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

IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 21), 1987

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

A BILL

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 (a) SHORT TITLE.—This Act may be cited as the “Na-
5 tional Aviation Authority Act of 1987”.
6 SEC. 2. TABLE OF CONTENTS.

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TITLE I—FINDINGS AND DEFINITIONS

SEC. 101. CONGRESSIONAL FINDINGS, DETERMINATIONS, AND DECLARATION OF PURPOSE.

The Congress finds that the safe and efficient movement of aircraft and air commerce is essential to the economic and national interests of the United States; that a well managed and efficient system for air traffic control is indispensable to a strong national defense; that the actual operational and developmental aspects of the air traffic control system are at the same time a public service subject to user support; and that events of the recent past, including those flowing from the deregulation of the airline industry, have brought new forces to bear upon the national system for air traffic control, which demand a modification of the current systems for the funding and delivery of air traffic control services and airways management in order to assure that these systems are developed, equipped and managed in a manner responsive to demands placed upon them and consistent with the public and national interest. Therefore, there is hereby created, the National Aviation Authority, hereinafter the Authority, which shall be an independent, user-fee supported Government corporation established for the purpose of operating, maintaining, supplying, and enhancing an efficient and responsive na-
tional system for air traffic control. Such a system is found to be essential to the national interest in the safe and expeditious air transportation of the public and of air cargo as well as for the movement of United States military and other public sector aircraft. It is the determination of Congress that the Authority will best be enabled to meet the needs arising from expanding demand for air traffic control services and airways management as provided for herein, by its establishment as an independent authority dedicated exclusively to those purposes. Correspondingly, the Federal Aviation Administration, from which the air traffic control system is being withdrawn, would be well suited to meeting its continuing safety and regulatory responsibilities through the dedication of its resources, at this time, to those governmental responsibilities. As a user funded corporate entity created for the purpose of providing operationally oriented services to the public and the Government, it is the intention of Congress that the Authority be operated in a businesslike manner. The Authority shall establish personnel, financing, administrative and procurement systems, consistent with the principles set forth in this Act and the intended businesslike operating structure. The Authority shall be subject to the aviation safety standards established by the Federal Aviation Administration and shall work in consonance with the Administrator to maintain the highest standard of safety. Fur-
ther, consistent with the Independent Safety Board Act of 1974, the Authority shall cooperate with the National Transportation Safety Board in the conduct of requisite accident investigations. The Authority shall be subject to continuing and ongoing oversight by the Congress both during the transition from the Federal Aviation Administration and at all times thereafter.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(a) "Air traffic control system" means the organization, resources and methodology designed to provide for the safe, orderly and efficient flow of air traffic utilizing or intent on utilizing the airspace under the jurisdiction of the United States of America. Required or requested services provided include but are not limited to controlling, monitoring, and/or advising aircraft operating in the airspace, and development, improvement, implementation, operation, and maintenance of all the necessary equipment for a safe and efficient airspace system. The physical properties of the system include but are not limited to all computer subsystems and communications, navigation, surveillance, weather observation and reporting subsystems and landing aids presently utilized or undergoing research and development and future system improvements including the as-
associated real estate presently utilized by the Federal Aviation Administration for the operation of the system as of the date of this Act.

(b) "Authority" means the National Aviation Authority established under section 201;

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

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

(e) "Technical Advisory Committee" and "Committee" mean the Technical Advisory Committee established under section 204.

TITLE II—ORGANIZATION AND AUTHORITY

PART A—ORGANIZATION

SEC. 201. ESTABLISHMENT.

There is established, as an independent, user-free supported corporation of the Government of the United State, the National Aviation Authority. The principal offices of the Authority shall be located in the metropolitan area of the District of Columbia.

SEC. 202. DIRECTOR.

(a) The Authority shall be under the exclusive direction and control of the Director of the Authority who shall be appointed by the President of the United States, by and with
the advice and consent of the Senate in accordance with the qualifications established in this section. The Director shall have authority and control over all personnel and activities of the Authority and shall not submit decisions for the approval of, nor be bound by the decisions or recommendations of any committee, board or other organization except as provided herein or by subsequent enactment. The Director shall appoint a qualified individual to serve as Deputy Director who will be authorized to act in the capacity of the Director in the event of absence or incapacity. The Director may delegate and provide for redelegation of the authority of that office as deemed necessary to carry out the provisions of this Act.

(b) The Director shall be a citizen of the United States appointed with due regard for the fitness and experience necessary to meet the high responsibilities and demands of the position. At the time of nomination the nominee shall have had a minimum of fifteen years experience in progressively more responsible positions with an established record of management success in the business community, civilian government (including State and local government) or the military. The Director shall at the time of confirmation by the Senate be a civilian and shall have no pecuniary interest in nor own any stock in any air carrier, aircraft manufacturer, aeronautical equipment enterprise or any other commercial entity.
1 doing business with or likely to do business with the
2 Authority.
3 (c) Prior to the submission to the Senate of the name of
4 any nominee to the position of Director, the qualifications of
5 the nominee shall be evaluated by the Policy Advisory Board
6 established under section 203. The Board shall evaluate the
7 qualifications of the nominee under the criteria established
8 under paragraph (b) of this section and shall communicate its
9 evaluation to the Senate.
10 (d) The Director shall serve a single, nonrenewable term
11 of ten years and shall be subject to removal by the President
12 only for inefficiency, neglect of duty or malfeasance in office.
13 SEC. 203. POLICY ADVISORY BOARD.
14 (a) There shall be a National Aviation Authority Policy
15 Advisory Board consisting of the Secretary of Defense, the
16 Secretary of Commerce, the Secretary of Transportation, and
17 the Chairmen and ranking minority members of the Senate
18 and House Aviation Subcommittees which shall meet semi-
19 annually to review the operations and future plans of the Au-
20 thority and, on the basis of such review, to advise of the
21 anticipated effectiveness of those plans or otherwise to rec-22ommend a course of conduct. The advice of the Board shall
23 be transmitted to the President of the United States and to
24 House and Senate Aviation Subcommittees in a written
report following each meeting. A copy of the report shall be provided to the Director.

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

SEC. 204. TECHNICAL ADVISORY COMMITTEE.

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

(i) two individuals as representatives of the military;

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

(iii) two individuals as representatives of commercial air carriers;

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

(v) two individuals as representatives of airport operators.

(b) All members shall be appointed for terms of four years except that, of those first appointed, 1 of the individual representatives of each group designated shall be appointed for two years. Any member appointed to fill a vacancy occu-
ring before the expiration of the term for which a predecessor
was appointed shall serve for the remainder of such term.

(c) The Committee shall prepare and submit a semiannual report to the Director concerning all aspects of Authority operations which it determines warrant particular attention. A copy of the report shall be submitted to the President of the United States and to the House and Senate Aviation Subcommittee.

(d) The Director is authorized to consult with and receive the advice of the Technical Advisory Committee regarding all aspects of operations of the Authority.

SEC. 205. SEAL.

The Seal of the Authority shall be filed by the Director in the Office of the Secretary of State, judicially noticed, affixed to all commissions of officers of the Authority, and used to authenticate records of the Authority.

SEC. 206. RESERVATION OF POWERS.

Congress reserves the power to alter, amend, or repeal any or all of the provisions of this Act, but no such alteration, amendment, or repeal shall impair the obligation of any contract made by the Authority under any power conferred by this Act.

PART B—AUTHORITY

SEC. 231. GENERAL POWERS.

The Authority shall have the following general powers:
11

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

(2) to adopt, amend, and repeal such rules and regulations under the jurisdiction of the National Aviation Authority as are necessary to accomplish the objectives of this Act;

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

(4) to determine and keep its own system of accounts and the form and contents of its contracts and other business documents, except as otherwise provided in this Act;

(5) to—

(A) acquire, in any lawful manner, such personal or real property, or any interest therein, as it deems necessary or convenient in the transaction of its business;

(B) hold, maintain, sell, lease, or otherwise dispose of such property or any interest therein provided, however, that any property to be sold, leased or otherwise disposed of be made available to the General Services Administration on a first refusal basis at fair market value; and
(C) provide services in connection therewith and charges therefor;

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

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

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

(9) to exercise, in the name of the United States, the right of eminent domain for the furtherance of the official purposes of the Authority, and to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

(10) to have all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its specific powers;

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

(12) to retain and use all revenue without fiscal year limitation; and
(13) to establish and amend such bylaws for the Corporation as are deemed necessary.

SEC. 232. FUNCTIONS.

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

SEC. 233. SUITS BY AND AGAINST THE AUTHORITY.

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

(b) The provisions of title 28, United States Code, 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 such title for suits in which the United States,
its officers, or employees are parties, shall apply in like manner to suits in which the Authority, its officers, or employees are parties.

(c) 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 Authority.

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

SEC. 234. APPLICATION OF OTHER LAWS.

(a) Except as provided by subsection (b) of this section, and except as otherwise provided in this Act or insofar as such laws remain in force as rules or regulations of the Authority, no Federal law dealing with public or Federal contracts, property, works, officers, records, employees, budgets, or funds or the conduct of meetings and the disclosure of information shall apply to the exercise of the powers of the Authority or otherwise to the Authority, the Director or other officers or employees of the Authority. Further, no law, rule, regulation or order of general or special applicability
enacted, codified or otherwise promulgated following the enactment of this section shall apply to the Authority except to the extent made specifically applicable to the Authority.

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

(1) section 552 (public information), section 552a (records about individuals), section 553 (rulemaking), section 3102 (employment of personal assistants for blind, deaf, or otherwise handicapped employees), section 3110 (restrictions on employment of relatives), section 3333 (antistriking affidavits), and section 5520 (withholding city income or employment taxes) of title 5, United States Code, except that no regulation issued under such charters or sections shall apply to the Authority unless expressly made applicable;

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

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

(A) sections 258a–258e (relating to condemnation proceedings);

(B) sections 270a–270e (known as the Miller Act, relating to performance bonds);
16


United States Code (title VI, Civil Rights Act of
1964).

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

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

(2) information subject to being withheld under
the provisions of section 1104 of the Federal Aviation

SEC. 235. COOPERATION WITH OTHER AGENCIES.

(a) The Authority is empowered to use with their con-
sent the available services, equipment, personnel, and facili-
ties of other civilian agencies and instrumentalities of the
United States, on a reimbursable basis and on a similar basis
to cooperate with such other agencies and instrumentalities
in the establishment and use of services, equipment, and fa-
cilities of the Authority. Further, the Authority may confer
with and avail itself of the cooperation, services, records, and
facilities of State, territorial, municipal, or other local agencies with their consent.

(b) The Authority shall establish, in consultation with such civilian agencies and instrumentalities of the United States availing themselves of the services of the Authority, a user fee based schedule for the reimbursement of the Authority of the pro rata share of its expenses, both capital and operating, attributable to the providing of such services. Such reimbursement shall be made to the Authority out of appropriations made to these civilian agencies and shall be treated as ordinary user fee revenue by the Authority.

(c) Subject to the provisions of paragraphs (d), (e), (f), and (g) of this section the Department of Defense and the Authority shall determine through mutual discussion and agreement the full and complete cost, both capital and operating, for services, personnel, and equipment utilized by the military in providing civilian air traffic control services and by the Authority in providing military air traffic control services. The costs established as a result shall be netted against one another and, in any fiscal year in which the military costs exceed those of the Authority, the Authority shall reimburse the Department of Defense for the amount of such excess out of user fee revenue. In any fiscal year in which the costs of the Authority exceed those of the military, the Authority
shall be reimbursed through a lump-sum appropriation to be made directly to the Authority for that purpose.

(d)(1) In order to further insure that the interests of national defense are properly safeguarded and that the Authority is properly advised as to the needs and special problems of the armed services, the Director shall provide for participation of military personnel in carrying out the functions at the Authority including provision of air navigation and traffic control facilities, and research and development with respect thereto, and the allocation of airspace. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed by the appropriate Secretary, pursuant to cooperative agreements with the Authority including such agreement on reimbursement as may be arrived at by the Director and the Secretary concerned which agreements shall not be subject to the provisions of subsection (c) of this section.

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

(3) Members of the Coast Guard may be detailed to the Authority on a similar basis.
1 (4) Appointment to, acceptance of, and service under
2 such cooperative agreements shall in no way affect status,
3 office, rank, or grade which commissioned officers or enlisted
4 personnel may occupy or hold, or any emolument, perquisite,
5 right, privilege, or benefit incident to or arising out of any
6 such status, office, rank, or grade. No person so detailed or
7 appointed shall be subject to direction by or control by the
8 Department from which detailed or appointed or by any
9 agency or officer thereof directly or indirectly with respect to
10 his responsibilities under this chapter or within the Authority
11 during the period of such detail.
12 (e) In order to assist the Director further in the dis-
13 charge of responsibilities, the Director and the Secretary of
14 Defense, and the Director and the Administrator of the Na-
15 tional Aeronautics and Space Administration, are directed to
16 establish by mutual agreement suitable arrangements for the
17 timely exchange of information pertaining to their coopera-
18 tive programs, policies, and requirements directly relating to
19 such responsibilities.
20 (f) The Director shall develop, in consultation with the
21 Department of Defense and other affected Government agen-
22 cies, plans for the effective discharge of the responsibilities of
23 the Authority in the event of war: Provided, that in the event
24 of war the President of the United States by Executive order
25 may transfer to the Department of Defense any functions (in-
(g) Other than as provided in this section, this Act will not cause any modification of any statute, Executive order, directive, working agreement, or operating procedure to, between or controlling the operations of the Federal Aviation Administration or the Department of Transportation and the Department of Defense and its component agencies in effect as of the date of enactment except to the extent necessary to substitute the Authority as appropriate in the place of the Federal Aviation Administration.

SEC. 236. PROCUREMENT.

Consistent with the maintenance of the highest standard of safety, the development, operation, and maintenance of the air traffic control system is to be conducted in a manner reasonably calculated to maximize efficiency through the introduction of competitive acquisition to provide necessary services in the manner common among private sector businesses. The Director shall establish procedures to ensure opportunity for notice and competition. These and all other procedures utilized in the procurement process shall be designed to facilitate acquisition of the most appropriate advanced technology equipment for the operation and maintenance of the air traffic control system. When immediate emergency delivery of serv-
ices or supplies is required or purchases of less than $50,000 are involved, notice and formal procedures are not required, however, the principles of open and fair procurement procedures should be maintained. Nothing in this Act shall be interpreted to prevent the contracting out of services to the private sector where compatible with the goals and objectives of the Authority and in accord with the highest standards of commercial practice.

SEC. 271. APPOINTMENT, STATUS, AND POLICY.

(a) Except as otherwise provided in this Act, the Director shall appoint such officers and employees of the Authority as are deemed necessary to carry out its duties. Such appointments shall be made without regard to the civil service laws applicable to officers and employees of the United States. As to all employees, the Director shall fix their compensation, define their duties and provide a system of organization including a personnel management system to fix responsibility and promote efficiency.

(b) The personnel management system shall—

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

(2) prohibit political activities prohibited under subchapter III of chapter 73 of title 5, United States Code; and
(3) ensure that officers and employees of the Authority are appointed, promoted, and assigned on the basis of merit and fitness, and that other personnel actions are taken consistent with the principles of fairness and due process but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service.

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

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

(e) Officers and employees of the Authority shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

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

(g) Officers and employees of the Authority, who were permanent competitive service of Senior Executive Service employees at the time of enactment and who were subject to the provisions of chapters 83 or 84 of title 5, United States Code, relating to civil or Federal service retirement may, so
long as continually employed by the Authority, remain sub-
ject to such law. As to such employees the Authority shall
withhold from pay and shall pay into the Civil Service Re-
tirement and Disability Fund the amounts specified in chap-
ters 83 or 84 of title 5. The Authority \( \text{v} \) for two years
following the effective date of this Act, allow early retirement
subject to a reduced annuity for any employee who was a
permanent employee of the Federal Aviation Administration
for one year prior to transfer and who has at least twenty
years of Federal service. The annuity payable shall be re-
duced at a rate of one-sixth of 1 percent for each full month
the employee is under fifty-five years of age at the date of
separation. The Authority, upon request of the Officer of Per-
tsonnel Management, but not less frequently than annually,
shall pay to the Office of Personnel Management the costs
reasonably related to the administration of Fund activities for
officers and employees of the Authority.

(h) Sick and annual leave, and compensatory time of
officers and employees of the Authority, whether accrued
prior to or after commencement of operations of the Author-
\( \text{y} \), shall be obligations of the Authority under the provisions
of this section but such officers and employees shall not be
entitled to any lump-sum payment for unused annual leave.

(i) Compensation, benefits, and other terms and condi-
tions of employment in effect immediately prior to the effec-
tive date of this section, whether provided by statute or by
rules and regulations of the Federal Aviation Administration
or the executive branch of the Government of the United
States shall continue to apply to officers and employees of the
Authority, until changed by the Authority in accordance with
this Act.

SEC. 272. OATH OF OFFICE.

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

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

A person authorized to administer oaths by the laws of the
United States, including section 2903 of title 5, United
States Code, or of a State or territory, or an officer, civil or
military, holding a commission under the United States, or
any officer or employee of the Authority designated by the
Director may administer and certify the oath or affirmation.
SEC. 273. PROHIBITION OF STRIKES.

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

SEC. 274. LABOR MANAGEMENT RELATIONS.

(a) The Authority shall accord exclusive recognition to a labor organization when and if the organization has been selected by a majority of employees as their representative. The National Labor Relations Board shall, as necessary, designate separate employee units within the Authority as appropriate for collective-bargaining representation and is authorized, no more often than annually, to oversee and certify the selection of labor organizations.

(b) When and if a labor organization holds exclusive recognition, the Authority shall upon written request of an employee, deduct the regular and periodic dues of the organization from the pay of each employee member and pay such deducted amounts directly to the organization.

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

(d) In the event of a failure to reach a collective-bargaining agreement within one hundred eighty days of the commencement of collective bargaining, the parties may, at
the option of either party, submit the matter for binding arbitration by an Arbitration Board consisting of three members, one of whom shall be selected by the labor organization, one by the Authority, and the third, to serve as Chairman, to be named jointly by the first two. The Authority and the labor organization shall independently frame the issues submitted for arbitration and shall independently submit a recommended decision.

(e) The Arbitration Board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their positions. Whereupon, following deliberations and within forty-five days of the conclusion of any hearing, the Arbitration Board shall render its decision. The decision of the Arbitration Board will be limited to the adoption of the recommended decision of one party or the other. Cost of the Arbitration Board will be shared equally by the parties.

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

(g) Suits for violations of contracts between the Authority and any labor organization representing employees of the Authority, or between such labor organizations, may be
brought in any United States district court having jurisdiction over the parties. Jurisdiction over a labor organization shall be found to exist in the district where the organization maintains its principal offices or in any other district where its authorized officers or agents are engaged in representing or acting for employee members.

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

SEC. 302. CAPITAL OF THE AUTHORITY.

(a) The initial capital of the Authority shall consist of the accumulated Fund balance, including interest, appropriated but not obligated funds, appropriated funds which have been obligated or committed, reserve funds equivalent to cumulative shortfalls below minimum annual authorizations and uncommitted funds as of the date of enactment of this Act which is, upon enactment and creation of the account, appropriated to the account established under section 333 of this Act. In addition, the Authority shall, subject to the approval of the Comptroller General, determine the value of assets and amount of liabilities management control over which is to be transferred to the Authority pursuant to the provisions of section 401 and shall add to the capital account the equity so transferred.
(b) The capital of the Authority at any time shall consist of its assets, including the balance in the fund as transferred by subsection (a), less its liabilities. The transferred fund balance shall be available at all times to defray the proper expenses of the Authority.

(c) The Authority, and the Administrator of General Services where properties under the jurisdiction of the Administrator of General Service are involved, with the approval of the Director of the Office of Management and Budget, shall determine which Federal properties shall be transferred to the management control of Authority and which shall remain under the jurisdiction of other departments, agencies, or establishments of the Government of the United States upon the commencement of operations of the Authority. The decision concerning the placement of control over properties of the United States shall be based solely on efficiency of operations. The transfer of management control shall be accomplished at the time of or as near as possible to the commencement of operations of the Authority and the valuation of the assets and capital of the Authority shall be adjusted accordingly. The following properties shall be included in the transfer—

(1) all machinery, equipment, and appurtenances of the Federal Aviation Administration or the Depart-
ment of Transportation relating to the operation of the air traffic control system, as defined in section 102;

(2) all contracts, records, and documents of the Federal Aviation Administration relating to the operation of the air traffic control system, as defined in section 102, (including research and development); and

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

(d) After the commencement of operations of the Authority, the Director is authorized to accept transfer to the Authority, and the Authority is authorized to transfer to other departments, agencies, or independent establishments of the Government of the United States, with or without reimbursement, any property of that department, agency, or independent establishment and the Authority, respectively, when, in the opinion of the Authority and such other department, agency or establishment the public interest would be served by such transfer.

SEC. 303. OBLIGATIONS.

(a) The Authority is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this Act. The aggregate amount of any such obligations outstanding at any one time shall not
exceed $10,000,000,000. In any one fiscal year the net in-
crease in the amount of obligations outstanding issued for the
purpose of capital improvements shall not exceed $1,500,000,000 and the net increase in the amount of obliga-
tions outstanding issued for the purpose of defraying operat-
ing expenses of the Authority shall not exceed $500,000,000.

(b) The Authority may pledge the assets of the Author-
ity and pledge and use its revenues and receipts for the pay-
ment of the principal or interest on such obligations, for the
purchase or redemption thereof, and for other purposes inci-
dental 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 Director deems necessary
or desirable. The Authority is authorized to enter into bind-
ing covenants with the holders of such obligations, and with
the trustee, if any, under any agreement entered into in ac-
cordance with the issuance thereof with respect to the estab-
ishment of reserve, sinking, and other funds, application and
use of revenues and receipts of the Authority, stipulations
concerning the subsequent issuance of obligations or the exe-
cution of leases or leases purchases relating to properties of
the Authority and such other matters as the Director deems
necessary or desirable to enhance the marketability of such
obligations.
(c) Obligations issued by the Authority under this section—

(1) shall be in such forms and denominations;
(2) shall be sold at such times and in such amounts;
(3) shall mature at such time or times;
(4) shall be sold at such prices;
(5) shall bear such rates of interest;
(6) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;
(7) may be entitled to such relative priorities of claim on the assets of the Authority with respect to principal and interest payments; and
(8) shall be subject to such other terms and conditions as the Director determines.

(d) Obligations issued by the Authority under this section shall—

(1) be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or convenant relating thereto;
(2) contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;
be lawful investments and may be accepted as
security for all fiduciary, trust, and public funds, the in-
vestment or deposit of which shall be under the author-
ity or control of any officer or agency of the Govern-
ment of the United States, and the Secretary of the
Treasury or any other officer or agency having author-
ity over or control of any such fiduciary, trust, or
public funds, may at any time sell any of the obliga-
tions of the Authority acquired under this section;

(4) 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;

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

(6) 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.

SEC. 304. RELATIONSHIP BETWEEN THE TREASURY AND THE
AUTHORITY.

(a) At least fifteen days before selling any issue of obli-
gations under section 303, the Authority shall advise the
Secretary of the Treasury of the amount, proposed date of
sale, maturities, terms, and conditions, and expected maximum rates of interest of the proposed issue in appropriate detail and shall consult with the Secretary or the Secretary's designee thereon. The Secretary of the Treasury may elect to purchase such obligations under such terms, including rates of interest, as the Secretary and the Authority may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable Treasury securities or comparable maturity, as determined by the Secretary. If the Secretary of the Treasury does not purchase such obligations, the Authority may proceed to issue and sell them to a party or parties other than the Secretary upon notice to the Secretary and upon consultation as to the date of issuance, maximum rates of interest, and other terms and conditions.

(b) Subject to the conditions of subsection (a) of this section, the Authority may require the Secretary of the Treasury to purchase obligations of the Authority in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Authority in excess of such amount.

(c) Notwithstanding section 302(d)(5), obligations issued by the Authority shall be obligations of the Government of the United States, and payment of principal and interest
thereon shall be fully guaranteed by the Government of the United States, such guaranty being expressed on the face thereof, if and to the extent that—

(1) the Authority requests the Secretary of the Treasury to pledge the full faith and credit of the Government of the United States for the payment of principal and interest thereon; and

(2) the Secretary of the Treasury, in the discretion of the Secretary, determines that it would be in the public interest to do so.

SEC. 305. PUBLIC DEBT CHARACTER OF THE OBLIGATIONS OF THE AUTHORITY.

For the purpose of any purchase of the obligations of the Authority, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Authority under this part. The Secretary of the Treasury may, at any time, sell any of the obligations of the Authority acquired by the Secretary under this part. All redemptions, purchases, and sales by the Secretary of the obligations of the Authority shall be treated as public debt transactions of the United States.
SEC. 306. AUDIT AND EXPENDITURES.

(a) The accounts and operations of the Authority shall be audited annually by an independent certified public accountant, who shall, upon completion of audit, submit an audit report to the Comptroller General, the President of the United States and the House and Senate Aviation Subcommittees. The Comptroller General is authorized to conduct such further audits as are requested or otherwise deemed necessary.

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

(c) Subject only to the provisions of this Act, the Authority is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it deems necessary.

SEC. 307. ANNUAL BUDGET AND REPORT.

The Authority shall cause to be prepared annually a budget program and a report of its financial condition. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for long-range planning and flexibility, including provision for emergencies and contingencies, in order that the Authority may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Authority for the current and en-
suring fiscal years and the actual condition and results of operation for the last completed fiscal year. The financial report shall include a statement of financial condition, a statement of income and expense, and analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Authority. The annual budget and report shall be delivered to the President of the United States, the House and Senate Aviation Subcommittees, and the members of the Policy Advisory Board for their review. To the extent it deems necessary the Congress shall conduct oversight hearings on the basis of the budget and report.

PART B—FUNDING

SEC. 331. SCHEDULE OF USER FEES.

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

SEC. 332. LIMITATION OF FEES.

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

(b) Of the amount collected during the first two fiscal years of the operation of the Authority a total of $3,000,000,000 will be paid in eight installments (quarterly on an annual basis) to the Treasury of the United States. The funds thus remitted by the Authority to the Treasury shall remain available for appropriation until expended for the purpose of financing airport construction, expansion and improvements under legislation to succeed the Airport and Airway Improvement Act of 1982.
SEC. 333. ESTABLISHMENT OF ACCOUNT; COLLECTION MECHANISM.

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

(b) The Director shall establish such collection mechanisms and accounts as are necessary to collect the user fees authorized to be collected under section 331 and to hold, utilize and disburse such funds as are necessary for the operation of the Authority. The Director is authorized to establish such commercial bank accounts as are deemed necessary to effectively carry out the responsibilities of the Authority. In no event will user fee revenues be treated or taxed as income to any individual or corporation through whom or which they are collected.

(c) Funds deposited to the Treasury account or user fees otherwise collected and held by or on behalf of the Authority shall be available without further appropriation or fiscal year
limitation for the purpose of carrying out the provisions of this Act.

(d) All moneys credited to the Treasury account authorized to be created by this section shall be subject to the sequestration procedures and other general budget limitation of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.). New user fee revenues shall be exempt from any and all restrictions and sequestration provisions.

TITLE IV—TRANSFER, TRANSITIONAL, AND SAVINGS PROVISIONS

SEC. 401. TRANSFERS.

(a) There are transferred to the Authority—

(i) all functions, powers, and authorities of the Federal Aviation Administration and the Department of Transportation directly relating to the operation of air traffic control services including operation of the air traffic control system, its associated computer operations, information and communications systems and networks, radar, navigation, and landing systems along with associated contracting, supply, maintenance, inspection, training, administrative, and research and development functions, and

(ii) management control over all property of the United States previously under the control of the Fed-
eral Aviation Administration and the Department of
Transportation associated with the functions trans-
ferred in subparagraph (i) and as further described in
section 302 of this Act.
(b) The Director of the National Aviation Authority
shall consistent with this section assume all powers of the
Department of Transportation, the Secretary of Transpor-
tation, the Federal Aviation Administration and the Adminis-
trator of the Federal Aviation Administration as are neces-
sary to establish and control all procedures pertinent to the
operation of the airways and air traffic control system and
the regulatory authority necessary to determine what air-
space is within the air traffic control system. The Director of
the National Aviation Authority and the Administrator of the
Federal Aviation Administration are directed to establish
jointly, consistent with this Act, the accompanying report
and the Administrative Procedures Act, such review and co-
ordination practices as are deemed necessary to assure that
the operational procedures and regulatory actions of the Au-
thority are consistent with the safety standards established by
the Federal Aviation Administration. The enforcement
powers of the Administrator are not modified by this
enactment.
(c) The Secretary of Transportation, Administrator of
the Federal Aviation Administration and the Director of the
1 National Aviation Authority shall, beginning within thirty
days of the Senate confirmation of the Director, jointly plan
for the orderly transfer of functions and personnel pursuant to
this Act and shall submit such periodic reports to the Con-
gress as are requested.

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

(e) Three years after the completion of the transfer of
functions under this Act and in no event later than October 1,
1991, the Director of the National Aviation Authority and
the Administrator of the Federal Aviation Administration
shall prepare and transmit to the Congress a final report on
the transfer, making such recommendations as are deemed
necessary for further enhancement of safety and operational efficiency.

SEC. 402. TRANSFER OF PERSONNEL.

Except as otherwise provided in this Act, the personnel, including Senior Executive Service personnel, employed in connection with the functions transferred by this Act shall be transferred to the Authority in a manner consistent with Office of Personnel Management regulations governing transfer of functions.

SEC. 403. EFFECT ON PERSONNEL.

(a) The transfer to the Authority pursuant to this Act of full-time and part-time permanent positions in the competitive service or the Senior Executive Service shall cause such employees holding such positions to be placed in the personnel system authorized to be established pursuant to this Act. Until such time as the civil service compensation system under title 5, United States Code, applicable to transferred personnel as of the date of enactment of this provision is replaced by a system authorized under this Act, personnel shall continue to have their basic pay adjusted, receive bonuses and promotions in accord with the system under title 5, United States Code. In no event will any employees transferred under this Act have their level of compensation reduced as a result of any new classification or pay system for a period of two years following such transfer.
(b) Positions whose incumbents are appointed by the President of the United States, by and with the advice and consent of the Senate and those positions of a confidential or policy determining character which are excepted from the competitive service, the functions of which are transferred by this Act, shall terminate on the effective date of this Act. However, the termination of such a position shall not preclude the reappointment of a former incumbent to a position with the Authority.

(c) Employees transferred pursuant to this Act to the Authority shall remain eligible for a period of two years following the date of such transfer for available positions within the civil service for which they are qualified without any break in service notwithstanding their transfer to the personnel system of the Authority.

(d) Nothing in this section shall constrain the ability and authority of the Director to accomplish in a businesslike fashion the responsibilities and duties of the Authority.

SEC 404. SAVING PROVISION.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President of the United States, Administrator of the Federal Aviation Administration, 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 when this Act takes effect, 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 Authority, a court of competent jurisdiction, or by operation of law.

(b)(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 effective date of this Act before the Department of Transportation or the Federal Aviation Administration, or any offeree thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued in accord with transition regulations promulgated under the authority of this section. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Authority, 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 of Transportation, the Administrator of the Federal Aviation Administration, and the Director of the National Aviation Authority 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.

(3) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Transportation or the Federal Aviation Administration with respect to functions transferred by this Act shall abate by reason of the enactment of this Act. 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 his official 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 Authority, 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) If, before the date on which this Act takes effect, the Department of Transportation or the Federal Aviation Administration, or any officer thereof in his official capacity, is a...
party to an action, and under this Act any function of such Department, Administration, or officer is transferred to the Authority, then such action shall be continued with the Director substituted or added as a party.

(e) Orders and actions of the Authority 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.

SEC. 405. 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. 406. REFERENCE.

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

(1) the Secretary of Transportation or the Administrator of the Federal Aviation Administration; or

(2) the Department of Transportation or the Federal Aviation Administration or any officer or office
thereof, shall be considered to refer to the Authority or the Director as appropriate.

SEC. 407. TRANSITION.

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

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

(2) 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, in facilitating the orderly implementation of this Act.

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

SEC. 408. EFFECTIVE DATE.

The National Aviation Authority is authorized to commence operations on October 1, 1988. The President shall, within one hundred and twenty days after enactment of this Act nominate an individual to be the Director of the National
Aviation Authority in accord with the provisions of section 202 of this Act, who shall, upon Senate confirmation, begin the ten-year term of office with all authority necessary to facilitate the orderly transfer mandated by this Act. This authority shall include but is not limited to those powers prescribed in sections 401(b), 404(b)(2), and 407 of this Act.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the transfer of operational control of the airways and air traffic control systems mandated by this Act. Amounts appropriated under this section shall be available until expended.