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H. R. 1441

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

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

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A BILL

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

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

SECTION 1. TITLE; TABLE OF CONTENTS.

(a) This Act may be cited as the ''United States Air Traffic Service Corporation Act''.

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TITLE I—GENERAL

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—(1) The United States air traffic control system, spanning civil and military sectors and the busiest in the world, has set the standard since its inception for the utmost in aviation safety and efficiency of traffic movements.

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

(3) It is the continuing role of Congress and the Executive Branch to evaluate each Federal Government activity to determine whether its services continue to be needed and, if so, whether these services can be best provided by a Federal agency.

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

(5) Air traffic control is increasingly reliant on high-quality, well motivated staff and automated, electronic tracking and communication systems that require state-of-the-art computer equipment and applications, technology that advances extremely rapidly and has left current air traffic control operations behind.

(6) Current government-wide requirements for procurement, personnel, financial, and other fundamental elements of management are being updated but, despite the general changes achieved to date as a result of the National Performance Review, are not suited to the type of operating enterprise needed to bring the United States air traffic control system into the 21st century.

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

but changes of this nature are complicated by the ongoing, successful effort to reduce Federal budget deficits, an objective which should not be undercut.

(8) The FAA and the Department of Defense share a unique relationship as users and suppliers of air traffic services, and it is vital to safe and efficient air traffic control and defense readiness that this relationship continue to evolve under any new operational arrangement for civilian air traffic service.

(9) More user input, simpler procurement methods, more flexible personnel policies and incentives with improved labor-management partnerships, greater management longevity, and access to capital markets are necessary and achievable to maintain the FAA's enviable record of efficiency in air traffic management, but not within the confines of a traditional Federal Government agency.

(10) The clear success of a much smaller, but similar, transfer of a long-time FAA activity (operation of National and Dulles Airports) to a non-Federal operator in 1987 demonstrates the efficacy of creating a self-governing, self-financing entity to manage inherently operational activities.

(11) Transfer legislation can relieve the Federal Government of operating roles and include the kind of safety,

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

(b) PURPOSE.—It is declared to be the purpose of Congress in this Act, pursuant to its authority under the Constitution to regulate commerce among the several states, to transfer operating responsibility for air traffic services currently provided by the Federal Aviation Administration on behalf of the United States to a separate corporate entity, to provide for more efficient operation and development of these services and related assets, without any reduction in accountability for aviation safety, security, national defense, airport development, or other necessary aviation functions currently entrusted to the Federal Aviation Administration.

SEC. 102. DEFINITIONS.

(a) In this Act:

(1) ''Administrator'' means the Administrator of the Federal Aviation Administration.

(2) ''Air traffic control system'' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the

United States and United States-assigned airspace, including—

(A) frequency licenses and physical, real, personal, and intellectual property assets making up facilities and systems employed to detect, track, and guide aircraft movement;

(B) laws, regulations, agreements, and licenses;

(C) publishes procedures that explain required actions, activities, and techniques used to assure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

(3) ''Corporation'' means the United States Air Traffic Service Corporation created under the authority of this Act, unless otherwise specified.

(4) ''Date of transfer'' means the date the United States Air Traffic Service Corporation succeeds to functions of the Federal Aviation Administration pursuant to this Act, which shall be October 1, 1996, or a later date established by the Administrator as the date that air traffic control responsibilities may be safely transferred to the Corporation.

(5) ''Secretary'' means the Secretary of Transportation.

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

TITLE II—TRANSFER OF AIR TRAFFIC SERVICE FROM THE FEDERAL AVIATION ADMINISTRATION

SEC. 201. ESTABLISHMENT OF THE CORPORATION.

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

SEC. 202. STATUS AND APPLICABLE LAWS.

(a) STATUS.—The Corporation—

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

(2) is subject to the regulatory authority of the Federal Aviation Administration and the safety investigatory authority of the National Transportation Safety Board (NTSB);

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

cient, self-supporting, and not-for-profit basis without Federal Government appropriations or other sources of Federal financing other than transfers specified in this Act;

(4) shall not be subject to apportionment pursuant to section 1513(b) of title 31, United States Code; and

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

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

(c) NONAPPLICATION OF CERTAIN FEDERAL ACQUISITION AND RELATED REQUIREMENTS.—The Corporation does not qualify as a department, agency, establishment, or instrumentality of the United States Government for

purposes of Federal laws, regulations, or other requirements concerning acquisition of supplies and services, and the acquisition, use, and disposal of real and personal property, including the Federal Property and Administrative Services Act (40 U.S.C. 471, et seq.), except that the Corporation does qualify as a department, agency, establishment, or instrumentality of the United States Government for the purposes of the Davis-Bacon Act (40 U.S.C. 276a–276–7), the McNamara-O'Hara Service Contract Act (41 U.S.C. 351, et seq.), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et seq.), and civil rights laws and regulations that are applicable to Federal contractors and subcontractors.

(d) FEDERAL ENVIRONMENTAL REQUIREMENTS.—(1) The Corporation is subject to the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.), and the actions of the Corporation shall be Federal actions under the Act.

(2) The Corporation shall be an agency of the United States Government for purposes of compliance with Federal law relating to the environment, including laws relating to clean air, clean water hazardous waste, park lands, wilderness areas, wildlife, and historic properties.

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

that a Federal agency should be subject to that law or order as a result of an express waiver of sovereign immunity by statute or executive order.

(e) TRANSFER OF AIR TRAFFIC SYSTEM.—The Federal Aviation Administration shall transfer its control over the air traffic system in the United States to the Corporation on the date of transfer, in a systematic and orderly manner that assures complete continuity in air traffic control operations.

(f) CONTINUED APPLICABILITY OF THE ACT.—The requirements of this Act shall continue to apply to the Corporation throughout its existence. No entity other than the United States Air Traffic Service Corporation, Department of Defense units providing air traffic services, or entities to which the Corporation has delegated air traffic service responsibilities or contracted with for the provision of air traffic control services, is authorized or permitted to perform air traffic control services on behalf of the United States.

SEC. 203. BOARD OF DIRECTORS.

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

(the Corporation's employee bargaining unit representative excepted):

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

(B) The Secretary of Defense, or the Secretary's designee.

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

(i) air traffic system commercial users subject to the imposition of user fees in the case of four appointments, but who are not employed by an airline;

(ii) non-commercial aviation;

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

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

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

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

(3) Members other than the Secretaries shall be appointed to the Board for a term of 5 years except that, of the members first appointed, two shall be appointed by the President for 2-year terms, two shall be appointed by the President for 3-year terms, and two shall be appointed by the President for 4-year terms. A member may serve after the expiration of that member's term until a successor has taken office. The Secretaries shall serve terms coincident with their appointments to their positions.

(b) PAY AND EXPENSES.—Each Director not employed by the United States Government is entitled to compensation, which may be comparable to other corporate boards when performing Board duties and powers. Each Director is entitled to reimbursement for necessary travel, reasonable secretarial support, and subsistence expenses incurred in attending board meetings.

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

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

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

(e) BOARD ACTION REQUIRED.—The Board shall meet at the call of the Chairman and should meet, at a minimum, on a quarterly basis. The Board shall be responsible for actions of the Corporation, including the following matters:

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

(2) Authorization for issuance of indebtedness.

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

(4) Appointment of the Chief Executive Officer.

(f) BYLAWS.—The Board may adopt and amend bylaws governing the operation of the Corporation. The bylaws shall be consistent with this Act.

(g) REVIEW OF BORROWING.—The issuance of indebtedness by the Corporation may be disapproved by the Secretary of Transportation if the Secretary determines that the total revenues of the Corporation are insufficient to satisfy obligations incurred by the Corporation, including those that are held by the United States. Within 30 days of the receipt of a proposal for the issuance of indebt-

edness, the Secretary shall notify the Chairman of the Board of any disapproval, with justification for a disapproval.

SEC. 204. COMMITTEES OF THE BOARD; INDEPENDENT AUDITOR.

(a) CREATION OF COMMITTEES OF THE BOARD.—The Board of Directors of the Corporation shall create and maintain a Safety Committee and any other committees of the Board that are needed or desirable to carry out Board responsibilities effectively.

(b) SAFETY COMMITTEE OF THE BOARD.—(1) The Safety Committee shall include the Secretaries of Transportation and Defense, or designees.

(2) It shall be the continuing duty of the Safety Committee to supervise the aviation safety activities of the Corporation, and in particular actions taken in response to safety agencies, including the Federal Aviation Administration and the National Transportation Safety Board.

(c) INDEPENDENT AUDIT AND INVESTIGATION FUNCTION.—To fulfill the responsibilities of the Corporation as a Federal entity, as set forth in section 8G(h)(2) of the Inspector General Act (Appendix 3 of title 5, United States Code), the Chairman of the Board shall appoint a qualified individual to establish and administer an independent audit and investigatory organization that reports

directly to the Board of Directors of the Corporation. The organization shall conduct and supervise audits and investigations of the economy, efficiency, and effectiveness of the Corporation's programs and operations, act to detect and prevent fraud, waste, and abuse in such programs and operations, and make any necessary and desirable recommendations for corrective actions to the Board.

SEC. 205. OFFICERS AND THEIR RESPONSIBILITIES.

(a) APPOINTMENT AND TERMS.—(1) The Corporation has a Chief Executive Officer, who is selected and appointed by the Board of Directors to manage the Corporation. However, until the Board appointed pursuant to section 203 of this Act makes an appointment, an individual with the qualifications specified by this subsection may be appointed, by the President, within 30 days of the enactment of this Act, to exercise all of the authority of the Corporation set forth in this Act in order to prepare the Corporation to accept the transfer of air traffic control responsibilities by the date of transfer. The Chief Executive Officer is subject to the policy guidance of the Board, reports to the Board, and serves at the pleasure of the Board. The Board may revoke actions of the Chief Executive Officer.

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

(3) The Chief Executive Officer shall—

(A) be responsible for the management and direction of the Corporation, and for the exercise of all powers and responsibilities of the Corporation;

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

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

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

(4) The Chief Executive Officer shall appoint the other officers and employees of the Corporation. The Chief Executive Officer may delegate to other officers or employees any of the functions of the Corporation. An officer, employee, or agency of the Corporation is subject only to the supervision of the Chief Executive Officer or designated subordinates of the Chief Executive Officer.

(b) PAY.—The Chief Executive Officer has exclusive authority, subject to sections 302 and 501 of this Act, to fix the pay of the officers and other employees of the Corporation, except that the Board of Directors shall fix the pay of the Chief Executive Officer. However, the President shall fix the pay, at a rate not to exceed level III of the Executive Schedule, of the Chief Executive Officer until the Board is appointed.

SEC. 206. GENERAL AUTHORITY.

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

(1) shall have perpetual succession in its corporate name unless dissolved by law;

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

(3) may acquire, purchase, lease, and hold, possess, use, and improve real and personal property, including housing units, patents, trademarks, copyrights, and proprietary data, it considers necessary in the transaction of its business, and sell, lease, grant, transfer, and dispose of the real and personal property it considers necessary to effectuate the purpose of the Corporation;

(4) may indemnify members of the board of directors, the Chief Executive Officer, other officers,

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

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

(6) may enter into the contracts, agreements, or other arrangements, including financial assistance, it considers appropriate to conduct its business with any entity, on the terms it considers appropriate, and may sue and be sued in its corporate name for purposes of this paragraph;

(7) notwithstanding any other law, without need for appropriation and without fiscal year limitation, may retain and use its revenues and receipts from whatever source, including obligations issued and disposition of real and personal property, and its other assets to carry out its purposes, including research and development and capital investment;

(8) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, an decedents' estates;

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

gible, or intangible property, except that no gift may be accepted that attaches conditions inconsistent with applicable laws and regulations or is conditioned upon or will require the expenditure of appropriated funds that are not available to the Corporation; provided, that the Corporation shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of gifts or donations authorized in this subsection would reflect unfavorably upon the ability of the Corporation or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs;

(10) may perform such investigations, including aircraft accident investigations, as it shall deem necessary to carry out the provisions of and exercise and perform its powers and duties under this Act, and shall be included as a party in all NTSB accident investigations that involve activities of the Corporation;

(11) may establish training facilities and conduct such training as it deems necessary;

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

(13) shall have such other powers as may be incidental, necessary or appropriate to carry out the purposes this Act and of the Corporation.

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

(a) RESPONSIBILITY FOR MOVEMENT OF AIRCRAFT IN UNITED STATES AIRSPACE.—(1) As successor to the Federal Aviation Administration pursuant to this Act, and subject to the requirements of section 44724 of title 49, United States Code (as enacted by section 409 of this Act (Regulation of the United States Air Traffic Control Service Corporation)), and retention by the United States of exclusive sovereignty over airspace of the United States, the Corporation shall exercise day-to-day operational supervision and control over the movement of aircraft on behalf of the United States that was provided by the Federal Aviation Administration prior to the date of transfer.

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

the ability to issue routine airspace actions and airspace assignments and designations in accordance with rules prescribed for the Corporation by the Administrator. Notwithstanding the Corporation's safety functions with regard to any orders or directives it may prescribe, responsibility for prescribing safety standards and the policies encompassing the safety structure of the National Airspace system remains with the Administrator.

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

(4) The Corporation is authorized to—

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

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

(C) provide necessary facilities and personnel for the management and protection of air traffic. The Corporation shall update and arrange for publi-

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

(5) To encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, and subject to appropriate military authority exercised pursuant to section 40106 of title 49, United States Code, the Corporation shall recommend for issuance by the Administrator, in consultation with the Secretary of Defense, regulations that establish areas in the airspace the Administrator decides are necessary in the interest of national defense, and to restrict or prohibit flight of civil aircraft that the Corporation cannot identify, locate, and control with available facilities in those areas.

(6) The Corporation shall recommend to the Administrator long-range plans and policy for the orderly development and use of the navigable airspace that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to warfare and primarily of military concern. In making recommendations, the Corporation shall emphasize—

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

(B) meeting the forecasted needs of civil aeronautics; and

(C) meeting the requirements that the Secretary of Defense establishes for the support of the national defense.

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

(A) develop, alter, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs and promote maximum coordination of air traffic control, air defense, and range surveillance systems except for needs of the armed forces that are peculiar to warfare and primarily of military concern.

(8) The Corporation shall establish procedures, before transition, to notify the Administrator and the public when major changes in serve are contemplated.

(9) In any case where negotiations with other countries over airspace control and air navigation may be necessary or desirable, the Corporation shall be subject to the requirements of section 303 of this Act and shall act through the Federal Aviation Administration, the Department of Transportation, and the Department of State and, to the degree possible, provide the Administrator with as much notice as possible of requirements in this area.

(10) The Corporation shall refer for action by the Federal Aviation Administration, pursuant to chapter 447 and chapters 461 through 465 of title 49, United States Code, complaints against any person for violations of rules, regulations, orders, and other directives issued by the Corporation or by the Administrator. The Administrator shall take appropriate action promptly on complaints forwarded by the Corporation, consistent with procedural requirements of the Administration for enforcement of its rules, regulations, orders, and other directives. The Corporation shall provide necessary assistance in any enforcement action taken under this subsection. Nothing in this paragraph limits or changes the current power of the Administrator to take action under his or her own authority.

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

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

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

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

SEC. 208. AUTHORITY TO INCUR INDEBTEDNESS.

(a) GENERAL AUTHORITY.—Subject to the authority of the Secretary of Transportation pursuant to section 203(g) of this Act to disapprove the issuance of indebtedness by the Corporation, the Corporation may issue such notes or other obligations as the Corporation determines necessary to carry out the purposes of this subtitle, either to the Secretary of the Treasury pursuant to subsection (b) of this section or to private entities pursuant to subsection (c) of this section. The aggregate amount of any such obligations outstanding at any one time shall not exceed $15,000,000,000.

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

gations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder, and for that purpose the Secretary is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations acquired by him or her under this subsection. The Secretary of the Treasury may at any time sell any notes or other obligations acquired by him or her under this subsection.

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

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

principal or interest on its obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the board deems necessary or desirable. The Corporation is authorized to enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in accordance with the issuance thereof with respect to the establishment of reserve, sinking, and other funds, application and use of revenues and receipts of the Corporation, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease/purchases relating to properties of the Corporation and such other matters as the board deems necessary or desirable to enhance the marketability of such obligations. However, the Corporation may not enter into covenants that have the effect of conflicting with any requirement of this Act, as determined by the Secretary of Transportation in approving the issuance of indebtedness pursuant to subsection 203(g) of this Act.

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

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

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

(B) contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance of sale of such obligations and of their validity; and

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

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

SEC. 209. FEES AND OTHER CHARGES FOR SERVICES.

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

ment in writing, and for access by the public to all comments filed in a particular action on fees or other charges. Fees and charges by the Corporation may not become effective prior to January 1, 1997.

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

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

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

(3) Fees and charges shall be maintained at a level sufficient to assure the satisfaction of all obligations incurred by the Corporation, including those that are held by the United States.

(c) PAYMENT TO CORPORATION.—Fees and other charges for services under this Act shall be paid directly to the Corporation or its agent. The Corporation is authorized to levy fines, interest, and penalties for late payment or nonpayment of fees and other charges imposed under this Act.

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

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

(B) user categories, including commercial aviation, general aviation, and public-use aviation.

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

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

(f) MILITARY AIRCRAFT.—The Corporation shall not impose fees or other charges for air traffic services provided to United States military aircraft (Department of

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

(g) GENERAL AVIATION AIRCRAFT.—The Corporation shall not impose fees or other charges for air traffic services provided to aircraft that are not used in the business of providing transportation of persons or property for compensation or hire by air.

(h) FOREIGN AIR TRANSPORTATION.—The Corporation's authority to impose fees or other charges under this section includes the authority to impose fees or other charges for transportation of persons or property in foreign air transportation, as well as for services in the case of overflights of United States airspace.

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

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

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

(3) Complaints alleging that a new fee or charge violates paragraph 209(b)(2) of this section may be filed with the Department of Transportation, seeking review of any such new fee or charge within 60 days after the user receives written notice of a change to the fee or charge. Upon review of the complaint, the Secretary of Transportation may disapprove any fee or charge that violates the provisions of paragraph 209(b)(2) of this section or issue such other order as will remedy that violation.

(4) Not later than 180 days after the date of enactment of this section, the Department of Transportation shall establish such procedures, guidelines or other measures as may be necessary to carry out its responsibilities under this section.

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

of providing transportation to persons for compensation or hire by air shall not exceed an amount that is 8.5 percent of the total amount paid for such transportation during that period of time.

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

(3) During the 2-year period following the date of transfer, the Corporation shall not impose fees or other charges for air traffic services provided to a person traveling in foreign air transportation that exceed the amount of $5.10 per enplaned passenger departing the United States. The Corporation may impose fees or charges during the 2-year period for services in the case of overflights of United States airspace, consistent with the requirements of this section.

SEC. 210. LIMITATION ON STATE AND LOCAL TAXATION.

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

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

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

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

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

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

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

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

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

SEC. 212. SUITS BY AND AGAINST THE CORPORATION.

(a) JURISDICTION FOR LEGAL ACTIONS GENERALLY.—The United States district courts shall have original jurisdiction over all actions brought by or against the Corporation, except as otherwise provided in this Act. Any action brought in a State court to which the Corporation is a party shall be removed to the appropriate United States district court under the provisions of chapter 89 of title 28, United States Code.

(b) JURISDICTION FOR REVIEW OF CORPORATION ORDERS AND PROCEDURES.—Notwithstanding the requirements of subsection (a) of this section, the United States Court of Appeals for the District of Columbia Circuit, and alternatively the Court of Appeals of the United States for the circuit in which the person seeking judicial review resides or has its principal place of business, have exclusive jurisdiction over petitions challenging final orders or procedures issued by the Corporation with respect to its air traffic control duties and powers designated to be carried out under this Act. The petition must be filed not later than 60 days after the order is issued. When

such a petition is filed, the clerk of the Court shall immediately send a copy of the petition to the Chief Executive Officer of the Corporation. A decision by a court under this section may be reviewed only by the Supreme Court of the United States.

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

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

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

(2) Unless otherwise provided in this Act, the provisions of title 28 relating to service of process, venue, and limitations of time for bringing action in suits in which

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

(e) CONDUCT OF LITIGATION.—The Department of Justice shall furnish the Corporation legal representation but, with the prior consent of the Attorney General, the Corporation may employ attorneys by contract or otherwise to conduct litigation brought by or against the Corporation or its officers or employees in matters affecting the Corporation.

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

(g) TESTIMONY OF CORPORATION EMPLOYEES.—Except with the consent of the chief legal officer of the Corporation, employees of the Corporation may not be called to or provide expert testimony in civil litigation, regardless of whether the Corporation, the United States, or any of its agencies is a party to such litigation. The Corporation is authorized to prescribe the circumstances, if any, under which employees may provide opinion or expert testimony.

SEC. 213. ACQUIRING INTEREST IN PROPERTY BY EMINENT DOMAIN.

(a) GENERAL AUTHORITY.—(1) To the extent financial resources are available, the Corporation may acquire by eminent domain under subsection (b) of this section interests in property necessary for operational control of the airspace, including airways, air traffic services, and navigation aids.

(2) The Corporation may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

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

(b) CIVIL ACTIONS.—(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by the Corporation for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the

complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

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

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

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

(D) a plan showing the interest taken; and

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

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

(A) the time by which, and the terms under which, possession of the property is given to the Corporation; and

(B) the disposition of outstanding charges related to the property.

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

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

SEC. 214. RELATIONSHIPS WITH FEDERAL AGENCIES.

(a) DEPARTMENT OF DEFENSE.—(1) In exercising and performing its powers and duties under this Act, the Corporation shall maintain national defense responsibilities exercised by the Federal Aviation Administration as of the date of transfer, including air defense and defense readiness support.

(2) The Department of Defense (DOD) and the Corporation shall continue to share current logistics and command and control systems and shall agree jointly on changes to existing agreements or systems, including changes to current agreements on flight inspections and

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

(3) The Corporation and DOD shall develop processes for the assignment of military personnel within the Corporation to ensure national defense interests are safeguarded and to improve understanding and cooperation between the organizations.

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

(b) NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION.—The Corporation shall obtain needed frequency assignments or licenses for its operations from the Federal Aviation Administration, which retains its role as the responsible agency for representing the interests of the aeronautical services before national and international spectrum authorities on all national and international spectrum policy and management issues in-

volving the United States. Each assignment or license made available to the Corporation shall remain in effect for the life of the facility unless the National Telecommunications and Information Administration withdraws the spectrum from Federal Aviation Administration. In such cases, the Corporation shall be given adequate notification.

(c) RELATIONSHIP WITH FEDERAL LAW ENFORCEMENT AGENCIES CONCERNING CONTROLLED SUBSTANCE TRACKING.—In order to assist in controlling the illegal transportation of controlled substances by aircraft in United States airspace, the Corporation shall offer to Federal law enforcement agencies, without cost and in a timely manner, all appropriate flightplan and tracking data related to such transportation. In this subsection, ''controlled substance'' has the meaning provided under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(d) NATIONAL WEATHER SERVICE.—As successor to the Federal Aviation Administration pursuant to this Act, the Corporation shall exercise all functions performed by the Federal Aviation Administration under agreements with the National Weather Service concerning the collection or dissemination of weather conditions, forecasts,

warnings, and reports to persons engaged in civil aeronautics.

TITLE III—PERMANENT FEDERAL REQUIREMENTS

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

In the event of war or a national emergency declared by the President or Congress, the President may by Executive order transfer to the Department of Defense any functions (including powers, duties, activities, facilities, and parts of functions) of the Corporation and, in connection with the transfer, the President may provide for appropriate transfers of records, property, and personnel. The Chief Executive Officer, in consultation with the Administrator and the Department of Defense, shall develop plans for the effective discharge of the responsibilities of the Corporation in the event of war or national emergency. The Corporation shall also comply with those provisions of Executive Order 11161, or a successor authority, that governed the activities of the Federal Aviation Administration to which the Corporation succeeded pursuant to this Act.

SEC. 302. COLLECTIVE BARGAINING.

(a) IN GENERAL.—Employees of the Corporation shall have the right to form, join, or assist labor organizations, and to bargain collectively through representatives of their own choosing. The Corporation, within three years of the date of transfer, shall establish bargaining agreements with recognized exclusive bargaining representatives of the Corporation's employees, consistent with the provisions of this section. In the event agreements have not been reached within that period, the Corporation or the exclusive bargaining representatives may refer the unresolved matters to the Federal Mediation and Conciliation Service under subsection (c) of this section.

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

(1) the rights of Corporation employees to organize and to be represented by labor organizations;

(2) the recognition of labor organizations, including representational elections; and

(3) representation rights and duties.

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

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

(d) LABOR RESOLUTION BOARD.—A Labor Resolution Board shall be established for the binding resolution of bargaining impasses, in the event mediation is unsuccessful. The Labor Resolution Board shall consist of three neutral members who are not employees of the Corporation. One member shall be designated by the Corporation and one member shall be designated by the recognized exclusive bargaining representatives of the Corporation's employees. The third member, chosen from recommendations made by both the Corporation and the recognized exclusive bargaining representatives of the Corporation's employees, shall be designated by the Director of the Federal Mediation and Conciliation Service. Each member of the Board shall receive such compensation from the Corporation as the Corporation may fix, together with necessary traveling and subsistence expenses while serving as a member.

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

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

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

SEC. 303. INTERNATIONAL AGREEMENTS AND ACTIVITIES.

(a) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND LAWS OF OTHER COUNTRIES.—In exercising and performing its powers and duties under this Act, the Corporation shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country or foreign countries or between the United States and an international organization, and shall take into consideration any applicable laws and requirements of foreign countries.

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

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

(1) enter into cooperative relationships with foreign entities to conduct, encourage, and promote the development, modification, testing, evaluation, and provision of systems, procedures, facilities, and devices necessary to meet the needs for safe and efficient air navigation and air traffic control of civil aviation;

(2) train foreign nationals directly, or in conjunction with any other United States Government agency, or through any United States public or private agency (including any State or municipal educational institution), or through any international organization, in aeronautical and related subjects essential to the orderly and safe operation of civil aircraft; and

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

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

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

TITLE IV—AMENDMENTS TO FEDERAL AVIATION LAWS

SEC. 401. ACCESS TO THE AIR TRAFFIC SYSTEM.

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

(1) by inserting ‘‘, including regulation of the Corporation,’’ after ‘‘of this part’’; and

(2) by striking all after ‘‘shall consider’’ and inserting the following: ‘‘the requirements of national defense and commercial and general aviation, and the public right of freedom of transit through the navigable airspace. For purposes of this subsection, the public right of freedom of transit through the navigable airspace includes reasonable access to airports, airways, and airway facilities without regard to category and class of aircraft.’’.

SEC. 402. DEFINITIONS.

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

(1) In paragraph (4), by inserting ‘‘, including any facility that is owned, leased, operated or maintained by the Corporation,’’ before ‘‘used’’;

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

''(12) 'Corporation' means the United States Air Traffic Service Corporation created by the 'United States Air Traffic Service Corporation Act'.''; and

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

''(39) 'routine airspace action' means any regulatory or non-regulatory action that assigns the use of class D, E, or G airspace or involves Federal airways and reporting points, as these terms are defined in the Federal Aviation Regulations.''.

SEC. 403. AIRSPACE CONTROL AND AIR TRAFFIC RULES.

Section 40103(b) of title 49, United States Code, is amended by striking the subsection heading and paragraphs (1) and (2) and inserting the following:

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

Prior to the date of transfer established pursuant to the United States Air Traffic Service Corporation Act, the Administrator shall assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. Effective on the date of transfer established pursuant to the United States Air Traffic Service Corporation Act and thereafter, the Administrator shall oversee the assignment by the Corporation of the use of the airspace, within the parameters set by Administration regulations, orders, and directives, necessary to ensure the efficient use of airspace with no derogation in safety. The Administrator may modify or revoke an assignment of the Corporation when required in the public interest.

''(2)(A) Prior to the date of transfer established pursuant to the United States Air Traffic Service Corporation Act, the Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

''(B) Effective on the date of transfer established pursuant to the United States Air Traffic Service Corporation Act and thereafter, the Administrator shall set safety parameters for and regulate the Corporation, and have safety oversight of the Corporation's prescription of air traffic orders, procedures or other directives on the flight of aircraft (including procedures on safe altitudes) for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently, preventing collision between aircraft and land or water vehicles, and between aircraft and airborne objects.

SEC. 404. EMERGENCY POWERS.

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

(1) In subsection (a), by inserting ''or by the Corporation'' following ''section 40103(b) (1) and (2) of this title'';

(2) In subsection (a)(1), by inserting ''and the Corporation'' after ''Administration''; and

(3) In subsection (a)(2), by inserting ''and the Corporation'' after ''Administrator''.

SEC. 405. PRESIDENTIAL TRANSFERS IN TIME OF WAR.

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

''(b) DURING WAR.—If war occurs, the President by Executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator or the Corporation. In making the transfer, the President may transfer records, property, officers, and employees of the Administration or the Corporation to the Department of Defense. The Corporation shall develop, in consultation with the Administrator and the Department of Defense and other affected Government agencies, plans for the effective discharge of the responsibilities of the Administration and the Corporation in the event of war.''.

SEC. 406. PREEMPTION OF PRICES, ROUTES AND SERVICE REGULATION.

Section 41713(b)(1) of title 49, United States Code, is amended by adding the following new sentence at the end thereof: ''The Corporation is also prohibited from undertaking actions that would have the same effects as the actions specified in this paragraph.''.

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

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

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

transfer established under the United States Air Traffic Service Corporation Act''.

(2) In subsection (c)(1), insert at the end the following sentence: ''In carrying out their respective duties and responsibilities under this chapter and under subtitle XI of this title, the Administrator and the Corporation shall consult and cooperate concerning research and development activities related to the use of navigable airspace, air traffic control, and air navigation, in order to avoid unnecessary duplication of their research and development efforts.''.

SEC. 408. AVIATION FACILITIES.

Sections 44502(a)(1) and 44502(f) of title 49, United States Code, are amended by inserting ''Prior to the date of transfer established under the United States Air Traffic Service Corporation Act,'' at the beginning of each paragraph.

SEC. 409. REGULATION OF THE UNITED STATES AIR TRAFFIC SERVICE CORPORATION.

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

''§ 44724. Oversight of the United States Air Traffic Service Corporation

''(a) OVERSIGHT OF THE UNITED STATES AIR TRAFFIC SERVICE CORPORATION.—The Administrator of the

Federal Aviation Administration is authorized and directed to prescribe by regulation or otherwise, minimum standards and necessary requirements to assure the highest level of aviation safety in the public interest, and to insure that national defense needs are met, in actions taken by the Corporation. The Administration shall continue to prescribe long-range policy and planning and set safety standards that regulate the Corporation. The Corporation shall act within the parameters of the regulations prescribed by the Federal Aviation Administration and the authority of this Act to meet its mission to control air traffic in a safe and efficient manner.

''(b) COORDINATION.—To the greatest extent possible, the Administrator shall encourage cooperation and coordination between the Administration and the Corporation. The Administrator shall take appropriate action promptly on recommendations made by the Corporation.

''(c) ADMINISTRATOR ACTION.—The Administrator, pursuant to authorities under this subtitle, may direct the Corporation to cease any action that the Administrator determines may compromise aviation safety or security or the national defense, or to undertake any action to assure aviation safety or security or the national defense. Where the Corporation has authority to prescribe orders, directives, actions, or assignments, the Administrator may di-

rect the Corporation to withdraw or revise an order, procedure, directive, action, or assignment for reasons of safety, security or the national defense. The Administrator may only modify or revoke an action of the Corporation when required by the safety, security, or national defense interest or interest of the public. The Administrator's authority under this subsection shall not be delegated.

''(d) ENFORCEMENT OF CORPORATION RULES, REGULATIONS, ORDERS AND OTHER DIRECTIVES.—The Corporation shall refer for action by the Administration, pursuant to subpart IV of this part, complaints against any person for violations of orders, procedures, and other directives issued by the Corporation or by the Administration pursuant to the authority of this chapter. The Administrator shall take appropriate action promptly on complaints referred by the Corporation. The Corporation shall provide necessary assistance in any enforcement action taken under this subsection. This subsection shall not be construed to limit the authority of the Administrator to undertake enforcement actions under this part upon the Administrator's initiative.''.

TITLE V—OTHER APPLICABLE STATUTES

SEC. 501. EMPLOYEE MANAGEMENT AND EXEMPTIONS FROM TITLE 5, UNITED STATES CODE.

(a) ESTABLISHMENT OF EMPLOYEE MANAGEMENT SYSTEM.—The Corporation shall establish a comprehensive system for the management, compensation, and advancement of Corporation employees that best serves the needs of airspace management in the United States.

(b) EXCLUSIVE AUTHORITY TO SET EMPLOYMENT LEVELS AND PAY.—The Chief Executive Officer has the exclusive authority, subject to the provisions of this section and section 302, to fix total compensation, including incentives and benefits, for all employees of the Corporation other than the Chief Executive Officer. The Chief Executive Officer shall determine the appropriate level of staffing and appoint such numbers of officers and employees as needed to conduct the business of the corporation without regard to limits imposed by Federal bodies. The Chief Executive Officer has the exclusive authority to take all personnel actions, including but not limited to, appointments, assignments, reassignments, promotions, demotions, and terminations. Personnel actions shall be consistent with the principles of fairness and due process. The Corporation shall fulfill the obligations of statutes governing use of military personnel to ensure the corporation is

properly advised on requirements of the armed forces and that national defense interests are safeguarded properly. The Corporation is authorized to conduct background investigations, including accessing records of the Federal Bureau of Investigation and other law enforcement agencies, to determine suitability for employment. Executive Order 10450 shall govern the granting of access to National Security information.

(c) LIMITED APPLICABILITY OF TITLE 5, UNITED STATES CODE.—(1) Title 5, United States Code, applies to the Corporation and its employees and activities only to the extent set forth in this section and section 601. Except as otherwise provided in this Act, employees of the Corporation qualify as officers and employees of the United States.

(2)(A) During the three-year period that follows the date of transfer, chapters 87 and 89 (Health and Life Insurance) of title 5, United States Code, apply to the Corporation. An employee of the Corporation, including any employee hired during the three-year period, shall be covered under the provisions of chapters 87 and 89 of title 5, but only during this period. The Corporation shall make such payments as are required under these chapters during this period.

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

(3) Any Federal employee who transfers to the Corporation under section 601 and who on the day before the date of transfer is subject to subchapter III of chapter 83 of title 5 (Retirement), United States Code, or chapter 84 (Federal Employees' Retirement System) of such title shall, so long as continually employed by the Corporation without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Corporation shall be the employing agency for purposes of section 602 and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by section 602.

(4) As rapidly as practical following the date of transfer, the Corporation shall negotiate a retirement benefits system that applies to employees hired following the date of transfer. Employees employed by the Corporation as of that date may elect, within six months of the establishment of such new systems, to retain coverage under title 5 or transfer to the new systems.

(5) Chapter 81 of title 5 (Compensation for Work Injury) applies to the Corporation. An employee of the Corporation, including any employee hired after the date of transfer, shall be covered under the provisions of chapter 81.

(6) An employee, as defined in section 2105 of title 5, United States Code, who transfers to the Corporation other than under section 601 of this Act and without a break in service is entitled to retain coverage, rights, and benefits under chapters 81, 83, 84, 87, and 89 of title 5, United States Code (to the extent otherwise provided by this subsection), if necessary deductions and Corporation contributions are deposited in the systems' funds in accordance with section 602, as applicable, and if such employee so elects within six months of transfer to the Corporation.

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

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

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

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

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

SEC. 502. APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.

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

> ''(O) the United States Air Traffic Service Corporation.''.

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

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

(2) Section 9103(c) (relating to budgets of wholly owned Government corporations), except that the budget submitted by the Corporation in accordance with section 9103(a) shall be submitted by the President without change as part of the budget submitted to Congress under section 1105 of title 31, United States Code.

(3) Sections 9105–9106 (relating to audits), except that the Corporation shall prepare an annual financial statements audit pursuant to section 9105.

(4) Section 9107 (relating to accounts).

(5) Section 9108 (relating to obligations); except that the Secretary of the Treasury shall prescribe the timing of issuance of obligations to the public.

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

(7) Section 9110 (relating to standards for depository institutions holding securities of a Government-sponsored corporation for customers).

SEC. 503. EXTENSION AND AMENDMENT OF AVIATION-RELATED TAXES AND TRUST FUND SPENDING AUTHORITY.

(a) AVIATION FUEL USED IN NON-COMMERCIAL AVIATION.—Section 4091(b)(3)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 4091(b)(3)(A)) is amended by striking ''January 1, 1996'' and inserting in lieu thereof ''January 1, 1999''.

(b) GASOLINE USED IN NON-COMMERCIAL AVIATION.—Section 4041(c)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 4041(c)(5)) is amended by striking ''December 31, 1995'' and inserting in lieu thereof ''December 31, 1998''.

(c) TRANSPORTATION OF PASSENGERS BY AIR.—(1) Section 4261 of the Internal Revenue Code of 1986 is amended by striking ''a tax equal to 10 percent of the amount so paid'' each place it appears and inserting in lieu thereof ''a tax equal to 1.5 percent of the amount so paid, except that the tax imposed for transportation beginning before January 1, 1997, shall be equal to 10 percent of the amount so paid''.

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

(3) Section 4261(g) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 1996'' and inserting in lieu thereof ''January 1, 1999''.

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

(2) Section 4271(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 1996'' and inserting in lieu thereof ''January 1, 1999''.

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

(1) by striking ''January 1, 1996'' each place it appears and inserting in lieu thereof ''January 1, 1999'';

(2) by inserting the word ''and'' after the semicolon at the end of paragraph (2);

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

(4) by deleting paragraph (4).

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

(g) Section 9502(d)(1)(A) of the Trust Fund Code of 1981 is amended by striking ''or the Federal Aviation Administration Authorization Act of 1994'' and inserting ''or the Federal Aviation Administration Authorization Act of 1994 or the United States Air Traffic Service Corporation Act''.

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

SEC. 504. TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND.

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

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

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

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

transferred in the quarter immediately following the quarter in which the outlays are made by the Corporation, and on the basis of estimates by the Secretary of the Transportation, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed. Amounts received by the Corporation will be used only for the purposes and in such amounts as they were obligated, when held in the Trust Fund.

''(7) Transfers from the Airport and Airway Trust Fund to cover the commencement of Corporation services. Amounts in the Airport and Airway Trust Fund shall be available, as provided by Appropriations Acts, for payment by the Secretary of the Treasury to the United States Air Traffic Service Corporation, which amounts are equivalent to the maximum percentages allowed in section 209(j) of this Act, applied to the air transportation covered by that subsection which occurred on or after October 1, 1996, and before January 1, 1997. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred

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

SEC. 505. EXCLUSION OF THE CORPORATION FROM THE BUDGET AND BUDGET ENFORCEMENT.

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

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

(c) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after ''Tennessee Valley Authority, except nonpower programs and activities (64–4110–0–3–999);'' the following: ''United States Air Traffic Service Corporation;''.

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

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 506. DISCRETIONARY SPENDING LIMITS.

(a) Upon enactment of this Act, the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal years 1997 through 2000 are reduced by the following amounts:

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

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

(b) For fiscal year 1999, the comparable amount for budgetary purposes shall be deemed to be $7,449,000,000 in new budget authority and $6,542,000,000 in outlays. For fiscal year 2000, the comparable amount for budgetary purposes shall be deemed to be $7,828,000,000 in new budget authority and $7,148,000,000 in outlays.

VI—TRANSITION PROVISIONS

SEC. 601. TRANSFER OF FEDERAL PERSONNEL TO THE CORPORATION.

(a) TRANSFER OF EMPLOYEES TO THE CORPORATION.—Jointly, the Administrator and the Chief Executive Officer shall determine which functions and which employees are transferred to the Corporation.

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

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

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

organizations representing Corporation employees to the extent that those labor organizations had been accorded exclusive representative status for those employees under sections 7111 and 7112 of title 5, United States Code, prior to the date of transfer. Such labor agreements shall remain in effect for three years from the date of transfer, unless the agreements provide for a shorter duration or the Corporation and the exclusive representative agree to the contrary before the expiration of that three-year period. For the period such labor agreements are in effect, the parties will be governed by the terms and conditions of those agreements and by the applicable provisions of chapter 71 of title 5, United States Code, and will file any unfair labor practice charges, negotiability appeals, exceptions to arbitration awards and requests for assistance to solve impasses that do not arise from the negotiation of a new agreement with the appropriate component of the Federal Labor Relations Authority.

(2) Disputes arising from the negotiation of a new agreement will be resolved by the National Labor Relations Board or the Labor Resolution Board, as appropriate under section 302 of this Act.

(3) As of the date of transfer, determinations concerning the appropriateness of bargaining units, or the bargaining unit status of Corporation employees, or the

exclusive representation status of labor organizations representing Corporation employees will be resolved by the National Labor Relations Board under section 302 of this Act.

(4) Any proceedings under section 7117, 7118, or 7122 of title 5, United States Code, pending before any component of the Federal Labor Relations Authority when the parties cease to be governed by the applicable provisions of chapter 71 of title 5 will be decided and, if necessary, defended and enforced by the Federal Labor Relations Authority. Any other matters involving the Corporation that are pending before any component of the Federal Labor Relations Authority when the parties cease to be governed by the applicable provisions of chapter 71 of title 5 will be transferred by the appropriate component of the Authority to the National Labor Relations Board or the Labor Resolution Board, as appropriate under section 302 of this Act.

SEC. 602. PAYMENTS FOR EMPLOYEE BENEFITS.

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

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

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

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

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

SEC. 603. TRANSFER OF FACILITIES TO THE CORPORATION.

(a) IN GENERAL.—(1) The Administrator is authorized and directed to transfer, on the date of transfer or as soon as practical thereafter, to the Corporation without charge all right, title, and interest in, and the use, possession, and control of, real and personal property under Federal Aviation Administration jurisdiction, including frequency licenses, patents, and software rights, of the United States that are necessary and appropriate for the functions being transferred to the Corporation. However, the Administrator shall not transfer the Atlantic City

Technical Center. The Corporation shall contract for services provided at this facility on the date of transfer that are associated with transferring functions, at a minimum for a period of one year following transfer at not less than the level of activity on the date of transfer, unless that level for a particular activity is unjustified.

(2) The Secretary of Defense is authorized and directed to transfer to the Corporation without charge all right, title, and interest in, and the use, possession, and control of, real and personal property of the Department of Defense located at a military installation being closed or realigned if that real and personal property is used immediately before the closure or realignment decision as a functional part of the air traffic system being transferred to the Corporation by this Act.

(b) AIR TRAFFIC CONTROL OR NAVIGATION FACILITIES PLACED AT AIRPORTS.—The authority of the Administrator pursuant to section 47107(12) of title 49, United States Code, to locate existing and future air traffic control or navigation facilities at airports without cost shall continue to be available to be exercised as a condition of federal financial assistance on behalf of the Corporation.

SEC. 604. SAVINGS PROVISION.

(a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—All orders, determinations, rules, regulations, permits, contracts, leases, certificates, licenses, agreements for real and personal property, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, the Secretary, the Administrator, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date of transfer, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the Administrator, the Corporation, a court of competent jurisdiction, or by operation of law.

(b) CONTINUED EFFECTIVENESS OF PENDING ACTIONS.—(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the date of transfer before the Department of Transportation or the Federal Aviation Administration, or any officer thereof with respect to functions transferred by this Act; but such proceedings or ap-

plications, to the extent that they relate to functions transferred, shall be continued in accord with transition regulations promulgated by the Corporation under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Corporation, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary, the Administrator, and the Corporation are authorized to issue transition regulations providing for the orderly transfer of proceedings and otherwise to accomplish the orderly transfer of functions, personnel and property under this Act.

(c) CONTINUED EFFECTIVENESS OF ADMINISTRATIVE AND JUDICIAL ACTIONS.—No cause of action by or against the Department of Transportation or the Federal Aviation Administration with respect to functions transferred by this Act, or by or against any officer thereof in the official's capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function or office transferred by this Act, or other proceedings may be asserted by or against the

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

(d) SUBSTITUTION OR ADDITION OF PARTIES TO JUDICIAL ACTIONS.—If, on the date of transfer, the Department of Transportation or the Federal Aviation Administration, or any officer thereof in the official's capacity, is a party to an action and, under this Act, specific functional responsibility for that action of the Department, Administration, or officer is transferred to the Corporation, then such action shall be continued with the Chief Executive Officer of the Corporation substituted or added as a party.

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

(f) AIR TRAFFIC SERVICE LIABILITIES AND OBLIGATIONS.—The Corporation shall assume all obligations (tangible and incorporeal, present and executory) associated with the functions transferred under this Act on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable. All claims and actions arising in tort pending on the date of transfer and arising out of the alleged acts and omissions of employees who transfer to the Corporation shall remain liabilities of the United States. The Secretary shall assure that, before the date of transfer, the Corporation has agreed to allow representatives of the Secretary and the Attorney General such access as they may require to employees and records for all purposes relating to the handling of such claims.

(g) DEPARTMENT OF DEFENSE AGREEMENTS.—All national, regional, and facility level agreements, understandings, and contracts between the Department of Defense and that portion of Federal Aviation Administration transferring to the Corporation will remain in effect after the date of transfer.

SEC. 605. ADMINISTRATIVE AND BUDGETARY TRANSITION.

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

Federal Aviation Administration and the Chief Executive Officer of Corporation are authorized to utilize funds previously appropriated to the Department of Transportation or the Federal Aviation Administration for the conduct of the functions being transferred by this Act, subject to accounting.

(b) ASSISTANCE OF THE OFFICE OF MANAGEMENT AND BUDGET.—In order to facilitate the transfers made by this Act, the Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary to resolve disputes between the Secretary of Transportation, the Administrator of the Federal Aviation Administration, and the Corporation regarding the division of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the transfer.

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

SEC. 606. REFERENCE.

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

the Administrator or to the Department of Transportation or the Federal Aviation Administration or any officer or office thereof, shall be considered to refer to the Corporation or the Chief Executive Officer of the Corporation, as appropriate.

SEC. 607. SEPARABILITY.

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

SEC. 608. EFFECTIVE DATE.

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

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