside the continental United States as the
9 Administrator considers necessary;

10 “(B) to lease to others such real and per-
11 sonal property; and

12 “(C) to provide by contract or otherwise for
13 eating facilities and other necessary facilities for
14 the welfare of employees of the Administration at
15 the installations of the Administration, and to
16 acquire, operate, and maintain equipment for
17 these facilities.

18 “(2) TITLE.—Title to any property or interest
19 therein acquired pursuant to this subsection shall be
20 held by the Government of the United States.”.

21 **SEC. 110. SELECT PANEL TO REVIEW INNOVATIVE FUNDING**

22 **MECHANISMS.**

23 (a) ESTABLISHMENT.—The Administrator shall estab-
24 lish a select panel to review and report to Congress regard-
25 ing a limited innovative program to fund specific facilities

1 *and equipment projects, and to provide limited additional*
2 *funding alternatives for airport capacity development. The*
3 *mechanisms to be reviewed shall include loan guarantees,*
4 *financial partnerships with for-profit private sector enti-*
5 *ties, government sponsored enterprises, and revolving loan*
6 *funds.*

7 (b) *APPOINTMENT OF MEMBERS.*—*The members of the*
8 *panel established under this section shall consist of appro-*
9 *priate Federal Government officials and representatives of*
10 *the aviation industry, Administration employees, the finan-*
11 *cial community, and State and local governments.*

12 (c) *TRAVEL AND PER DIEM.*—*Each member of the*
13 *panel established under this section shall be paid actual*
14 *travel expenses, and per diem in lieu of subsistence expenses*
15 *when away from his or her usual place of residence.*

16 (d) *REPORT.*—*Not later than 9 months after the date*
17 *of the appointment of the last member to the panel under*
18 *subsection (b), the panel shall submit to the Congress and*
19 *the Administration a report on the results of the review con-*
20 *ducted under this section. Such report shall specifically take*
21 *into account the independent studies performed pursuant*
22 *to section 45303(a)(6) of title 49, United States Code, as*
23 *added by section 305 of this Act.*

24 (e) *FEDERAL ADVISORY COMMITTEE ACT NOT TO*
25 *APPLY.*—*The Federal Advisory Committee Act (5 U.S.C.*

1 *App.) does not apply to the panel established under this*
2 *section.*

3 (f) *TERMINATION.*—*The panel established under this*
4 *section shall terminate on the date that is 30 days after*
5 *the date of submission of the report under subsection (d).*

6 **SEC. 111. TRANSFERS OF FUNDS FROM OTHER FEDERAL**
7 **AGENCIES.**

8 Section 106 of title 49, United States Code, as amend-
9 ed by section 109 of this Act, is further amended by adding
10 at the end the following new subsection:

11 “(o) *TRANSFERS OF FUNDS.*—*The Administrator is*
12 *authorized to accept transfers of unobligated balances and*
13 *unexpended balances of funds appropriated to other Federal*
14 *agencies (as such term is defined in section 551(1) of title*
15 *5) to carry out functions transferred by this Act to the Ad-*
16 *ministrator or functions transferred pursuant to law to the*
17 *Administrator on or after the date of the enactment of the*
18 *Air Traffic Management System Performance Improvement*
19 *Act of 1996.”.*

20 **SEC. 112. MANAGEMENT ADVISORY COUNCIL.**

21 Section 106 of title 49, United States Code, as amend-
22 ed by section 111 of this Act, is further amended by adding
23 at the end the following new subsection:

24 “(p) *MANAGEMENT ADVISORY COUNCIL.*—

1 “(1) *ESTABLISHMENT.*—Within 3 months after
2 the date of enactment of the Air Traffic Management
3 System Performance Improvement Act of 1996, the
4 Administrator shall establish an advisory council
5 which shall be known as the Federal Aviation Man-
6 agement Advisory Council (in this subsection referred
7 to as the ‘Council’). With respect to Federal Aviation
8 Administration management, policy, spending, user
9 fees, and regulatory matters affecting the aviation in-
10 dustry, the Council may submit comments, rec-
11 ommended modifications, and dissenting views to the
12 Administrator. The Administrator shall include in
13 any submission to Congress, the Secretary, or the gen-
14 eral public, and in any submission for publication in
15 the Federal Register, a description of the comments,
16 recommended modifications, and dissenting views re-
17 ceived from the Council, together with the reasons for
18 any differences between the views of the Council and
19 the views or actions of the Administrator.

20 “(2) *MEMBERSHIP.*—The Council shall consist of
21 15 members, who shall consist of—

22 “(A) a designee of the Secretary of Trans-
23 portation;

24 “(B) a designee of the Secretary of Defense;

25 and

1 “(C) 13 members appointed by the Presi-
2 dent after consulting the Senate, representing
3 aviation interests, at least 6 of whom shall rep-
4 resent the interests of the air carrier industry (of
5 which at least 2 of whom shall represent major
6 air carriers with gross revenues under
7 \$4,000,000,000, at least 1 of whom shall rep-
8 resent the interests of cargo carriers, and at least
9 1 of whom shall represent the interests of re-
10 gional air carriers).

11 “(3) QUALIFICATIONS.—No member appointed
12 under paragraph (2)(C) may serve as an officer or
13 employee of the United States Government while serv-
14 ing as a member of the Council.

15 “(4) FUNCTIONS.—

16 “(A) IN GENERAL.—(i) The Council shall
17 provide advice and counsel to the Administrator
18 on issues which affect or are affected by the oper-
19 ations of the Administrator. The Council shall
20 function as an oversight resource for manage-
21 ment, policy, spending, and regulatory matters
22 under the jurisdiction of the Administration.

23 “(ii) The Council shall review the rule-
24 making cost-benefit analysis process and develop

1 *recommendations to improve the analysis and*
2 *ensure that the public interest is fully protected.*

3 “(iii) *The Council shall review the process*
4 *through which the Administration determines to*
5 *use advisory circulars and service bulletins.*

6 “(B) *PANELS AND WORKING GROUPS.—The*
7 *chairman of the Council shall establish a panel*
8 *or working group, from among the members of*
9 *the Council, on the development of all fees under*
10 *sections 45301 and 45302, and may establish*
11 *such additional panels and working groups, con-*
12 *sisting of members of the Council, as may be nec-*
13 *essary to carry out the functions of the Council.*

14 “(C) *MEETINGS.—The Council shall meet*
15 *on a regular and periodic basis or at the call of*
16 *the chairman or of the Administrator.*

17 “(D) *ACCESS TO DOCUMENTS AND STAFF.—*
18 *The Administration may give the Council appro-*
19 *priate access to relevant documents and person-*
20 *nel of the Administration, and the Administrator*
21 *shall make available, consistent with the author-*
22 *ity to withhold commercial and other propri-*
23 *etary information under section 552 of title 5*
24 *(commonly known as the ‘Freedom of Informa-*
25 *tion Act’), cost data associated with the acquisi-*

1 *tion and operation of air traffic service systems.*
2 *Any member of the Council who receives com-*
3 *mercial or other proprietary data from the Ad-*
4 *ministrator shall be subject to the provisions of*
5 *section 1905 of title 18, pertaining to unauthor-*
6 *ized disclosure of such information.*

7 *“(5) FEDERAL ADVISORY COMMITTEE ACT NOT*
8 *TO APPLY.—The Federal Advisory Committee Act (5*
9 *U.S.C. App.) does not apply to the Council.*

10 *“(6) ADMINISTRATIVE MATTERS.—*

11 *“(A) TERMS OF MEMBERS.—(i) Except as*
12 *provided in subparagraph (B), members of the*
13 *Council appointed by the President under para-*
14 *graph (2)(C) shall be appointed for a term of 3*
15 *years.*

16 *“(ii) Of the members first appointed by the*
17 *President—*

18 *“(I) 4 shall be appointed for terms of*
19 *1 year;*

20 *“(II) 5 shall be appointed for terms of*
21 *2 years; and*

22 *“(III) 4 shall be appointed for terms of*
23 *3 years.*

1 “(iii) *An individual chosen to fill a va-*
2 *cancy shall be appointed for the unexpired term*
3 *of the member replaced.*

4 “(iv) *A member whose term expires shall*
5 *continue to serve until the date on which the*
6 *member’s successor takes office.*

7 “(B) *CHAIRMAN; VICE CHAIRMAN.—The*
8 *Council shall elect a chair and a vice chair from*
9 *among the members appointed under paragraph*
10 *(2)(C), each of whom shall serve for a term of 1*
11 *year. The vice chair shall perform the duties of*
12 *the chairman in the absence of the chairman.*

13 “(C) *TRAVEL AND PER DIEM.—Each mem-*
14 *ber of the Council shall be paid actual travel ex-*
15 *periences, and per diem in lieu of subsistence ex-*
16 *periences when away from his or her usual place of*
17 *residence, in accordance with section 5703 of*
18 *title 5.*

19 “(D) *DETAIL OF PERSONNEL FROM THE AD-*
20 *MINISTRATION.—The Administrator shall make*
21 *available to the Council such staff, information,*
22 *and administrative services and assistance as*
23 *may reasonably be required to enable the Council*
24 *to carry out its responsibilities under this sub-*
25 *section.”.*

1 **SEC. 113. AIRCRAFT ENGINE STANDARDS.**

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

4 *“(a) STANDARDS AND REGULATIONS.—(1) To relieve*
5 *and protect the public health and welfare from aircraft*
6 *noise, sonic boom, and aircraft engine emissions, the Ad-*
7 *ministrator of the Federal Aviation Administration, as he*
8 *deems necessary, shall prescribe—*

9 *“(A) standards to measure aircraft noise and*
10 *sonic boom;*

11 *“(B) regulations to control and abate aircraft*
12 *noise and sonic boom; and*

13 *“(C) emission standards applicable to the emis-*
14 *sion of any air pollutant from any class or classes of*
15 *aircraft engines which, in the judgment of the Admin-*
16 *istrator, causes, or contributes to, air pollution which*
17 *may reasonably be anticipated to endanger public*
18 *health or welfare.”.*

19 **SEC. 114. RURAL AIR FARE STUDY.**

20 *(a) IN GENERAL.—The Secretary shall conduct a*
21 *study to—*

22 *(1) compare air fares paid (calculated as both*
23 *actual and adjusted air fares) for air transportation*
24 *on flights conducted by commercial air carriers—*

25 *(A) between—*

1 (i) nonhub airports located in small
2 communities; and

3 (ii) large hub airports; and

4 (B) between large hub airports;

5 (2) analyze—

6 (A) the extent to which passenger service
7 that is provided from nonhub airports is pro-
8 vided on—

9 (i) regional commuter commercial air
10 carriers; or

11 (ii) major air carriers;

12 (B) the type of aircraft employed in provid-
13 ing passenger service at nonhub airports; and

14 (C) whether there is competition among
15 commercial air carriers with respect to the pro-
16 vision of air service to passengers from nonhub
17 airports.

18 (b) FINDINGS.—The Secretary shall include in the re-
19 port of the study conducted under subsection (a) findings
20 concerning—

21 (1) whether passengers who use commercial air
22 carriers to and from rural areas (as defined by the
23 Secretary) pay a disproportionately greater price for
24 that transportation than passengers who use commer-

1 *cial air carriers between urban areas (as defined by*
2 *the Secretary);*

3 *(2) the nature of competition, if any, in rural*
4 *markets (as defined by the Secretary) for commercial*
5 *air carriers;*

6 *(3) whether a relationship exists between higher*
7 *air fares and competition among commercial air car-*
8 *riers for passengers travelling on jet aircraft from*
9 *small communities (as defined by the Secretary) and,*
10 *if such a relation exists, the nature of that relation-*
11 *ship;*

12 *(4) the number of small communities that have*
13 *lost air service as a result of the deregulation of com-*
14 *mercial air carriers with respect to air fares;*

15 *(5) the number of small communities served by*
16 *airports with respect to which, after commercial air*
17 *carrier fares were deregulated, jet aircraft service was*
18 *replaced by turboprop aircraft service; and*

19 *(6) where such replacement occurred, any cor-*
20 *responding decreases in available seat capacity for*
21 *consumers at the airports referred to in that subpara-*
22 *graph.*

23 *(c) REPORT.—Not later than 60 days after the date*
24 *of enactment of this Act, the Secretary shall submit a final*
25 *report on the study carried out under subsection (a) to the*

1 *Committee on Commerce, Science, and Transportation of*
2 *the Senate.*

3 (d) *DEFINITIONS.—For purposes of this section, the*
4 *following definitions shall apply:*

5 (1) *ADJUSTED AIR FARE.—The term “adjusted*
6 *air fare” means an actual air fare that is adjusted*
7 *for distance travelled by a passenger.*

8 (2) *AIR CARRIER.—The term “air carrier” is de-*
9 *finied in section 40102(a)(2) of title 49, United States*
10 *Code.*

11 (3) *AIRPORT.—The term “airport” is defined in*
12 *section 40102(9) of such title.*

13 (4) *COMMERCIAL AIR CARRIER.—The term “com-*
14 *mmercial air carrier” means an air carrier that pro-*
15 *vides air transportation for commercial purposes (as*
16 *determined by the Secretary).*

17 (5) *HUB AIRPORT.—The term “hub airport” is*
18 *defined in section 41731(a)(2) of such title.*

19 (6) *LARGE HUB AIRPORT.—The term “large hub*
20 *airport” shall be defined by the Secretary but the def-*
21 *inition may not include a small hub airport, as that*
22 *term is defined in section 41731(a)(5) of such title.*

23 (7) *MAJOR AIR CARRIER.—The term “major air*
24 *carrier” shall be defined by the Secretary.*

1 (8) *NONHUB AIRPORT.*—The term “nonhub air-
2 port” is defined in section 41731(a)(4) of such title.

3 (9) *REGIONAL COMMUTER AIR CARRIER.*—The
4 term “regional commuter air carrier” shall be defined
5 by the Secretary.

6 **TITLE II—FEDERAL AVIATION**
7 **ADMINISTRATION STREAM-**
8 **LINING PROGRAMS**

9 **SEC. 201. INNOVATIVE PROGRAM FOR AIR TRAFFIC CON-**
10 **TROL MODERNIZATION.**

11 (a) *IN GENERAL.*—Chapter 401 of title 49, United
12 States Code, is amended—

13 (1) by redesignating section 40120 as section
14 40123; and

15 (2) by inserting after section 40119 the follow-
16 ing:

17 **“§ 40120. Innovative program for air traffic control**
18 **modernization**

19 “(a) *INNOVATIVE PROGRAM.*—The Administrator of
20 the Federal Aviation Administration (hereafter in this sec-
21 tion referred to as the ‘Administrator’) shall develop and
22 implement an innovative program under which an acquisi-
23 tion management system is used to procure goods and serv-
24 ices by the Federal Aviation Administration (hereafter in
25 this section referred to as the ‘Administration’).

1 “(b) *EXEMPTION FROM PROCUREMENT LAWS.*—

2 “(1) *IN GENERAL.*—Subject to paragraph (2), in
3 carrying out the acquisition management system used
4 under the innovative program, the Administrator
5 may waive all or any part of—

6 “(A) section 3709 of the Revised Statutes
7 (41 U.S.C. 5);

8 “(B) title III of the Federal Property and
9 Administrative Services Act of 1949 (41 U.S.C.
10 251 through 266);

11 “(C) the Office of Federal Procurement Pol-
12 icy Act (41 U.S.C. 401 et seq.);

13 “(D) sections 8, 9, and 15 of the Small
14 Business Act (15 U.S.C. 637, 638, and 644), but
15 the Administrator shall provide resources for the
16 development and implementation of a program
17 that presents the maximum opportunities, to the
18 extent possible, for small business concerns and
19 small business concerns owned and controlled by
20 socially and economically disadvantaged indi-
21 viduals to participate in the performance of con-
22 tracts awarded by the Administration;

23 “(E) any provision of law that, pursuant to
24 section 34 of the Office of Federal Procurement
25 Policy Act (41 U.S.C. 430), is listed in the Fed-

1 *eral Acquisition Regulation as being inapplica-*
2 *ble—*

3 *“(i) to contracts for the procurement of*
4 *commercial items; or*

5 *“(ii) in the case of a subcontract under*
6 *the innovative program, to subcontracts for*
7 *the procurement of commercial items;*

8 *“(F) the Federal Acquisition Streamlining*
9 *Act of 1994 (Public Law 103–355);*

10 *“(G) subchapter V of chapter 35 of title 31,*
11 *United States Code, relating to the procurement*
12 *protest system;*

13 *“(H) the Brooks Automatic Data Processing*
14 *Act (section 111 of the Federal Property and Ad-*
15 *ministrative Services Act of 1949; 40 U.S.C.*
16 *759);*

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

22 *“(2) EXEMPTIONS FOR THE DEPARTMENT OF DE-*
23 *FENSE.—The Department of Defense shall have the*
24 *same exemptions from acquisition laws as are waived*
25 *by the Administrator under paragraph (1) when en-*

1 gaged in joint actions to improve or replenish the na-
2 tional air traffic control system. The Administration
3 may acquire real property, goods, and services
4 through the Department of Defense, or other appro-
5 priate agencies, but is bound by the acquisition laws
6 and regulations governing those cases.

7 “(3) *EFFECTIVE DATE.*—The Administrator may
8 not waive the laws referred to in paragraph (1) until
9 the expiration of the 30-day period referred to in sub-
10 section (d)(2).

11 “(c) *DEVELOPMENT OF ACQUISITION MANAGEMENT*
12 *SYSTEM.*—

13 “(1) *IN GENERAL.*—Not later than 180 days
14 after the date of enactment of the Air Traffic Manage-
15 ment System Performance Improvement Act of 1996,
16 the Administrator, in consultation with such govern-
17 mental and nongovernmental experts in acquisition
18 management systems as the Administrator may em-
19 ploy, shall develop an acquisition management system
20 for the Administration. Notwithstanding any other
21 provision of law to the contrary, the Administrator
22 may, for purposes of this section, retain such experts
23 under a contract awarded on a basis other than a
24 competitive basis and without regard to any such
25 provisions requiring competitive bidding or preclud-

1 *ing sole source contract authority. In developing the*
2 *system, the Administrator may utilize the services of*
3 *experts and consultants under section 3109 of title 5,*
4 *without regard to the limitation imposed by the last*
5 *sentence of section 3109(b) of such title, and may con-*
6 *tract on a sole source basis, notwithstanding any*
7 *other provision of law to the contrary.*

8 *“(2) REQUIREMENTS.—The acquisition manage-*
9 *ment system to be developed by the Administrator*
10 *under paragraph (1) shall be—*

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

15 *“(B) designed to ensure the best practicable*
16 *acquisitions in terms of best value; and*

17 *“(C) designed to ensure that services are ac-*
18 *quired in the most effective and efficient manner.*

19 *“(d) NOTICE TO CONGRESS.—*

20 *“(1) IN GENERAL.—Upon completion of the de-*
21 *velopment of the acquisition management system, the*
22 *Administrator shall submit a comprehensive plan de-*
23 *scribing the acquisition management system to the*
24 *Congress. The Administrator shall also transmit with*
25 *the plan a copy of all suggestions and comments pro-*

1 *vided to the Administration by the Department of*
2 *Transportation, and by outside experts (if any), on*
3 *the acquisition management system.*

4 *“(2) DATE OF IMPLEMENTATION.—The Adminis-*
5 *trator may begin to implement the acquisition man-*
6 *agement system only after the expiration of the 30-*
7 *day period that begins on the date on which the plan*
8 *is submitted to the Congress under paragraph (1).*

9 *“(e) EXPERT EVALUATION.—On the date which is 3*
10 *years after the acquisition management system is imple-*
11 *mented, the Administration shall employ outside experts to*
12 *provide an independent evaluation of the effectiveness of the*
13 *system within 3 months after such date. The Administrator*
14 *shall transmit a copy of the evaluation to the Committee*
15 *on Commerce, Science, and Transportation of the Senate,*
16 *and the Committee on Transportation and Infrastructure*
17 *of the House of Representatives.*

18 *“(f) MODIFICATIONS TO SYSTEM.—The Administrator*
19 *may periodically make modifications to the acquisition*
20 *management system. Any such modifications shall be sub-*
21 *mitted to the Congress under subsection (d) in the same*
22 *manner as the acquisition management system plan and*
23 *may not be implemented until after the expiration of the*
24 *30-day period beginning on the date of submission.”.*

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

3 Chapter 401 of title 49, United States Code, as amend-
 4 ed by section 201, is further amended by inserting after sec-
 5 tion 40120 the following new section:

6 **“§ 40121. Air traffic control modernization reviews**

7 “(a) *REQUIRED TERMINATIONS OF ACQUISITIONS.*—
 8 *The Administrator of the Federal Aviation Administration*
 9 *(hereafter referred to in this section as the ‘Administrator’)*
 10 *shall terminate any program initiated after the date of en-*
 11 *actment of the Air Traffic Management System Perform-*
 12 *ance Improvement Act of 1996 and funded under the Facili-*
 13 *ties and Equipment account that—*

14 “(1) *is more than 50 percent over the cost goal*
 15 *established for the program;*

16 “(2) *fails to achieve at least 50 percent of the*
 17 *performance goals established for the program; or*

18 “(3) *is more than 50 percent behind schedule as*
 19 *determined in accordance with the schedule goal es-*
 20 *tablished for the program.*

21 “(b) *AUTHORIZED TERMINATIONS OF ACQUI-*
 22 *TIONS.*—*The Administrator shall consider terminating,*
 23 *under the authority of subsection (a), any substantial ac-*
 24 *quisition that—*

25 “(1) *is more than 10 percent over the cost goal*
 26 *established for the program;*

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

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

6 “(c) *EXCEPTION AND REPORT.*—

7 “(1) *CONTINUANCE OF PROGRAM, ETC.*—Not-
8 withstanding subsection (a), the Administrator may
9 continue an acquisition program required to be ter-
10 minated under subsection (a) if the Administrator de-
11 termines that termination would be inconsistent with
12 the development or operation of the national air
13 transportation system in a safe and efficient manner.

14 “(2) *REPORT.*—If the Administrator makes a de-
15 termination under paragraph (1) the Administrator
16 shall transmit a copy of the determination, together
17 with a statement of the basis for the determination,
18 to the Committees on Appropriations of the Senate
19 and the House of Representatives, the Committee on
20 Commerce, Science, and Transportation of the Senate,
21 and the Committee on Transportation and Infrastruc-
22 ture of the House of Representatives.”.

1 **SEC. 203. INNOVATIVE PROGRAM FOR FEDERAL AVIATION**
2 **ADMINISTRATION SERVICES.**

3 Chapter 401 of title 49, United States Code, as amend-
4 ed by section 202, is further amended by inserting after sec-
5 tion 40121 the following new section:

6 **“§ 40122. Innovative program for Federal Aviation Ad-**
7 **ministration services**

8 “(a) *INNOVATIVE PROGRAM.*—The Administrator of
9 the Federal Aviation Administration (hereafter in this sec-
10 tion referred to as the ‘Administrator’) shall develop and
11 implement an innovative program under which a personnel
12 management system is used for the management, compensa-
13 tion, and advancement of Federal Aviation Administration
14 (hereafter in this section referred to as the ‘Administration’)
15 employees.

16 “(b) *EXEMPTION FROM CERTAIN PROVISIONS OF*
17 *TITLE 5.*—

18 “(1) *IN GENERAL.*—Except as otherwise provided
19 in this section, under the innovative program, the Ad-
20 ministration shall be exempt from parts II and III of
21 title 5.

22 “(2) *EFFECTIVE DATE.*—The exemption provided
23 by paragraph (1) shall not take effect until the expi-
24 ration of the 30-day period specified in subsection
25 (d)(2).

1 “(c) *DEVELOPMENT OF PERSONNEL MANAGEMENT*
2 *SYSTEM.*—

3 “(1) *IN GENERAL.*—Not later than 180 days
4 after the date of enactment of the Air Traffic Manage-
5 ment System Performance Improvement Act of 1996,
6 the Administrator shall develop a personnel manage-
7 ment system for the Administration. Notwithstanding
8 any other provision of law to the contrary, the Ad-
9 ministrator may, for purposes of this section, retain
10 such experts under a contract awarded on a basis
11 other than a competitive basis and without regard to
12 any such provisions requiring competitive bidding or
13 precluding sole source contract authority. In develop-
14 ing the system, the Administrator may utilize the
15 services of experts and consultants under section 3109
16 of title 5 without regard to the limitation imposed by
17 the last sentence of section 3109(b) of such title. In de-
18 veloping the system, the Administrator shall ensure
19 that it responds to the needs of and is consistent with
20 the innovative acquisition management system devel-
21 oped pursuant to section 40120.

22 “(2) *GOAL.*—The goal of the personnel manage-
23 ment system to be developed by the Administrator
24 under this section is to provide, consistent with the

1 *requirements of this section, the Administration with*
2 *the ability—*

3 *“(A) to hire, promote, and fire employees as*
4 *in the private sector;*

5 *“(B) to establish a pay structure as needed*
6 *to conduct the business of the Administration in*
7 *an efficient and effective manner within avail-*
8 *able resources;*

9 *“(C) to provide salaries designed to attract*
10 *the best qualified employees within available re-*
11 *sources;*

12 *“(D) to staff facilities that are difficult to*
13 *staff;*

14 *“(E) to move personnel to those facilities*
15 *where they are most needed; and*

16 *“(F) to continue to provide an appropriate*
17 *framework for labor-management relations con-*
18 *cerning terms and conditions of employment.*

19 *“(3) CONSULTATION AND NEGOTIATION.—In de-*
20 *veloping the personnel management system, the Ad-*
21 *ministrator shall negotiate with the exclusive bargain-*
22 *ing representatives of employees of the Administration*
23 *certified under section 7111 of title 5 and consult*
24 *with other employees of the Administration. The nego-*
25 *tiation with the exclusive bargaining representatives*

1 shall be completed on or before the 90th day after the
2 date of enactment of the Air Traffic Management Sys-
3 tem Performance Improvement Act of 1996.

4 “(4) *MEDIATION.*—If the Administrator does not
5 reach an agreement under paragraph (3) with the ex-
6 clusive bargaining representatives on any provision of
7 the personnel management system, the services of the
8 Federal Mediation and Conciliation Service shall be
9 used to attempt to reach such agreement. If the serv-
10 ices of the Federal Mediation and Conciliation Serv-
11 ice do not lead to an agreement, the Administrator
12 shall include in the plan to be submitted to Congress
13 under subsection (d) the objections of the exclusive
14 bargaining representatives and the reasons for the ob-
15 jections.

16 “(5) *COST SAVINGS AND PRODUCTIVITY GOALS.*—
17 In negotiating a new personnel system, the Adminis-
18 tration and the exclusive bargaining representatives
19 of the employees shall use every reasonable effort to
20 find cost savings and to increase productivity within
21 each of the affected bargaining units.

22 “(6) *ANNUAL BUDGET DISCUSSIONS.*—The Ad-
23 ministration and the exclusive bargaining representa-
24 tives of the employees shall meet annually for the pur-
25 pose of finding additional cost savings within the Ad-

1 *ministration’s annual budget as it applies to each of*
2 *the affected bargaining units and throughout the*
3 *agency.*

4 “(d) *NOTICE TO CONGRESS.*—

5 “(1) *IN GENERAL.*—*Upon development of the*
6 *personnel management system under this section, the*
7 *Administrator shall submit a comprehensive plan de-*
8 *scribing the personnel management system to the Con-*
9 *gress. The Administrator shall also transmit with the*
10 *plan a copy of all suggestions and comments provided*
11 *to the Administration by the Department of Trans-*
12 *portation, and by outside experts (if any), on the per-*
13 *sonnel 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.*—*On the date which is 3*
20 *years after the personnel management system is imple-*
21 *mented, the Administration shall employ outside experts to*
22 *provide an independent evaluation of the effectiveness of the*
23 *system within 3 months after such date. For this purpose,*
24 *the Administrator may utilize the services of experts and*
25 *consultants under section 3109 of title 5 without regard to*

1 *the limitation imposed by the last sentence of section*
2 *3109(b) of such title, and may contract on a sole source*
3 *basis, notwithstanding any other provision of law to the*
4 *contrary.*

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

9 “(1) *Section 2302(b) (relating to whistleblower*
10 *protection).*

11 “(2) *Sections 3308–3320 (relating to veterans’*
12 *preference).*

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

15 “(4) *Section 7204 (relating to antidiscrimina-*
16 *tion).*

17 “(5) *Chapter 63 (relating to leave).*

18 “(6) *Chapter 71 (relating to labor-management*
19 *relations).*

20 “(7) *Chapter 73 (relating to suitability, security,*
21 *and conduct).*

22 “(8) *Chapter 81 (relating to compensation for*
23 *work injuries).*

24 “(9) *Chapter 83 (relating to retirement).*

1 “(10) Chapter 84 (relating to the Federal Em-
2 ployees’ Retirement System).

3 “(11) Chapter 85 (relating to unemployment
4 compensation).

5 “(12) Chapter 87 (relating to life insurance).

6 “(13) Chapter 89 (relating to health insurance).

7 “(14) Subchapter II of chapter 53 (with respect
8 to the pay of the Administrator).

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

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

18 “(i) *EMPLOYEE PROTECTIONS*.—Employment rights,
19 wages, and benefits of employees of the Administration shall
20 not be adversely affected by reason of the enactment of this
21 section, except for unacceptable performance or by reason
22 of a reduction in force or reorganization, during the period
23 commencing on the effective date of the Air Traffic Manage-
24 ment System Performance Improvement Act of 1996 and
25 ending on the date determined under subsection (d)(2).

1 “(j) *LABOR-MANAGEMENT AGREEMENTS.*—*Except as*
 2 *otherwise provided by this title and the Air Traffic Manage-*
 3 *ment System Performance Improvement Act of 1996, all*
 4 *labor-management agreements covering employees of the*
 5 *Administration that are in effect on the effective date of*
 6 *the Air Traffic Management System Performance Improve-*
 7 *ment Act of 1996 shall remain in effect until their normal*
 8 *expiration date, unless the Administrator and the exclusive*
 9 *bargaining representative agree to the contrary.*”

10 “(k) *MODIFICATIONS TO SYSTEM.*—*The Administrator*
 11 *may periodically make modifications to the personnel man-*
 12 *agement system. Any such modifications shall be submitted*
 13 *to the Congress under subsection (d) in the same manner*
 14 *as the personnel management system plan and may not be*
 15 *implemented until after the expiration of the 30-day period*
 16 *beginning on the date of submission.*”

17 **SEC. 204. CONFORMING AMENDMENT.**

18 *The chapter analysis for chapter 401 of title 49, United*
 19 *States Code, is amended by striking the item relating to*
 20 *section 40120 and inserting the following new items:*

“40120. *Innovative program for air traffic control modernization.*

“40121. *Air traffic control modernization reviews.*

“40122. *Innovative program for Federal Aviation Administration services.*

“40123. *Relationship to other laws.*”

1 **TITLE III—SYSTEM TO FUND**
2 **CERTAIN FEDERAL AVIATION**
3 **ADMINISTRATION 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 examiners,*
16 *who are then qualified to determine if a person has*
17 *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 more*
2 *than 355,000 inspections.*

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

6 (9) *The Administration's certification means*
7 *that the product meets world-wide recognized stand-*
8 *ards of safety and reliability.*

9 (10) *The Administration's certification means*
10 *aviation-related equipment and services meet world-*
11 *wide recognized standards.*

12 (11) *The Administration's certification is recog-*
13 *nized by governments and businesses throughout the*
14 *world and as such is a valuable element for any com-*
15 *pany desiring to sell aviation-related products*
16 *throughout the world.*

17 (12) *The Administration certification constitutes*
18 *a valuable license, franchise or privilege, and confers*
19 *many benefits on the holders.*

20 (13) *The Administration also is a major pur-*
21 *chaser of computers, radars, and other systems needed*
22 *to run the air traffic control system. The Administra-*
23 *tion's design, acceptance, commissioning, or certifi-*
24 *cation of such equipment enables the private sector to*

1 *market those products around the world, and as such*
2 *confers a benefit on the manufacturer.*

3 *(14) The Administration provides extensive serv-*
4 *ices to public use aircraft, including the military. Ad-*
5 *ministration cost allocation studies attribute about 15*
6 *percent of the cost of the airway system to public use*
7 *aircraft. The estimated cost of these air traffic services*
8 *in 1993 was \$1,100,000,000. Most of these services*
9 *were provided to the military. The annual appropria-*
10 *tions from the General Fund to the Administration*
11 *have been considered, in part, payment for the cost of*
12 *such services, but are expected to decline in future*
13 *years.*

14 *(15) The Administration must be able to design,*
15 *to the maximum extent possible, a performance-based*
16 *system to recover its interest and cost in its certifi-*
17 *cation and purchasing systems.*

18 **SEC. 302. PURPOSES.**

19 *The purposes of this title are—*

20 *(1) to provide a financial structure for the Ad-*
21 *ministration so that it will be able to support the fu-*
22 *ture growth in the national aviation and airport sys-*
23 *tem;*

24 *(2) to establish a program of incentive-based fees*
25 *for services to improve air traffic management system*

1 *performance and to establish appropriate levels of cost*
2 *accountability for air traffic management services*
3 *provided by the Administration;*

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

7 *(4) to authorize the Administration to recover*
8 *the costs of its services from those who benefit from*
9 *the national aviation system and the services pro-*
10 *vided by the Administration;*

11 *(5) to allow the Administration to develop a fee*
12 *system based on the cost or value of the services pro-*
13 *vided;*

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 Administration for the aviation*
20 *transportation industry; and*

21 *(8) to have the Administration develop fee sys-*
22 *tems that do not directly impinge upon the*
23 *nonbusiness jet and noncommercial aspects of the gen-*
24 *eral aviation community.]*

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

3 (a) *IN GENERAL.*—Chapter 453 of title 49, United
4 States Code, is amended by striking section 45301 and in-
5 serting the following new section:

6 **“§ 45301. General provisions**

7 “(a) *IN GENERAL.*—The Administrator of the Federal
8 Aviation Administration (hereafter in this section referred
9 to as the ‘Administrator’) shall submit to the Congress a
10 performance-based fee system, to the maximum extent pos-
11 sible—

12 “(1) not later than 1 year after the date of enact-
13 ment of the Air Traffic Management System Perform-
14 ance Improvement Act of 1996, for services other than
15 air traffic control services, including training, licens-
16 ing, regulatory proceedings, and activities directly
17 necessary for certification; and

18 “(2) not later than 6 months after such date of
19 enactment, for—

20 “(A) services (other than air traffic control
21 services) provided to a foreign government; and

22 “(B) air traffic control services for flights
23 over the United States or its territories by air
24 carriers that neither arrive at nor depart from
25 an airport in the United States or its territories

1 *(other than such flights by foreign government*
2 *aircraft engaged on official business).*

3 “(b) *CONSIDERATIONS.—*

4 “(1) *IN GENERAL.—To the maximum extent pos-*
5 *sible, the Administrator, in developing a fee system,*
6 *shall consider—*

7 “(A) *the impact on segments of the aviation*
8 *industry; and*

9 “(B) *the fair value, or cost, of the service*
10 *provided by the Federal Aviation Administration*
11 *(hereafter in this section referred to as the “Ad-*
12 *ministration”).*

13 “(2) *ADDITIONAL STANDARDS FOR AIRCRAFT*
14 *MANUFACTURING CERTIFICATION FEES.—In the case*
15 *of aircraft manufacturing certification services, in es-*
16 *tablishing fees the Administrator shall—*

17 “(A) *not charge fees for administrative and*
18 *overhead costs not directly related to service ac-*
19 *tivities;*

20 “(B) *consider the effect, both domestically*
21 *and internationally, of fees on each industry sec-*
22 *tor;*

23 “(C) *provide a basis for reducing user fees,*
24 *in appropriate cases, when manufacturers pro-*

1 *vide in-kind services, such as training, to the*
2 *Administration;*

3 “(D) *relate user fees to timeliness of Admin-*
4 *istration services;*

5 “(E) *create reasonable incentives for the Ad-*
6 *ministration, and for payors, to reduce the*
7 *amount of Administration costs required to per-*
8 *form services; and*

9 “(F) *avoid cross-subsidization among indus-*
10 *try sectors.*

11 “(c) *CONSULTATION WITH MANAGEMENT ADVISORY*
12 *COUNCIL.—In developing proposals under this section, the*
13 *Administrator shall consult with the Management Advisory*
14 *Council established under section 106(p) and, to the maxi-*
15 *mum extent possible, seek to develop a consensus.*

16 “(d) *USE OF EXPERTS AND CONSULTANTS.—In devel-*
17 *oping the system, the Administrator may consult with such*
18 *nongovernmental experts as the Administrator may employ*
19 *and the Administrator may utilize the services of experts*
20 *and consultants under section 3109 of title 5 without regard*
21 *to the limitation imposed by the last sentence of section*
22 *3109(b) of such title, and may contract on a sole source*
23 *basis, notwithstanding any other provision of law to the*
24 *contrary. Notwithstanding any other provision of law to the*
25 *contrary, the Administrator may retain such experts under*

1 *a contract awarded on a basis other than a competitive*
2 *basis and without regard to any such provisions requiring*
3 *competitive bidding or precluding sole source contract au-*
4 *thority. The Administrator shall cause a copy of the pro-*
5 *posed fee system to be printed in the Federal Register upon*
6 *its submission to the Congress.*

7 “(e) *FEES EFFECTIVE 45 DAYS AFTER SUBMISSION.—*

8 “(1) *IN GENERAL.—Unless disapproved by the*
9 *Congress under section 45303(c), any fees proposed by*
10 *the Administrator under this section shall take effect*
11 *45 days after the date on which the proposal is sub-*
12 *mitted to the Congress, or on such later date as the*
13 *Administrator may propose. If a fee proposal is sub-*
14 *mitted to the Congress less than 45 days before the*
15 *date on which the Congress adjourns sine die, or less*
16 *than 45 days before any 30-day period in which nei-*
17 *ther House of the Congress is in session, then the fees*
18 *so proposed shall not take effect unless resubmitted*
19 *under this section. Any proposal resubmitted shall be*
20 *considered a new submission for applying the first*
21 *sentence of this paragraph to the resubmitted pro-*
22 *posal.*

23 “(2) *IMPLEMENTATION DELAYED IF TRUST FUND*
24 *AMOUNTS ADEQUATE.—Beginning with fiscal year*
25 *1998, no fee proposed by the Administrator may be*

1 *imposed under subsection (a)(1) unless, for the pre-*
2 *ceding fiscal year, the sum of the outlays from the*
3 *Airport and Airway Trust Fund exceeds the receipts*
4 *of the Fund derived from Federal taxes, amounts*
5 *equivalent to the receipts from which are credited to*
6 *the Airport and Airway Trust Fund established under*
7 *section 9502 of the Internal Revenue Code of 1986*
8 *(hereafter in this chapter referred to as the ‘trust fund*
9 *taxes’).*

10 *“(3) AIRCRAFT MANUFACTURING CERTIFICATION*
11 *FEES NOT IMPLEMENTED BEFORE AIR TRAFFIC CON-*
12 *TROL FEES.—Notwithstanding any other provision of*
13 *this Act, the Administrator may not impose a fee*
14 *under this section for aircraft manufacturing certifi-*
15 *cation services before imposing a fee for air traffic*
16 *control services under section 45302.*

17 *“(f) AGREEMENT WITH DEPARTMENT OF DEFENSE.—*
18 *Within 6 months after the date of enactment of the Air Traf-*
19 *fic Management System Performance Improvement Act of*
20 *1996, the Administration shall enter into an agreement*
21 *with the Department of Defense under which the Adminis-*
22 *tration will be reimbursed for the net cost of air traffic con-*
23 *trol services provided to the Department of Defense.*

24 *“(g) TERMINATION.—Fees imposed under subsection*
25 *(a)(1) shall terminate 3 years after going into effect, but*

1 *any amounts collected shall remain available until ex-*
2 *pended.*

3 “(h) *ADDITIONAL SYSTEM PROPOSALS.—Not later*
4 *than 6 months before the date on which any fee system im-*
5 *posed under this section terminates, the Administrator shall*
6 *submit to the Congress a proposal for a fee system to replace*
7 *the terminating system. Any replacement fee system pro-*
8 *posed under this subsection shall be developed in consulta-*
9 *tion with the Management Advisory Council established*
10 *under section 106(p) in the same manner as under sub-*
11 *section (c). The Administrator shall submit to the Congress*
12 *at the same time as the proposed is submitted, a review*
13 *of the effectiveness of the standards established for the fee*
14 *system the proposed fee system is intended to replace, con-*
15 *ducted by independent experts. The proposed replacement*
16 *fee system shall take effect upon the termination of the fee*
17 *system it replaces unless disapproved by the Congress under*
18 *section 45303(c), and shall terminate 3 years after going*
19 *into effect.*

20 “(i) *CERTAIN FEES PROHIBITED.—The Administra-*
21 *tion may not impose fees under subsection (a)(1) for the*
22 *direct cost of accident investigations, or the costs of inspec-*
23 *tions of or enforcement actions initiated against any seg-*
24 *ment of the aviation industry.”.*

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 453 of title 49, United States Code, is amended*
 3 *by striking the item relating to section 45301 and inserting*
 4 *the following new item:*

 “45301. *General provisions.*”.

5 (c) *REPEAL.*—

6 (1) *IN GENERAL.*—*Section 70118 of title 49,*
 7 *United States Code, is repealed.*

8 (2) *CONFORMING AMENDMENT.*—*The chapter*
 9 *analysis for chapter 701 of title 49, United States*
 10 *Code, is amended by striking the item relating to sec-*
 11 *tion 70118.*

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

14 (a) *IN GENERAL.*—*Chapter 453 of title 49, United*
 15 *States Code, as amended by section 303 of this Act, is fur-*
 16 *ther amended by striking section 45302 and inserting the*
 17 *following:*

18 ***“§ 45302. User fees for air traffic control services***

19 “(a) *IN GENERAL.*—*Not later than 1 year after the*
 20 *date of enactment of the Air Traffic Management System*
 21 *Performance Improvement Act of 1996, the Administrator*
 22 *of the Federal Aviation Administration (hereafter in this*
 23 *section referred to as the ‘Administrator’) shall submit to*
 24 *the Congress a proposed fee system for air traffic control*
 25 *services. In developing the proposal, the Administrator may*

1 *utilize the services of experts and consultants under section*
2 *3109 of title 5 without regard to the limitation imposed*
3 *by the last sentence of section 3109(b) of such title, and may*
4 *contract on a sole source basis, notwithstanding any other*
5 *provision of law to the contrary, to develop air traffic con-*
6 *trol user fees based on improved system performance. The*
7 *Administrator shall cause a copy of the proposed fee system*
8 *to be printed in the Federal Register upon its submission*
9 *to the Congress.*

10 “(b) *CONSIDERATIONS.—To the maximum extent fea-*
11 *sible, in developing a fee system under this section, the Ad-*
12 *ministrator shall consider—*

13 “(1) *the impact on air fares (including low-fare,*
14 *high-frequency service) and competition;*

15 “(2) *the existing contributions provided by indi-*
16 *vidual air carriers toward funding of the Federal*
17 *Aviation Administration and the air traffic control*
18 *system (through contributions to the Airport and Air-*
19 *way Trust Fund);*

20 “(3) *the continuation of promoting fair and*
21 *competitive practices;*

22 “(4) *the unique circumstances associated with*
23 *inter island air carrier service in Hawaii;*

24 “(5) *the impact on service to small communities;*

1 “(6) *the impact on services provided by regional*
2 *air carriers; and*

3 “(7) *several alternative methodologies for cal-*
4 *culating fees so as to achieve as fair and reasonable*
5 *distribution of the costs of service among users.*

6 “(c) *LIMITATIONS.—*

7 “(1) *TRUST FUND PAYORS.—Fees imposed under*
8 *this section on any segment of the aviation industry*
9 *(other than on flights operated by air carriers within*
10 *United States territories or between such territories*
11 *and foreign countries) subject to Federal taxes,*
12 *amounts equivalent to the receipts of which are cred-*
13 *ited to the Airport and Airway Trust Fund estab-*
14 *lished under section 9502 of the Internal Revenue*
15 *Code of 1986 (hereafter in this section referred to as*
16 *‘trust fund taxes’) shall take effect on the later of—*

17 “(A) *the date established under subsection*
18 *(d) of this section, or*

19 “(B) *the date immediately following the*
20 *date on which the trust fund taxes paid by that*
21 *segment terminate.*

22 “(2) *OTHER USERS.—Notwithstanding para-*
23 *graph (1), fees imposed under this section may be im-*
24 *posed on any user of air traffic control services not*

1 *subject to trust fund taxes, so long as any such fees*
2 *are consistent with international agreements.*

3 “(3) *EXEMPTION FOR CERTAIN AIRCRAFT.*—No
4 *fee may be imposed under this section on sport and*
5 *recreation aircraft or on agricultural aircraft.*

6 “(d) *FEEES EFFECTIVE 45 DAYS AFTER SUBMIS-*
7 *SION.*—Unless disapproved by the Congress under section
8 45303(c), fees proposed by the Administrator under this sec-
9 tion take effect 45 days after the date on which the proposal
10 is submitted to the Congress, or on such later date as the
11 Administrator may propose.

12 “(e) *DEFINITIONS.*—For the purposes of this section
13 the following definitions shall apply:

14 “(1) *SEGMENT.*—The term ‘segment’ refers to—

15 “(A) *commercial airlines;*

16 “(B) *commercial cargo air carriers;*

17 “(C) *business jets;*

18 “(D) *general aviation; and*

19 “(E) *public use.*

20 “(2) *BUSINESS JETS.*—The term ‘business jets’
21 *means turbine engine aircraft other than rotorcraft*
22 *and aircraft used exclusively in air carrier service.*

23 “(3) *SPORT AND RECREATION AIRCRAFT.*—The
24 term ‘sport and recreation aircraft’ means non-pow-

1 *ered aircraft, rotorcraft, and reciprocating piston en-*
2 *gine aircraft not used to provide air carrier service.*

3 “(f) *CONSULTATION WITH MANAGEMENT ADVISORY*
4 *COUNCIL.—In developing proposals under subsection (a) of*
5 *this section, the Administrator shall consult with the Man-*
6 *agement Advisory Council established under section 106(p)*
7 *and, to the maximum extent possible, seek to develop a con-*
8 *sensus.*

9 “(g) *TERMINATION.—Fees imposed under this section*
10 *shall terminate 3 years after going into effect, but any*
11 *amounts collected shall remain available until expended.*

12 “(h) *ADDITIONAL SYSTEM PROPOSALS.—Not later*
13 *than 6 months before the date on which any fee system im-*
14 *posed under this section terminates, the Administrator shall*
15 *submit to the Congress a proposal for a fee system to replace*
16 *the terminating system. Any replacement fee system pro-*
17 *posed under this subsection shall be developed in consulta-*
18 *tion with the Management Advisory Council established*
19 *under section 106(p) in the same manner as under sub-*
20 *section (f). The Administrator shall submit to the Congress*
21 *at the same time as the proposal is submitted, a review of*
22 *the effectiveness of the standards established for the fee sys-*
23 *tem the proposed fee system is intended to replace, con-*
24 *ducted by independent experts. The proposed replacement*
25 *fee system shall take effect upon the termination of the fee*

1 *system it replaces unless disapproved by the Congress under*
 2 *section 45303(c), and shall terminate 3 years after going*
 3 *into effect.”.*

4 (b) *CONFORMING AMENDMENT.—The chapter analysis*
 5 *for chapter 453 of title 49, United States Code, is amended*
 6 *by striking the item relating to section 45302 and inserting*
 7 *after the item relating to section 45301 the following:*

“45302. User fees for air traffic control services.”.

8 ***SEC. 305. ADMINISTRATIVE PROVISIONS.***

9 (a) *IN GENERAL.—Chapter 453 of title 49, United*
 10 *States Code, as amended by section 304 of this Act, is fur-*
 11 *ther amended by—*

12 (1) *redesignating section 45303 as section 45304;*

13 *and*

14 (2) *by inserting after section 45302 the follow-*
 15 *ing:*

16 ***“§ 45303. Administrative provisions***

17 *“(a) IN GENERAL.—*

18 *“(1) FEES PAYABLE TO ADMINISTRATOR.—All*
 19 *fees imposed and amounts collected under this chapter*
 20 *for services performed, or materials furnished, by the*
 21 *Federal Aviation Administration (hereafter in this*
 22 *section referred to as the ‘Administration’) are pay-*
 23 *able to the Administrator of the Federal Aviation Ad-*
 24 *ministration.*

1 “(2) *REFUNDS.*—*The Administrator may refund*
2 *any fee paid by mistake or any amount paid in ex-*
3 *cess of that required.*

4 “(3) *RECEIPTS CREDITED TO ACCOUNT.*—*Not-*
5 *withstanding section 3302 of title 31 all fees and*
6 *amounts collected by the Administration, except in-*
7 *surance premiums and other fees charged for the pro-*
8 *vision of insurance and deposited in the Aviation In-*
9 *surance Revolving Fund and interest earned on in-*
10 *vestments of such Fund, and except amounts which on*
11 *the date of enactment of the Air Traffic Management*
12 *System Performance Improvement Act of 1996 are re-*
13 *quired to be credited to the General Fund of the*
14 *Treasury, (whether imposed under this section or*
15 *not)—*

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

20 “(B) *shall be available immediately for ex-*
21 *penditure but only for Congressionally author-*
22 *ized and intended purposes; and*

23 “(C) *shall remain available until expended.*

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

1 *each year as the President submits the annual budget*
2 *to the Congress, provide to the Committee on Com-*
3 *merce, Science, and Transportation of the Senate and*
4 *the Committee on Transportation and Infrastructure*
5 *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, in-*
14 *cluding 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 *“(5) INDEPENDENT STUDIES.—Within 6 months*
20 *after the date of enactment of the Air Traffic Manage-*
21 *ment System Performance Improvement Act of 1996,*
22 *the Administrator shall cause to be prepared by per-*
23 *sons having no direct financial interest in the results*
24 *of such studies, independent studies—*

1 “(A) assessing the costs to the Administra-
2 tion occasioned by the provision of services to
3 each segment of the aviation system; and

4 “(B) reviewing the funding needs and as-
5 sumptions for operations, capital spending, and
6 airport infrastructure of the Administration,
7 taking into account the degree of funding needed,
8 in view of projected workload increases for the
9 agency, for the Administration to maintain, at
10 a minimum, the current levels and types of oper-
11 ational and safety services it provides, both in
12 terms of quality and timeliness, for the benefit of
13 the aviation community and the traveling pub-
14 lic.

15 “(6) *FREES NOT IMPOSED UNTIL 6 MONTHS*
16 *AFTER STUDIES COMPLETED.*—Notwithstanding any
17 provision of law, no fee prescribed by section 45301
18 or 45302 shall be implemented prior to the date which
19 is 6 months after the date upon which the studies per-
20 formed pursuant to paragraph (5) of this subsection
21 have been submitted to the Congress.

22 “(7) *COMPENSATION TO CARRIERS FOR ACTING*
23 *AS COLLECTION AGENTS.*—The Administration shall
24 prescribe regulations to ensure that any air carrier
25 required, pursuant to the Air Traffic Management

1 *System Performance Improvement Act of 1996 or any*
2 *amendments made by that Act, to collect a fee im-*
3 *posed on another party by the Administrator may*
4 *collect from such other party an additional uniform*
5 *amount that the Administrator determines reflects the*
6 *necessary and reasonable expenses (net of interest ac-*
7 *cruing to the carrier after collection and before remit-*
8 *tance) incurred in collecting and handling the fee.*

9 “(8) *COST REDUCTION AND EFFICIENCY RE-*
10 *PORT.—*

11 “(A) *IN GENERAL.—60 days prior to sub-*
12 *mission by the Administrator to the Congress of*
13 *a proposal for establishment, implementation, or*
14 *expansion in fees imposed on the aviation indus-*
15 *try, the Administrator shall submit to the Man-*
16 *agement Advisory Council established under sec-*
17 *tion 106(p) the report prepared under subpara-*
18 *graph (B).*

19 “(B) *Prior to the submission of any pro-*
20 *posal for establishment, implementation, or ex-*
21 *pansion of any fees imposed on the aviation in-*
22 *dustry, the Administrator shall prepare a report*
23 *which includes—*

24 “(i) *a justification of the need for the*
25 *proposed fees;*

1 “(ii) a statement of steps taken by the
2 Administrator to reduce costs and improve
3 efficiency within the Administration;

4 “(iii) an analysis of the impact of any
5 fee increase on each sector of the aviation
6 transportation industry; and

7 “(iv) a comparative analysis of any
8 decrease in taxes amounts equal to the re-
9 ceipts from which are credited to the Air-
10 port and Airway Trust Fund established
11 under section 9502 of the Internal Revenue
12 Code of 1986.

13 “(b) *FEE ALLOCATION*.—In the fee systems established
14 under sections 45301 and 45302, no segment of the aviation
15 industry shall pay more than its fully allocated costs as
16 determined under subsection (a)(5)(A).

17 “(c) *CONGRESSIONAL PROCEDURE*.—

18 “(1) *IN GENERAL*.—This subsection is enacted by
19 the Congress as an exercise of the rulemaking power
20 of the Senate and the House of Representatives, re-
21 spectively, and as such these provisions are deemed to
22 be a part of the rules of each House of the Congress,
23 respectively, applicable only to the procedure to be fol-
24 lowed in that House for resolutions described in this
25 subsection. These provisions supersede other rules of

1 *each House of the Congress only to the extent that*
2 *they are inconsistent with those other rules, and they*
3 *are enacted with full recognition of the constitutional*
4 *right of each House to change them, to the extent that*
5 *they relate to the procedure of that House, in the same*
6 *manner and to the same extent as any other rule of*
7 *that House.*

8 “(2) *RESOLUTION.*—*For purposes of this sub-*
9 *section, the term ‘resolution’ means a joint resolution*
10 *relating to the disapproval of a fee proposal submitted*
11 *by the Administrator under section 45301 or 45302,*
12 *the matter after the resolving clause of which is as fol-*
13 *lows: ‘That the Congress disapproves the fee proposal*
14 *submitted by the Administrator of the Federal Avia-*
15 *tion Administration on _____ and identified as*
16 *_____.’, the first blank space being filled with the*
17 *date on which the proposal was submitted and the*
18 *second being filled with the title or other description*
19 *of the proposal. The term does not include a resolu-*
20 *tion that relates to more than one proposal.*

21 “(3) *REFERRAL.*—*Upon introduction, a resolu-*
22 *tion shall be referred to the Committee on Commerce,*
23 *Science, and Transportation of the Senate or the*
24 *Committee on Transportation and Infrastructure of*
25 *the House of Representatives.*

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

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

19 “(6) *EFFECT OF MOTION.*—If the motion to dis-
20 charge is agreed to or disagreed to, the motion may
21 not be renewed, nor may another motion to discharge
22 the committee be made with respect to any other reso-
23 lution with respect to the same proposal.

24 “(7) *SENATE PROCEDURE.*—

1 “(A) *MOTION TO PROCEED.*—When the com-
2 mittee of the Senate has reported, or has been
3 discharged from further consideration of, a reso-
4 lution, it is at any time thereafter in order (even
5 though a previous motion to the same affect has
6 been disagreed to) to move to proceed to the con-
7 sideration of the resolution. The motion is highly
8 privileged and is not debatable. An amendment
9 to the motion is not in order, and it is not in
10 order to move to reconsider the vote by which the
11 motion is agreed to or disagreed to.

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

22 “(C) *NO DEBATE ON CERTAIN MOTIONS.*—
23 In the Senate, motions to postpone made with
24 respect to the consideration of a resolution and

1 *motions to proceed to the consideration of other*
2 *business shall be decided without debate.*

3 “(D) *APPEALS.*—*Appeals from the decisions*
4 *of the Chair relating to the application of the*
5 *rules of the Senate to the procedure relating to*
6 *a resolution shall be decided without debate.*

7 “(8) *EFFECT OF ADOPTION OF RESOLUTION BY*
8 *OTHER HOUSE.*—*If, before the passage by one House*
9 *of the Congress of a resolution of that House, it re-*
10 *ceives from the other House a resolution, then the fol-*
11 *lowing procedures apply:*

12 “(A) *The resolution of the other House shall*
13 *not be referred to a committee and may not be*
14 *considered in the House receiving it, except in*
15 *the case of final passage as provided in subpara-*
16 *graph (B)(i).*

17 “(B) *With respect to the resolution described*
18 *in subparagraph (A) of the House receiving it—*

19 “(i) *the procedure in that House shall*
20 *be the same as if no joint resolution had*
21 *been received from the other House; but*

22 “(ii) *the vote on final passage shall be*
23 *on the resolution of the other House.”.*

24 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
25 *for chapter 453 of title 49, United States Code, is amended*

1 *by striking the item relating to section 45303 and inserting*
 2 *the following:*

“45303. Administrative provisions.

“45304. Maximum fees for private person services.”.

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: “This*
 7 *subsection shall be applied for fiscal years 1997 and 1998*
 8 *by substituting ‘80 percent’ for ‘50 percent’ in paragraph*
 9 *(1), and by substituting ‘90 percent’ for ‘70 percent’ in*
 10 *paragraph (2).”.*

11 **SEC. 307. ADVANCE APPROPRIATIONS FOR AIRPORT AND**
 12 **AIRWAY TRUST FUND ACTIVITIES.**

13 *(a) IN GENERAL.—Part C of subtitle VII of title 49,*
 14 *United States Code, is amended by adding at the end the*
 15 *following new chapter:*

16 **“CHAPTER 482—ADVANCE APPROPRIA-**
 17 **TIONS FOR AIRPORT AND AIRWAY**
 18 **TRUST FACILITIES**

“Sec.

“48201. Advance appropriations.

19 **“§48201. Advance appropriations**

20 *“(a) MULTIYEAR AUTHORIZATIONS.—Beginning with*
 21 *fiscal year 1997, any authorization of appropriations for*
 22 *an activity for which amounts are to be appropriated from*
 23 *the Airport and Airway Trust Fund established under sec-*

1 *tion 9502 of the Internal Revenue Code of 1986 shall pro-*
 2 *vide funds for a period of not less than 3 fiscal years unless*
 3 *the activity for which appropriations are authorized is to*
 4 *be concluded before the end of that period.*

5 “(b) *MULTIYEAR APPROPRIATIONS.*—*Beginning with*
 6 *fiscal year 1997, amounts appropriated from the Airport*
 7 *and Airway Trust Fund shall be appropriated for periods*
 8 *of 3 fiscal years rather than annually.”*

9 “(b) *CONFORMING AMENDMENT.*—*The analysis for*
 10 *subtitle VIII of title 49, United States Code, is amended*
 11 *by adding at the end the following new item:*

**“482. Advance appropriations for airport and airway
 trust facilities 48201.”**

12 **SEC. 308. SENSE OF THE SENATE.**

13 *It is the sense of the Senate that:*

14 (1) *The Airport and Airway Trust Fund estab-*
 15 *lished under section 9502 of the Internal Revenue*
 16 *Code of 1986 contains a \$5,000,000,000 surplus.*
 17 *These funds represent moneys that the entire aviation*
 18 *industry has contributed to support the Administra-*
 19 *tion. These funds remain unobligated. The Congress*
 20 *must make every effort to expend the unobligated bal-*
 21 *ances to keep its compact with the aviation industry.*

22 (2) *The 1996 Congressional Budget Resolution*
 23 *prescribes funding for transportation, which, if pro-*
 24 *vided to the several transportation modes based on*

1 *precedent, will result in severely cutting funds for the*
2 *aviation system. Such cuts, absent Congressional ac-*
3 *tion, and if not addressed, could have a substantial*
4 *impact on the ability of the Administration to meet*
5 *future needs of the aviation industry. Such cuts are*
6 *likely despite the current surplus of \$5,000,000,000 in*
7 *the Trust Fund.*

8 *(3) In conjunction with any fee systems devel-*
9 *oped pursuant to this Act and the amendments made*
10 *by this Act, the Congress must make every effort to*
11 *apply the unobligated surplus for use by the Adminis-*
12 *tration.*

13 **SEC. 309. RURAL AIR SERVICE SURVIVAL ACT.**

14 *(a) SHORT TITLE.—This section may be cited as the*
15 *“Rural Air Service Survival Act”.*

16 *(b) FINDINGS.—The Congress finds that—*

17 *(1) air service in rural areas is essential to a*
18 *national transportation network;*

19 *(2) the rural air service infrastructure supports*
20 *the safe operation of all air travel;*

21 *(3) rural air service creates economic benefits for*
22 *all air carriers by making the national aviation sys-*
23 *tem available to passengers from rural areas;*

24 *(4) rural air service has suffered since deregula-*
25 *tion;*

1 (5) *the essential air service program under the*
2 *Department of Transportation—*

3 (A) *provides essential airline access to rural*
4 *and isolated rural communities throughout the*
5 *Nation;*

6 (B) *is necessary for the economic growth*
7 *and development of rural communities;*

8 (C) *is a critical component of the national*
9 *transportation system of the United States; and*

10 (D) *has endured serious funding cuts in re-*
11 *cent years; and*

12 (6) *a reliable source of funding must be estab-*
13 *lished to maintain air service in rural areas and the*
14 *essential air service program.*

15 (c) *ESSENTIAL AIR SERVICE AUTHORIZATION.—Sec-*
16 *tion 41742 of title 49, United States Code, is amended to*
17 *read as follows:*

18 **“§ 41742. Essential air service authorization**

19 “(a) *IN GENERAL.—Out of the amounts received by*
20 *the Administration from the fees authorized by sections*
21 *45301 through 45303 or otherwise provided to the Adminis-*
22 *tration, the sum of \$50,000,000 is authorized and shall be*
23 *made available immediately for obligation and expenditure*
24 *to carry out the essential air service program under this*
25 *subchapter for each fiscal year.*

1 “(b) *FUNDING FOR SMALL COMMUNITY AIR SERV-*
 2 *ICE.*—Notwithstanding any other provision of law, fees im-
 3 posed under the authority contained in sections 45301
 4 through 45303, including the authority contained in section
 5 45302(a)(2), shall be used to carry out the essential air serv-
 6 ice program under this subchapter. Any amounts from those
 7 fees that are not obligated or expended at the end of the
 8 fiscal year for the purpose of funding the essential air serv-
 9 ice program under this subchapter shall be made available
 10 to the Federal Aviation Administration for use in improv-
 11 ing rural air safety under subchapter I of chapter 471 of
 12 this title and shall be used exclusively for projects at rural
 13 airports under this subchapter.”.

14 (d) *CONFORMING AMENDMENT.*—The chapter analysis
 15 for chapter 417 of title 49, United States Code, is amended
 16 by striking the item relating to section 41742 and inserting
 17 the following:

“41742. *Essential air service authorization.*”.

18 (e) *SECRETARY MAY REQUIRE MATCHING LOCAL*
 19 *FUNDS.*—Section 41737 of title 49, United States Code, is
 20 amended by adding at the end thereof the following:

21 “(e) *MATCHING FUNDS.*—No earlier than 2 years after
 22 the effective date of section 309 of the Air Traffic Manage-
 23 ment System Performance Improvement Act of 1996, the
 24 Secretary may require an eligible agency, as defined in sec-
 25 tion 40117(a)(2) of this title, to provide matching funds of

1 *up to 10 percent for any payments it receives under this*
2 *subchapter.”.*

3 *(f) TRANSFER OF ESSENTIAL AIR SERVICE PROGRAM*
4 *TO FAA.—The responsibility for administration of sub-*
5 *chapter II of chapter 417 of title 49, United States Code,*
6 *is transferred from the Secretary of Transportation to the*
7 *Administrator of the Federal Aviation Administration.*

8 *(g) EFFECTIVE DATE.—The amendments made by this*
9 *section shall take effect on the first day of October next oc-*
10 *curing after the date of enactment of this Act.*