

100TH CONGRESS
1ST SESSION

S. 1159

To establish the National Aviation Authority as an independent user-fee supported government corporation to operate, maintain and enhance an efficient and responsive national system for airways management and air traffic control, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 21), 1987

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

A BILL

To establish the National Aviation Authority as an independent user-fee supported government corporation to operate, maintain and enhance an efficient and responsive national system for airways management and air traffic control, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Na-
5 tional Aviation Authority Act of 1987”.

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1 **TITLE I—FINDINGS AND DEFINITIONS**

2 **SEC. 101. CONGRESSIONAL FINDINGS, DETERMINATIONS, AND**

3 **DECLARATION OF PURPOSE.**

4 The Congress finds that the safe and efficient movement
5 of aircraft and air commerce is essential to the economic and
6 national interests of the United States; that a well managed
7 and efficient system for air traffic control is indispensable to a
8 strong national defense; that the actual operational and de-
9 velopmental aspects of the air traffic control system are at
10 the same time a public service subject to user support; and
11 that events of the recent past, including those flowing from
12 the deregulation of the airline industry, have brought new
13 forces to bear upon the national system for air traffic control,
14 which demand a modification of the current systems for the
15 funding and delivery of air traffic control services and air-
16 ways management in order to assure that these systems are
17 developed, equipped and managed in a manner responsive to
18 demands placed upon them and consistent with the public and
19 national interest. Therefore, there is hereby created, the Na-
20 tional Aviation Authority, hereinafter the Authority, which
21 shall be an independent, user-fee supported Government cor-
22 poration established for the purpose of operating, maintain-
23 ing, supplying, and enhancing an efficient and responsive na-

1 tional system for air traffic control. Such a system is found to
2 be essential to the national interest in the safe and expedi-
3 tious air transportation of the public and of air cargo as well
4 as for the movement of United States military and other
5 public sector aircraft. It is the determination of Congress that
6 the Authority will best be enabled to meet the needs arising
7 from expanding demand for air traffic control services and
8 airways management as provided for herein, by its establish-
9 ment as an independent authority dedicated exclusively to
10 those purposes. Correspondingly, the Federal Aviation Ad-
11 ministration, from which the air traffic control system is
12 being withdrawn, would be well suited to meeting its con-
13 tinuing safety and regulatory responsibilities through the
14 dedication of its resources, at this time, to those governmen-
15 tal responsibilities. As a user funded corporate entity created
16 for the purpose of providing operationally oriented services to
17 the public and the Government, it is the intention of Con-
18 gress that the Authority be operated in a businesslike
19 manner. The Authority shall establish personnel, financing,
20 administrative and procurement systems, consistent with the
21 principles set forth in this Act and the intended businesslike
22 operating structure. The Authority shall be subject to the
23 aviation safety standards established by the Federal Aviation
24 Administration and shall work in consonance with the Ad-
25 ministrator to maintain the highest standard of safety. Fur-

1 ther, consistent with the Independent Safety Board Act of
2 1974, the Authority shall cooperate with the National Trans-
3 portation Safety Board in the conduct of requisite accident
4 investigations. The Authority shall be subject to continuing
5 and ongoing oversight by the Congress both during the tran-
6 sition from the Federal Aviation Administration and at all
7 times thereafter.

8 **SEC. 102. DEFINITIONS.**

9 For purposes of this Act:

10 (a) "Air traffic control system" means the organi-
11 zation, resources and methodology designed to provide
12 for the safe, orderly and efficient flow of air traffic uti-
13 lizing or intent on utilizing the airspace under the ju-
14 risdiction of the United States of America. Required or
15 requested services provided include but are not limited
16 to controlling, monitoring, and/or advising aircraft op-
17 erating in the airspace, and development, improvement,
18 implementation, operation, and maintenance of all the
19 necessary equipment for a safe and efficient airspace
20 system. The physical properties of the system include
21 but are not limited to all computer subsystems and
22 communications, navigation, surveillance, weather ob-
23 servation and reporting subsystems and landing aids
24 presently utilized or undergoing research and develop-
25 ment and future system improvements including the as-

1 sociated real estate presently utilized by the Federal
2 Aviation Administration for the operation of the system
3 as of the date of this Act.

4 (b) "Authority" means the National Aviation Au-
5 thority established under section 201;

6 (c) "Policy Advisory Board" and "Board" means
7 the Policy Advisory Board established under section
8 203;

9 (d) "Director" means the Chief Executive Officer
10 of the Authority appointed under section 202; and

11 (e) "Technical Advisory Committee" and "Com-
12 mittee" mean the Technical Advisory Committee es-
13 tablished under section 204.

14 TITLE II—ORGANIZATION AND AUTHORITY

15 PART A—ORGANIZATION

16 SEC. 201. ESTABLISHMENT.

17 There is established, as an independent, user-free sup-
18 ported corporation of the Government of the United State,
19 the National Aviation Authority. The principal offices of the
20 Authority shall be located in the metropolitan area of the
21 District of Columbia.

22 SEC. 202. DIRECTOR.

23 (a) The Authority shall be under the exclusive direction
24 and control of the Director of the Authority who shall be
25 appointed by the President of the United States, by and with

1 the advice and consent of the Senate in accordance with the
2 qualifications established in this section. The Director shall
3 have authority and control over all personnel and activities of
4 the Authority and shall not submit decisions for the approval
5 of, nor be bound by the decisions or recommendations of any
6 committee, board or other organization except as provided
7 herein or by subsequent enactment. The Director shall ap-
8 point a qualified individual to serve as Deputy Director who
9 will be authorized to act in the capacity of the Director in the
10 event of absence or incapacity. The Director may delegate
11 and provide for redelegation of the authority of that office as
12 deemed necessary to carry out the provisions of this Act.

13 (b) The Director shall be a citizen of the United States
14 appointed with due regard for the fitness and experience nec-
15 essary to meet the high responsibilities and demands of the
16 position. At the time of nomination the nominee shall have
17 had a minimum of fifteen years experience in progressively
18 more responsible positions with an established record of man-
19 agement success in the business community, civilian govern-
20 ment (including State and local government) or the military.
21 The Director shall at the time of confirmation by the Senate
22 be a civilian and shall have no pecuniary interest in nor own
23 any stock in any air carrier, aircraft manufacturer, aeronauti-
24 cal equipment enterprise or any other commercial entity

1 doing business with or likely to do business with the
2 Authority.

3 (c) Prior to the submission to the Senate of the name of
4 any nominee to the position of Director, the qualifications of
5 the nominee shall be evaluated by the Policy Advisory Board
6 established under section 203. The Board shall evaluate the
7 qualifications of the nominee under the criteria established
8 under paragraph (b) of this section and shall communicate its
9 evaluation to the Senate.

10 (d) The Director shall serve a single, nonrenewable term
11 of ten years and shall be subject to removal by the President
12 only for inefficiency, neglect of duty or malfeasance in office.

13 **SEC. 203. POLICY ADVISORY BOARD.**

14 (a) There shall be a National Aviation Authority Policy
15 Advisory Board consisting of the Secretary of Defense, the
16 Secretary of Commerce, the Secretary of Transportation, and
17 the Chairmen and ranking minority members of the Senate
18 and House Aviation Subcommittees which shall meet semi-
19 annually to review the operations and future plans of the Au-
20 thority and, on the basis of such review, to advise of the
21 anticipated effectiveness of those plans or otherwise to rec-
22 ommend a course of conduct. The advice of the Board shall
23 be transmitted to the President of the United States and to
24 House and Senate Aviation Subcommittees in a written

1 report following each meeting. A copy of the report shall be
2 provided to the Director.

3 (b) Each member of the Board shall designate a single
4 individual as an alternate member who will be entitled to
5 attend and participate in all meetings of the Board in the
6 member's absence.

7 **SEC. 204. TECHNICAL ADVISORY COMMITTEE.**

8 (a) There shall be a National Aviation Authority, Tech-
9 nical Advisory Committee appointed by the President of the
10 United States consisting of 10 members to include—

11 (i) two individuals as representatives of the
12 military;

13 (ii) two individuals as representatives of the public
14 but with particular familiarity with fiscal, technological
15 or safety matters;

16 (iii) two individuals as representatives of commer-
17 cial air carriers;

18 (iv) two individuals as representatives of general
19 aviation interests; and

20 (v) two individuals as representatives of airport
21 operators.

22 (b) All members shall be appointed for terms of four
23 years except that, of those first appointed, 1 of the individual
24 representatives of each group designated shall be appointed
25 for two years. Any member appointed to fill a vacancy occur-

1 ring before the expiration of the term for which a predecessor
2 was appointed shall serve for the remainder of such term.

3 (c) The Committee shall prepare and submit a semian-
4 nual report to the Director concerning all aspects of Author-
5 ity operations which it determines warrant particular atten-
6 tion. A copy of the report shall be submitted to the President
7 of the United States and to the House and Senate Aviation
8 Subcommittee.

9 (d) The Director is authorized to consult with and re-
10 ceive the advice of the Technical Advisory Committee re-
11 garding all aspects of operations of the Authority.

12 **SEC. 205. SEAL.**

13 The Seal of the Authority shall be filed by the Director
14 in the Office of the Secretary of State, judicially noticed, af-
15 fixed to all commissions of officers of the Authority, and used
16 to authenticate records of the Authority.

17 **SEC. 206. RESERVATION OF POWERS.**

18 Congress reserves the power to alter, amend, or repeal
19 any or all of the provisions of this Act, but no such alteration,
20 amendment, or repeal shall impair the obligation of any con-
21 tract made by the Authority under any power conferred by
22 this Act.

23 **PART B—AUTHORITY**

24 **SEC. 231. GENERAL POWERS.**

25 The Authority shall have the following general powers:

1 (1) to sue and be sued subject to the provisions of
2 this Act and of title 28, United States Code, in its offi-
3 cial name;

4 (2) to adopt, amend, and repeal such rules and
5 regulations under the jurisdiction of the National Avia-
6 tion Authority as are necessary to accomplish the ob-
7 jectives of this Act;

8 (3) to enter into and perform contracts, execute
9 leases and instruments, and determine the character of,
10 and necessity for its expenditures;

11 (4) to determine and keep its own system of ac-
12 counts and the form and contents of its contracts and
13 other business documents, except as otherwise provided
14 in this Act;

15 (5) to—

16 (A) acquire, in any lawful manner, such per-
17 sonal or real property, or any interest therein, as
18 it deems necessary or convenient in the transac-
19 tion of its business;

20 (B) hold, maintain, sell, lease, or otherwise
21 dispose of such property or any interest therein
22 provided, however, that any property to be sold,
23 leased or otherwise disposed of be made available
24 to the General Services Administration on a first
25 refusal basis at fair market value; and

1 (C) provide services in connection therewith
2 and charges therefor;

3 (6) to construct, operate, lease, and maintain
4 buildings, facilities, equipment, and other improvements
5 on any property owned or controlled by it, including,
6 without limitation, any property or interest therein
7 transferred to it under this Act;

8 (7) to accept gifts or donations of services or
9 property, real or personal, as it deems necessary or
10 convenient in the transaction of its business;

11 (8) to settle and compromise claims by or against
12 it;

13 (9) to exercise, in the name of the United States,
14 the right of eminent domain for the furtherance of the
15 official purposes of the Authority, and to have the pri-
16 ority of the United States with respect to the payment
17 of debts out of bankrupt, insolvent, and decedents'
18 estates;

19 (10) to have all other powers incidental, neces-
20 sary, or appropriate to the carrying on of its functions
21 or the exercise of its specific powers;

22 (11) to establish a schedule of rates for user fees
23 subject to the provisions of part B of title III;

24 (12) to retain and use all revenue without fiscal
25 year limitation; and

1 (13) to establish and amend such bylaws for the
2 Corporation as are deemed necessary.

3 **SEC. 232. FUNCTIONS.**

4 The Authority shall carry out all functions transferred
5 to the Authority under section 401.

6 **SEC. 233. SUITS BY AND AGAINST THE AUTHORITY.**

7 (a) The United States district courts shall have original
8 but not exclusive jurisdiction over all actions brought by or
9 against the Authority except that any order of the Authority
10 issued under title III of this Act shall be subject to review by
11 the courts of appeals of the United States or the United
12 States Court of Appeals for the District of Columbia upon
13 petition, filed within sixty days after the entry of such order,
14 by any person disclosing a substantial interest in such order.
15 After the expiration of sixty days a petition may be filed only
16 by leave of the court upon showing of reasonable grounds for
17 failure to file the petition theretofore. Any action brought in a
18 State court to which the Authority is a party may be re-
19 moved to the appropriate United States district court under
20 the provisions of chapter 89 of title 28, United States Code.

21 (b) The provisions of title 28, United States Code, relat-
22 ing to service of process, venue, and limitations of time for
23 bringing action in suits in which the United States, its offi-
24 cers, or employees are parties, and the rules of procedure
25 adopted under such title for suits in which the United States,

1 its officers, or employees are parties, shall apply in like
2 manner to suits in which the Authority, its officers, or em-
3 ployees are parties.

4 (c) The provisions of chapter 171 and all other provi-
5 sions of title 28, United States Code, relating to tort claims
6 shall apply to tort claims arising out of activities of the
7 Authority.

8 (d) The Department of Justice shall furnish the Author-
9 ity such legal representation as may be required, but at the
10 option of the Authority it may employ attorneys by contract
11 or otherwise to conduct litigation brought by or against the
12 Authority or its officers or employees in matters affecting the
13 Authority subject to the policy oversight of the Attorney
14 General.

15 **SEC. 234. APPLICATION OF OTHER LAWS.**

16 (a) Except as provided by subsection (b) of this section,
17 and except as otherwise provided in this Act or insofar as
18 such laws remain in force as rules or regulations of the Au-
19 thority, no Federal law dealing with public or Federal con-
20 tracts, property, works, officers, records, employees, budgets,
21 or funds or the conduct of meetings and the disclosure of
22 information shall apply to the exercise of the powers of the
23 Authority or otherwise to the Authority, the Director or
24 other officers or employees of the Authority. Further, no law,
25 rule, regulation or order of general or special applicability

1 enacted, codified or otherwise promulgated following the en-
2 actment of this section shall apply to the Authority except to
3 the extent made specifically applicable to the Authority.

4 (b) The following provisions shall apply to the
5 Authority—

6 (1) section 552 (public information), section 552a
7 (records about individuals), section 553 (rulemaking),
8 section 3102 (employment of personal assistants for
9 blind, deaf, or otherwise handicapped employees), sec-
10 tion 3110 (restrictions on employment of relatives),
11 section 3333 (antistriking affidavits), and section 5520
12 (withholding city income or employment taxes) of title
13 5, United States Code, except that no regulation issued
14 under such charters or sections shall apply to the Au-
15 thority unless expressly made applicable;

16 (2) all provisions of title 18, United States Code,
17 applicable to officers or employees of the Government
18 of the United States;

19 (3) the following provisions of title 40, United
20 States Code:

21 (A) sections 258a-258e (relating to condem-
22 nation proceedings);

23 (B) sections 270a-270e (known as the Miller
24 Act, relating to performance bonds);

1 (4) sections 2000d, 2000d-1—2000d-4 of title 42,
2 United States Code (title VI, Civil Rights Act of
3 1964).

4 (c) Subsection (b)(1) of this section shall not require the
5 disclosure of—

6 (1) information of a commercial nature obtained
7 by the Authority upon its request for purposes of plan-
8 ning future operations, including trade secrets, schedul-
9 ing, marketing, or planning information, the disclosure
10 of which is objected to by the entity or person which
11 voluntarily supplied such information on the basis of an
12 asserted adverse impact resulting from such disclo-
13 sures; and

14 (2) information subject to being withheld under
15 the provisions of section 1104 of the Federal Aviation
16 Act of 1958.

17 **SEC. 235. COOPERATION WITH OTHER AGENCIES.**

18 (a) The Authority is empowered to use with their con-
19 sent the available services, equipment, personnel, and facili-
20 ties of other civilian agencies and instrumentalities of the
21 United States, on a reimbursable basis and on a similar basis
22 to cooperate with such other agencies and instrumentalities
23 in the establishment and use of services, equipment, and fa-
24 cilities of the Authority. Further, the Authority may confer
25 with and avail itself of the cooperation, services, records, and

1 facilities of State, territorial, municipal, or other local agen-
2 cies with their consent.

3 (b) The Authority shall establish, in consultation with
4 such civilian agencies and instrumentalities of the United
5 States availing themselves of the services of the Authority, a
6 user fee based schedule for the reimbursement of the Author-
7 ity of the pro rata share of its expenses, both capital and
8 operating, attributable to the providing of such services. Such
9 reimbursement shall be made to the Authority out of appro-
10 priations made to these civilian agencies and shall be treated
11 as ordinary user fee revenue by the Authority.

12 (c) Subject to the provisions of paragraphs (d), (e), (f),
13 and (g) of this section the Department of Defense and the
14 Authority shall determine through mutual discussion and
15 agreement the full and complete cost, both capital and oper-
16 ating, for services, personnel, and equipment utilized by the
17 military in providing civilian air traffic control services and
18 by the Authority in providing military air traffic control serv-
19 ices. The costs established as a result shall be netted against
20 one another and, in any fiscal year in which the military costs
21 exceed those of the Authority, the Authority shall reimburse
22 the Department of Defense for the amount of such excess out
23 of user fee revenue. In any fiscal year in which the costs of
24 the Authority exceed those of the military, the Authority

1 shall be reimbursed through a lump-sum appropriation to be
2 made directly to the Authority for that purpose.

3 (d)(1) In order to further insure that the interests of na-
4 tional defense are properly safeguarded and that the Author-
5 ity is properly advised as to the needs and special problems of
6 the armed services, the Director shall provide for participa-
7 tion of military personnel in carrying out the functions at the
8 Authority including provision of air navigation and traffic
9 control facilities, and research and development with respect
10 thereto, and the allocation of airspace. Members of the Army,
11 the Navy, the Air Force, or the Marine Corps may be de-
12 tailed by the appropriate Secretary, pursuant to cooperative
13 agreements with the Authority including such agreement on
14 reimbursement as may be arrived at by the Director and the
15 Secretary concerned which agreements shall not be subject to
16 the provisions of subsection (c) of this section.

17 (2) Employees of the Authority, at the request of the
18 appropriate Secretary and with the consent of the Director,
19 may be detailed to the Army, Navy, Air Force, or Marine
20 Corps pursuant to cooperative agreements including agree-
21 ment or reimbursement as may be arrived at by the Director
22 and the Secretary concerned which agreements shall not be
23 subject to the provisions of subsection (c) of this section.

24 (3) Members of the Coast Guard may be detailed to the
25 Authority on a similar basis.

1 (4) Appointment to, acceptance of, and service under
2 such cooperative agreements shall in no way affect status,
3 office, rank, or grade which commissioned officers or enlisted
4 personnel may occupy or hold, or any emolument, perquisite,
5 right, privilege, or benefit incident to or arising out of any
6 such status, office, rank, or grade. No person so detailed or
7 appointed shall be subject to direction by or control by the
8 Department from which detailed or appointed or by any
9 agency or officer thereof directly or indirectly with respect to
10 his responsibilities under this chapter or within the Authority
11 during the period of such detail.

12 (e) In order to assist the Director further in the dis-
13 charge of responsibilities, the Director and the Secretary of
14 Defense, and the Director and the Administrator of the Na-
15 tional Aeronautics and Space Administration, are directed to
16 establish by mutual agreement suitable arrangements for the
17 timely exchange of information pertaining to their coopera-
18 tive programs, policies, and requirements directly relating to
19 such responsibilities.

20 (f) The Director shall develop, in consultation with the
21 Department of Defense and other affected Government agen-
22 cies, plans for the effective discharge of the responsibilities of
23 the Authority in the event of war: Provided, that in the event
24 of war the President of the United States by Executive order
25 may transfer to the Department of Defense any functions (in-

1 cluding powers, duties, activities, facilities, and parts of func-
2 tions) of the Authority and may provide for appropriate trans-
3 fers of records, property, and personnel.

4 (g) Other than as provided in this section, this Act will
5 not cause any modification of any statute, Executive order,
6 directive, working agreement, or operating procedure to, be-
7 tween or controlling the operations of the Federal Aviation
8 Administration or the Department of Transportation and the
9 Department of Defense and its component agencies in effect
10 as of the date of enactment except to the extent necessary to
11 substitute the Authority as appropriate in the place of the
12 Federal Aviation Administration.

13 **SEC. 236. PROCUREMENT.**

14 Consistent with the maintenance of the highest standard
15 of safety, the development, operation, and maintenance of the
16 air traffic control system is to be conducted in a manner rea-
17 sonably calculated to maximize efficiency through the intro-
18 duction of competitive acquisition to provide necessary serv-
19 ices in the manner common among private sector businesses.
20 The Director shall establish procedures to ensure opportunity
21 for notice and competition. These and all other procedures
22 utilized in the procurement process shall be designed to facili-
23 tate acquisition of the most appropriate advanced technology
24 equipment for the operation and maintenance of the air traffic
25 control system. When immediate emergency delivery of serv-

1 ices or supplies is required or purchases of less than \$50,000
2 are involved, notice and formal procedures are not required,
3 however, the principles of open and fair procurement proce-
4 dures should be maintained. Nothing in this Act shall be in-
5 terpreted to prevent the contracting out of services to the
6 private sector where compatible with the goals and objectives
7 of the Authority and in accord with the highest standards of
8 commercial practice.

9 **SEC. 271. APPOINTMENT, STATUS, AND POLICY.**

10 (a) Except as otherwise provided in this Act, the Direc-
11 tor shall appoint such officers and employees of the Authority
12 as are deemed necessary to carry out its duties. Such ap-
13 pointments shall be made without regard to the civil service
14 laws applicable to officers and employees of the United
15 States. As to all employees, the Director shall fix their com-
16 pensation, define their duties and provide a system of organi-
17 zation including a personnel management system to fix re-
18 sponsibility and promote efficiency.

19 (b) The personnel management system shall—

20 (1) be consistent with the principles of section
21 2301(b) of title 5, United States Code, relating to
22 merit system principles;

23 (2) prohibit political activities prohibited under
24 subchapter III of chapter 73 of title 5, United States
25 Code; and

1 (3) ensure that officers and employees of the Au-
2 thority are appointed, promoted, and assigned on the
3 basis of merit and fitness, and that other personnel ac-
4 tions are taken consistent with the principles of fair-
5 ness and due process but without regard to those pro-
6 visions of title 5 governing appointments and other
7 personnel actions in the competitive service.

8 (c) This section does not affect a right or remedy of an
9 officer, employee, or applicant for employment under a law
10 prohibiting discrimination in employment in the Government
11 on the basis of race, color, religion, age, sex, national origin,
12 political affiliation, marital status, or handicapping condition.

13 (d) At the discretion of the Director, the Authority may
14 enter into employment contracts with individuals.

15 (e) Officers and employees of the Authority shall be cov-
16 ered by chapter 73 of title 5, United States Code, relating to
17 suitability, security and conduct.

18 (f) Officers and employees of the Authority shall be cov-
19 ered by subchapter I of chapter 81 of title 5, United States
20 Code, relating to compensation for work injuries.

21 (g) Officers and employees of the Authority, who were
22 permanent competitive service of Senior Executive Service
23 employees at the time of enactment and who were subject to
24 the provisions of chapters 83 or 84 of title 5, United States
25 Code, relating to civil or Federal service retirement may, so

1 long as continually employed by the Authority, remain sub-
2 ject to such law. As to such employees the Authority shall
3 withhold from pay and shall pay into the Civil Service Re-
4 tirement and Disability Fund the amounts specified in chap-
5 ters 83 or 84 of title 5. The Authority may for two years
6 following the effective date of this Act, allow early retirement
7 subject to a reduced annuity for any employee who was a
8 permanent employee of the Federal Aviation Administration
9 for one year prior to transfer and who has at least twenty
10 years of Federal service. The annuity payable shall be re-
11 duced at a rate of one-sixth of 1 percent for each full month
12 the employee is under fifty-five years of age at the date of
13 separation. The Authority, upon request of the Officer of Per-
14 sonnel Management, but not less frequently than annually,
15 shall pay to the Office of Personnel Management the costs
16 reasonably related to the administration of Fund activities for
17 officers and employees of the Authority.

18 (h) Sick and annual leave, and compensatory time of
19 officers and employees of the Authority, whether accrued
20 prior to or after commencement of operations of the Author-
21 ity, shall be obligations of the Authority under the provisions
22 of this section but such officers and employees shall not be
23 entitled to any lump-sum payment for unused annual leave.

24 (i) Compensation, benefits, and other terms and condi-
25 tions of employment in effect immediately prior to the effec-

1 tive date of this section, whether provided by statute or by
2 rules and regulations of the Federal Aviation Administration
3 or the executive branch of the Government of the United
4 States shall continue to apply to officers and employees of the
5 Authority, until changed by the Authority in accordance with
6 this Act.

7 **SEC. 272. OATH OF OFFICE.**

8 Before entering upon their duties and before receiving
9 any salary, all officers and employees of the Authority shall
10 take and subscribe the following oath or affirmation:

11 "I, _____, do solemnly swear (or affirm)
12 that I will support and defend the Constitution of the
13 United States against all enemies, foreign and domes-
14 tic; that I will bear true faith and allegiance to the
15 same; that I take this obligation freely, without any
16 mental reservation or purpose of evasion; and that I
17 will well and faithfully discharge the duties of the
18 office which I am about to enter."

19 A person authorized to administer oaths by the laws of the
20 United States, including section 2903 of title 5, United
21 States Code, or of a State or territory, or an officer, civil or
22 military, holding a commission under the United States, or
23 any officer or employee of the Authority designated by the
24 Director may administer and certify the oath or affirmation.

1 **SEC. 273. PROHIBITION OF STRIKES.**

2 An individual may not accept or hold a position with the
3 National Aviation Authority if such person participates in a
4 strike, or asserts a right to strike against the Government of
5 the United States including the National Aviation Authority.

6 **SEC. 274. LABOR MANAGEMENT RELATIONS.**

7 (a) The Authority shall accord exclusive recognition to a
8 labor organization when and if the organization has been se-
9 lected by a majority of employees as their representative.
10 The National Labor Relations Board shall, as necessary, des-
11 ignate separate employee units within the Authority as ap-
12 propriate for collective-bargaining representation and is au-
13 thorized, no more often than annually, to oversee and certify
14 the selection of labor organizations.

15 (b) When and if a labor organization holds exclusive rec-
16 ognition, the Authority shall upon written request of an em-
17 ployee, deduct the regular and periodic dues of the organiza-
18 tion from the pay of each employee member and pay such
19 deducted amounts directly to the organization.

20 (c) To the extent consistent with this Act the National
21 Aviation Authority shall enter into collective-bargaining
22 agreements with any labor organization holding exclusive
23 recognition for a period not to exceed three years.

24 (d) In the event of a failure to reach a collective-bar-
25 gaining agreement within one hundred eighty days of the
26 commencement of collective bargaining, the parties may, at

1 the option of either party, submit the matter for binding arbi-
2 tration by an Arbitration Board consisting of three members,
3 one of whom shall be selected by the labor organization, one
4 by the Authority, and the third, to serve as Chairman, to be
5 named jointly by the first two. The Authority and the labor
6 organization shall independently frame the issues submitted
7 for arbitration and shall independently submit a recommended
8 decision.

9 (e) The Arbitration Board shall give the parties a full
10 and fair hearing, including an opportunity to present evidence
11 in support of their positions. Whereupon, following delibera-
12 tions and within forty-five days of the conclusion of any hear-
13 ing, the Arbitration Board shall render its decision. The deci-
14 sion of the Arbitration Board will be limited to the adoption
15 of the recommended decision of one party or the other. Cost
16 of the Arbitration Board will be shared equally by the
17 parties.

18 (f) The courts of the United States shall have jurisdic-
19 tion with respect to actions brought by the National Labor
20 Relations Board under the section to the same extent that
21 they have jurisdiction with respect to actions under title 29,
22 United States Code.

23 (g) Suits for violations of contracts between the Author-
24 ity and any labor organization representing employees of the
25 Authority, or between such labor organizations, may be

1 brought in any United States district court having jurisdiction
2 over the parties. Jurisdiction over a labor organization shall
3 be found to exist in the district where the organization main-
4 tains its principal offices or in any other district where its
5 authorized officers or agents are engaged in representing or
6 acting for employee members.

7 (h) Any labor management agreement in effect as of the
8 date of enactment shall remain in effect according to its
9 terms.

10 **SEC. 302. CAPITAL OF THE AUTHORITY.**

11 (a) The initial capital of the Authority shall consist of
12 the accumulated Fund balance, including interest, appropri-
13 ated but not obligated funds, appropriated funds which have
14 been obligated or committed, reserve funds equivalent to cu-
15 mulative shortfalls below minimum annual authorizations and
16 uncommitted funds as of the date of enactment of this Act
17 which is, upon enactment and creation of the account, appro-
18 priated to the account established under section 333 of this
19 Act. In addition, the Authority shall, subject to the approval
20 of the Comptroller General, determine the value of assets and
21 amount of liabilities management control over which is to be
22 transferred to the Authority pursuant to the provisions of sec-
23 tion 401 and shall add to the capital account the equity so
24 transferred.

1 (b) The capital of the Authority at any time shall consist
2 of its assets, including the balance in the fund as transferred
3 by subsection (a), less its liabilities. The transferred fund bal-
4 ance shall be available at all times to defray the proper ex-
5 penses of the Authority.

6 (c) The Authority, and the Administrator of General
7 Services where properties under the jurisdiction of the Ad-
8 ministrator of General Service are involved, with the approv-
9 al of the Director of the Office of Management and Budget,
10 shall determine which Federal properties shall be transferred
11 to the management control of Authority and which shall
12 remain under the jurisdiction of other departments, agencies,
13 or establishments of the Government of the United States
14 upon the commencement of operations of the Authority. The
15 decision concerning the placement of control over properties
16 of the United States shall be based solely on efficiency of
17 operations. The transfer of management control shall be ac-
18 complished at the time of or as near as possible to the com-
19 mencement of operations of the Authority and the valuation
20 of the assets and capital of the Authority shall be adjusted
21 accordingly. The following properties shall be included in the
22 transfer—

23 (1) all machinery, equipment, and appurtenances
24 of the Federal Aviation Administration or the Depart-

1 ment of Transportation relating to the operation of the
2 air traffic control system, as defined in section 102;

3 (2) all contracts, records, and documents of the
4 Federal Aviation Administration relating to the oper-
5 ation of the air traffic control system, as defined in sec-
6 tion 102, (including research and development); and

7 (3) all other real and personal property and assets
8 of the Federal Aviation Administration relating to the
9 operation of the air traffic control system, as defined in
10 section 102.

11 (d) After the commencement of operations of the Au-
12 thority, the Director is authorized to accept transfer to the
13 Authority, and the Authority is authorized to transfer to
14 other departments, agencies, or independent establishments
15 of the Government of the United States, with or without re-
16 imbursement, any property of that department, agency, or
17 independent establishment and the Authority, respectively,
18 when, in the opinion of the Authority and such other depart-
19 ment, agency or establishment the public interest would be
20 served by such transfer .

21 **SEC. 303. OBLIGATIONS.**

22 (a) The Authority is authorized to borrow money and to
23 issue and sell such obligations as it determines necessary to
24 carry out the purposes of this Act. The aggregate amount of
25 any such obligations outstanding at any one time shall not

1 exceed \$10,000,000,000. In any one fiscal year the net in-
2 crease in the amount of obligations outstanding issued for the
3 purpose of capital improvements shall not exceed
4 \$1,500,000,000 and the net increase in the amount of obliga-
5 tions outstanding issued for the purpose of defraying operat-
6 ing expenses of the Authority shall not exceed
7 \$500,000,000.

8 (b) The Authority may pledge the assets of the Author-
9 ity and pledge and use its revenues and receipts for the pay-
10 ment of the principal or interest on such obligations, for the
11 purchase or redemption thereof, and for other purposes inci-
12 dental thereto, including creation of reserve, sinking, and
13 other funds which may be similarly pledged and used, to such
14 extent and in such manner as the Director deems necessary
15 or desirable. The Authority is authorized to enter into bind-
16 ing covenants with the holders of such obligations. and with
17 the trustee, if any, under any agreement entered into in ac-
18 cordance with the issuance thereof with respect to the estab-
19 lishment of reserve, sinking, and other funds, application and
20 use of revenues and receipts of the Authority, stipulations
21 concerning the subsequent issuance of obligations or the exe-
22 cution of leases or leases purchases relating to properties of
23 the Authority and such other matters as the Director deems
24 necessary or desirable to enhance the marketability of such
25 obligations.

1 (c) Obligations issued by the Authority under this
2 section—

3 (1) shall be in such forms and denominations;

4 (2) shall be sold at such times and in such
5 amounts;

6 (3) shall mature at such time or times;

7 (4) shall be sold at such prices;

8 (5) shall bear such rates of interest;

9 (6) may be redeemable before maturity in such
10 manner, at such times, and at such redemption
11 premiums;

12 (7) may be entitled to such relative priorities of
13 claim on the assets of the Authority with respect to
14 principal and interest payments; and

15 (8) shall be subject to such other terms and condi-
16 tions as the Director determines.

17 (d) Obligations issued by the Authority under this sec-
18 tion shall—

19 (1) be negotiable or nonnegotiable and bearer or
20 registered instruments, as specified therein and in any
21 indenture or covenant relating thereto;

22 (2) contain a recital that they are issued under
23 this section, and such recital shall be conclusive evi-
24 dence of the regularity of the issuance and sale of such
25 obligations and of their validity;

1 - (3) be lawful investments and may be accepted as
2 security for all fiduciary, trust, and public funds, the in-
3 vestment or deposit of which shall be under the author-
4 ity or control of any officer or agency of the Govern-
5 ment of the United States, and the Secretary of the
6 Treasury or any other officer or agency having author-
7 ity over or control of any such fiduciary, trust, or
8 public funds, may at any time sell any of the obliga-
9 tions of the Authority acquired under this section;

10 (4) be exempt both as to principal and interest
11 from all taxation now or hereafter imposed by a State
12 or local taxing authority except estate, inheritance, and
13 gift taxes;

14 (5) not be obligations of, nor shall payment of the
15 principal thereof or interest thereon be guaranteed by
16 the Government of the United States, except as pro-
17 vided in section 304; and

18 (6) be treated as an obligation or security of the
19 United States for purposes of the counterfeiting and
20 forgery provisions of title 18, United States Code.

21 **SEC. 304. RELATIONSHIP BETWEEN THE TREASURY AND THE**
22 **AUTHORITY.**

23 (a) At least fifteen days before selling any issue of obli-
24 gations under section 303, the Authority shall advise the
25 Secretary of the Treasury of the amount, proposed date of

1 sale, maturities, terms, and conditions, and expected maxi-
2 mum rates of interest of the proposed issue in appropriate
3 detail and shall consult with the Secretary or the Secretary's
4 designee thereon. The Secretary of the Treasury may elect to
5 purchase such obligations under such terms, including rates
6 of interest, as the Secretary and the Authority may agree,
7 but at a rate of yield no less than the prevailing yield on
8 outstanding marketable Treasury securities or comparable
9 maturity, as determined by the Secretary. If the Secretary of
10 the Treasury does not purchase such obligations, the Author-
11 ity may proceed to issue and sell them to a party or parties
12 other than the Secretary upon notice to the Secretary and
13 upon consultation as to the date of issuance, maximum rates
14 of interest, and other terms and conditions.

15 (b) Subject to the conditions of subsection (a) of this sec-
16 tion, the Authority may require the Secretary of the Treas-
17 ury to purchase obligations of the Authority in such amounts
18 as will not cause the holding by the Secretary of the Treas-
19 ury resulting from such required purchases to exceed
20 \$2,000,000,000 at any one time. This subsection shall not be
21 construed as limiting the authority of the Secretary to pur-
22 chase obligations of the Authority in excess of such amount.

23 (c) Notwithstanding section 303(d)(5), obligations issued
24 by the Authority shall be obligations of the Government of
25 the United States, and payment of principal and interest

1 thereon shall be fully guaranteed by the Government of the
2 United States, such guaranty being expressed on the face
3 thereof, if and to the extent that—

4 (1) the Authority requests the Secretary of the
5 Treasury to pledge the full faith and credit of the Gov-
6 ernment of the United States for the payment of princi-
7 pal and interest thereon; and

8 (2) the Secretary of the Treasury, in the discre-
9 tion of the Secretary, determines that it would be in
10 the public interest to do so.

11 **SEC. 305. PUBLIC DEBT CHARACTER OF THE OBLIGATIONS OF**
12 **THE AUTHORITY.**

13 For the purpose of any purchase of the obligations of the
14 Authority, the Secretary of the Treasury is authorized to use
15 as a public debt transaction the proceeds from the sale of any
16 securities issued under the Second Liberty Bond Act, as now
17 or hereafter in force, and the purposes for which securities
18 may be issued under the Second Liberty Bond Act, as now or
19 hereafter in force, are extended to include any purchases of
20 the obligations of the Authority under this part. The Secre-
21 tary of the Treasury may, at any time, sell any of the obliga-
22 tions of the Authority acquired by the Secretary under this
23 part. All redemptions, purchases, and sales by the Secretary
24 of the obligations of the Authority shall be treated as public
25 debt transactions of the United States.

1 SEC. 306. AUDIT AND EXPENDITURES.

2 (a) The accounts and operations of the Authority shall
3 be audited annually by an independent certified public ac-
4 countant, who shall, upon completion of audit, submit an
5 audit report to the Comptroller General, the President of the
6 United States and the House and Senate Aviation Subcom-
7 mittees. The Comptroller General is authorized to conduct
8 such further audits as are requested or otherwise deemed
9 necessary.

10 (b) The Authority shall maintain an adequate internal
11 audit of the financial transactions of the Authority.

12 (c) Subject only to the provisions of this Act, the Au-
13 thority is authorized to make such expenditures and to enter
14 into such contracts, agreements, and arrangements, upon
15 such terms and conditions and in such manner as it deems
16 necessary.

17 SEC. 307. ANNUAL BUDGET AND REPORT.

18 The Authority shall cause to be prepared annually a
19 budget program and a report of its financial condition. The
20 budget program shall be a business-type budget, or plan of
21 operations, with due allowance given to the need for long-
22 range planning and flexibility, including provision for emer-
23 gencies and contingencies, in order that the Authority may
24 properly carry out its activities as authorized by law. The
25 budget program shall contain estimates of the financial condi-
26 tion and operations of the Authority for the current and en-

1 during fiscal years and the actual condition and results of
2 operation for the last completed fiscal year. The financial
3 report shall include a statement of financial condition, a
4 statement of income and expense, and analysis of surplus or
5 deficit, a statement of sources and application of funds, and
6 such other supplementary statements and information as are
7 necessary or desirable to make known the financial condition
8 and operations of the Authority. The annual budget and
9 report shall be delivered to the President of the United
10 States, the House and Senate Aviation Subcommittees, and
11 the members of the Policy Advisory Board for their review.
12 To the extent it deems necessary the Congress shall conduct
13 oversight hearings on the basis of the budget and report.

14 **PART B—FUNDING**

15 **SEC. 331. SCHEDULE OF USER FEES.**

16 Subject to the limitations established by this part, the
17 Authority shall establish by rulemaking under the provisions
18 of section 553 of title 5, United States Code subject to
19 review in the courts of appeals of the United States or the
20 United States Court of Appeals for the District of Columbia,
21 a schedule of user fees calculated to fund its operations, re-
22 search, investment, and development programs, including
23 necessary reserves, as set forth in the annual budget required
24 under section 307 of this Act and any other multiyear re-

1 quirements for airspace system development established by
2 this or any other Act.

3 **SEC. 332. LIMITATION OF FEES.**

4 (a) The Authority shall, for the first two fiscal years of
5 its operation, establish the schedule of user fees authorized
6 under section 331 in exact proportion to and in the same
7 amounts as the excise taxes which, prior to January 1, 1988:
8 *Provided*, That the basis for credits to the Airport and
9 Airway Trust Fund under the provisions of section 9502 of
10 the Internal Revenue Code. Thereafter, all user fees may be
11 adjusted no more often than annually consistent with the
12 budgeted needs of the Authority in a manner reasonably cal-
13 culated to maintain the ratio in the amounts owned by the
14 various classes and types of system users. Any adjustment in
15 user fee levels shall be subject to appropriate congressional
16 oversight.

17 (b) Of the amount collected during the first two fiscal
18 years of the operation of the Authority a total of
19 \$3,000,000,000 will be paid in eight installments (quarterly
20 on an annual basis) to the Treasury of the United States. The
21 funds thus remitted by the Authority to the Treasury shall
22 remain available for appropriation until expended for the pur-
23 pose of financing airport construction, expansion and im-
24 provements under legislation to succeed the Airport and
25 Airway Improvement Act of 1982.

1 SEC. 333. ESTABLISHMENT OF ACCOUNT; COLLECTION
2 MECHANISM.

3 (a) The Secretary of the Treasury shall establish in the
4 Treasury of the United States an account for the exclusive
5 benefit and use of the Authority to which the Treasury is
6 authorized and directed to transfer all moneys along with ac-
7 cumulated interest paid or to be paid or credited to the Air-
8 port and Airway Trust Fund by January 1, 1988, described
9 as the accumulated Fund balance in section 302 of this Act
10 and such funds are hereby appropriated for this purpose.
11 Upon such transfer the Airport and Airway Trust Fund shall
12 terminate.

13 (b) The Director shall establish such collection mecha-
14 nisms and accounts as are necessary to collect the user fees
15 authorized to be collected under section 331 and to hold, uti-
16 lize and disburse such funds as are necessary for the opera-
17 tion of the Authority. The Director is authorized to establish
18 such commercial bank accounts as are deemed necessary to
19 effectively carry out the responsibilities of the Authority. In
20 no event will user fee revenues be treated or taxed as income
21 to any individual or corporation through whom or which they
22 are collected.

23 (c) Funds deposited to the Treasury account or user fees
24 otherwise collected and held by or on behalf of the Authority
25 shall be available without further appropriation or fiscal year

1 limitation for the purpose of carrying out the provisions of
2 this Act.

3 (d) All moneys credited to the Treasury account author-
4 ized to be created by this section shall be subject to the se-
5 questration procedures and other general budget limitation of
6 the Balanced Budget and Emergency Deficit Control Act of
7 1985 (2 U.S.C. 901 et seq.). New user fee revenues shall be
8 exempt from any and all restrictions and sequestration
9 provisions.

10 TITLE IV—TRANSFER, TRANSITIONAL, AND
11 SAVINGS PROVISIONS

12 SEC. 401. TRANSFERS.

13 (a) There are transferred to the Authority—

14 (i) all functions, powers, and authorities of the
15 Federal Aviation Administration and the Department
16 of Transportation directly relating to the operation of
17 air traffic control services including operation of the air
18 traffic control system, its associated computer oper-
19 ations, information and communications systems and
20 networks, radar, navigation, and landing systems along
21 with associated contracting, supply, maintenance, in-
22 spection, training, administrative, and research and de-
23 velopment functions, and

24 (ii) management control over all property of the
25 United States previously under the control of the Fed-

1 eral Aviation Administration and the Department of
2 Transportation associated with the functions trans-
3 ferred in subparagraph (i) and as further described in
4 section 302 of this Act.

5 (b) The Director of the National Aviation Authority
6 shall consistent with this section assume all powers of the
7 Department of Transportation, the Secretary of Transporta-
8 tion, the Federal Aviation Administration and the Adminis-
9 trator of the Federal Aviation Administration as are neces-
10 sary to establish and control all procedures pertinent to the
11 operation of the airways and air traffic control system and
12 the regulatory authority necessary to determine what air-
13 space is within the air traffic control system. The Director of
14 the National Aviation Authority and the Administrator of the
15 Federal Aviation Administration are directed to establish
16 jointly, consistent with this Act, the accompanying report
17 and the Administrative Procedures Act, such review and co-
18 ordination practices as are deemed necessary to assure that
19 the operational procedures and regulatory actions of the Au-
20 thority are consistent with the safety standards established by
21 the Federal Aviation Administration. The enforcement
22 powers of the Administrator are not modified by this
23 enactment.

24 (c) The Secretary of Transportation, Administrator of
25 the Federal Aviation Administration and the Director of the

1 National Aviation Authority shall, beginning within thirty
2 days of the Senate confirmation of the Director, jointly plan
3 for the orderly transfer of functions and personnel pursuant to
4 this Act and shall submit such periodic reports to the Con-
5 gress as are requested.

6 (d) In order to facilitate the transfers made by this Act,
7 the Director of the Office of Management and Budget is au-
8 thorized and directed to make such determinations as may be
9 necessary with regard to the functions so transferred and
10 such further determinations as are necessary concerning the
11 division of personnel, assets, liabilities, contracts, property,
12 records, and unexpended balances of appropriations, authori-
13 zations, allocations, and other funds held, used, arising from,
14 available to or to be made available in connection with such
15 functions as may be necessary to resolve disputes between
16 the Secretary of Transportation, the Administrator of the
17 Federal Aviation Administration or the Director of the Na-
18 tional Aviation Authority.

19 (e) Three years after the completion of the transfer of
20 functions under this Act and in no event later than October 1,
21 1991, the Director of the National Aviation Authority and
22 the Administrator of the Federal Aviation Administration
23 shall prepare and transmit to the Congress a final report on
24 the transfer, making such recommendations as are deemed

1 necessary for further enhancement of safety and operational
2 efficiency.

3 **SEC. 402. TRANSFER OF PERSONNEL.**

4 Except as otherwise provided in this Act, the personnel,
5 including Senior Executive Service personnel, employed in
6 connection with the functions transferred by this Act shall be
7 transferred to the Authority in a manner consistent with
8 Office of Personnel Management regulations governing trans-
9 fer of functions.

10 **SEC. 403. EFFECT ON PERSONNEL.**

11 (a) The transfer to the Authority pursuant to this Act of
12 full-time and part-time permanent positions in the competi-
13 tive service or the Senior Executive Service shall cause such
14 employees holding such positions to be placed in the person-
15 nel system authorized to be established pursuant to this Act.
16 Until such time as the civil service compensation system
17 under title 5, United States Code, applicable to transferred
18 personnel as of the date of enactment of this provision is
19 replaced by a system authorized under this Act, personnel
20 shall continue to have their basic pay adjusted, receive bo-
21 nuses and promotions in accord with the system under title 5,
22 United States Code. In no event will any employees trans-
23 ferred under this Act have their level of compensation re-
24 duced as a result of any new classification or pay system for
25 a period of two years following such transfer.

1 (b) Positions whose incumbents are appointed by the
2 President of the United States, by and with the advice and
3 consent of the Senate and those positions of a confidential or
4 policy determining character which are excepted from the
5 competitive service, the functions of which are transferred by
6 this Act, shall terminate on the effective date of this Act.
7 However, the termination of such a position shall not pre-
8 clude the reappointment of a former incumbent to a position
9 with the Authority.

10 (c) Employees transferred pursuant to this Act to the
11 Authority shall remain eligible for a period of two years fol-
12 lowing the date of such transfer for available positions within
13 the civil service for which they are qualified without any
14 break in service notwithstanding their transfer to the person-
15 nel system of the Authority.

16 (d) Nothing in this section shall constrain the ability and
17 authority of the Director to accomplish in a businesslike fash-
18 ion the responsibilities and duties of the Authority.

19 **SEC. 404. SAVING PROVISION.**

20 (a) All orders, determinations, rules, regulations, per-
21 mits, contracts, certificates, licenses, and privileges that—

22 (1) have been issued, made, granted, or allowed to
23 become effective by the President of the United States,
24 Administrator of the Federal Aviation Administration,
25 any Federal agency or official thereof, or by a court of

1 competent jurisdiction, in the performance of functions
2 which are transferred by this Act; and

3 (2) are in effect when this Act takes effect, shall
4 continue in effect according to their terms until modi-
5 fied, terminated, superseded, set aside, or revoked in
6 accordance with law by the President of the United
7 States, the Authority, a court of competent jurisdiction,
8 or by operation of law.

9 (b)(1) The provisions of this Act shall not affect any pro-
10 ceedings, including notices of proposed rulemaking, or any
11 application for any license, permit, certificate, or financial as-
12 sistance pending on the effective date of this Act before the
13 Department of Transportation or the Federal Aviation Ad-
14 ministration, or any officer thereof with respect to functions
15 transferred by this Act; but such proceedings or applications,
16 to the extent that they relate to functions transferred, shall
17 be continued in accord with transition regulations promulgat-
18 ed under the authority of this section. Orders issued in any
19 such proceedings shall continue in effect until modified, ter-
20 minated, superseded, or revoked by the Authority, by a court
21 of competent jurisdiction, or by operation of law. Nothing in
22 this subsection prohibits the discontinuance or modification of
23 any such proceeding under the same terms and conditions
24 and to the same extent that such proceeding could have been
25 discontinued or modified if this Act had not been enacted.

1 (2) The Secretary of Transportation, the Administrator
2 of the Federal Aviation Administration, and the Director of
3 the National Aviation Authority are authorized to issue tran-
4 sition regulations providing for the orderly transfer of pro-
5 ceedings and otherwise to accomplish the orderly transfer of
6 functions, personnel and property under this Act.

7 (c) No action or other proceeding commenced by or
8 against any officer in his official capacity as an officer of the
9 Department of Transportation or the Federal Aviation Ad-
10 ministration with respect to functions transferred by this Act
11 shall abate by reason of the enactment of this Act. No cause
12 of action by or against the Department of Transportation or
13 the Federal Aviation Administration with respect to functions
14 transferred by this Act, or by or against any officer thereof in
15 his official capacity, shall abate by reason of the enactment of
16 this Act. Causes of action and actions with respect to a func-
17 tion or office transferred by this Act, or other proceedings
18 may be asserted by or against the United States or an official
19 of the Authority, as may be appropriate, and, in an action
20 pending when this Act takes effect, the court may at any
21 time, on its own motion or that of any party, enter an order
22 which will give effect to the provisions of this subsection.

23 (d) If, before the date on which this Act takes effect, the
24 Department of Transportation or the Federal Aviation Ad-
25 ministration, or any officer thereof in his official capacity, is a

1 party to an action, and under this Act any function of such
2 Department, Administration, or officer is transferred to the
3 Authority, then such action shall be continued with the Di-
4 rector substituted or added as a party.

5 (e) Orders and actions of the Authority in the exercise of
6 functions transferred by this Act shall be subject to judicial
7 review to the same extent and in the same manner as if such
8 orders and actions had been by the Department of Transpor-
9 tation or the Federal Aviation Administration, or any office
10 or officer thereof, in the exercise of such functions immediate-
11 ly preceding their transfer.

12 **SEC. 405. SEPARABILITY.**

13 If a provision of this Act or its application to any person
14 or circumstance is held invalid, neither the remainder of this
15 Act nor the application of the provision to other persons or
16 circumstances shall be affected.

17 **SEC. 406. REFERENCE.**

18 With respect to any functions transferred by this Act
19 and exercised after the effective date of this Act, reference in
20 any other Federal law or Executive order to—

21 (1) the Secretary of Transportation or the Admin-
22 istrator of the Federal Aviation Administration; or

23 (2) the Department of Transportation or the Fed-
24 eral Aviation Administration or any officer or office

1 thereof, shall be considered to refer to the Authority or
2 the Director as appropriate.

3 **SEC. 407. TRANSITION.**

4 (a) For the purpose of facilitating the transfers mandated
5 by this Act, the Secretary of Transportation, Administrator
6 of the Federal Aviation Administration and the Director of
7 the National Aviation Authority are authorized to utilize—

8 (1) the services of such officers, employees, and
9 other personnel of the Department of Transportation or
10 the Federal Aviation Administration as are deemed
11 necessary to organize, oversee and otherwise facilitate
12 the transfer of function, personnel or property to be
13 transferred to the Authority, and

14 (2) funds previously appropriated to the Depart-
15 ment of Transportation or the Federal Aviation Admin-
16 istration for the conduct of the functions being trans-
17 ferred by this Act, subject to accounting, in facilitating
18 the orderly implementation of this Act.

19 (b) The authorization under this section shall terminate
20 upon completion of the transfer.

21 **SEC. 408. EFFECTIVE DATE.**

22 The National Aviation Authority is authorized to com-
23 mence operations on October 1, 1988. The President shall,
24 within one hundred and twenty days after enactment of this
25 Act nominate an individual to be the Director of the National

1 Aviation Authority in accord with the provisions of section
2 202 of this Act, who shall, upon Senate confirmation, begin
3 the ten-year term of office with all authority necessary to
4 facilitate the orderly transfer mandated by this Act. This au-
5 thority shall include but is not limited to those powers pre-
6 scribed in sections 401(b), 404(b)(2), and 407 of this Act.

7 **SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums as
9 may be necessary to carry out the transfer of operational
10 control of the airways and air traffic control systems mandat-
11 ed by this Act. Amounts appropriated under this section shall
12 be available until expended.

○