

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3935  
OFFERED BY MR. PERRY OF PENNSYLVANIA**

At the end of the bill, add the following:

**1 TITLE X—ATC CORPORATION**

**2 SEC. 1001. PURPOSES.**

3 It is declared to be the purpose of Congress in this  
4 title to transfer operation of air traffic services currently  
5 provided by the Federal Aviation Administration to a sep-  
6 arate not-for-profit corporate entity to provide for the  
7 more efficient operation and improvement of air traffic  
8 services.

**9 Subtitle A—Establishment of ATC  
10 Corporation**

**11 SEC. 1011. ATC CORPORATION.**

12 (a) IN GENERAL.—Title 49, United States Code, is  
13 amended by adding at the end the following:

**14 “Subtitle XI—ATC Corporation**

“Chapter	Sec.
<b>“901. General Provisions .....</b>	<b>90101</b>
<b>“903. Establishment of Corporation; Transfer of Air Traf- fic Services .....</b>	<b>90301</b>
<b>“905. Oversight of Corporation .....</b>	<b>90501</b>
<b>“907. Employee Management .....</b>	<b>90701</b>
<b>“909. Other Matters .....</b>	<b>90901</b>

1       **“CHAPTER 901—GENERAL PROVISIONS**

“Sec.  
“90101. Definitions.

2       **“§ 90101. Definitions**

3           “(a) IN GENERAL.—In this subtitle, the following  
4 definitions apply:

5                   “(1) ADMINISTRATOR.—The term ‘Adminis-  
6 trator’ means the Administrator of the FAA.

7                   “(2) AIR TRAFFIC SERVICES.—The term ‘air  
8 traffic services’ means services used for the moni-  
9 toring, directing, control, and guidance of aircraft or  
10 flows of aircraft and for the safe conduct of flight,  
11 including communications, navigation, and surveil-  
12 lance services and provision of aeronautical informa-  
13 tion.

14                   “(3) AIR TRAFFIC SERVICES USER.—The term  
15 ‘air traffic services user’ means any individual or en-  
16 tity using air traffic services provided by the Cor-  
17 poration within United States airspace or inter-  
18 national airspace delegated to the United States.

19                   “(4) BOARD.—The term ‘Board’ means the  
20 Board of Directors of the Corporation.

21                   “(5) CEO.—The term ‘CEO’ means the Chief  
22 Executive Officer of the Corporation.

1           “(6) CHARGE; FEE.—The terms ‘charge’ and  
2           ‘fee’ mean any rate, charge, fee, or other service  
3           charge for the use of air traffic services.

4           “(7) CORPORATION.—The term ‘Corporation’  
5           means the ATC Corporation established under this  
6           subtitle.

7           “(8) DATE OF TRANSFER.—The term ‘date of  
8           transfer’ means the date on which the Corporation  
9           assumes operational control of air traffic services  
10          from the FAA pursuant to this subtitle, which shall  
11          be October 1, 2026.

12          “(9) DIRECTOR.—The term ‘Director’ means a  
13          Director of the Board.

14          “(10) FAA.—The term ‘FAA’ means the Fed-  
15          eral Aviation Administration.

16          “(11) INTERIM CEO.—The term ‘Interim CEO’  
17          means the Interim Chief Executive Officer of the  
18          Corporation.

19          “(12) MAINLINE AIR CARRIER.—The term  
20          ‘mainline air carrier’ means an air carrier that oper-  
21          ates under part 121 of title 14, Code of Federal  
22          Regulations, and has primary responsibility for in-  
23          ventory control of the carrier’s flights.

1           “(13) NOMINATING MEMBER.—The term  
2           ‘Nominating Member’ means a Nominating Member  
3           of the Corporation.

4           “(14) SECRETARY.—The term ‘Secretary’  
5           means the Secretary of Transportation.

6           “(b) APPLICABILITY OF OTHER DEFINITIONS.—Ex-  
7           cept with respect to the terms specifically defined in this  
8           subtitle, the definitions contained in section 40102(a) shall  
9           apply to the terms used in this subtitle.

10       **“CHAPTER 903—ESTABLISHMENT OF COR-**  
11       **PORATION; TRANSFER OF AIR TRAF-**  
12       **FIC SERVICES**

“Sec.

“90301. Establishment of Corporation.

“90302. Transfer of air traffic services.

“90303. Role of Secretary in transferring air traffic services to Corporation.

“90304. Status and applicable laws.

“90305. Nominating Membership.

“90306. Board of Directors.

“90307. Committees of Board; independent auditors.

“90308. Advisory Board.

“90309. Officers and their responsibilities.

“90310. Authority of Corporation.

“90311. Charges and fees for air traffic services.

“90312. Preemption of authority over air traffic services.

“90313. Actions by and against Corporation.

“90314. Air traffic services for Federal agencies.

“90315. Transfer of Federal personnel to Corporation.

“90316. Transfer of facilities to Corporation.

“90317. Approval of transferred air navigation facilities and other equipment.

“90318. Use of spectrum systems and data.

13       **“§ 90301. Establishment of Corporation**

14           “(a) FEDERAL CHARTER.—There is established a  
15           federally chartered, not-for-profit corporation to be known

1 as the ‘ATC Corporation’, which shall be incorporated in  
2 a State of its choosing.

3 “(b) CORPORATION NAME.—

4 “(1) IN GENERAL.—The Corporation may con-  
5 duct its business and affairs, and otherwise hold  
6 itself out, as the ‘ATC Corporation’ in any jurisdic-  
7 tion.

8 “(2) EXCLUSIVE RIGHT.—The Corporation  
9 shall have the exclusive right to use the name ‘ATC  
10 Corporation’.

11 **“§ 90302. Transfer of air traffic services**

12 “(a) IN GENERAL.—The Secretary shall transfer  
13 operational control over air traffic services within United  
14 States airspace and international airspace delegated to the  
15 United States to the Corporation on the date of transfer  
16 in a systematic and orderly manner that ensures con-  
17 tinuity of safe air traffic services.

18 “(b) MANAGEMENT AND OPERATION OF AIR TRAF-  
19 FIC SERVICES.—Subject to section 90501, the Corpora-  
20 tion may establish and carry out plans for the manage-  
21 ment and operation of air traffic services within United  
22 States airspace and international airspace delegated to the  
23 United States.

24 “(c) ENTITIES AUTHORIZED TO PROVIDE AIR TRAF-  
25 FIC SERVICES AFTER DATE OF TRANSFER.—After the

1 date of transfer, no entity, other than the Corporation,  
2 is authorized or permitted to provide air traffic services  
3 within United States airspace or international airspace  
4 delegated to the United States, except for—

5 “(1) the Department of Defense, as directed by  
6 the President;

7 “(2) entities to which the United States has  
8 delegated certain air traffic service responsibilities;  
9 and

10 “(3) entities with which the Corporation has  
11 contracted for the provision of air traffic services.

12 **“§ 90303. Role of Secretary in transferring air traffic**  
13 **services to Corporation**

14 “(a) IN GENERAL.—As appropriate, and except as  
15 otherwise provided, the Secretary shall manage and exe-  
16 cute the transfer of operational control over air traffic  
17 services pursuant to section 90302(a) and any related  
18 transition processes and procedures.

19 “(b) NONDELEGATION.—Except as otherwise pro-  
20 vided, the Secretary may not delegate any of the authority  
21 or requirements under this subtitle to the Administrator.

22 **“§ 90304. Status and applicable laws**

23 “(a) NON-FEDERAL ENTITY.—The Corporation is  
24 not a department, agency, or instrumentality of the  
25 United States Government, and is not subject to title 31.

1       “(b) LIABILITY.—The United States Government  
2 shall not be liable for the actions or inactions of the Cor-  
3 poration.

4       “(c) NOT-FOR-PROFIT CORPORATION.—The Cor-  
5 poration shall maintain its status as a not-for-profit cor-  
6 poration exempt from taxation under the Internal Revenue  
7 Code of 1986.

8       “(d) NO FEDERAL GUARANTEE.—Any debt assumed  
9 by the Corporation shall not have an implied or explicit  
10 Federal guarantee.

11 **“§ 90305. Nominating Membership**

12       “(a) NOMINATING MEMBERSHIP.—The Nominating  
13 Membership of the Corporation shall be composed of the  
14 following Nominating Members:

15               “(1) A representative of the Federal Govern-  
16 ment, who shall be the Secretary.

17               “(2) Individuals appointed as follows:

18                       “(A) An individual appointed by the prin-  
19 cipal organization representing mainline air car-  
20 riers.

21                       “(B) An individual appointed by the prin-  
22 cipal organization representing noncommercial  
23 owners and recreational operators of general  
24 aviation aircraft.

1           “(C) An individual appointed by the prin-  
2           cipal organization engaged in collective bar-  
3           gaining on behalf of air traffic controllers em-  
4           ployed by the Corporation.

5           “(D) An individual appointed by the prin-  
6           cipal organization representing the largest cer-  
7           tified collective bargaining representative of air-  
8           line pilots.

9           “(b) DETERMINATION OF PRINCIPAL ORGANIZA-  
10          TIONS.—

11           “(1) BEFORE DATE OF TRANSFER.—Before the  
12           date of transfer, and not later than 30 days after  
13           the date of enactment of this subtitle, the Secretary  
14           shall determine the principal organizations referred  
15           to in subsection (a)(2).

16           “(2) AFTER DATE OF TRANSFER.—On and  
17           after the date of transfer, the Board shall determine  
18           the principal organizations referred to in subsection  
19           (a)(2) in accordance with the bylaws of the Corpora-  
20           tion.

21           “(c) TERMS.—Each Nominating Member appointed  
22           under subsection (a)(2) shall serve at the pleasure of the  
23           principal organization that appointed the Nominating  
24           Member.

25           “(d) QUALIFICATIONS.—



1           “(1) IN GENERAL.—Only a citizen of the  
2 United States may be appointed as a Nominating  
3 Member.

4           “(2) PROHIBITIONS.—An individual may not  
5 serve as a Nominating Member under subsection  
6 (a)(2) if the individual is—

7                   “(A) an officer or employee of the Cor-  
8 poration;

9                   “(B) a Member of Congress or an elected  
10 official serving in a State, local, or tribal gov-  
11 ernment; or

12                   “(C) an officer or employee of the Federal  
13 Government or any State, local, or tribal gov-  
14 ernment.

15           “(e) PRINCIPAL ORGANIZATION ENGAGED IN COL-  
16 LECTIVE BARGAINING ON BEHALF OF AIR TRAFFIC CON-  
17 TROLLERS EMPLOYED BY CORPORATION.—For purposes  
18 of this section and section 90306, before the date of trans-  
19 fer, the term ‘principal organization engaged in collective  
20 bargaining on behalf of air traffic controllers employed by  
21 the Corporation’ means the principal organization engaged  
22 in collective bargaining on behalf of air traffic controllers  
23 employed by the FAA.

1 **“§ 90306. Board of Directors**

2 “(a) **AUTHORITY.**—The powers of the Corporation  
3 shall be vested in a Board of Directors that governs the  
4 Corporation.

5 “(b) **COMPOSITION OF BOARD OF DIRECTORS.**—The  
6 Board shall be composed of the following Directors:

7 “(1) The CEO.

8 “(2) 2 Directors appointed by the Secretary.

9 “(3) 4 Directors nominated by the Nominating  
10 Member appointed by the principal organization rep-  
11 resenting mainline air carriers.

12 “(4) 2 Directors nominated by the Nominating  
13 Member appointed by the principal organization rep-  
14 resenting noncommercial owners and recreational op-  
15 erators of general aviation aircraft.

16 “(5) 1 Director nominated by the Nominating  
17 Member appointed by the principal organization en-  
18 gaged in collective bargaining on behalf of air traffic  
19 controllers employed by the Corporation.

20 “(6) 1 Director nominated by the Nominating  
21 Member appointed by the principal organization rep-  
22 resenting the largest certified collective bargaining  
23 representative of airline pilots.

24 “(c) **NOMINATIONS AND APPOINTMENTS.**—

25 “(1) **APPROVAL OF INITIAL NOMINATIONS.**—  
26 Before the date on which all of the Directors have

1       been approved for the first time or the date of trans-  
2       fer, whichever occurs first, nominations made under  
3       subsection (b) shall be subject to the approval of the  
4       Directors appointed by the Secretary under sub-  
5       section (b)(2).

6               “(2) APPROVAL OF SUBSEQUENT NOMINA-  
7       TIONS.—Except as provided by paragraph (3)(B), on  
8       and after the date on which all of the Directors have  
9       been approved for the first time or the date of trans-  
10      fer, whichever occurs first, all nominations made  
11      under subsection (b) shall be subject to the approval  
12      of the Board.

13              “(3) DIRECTORS APPOINTED BY SECRETARY.—

14                      “(A) DEADLINE FOR INITIAL APPOINT-  
15       MENTS.—The Secretary shall appoint the initial  
16       Directors under subsection (b)(2) not later than  
17       30 days after the date of enactment of this sub-  
18       title.

19                      “(B) APPROVAL NOT REQUIRED.—None of  
20       the Directors appointed by the Secretary under  
21       subsection (b)(2) shall be subject to approval by  
22       the Board.

23              “(d) FIDUCIARY DUTIES.—The fiduciary duties of all  
24      Directors shall be to the Corporation.

25              “(e) QUALIFICATIONS.—

1           “(1) IN GENERAL.—Only a citizen of the  
2 United States may be appointed or nominated as a  
3 Director.

4           “(2) PROHIBITIONS.—An individual may not  
5 serve as a Director if the individual is—

6           “(A) an officer, agent, or employee of the  
7 Corporation (other than the CEO);

8           “(B) a Member of Congress or an elected  
9 official serving in a State, local, or tribal gov-  
10 ernment;

11           “(C) an officer or employee of the Federal  
12 Government or any State, local, or tribal gov-  
13 ernment;

14           “(D) a director, officer, trustee, agent, or  
15 employee of—

16           “(i) a bargaining agent that rep-  
17 resents employees of the Corporation; or

18           “(ii) an entity that has a material in-  
19 terest as a supplier, client, or user of the  
20 Corporation’s services unless the Board  
21 unanimously determines, with the concur-  
22 rence in writing of a majority of the Nomi-  
23 nating Members, that such material inter-  
24 est would not be likely to adversely affect  
25 in a material way the individual’s ability to

1 discharge the individual's obligations as a  
2 Director; or

3 “(E) a director, officer, agent, or employee  
4 of one of the principal organizations determined  
5 under section 90305(b).

6 “(f) CHAIRPERSON.—The Chairperson of the Board  
7 shall—

8 “(1) be selected from among the Directors  
9 (other than the CEO) by a majority vote of the Di-  
10 rectors; and

11 “(2) subject to subsection (g), serve until re-  
12 placed by a majority vote of the Directors.

13 “(g) TERMS.—

14 “(1) INITIAL TERMS.—The term of each Direc-  
15 tor appointed, or nominated and approved, before  
16 the date of transfer (other than the CEO) shall ex-  
17 pire on the last day before the date of transfer.

18 “(2) SUBSEQUENT TERMS.—The term of each  
19 Director appointed, or nominated and approved, on  
20 or after the date of transfer (other than the CEO)  
21 shall be 3 years, except as provided by paragraph  
22 (3).

23 “(3) STAGGERING.—The Board shall stagger  
24 the duration of the terms of the initial Directors ap-  
25 pointed, or nominated and approved, on or after the

1 date of transfer to promote the stability of the  
2 Board.

3 “(h) VACANCIES.—

4 “(1) MANNER OF NOMINATIONS AND APPOINT-  
5 MENTS.—A vacancy on the Board shall be filled in  
6 the manner in which the original appointment or  
7 nomination and approval was made.

8 “(2) SERVICE UNTIL SUCCESSOR TAKES OF-  
9 FICE.—A Director may serve after the expiration of  
10 the Director’s term until a successor has taken of-  
11 fice.

12 “(i) QUORUM.—

13 “(1) IN GENERAL.—A quorum of the Board,  
14 consisting of a majority of the Directors, shall be re-  
15 quired to conduct any business of the Board.

16 “(2) APPROVAL OF BOARD ACTIONS.—Except  
17 as otherwise provided, the threshold for approving  
18 Board actions shall be as set forth in the bylaws.

19 “(j) REMOVAL OF DIRECTORS.—A Director may be  
20 removed in accordance with the bylaws of the Corporation.

21 “(k) MEETINGS.—

22 “(1) IN GENERAL.—The Board shall meet at  
23 the call of the Chairperson (or as otherwise provided  
24 in the bylaws) and, at a minimum, on a quarterly  
25 basis.

1           “(2) RESPONSIBILITIES.—The Board shall be  
2           responsible for actions of the Corporation, including  
3           the following matters:

4                   “(A) Adoption of an annual budget.

5                   “(B) Approval of a strategic plan and up-  
6           dates thereto.

7                   “(C) Authorization for issuance of indebt-  
8           edness.

9                   “(D) Assessment, modification, and collec-  
10          tion of charges and fees to air traffic services  
11          users.

12                   “(E) Hiring of the Interim CEO and CEO.

13                   “(F) Adoption and amendment of the by-  
14          laws of the Corporation.

15          “(I) ANNUAL FINANCIAL REPORT.—Not later than 1  
16          year after the date of transfer, and annually thereafter,  
17          the Corporation shall publish a report on the activities of  
18          the Corporation during the prior year. The annual report  
19          shall also contain financial and operational performance  
20          information regarding the Corporation and shall be made  
21          publicly available. The Corporation shall ensure that any  
22          propriety information that may be contained in the annual  
23          report is not made public.

1 **“§ 90307. Committees of Board; independent auditors**

2       “(a) COMMITTEES OF BOARD.—The Board shall es-  
3 tablish and maintain a Safety Committee and such other  
4 committees as the Board determines are necessary or ap-  
5 propriate to carry out the responsibilities of the Board ef-  
6 fectively. Such committees shall be composed solely of Di-  
7 rectors.

8       “(b) INDEPENDENT AUDITORS.—The Board shall re-  
9 tain independent auditors to conduct annual audits of the  
10 Corporation’s financial statements and internal controls.

11 **“§ 90308. Advisory Board**

12       “(a) ESTABLISHMENT.—There shall be an Advisory  
13 Board of the Corporation.

14       “(b) DUTIES.—The Advisory Board—

15               “(1) shall conduct such activities as the Board  
16 determines appropriate; and

17               “(2) may, on its own initiative, study, report,  
18 and make recommendations to the Board on matters  
19 relating to the Corporation’s provision of air traffic  
20 services and associated safety considerations.

21       “(c) MEMBERSHIP.—

22               “(1) NUMBER.—The Advisory Board shall con-  
23 sist of not more than 15 individuals representing in-  
24 terested entities.



1           “(2) REPRESENTATIVES.—The members of the  
2           Advisory Board shall include, at a minimum, rep-  
3           resentatives of the following:

4                   “(A) Commercial service airports.

5                   “(B) Owners, operators, and users of gen-  
6           eral aviation aircraft used exclusively in further-  
7           ance of business enterprises.

8                   “(C) Aerospace manufacturers.

9                   “(D) Operators of commercial unmanned  
10          aircraft systems.

11                  “(E) Appropriate labor organizations.

12                  “(F) The Department of Defense.

13                  “(G) Small communities.

14          “(d) STRUCTURE; TERMS.—The membership and  
15          structure of the Advisory Board, including the duration  
16          that individuals may serve on the Advisory Board, shall  
17          be determined by the Board in accordance with the bylaws  
18          of the Corporation.

19          **“§ 90309. Officers and their responsibilities**

20                  “(a) CHIEF EXECUTIVE OFFICER.—

21                   “(1) HIRING.—

22                   “(A) IN GENERAL.—The Corporation shall  
23           have a Chief Executive Officer, who shall be  
24           hired by the Board to manage the Corporation.

1           “(B) QUALIFICATIONS.—The CEO shall be  
2           an individual who is a citizen of the United  
3           States and who, by reason of professional back-  
4           ground and experience, is especially qualified to  
5           manage the Corporation.

6           “(2) DUTIES.—The CEO shall—

7           “(A) be responsible for the management  
8           and direction of the Corporation, including its  
9           officers and employees, and for the exercise of  
10          all powers and responsibilities of the Corpora-  
11          tion;

12          “(B) establish Corporation offices and de-  
13          fine the responsibilities and duties of the of-  
14          fices, with full authority to organize the Cor-  
15          poration as required; and

16          “(C) designate an officer of the Corpora-  
17          tion who is vested with the authority to act in  
18          the capacity of the CEO if the CEO is absent  
19          or incapacitated.

20          “(3) SCOPE OF AUTHORITY.—

21          “(A) IN GENERAL.—The CEO shall be  
22          subject to the policy guidance of the Board, re-  
23          port to the Board, and serve at the pleasure of  
24          the Board.

1           “(B) AUTHORITY OF BOARD.—The Board  
2           may modify or revoke actions of the CEO pur-  
3           suant to procedures set forth in the bylaws of  
4           the Corporation.

5           “(4) OTHER OFFICERS AND EMPLOYEES.—

6           “(A) IN GENERAL.—The CEO shall ap-  
7           point such other officers and employees of the  
8           Corporation as the CEO determines appro-  
9           priate.

10           “(B) DELEGATION OF FUNCTIONS.—The  
11           CEO may delegate to the other officers and em-  
12           ployees of the Corporation any of the functions  
13           of the Corporation.

14           “(b) INTERIM CEO.—

15           “(1) HIRING.—Not later than 90 days after the  
16           date of the Secretary’s initial determination of the  
17           principal organizations under section 90305(b)(1),  
18           the Board shall hire an Interim Chief Executive Of-  
19           ficer who meets the qualifications specified in sub-  
20           section (a)(1)(B).

21           “(2) AUTHORITY AND TERM.—

22           “(A) AUTHORITY.—The Interim CEO  
23           shall—

24                       “(i) exercise the same authority as the  
25                       CEO, including serving on the Board;

1                   “(ii) carry out the same duties as the  
2                   CEO; and

3                   “(iii) be subject to the same prohibi-  
4                   tions and limitations as the CEO.

5                   “(B) TERM.—The Interim CEO shall serve  
6                   until the Board hires a CEO.

7                   “(3) STATUTORY CONSTRUCTION.—Nothing in  
8                   this subsection may be construed to restrict the abil-  
9                   ity of the Board to hire the individual serving as the  
10                  Interim CEO to be the CEO.

11   **“§ 90310. Authority of Corporation**

12                  “(a) GENERAL AUTHORITY.—Except as otherwise  
13                  provided in this subtitle, the Corporation—

14                   “(1) shall have perpetual succession in its cor-  
15                   porate name unless dissolved by law;

16                   “(2) may adopt and use a corporate seal;

17                   “(3) may own, lease, use, improve, and dispose  
18                   of such property as the Corporation considers nec-  
19                   essary to carry out the purposes of the Corporation;

20                   “(4) may contract with other parties;

21                   “(5) may sue or be sued;

22                   “(6) may be held liable under civil and criminal  
23                   law;

1           “(7) may indemnify the Directors, including the  
2 Interim CEO or CEO, and other officers, agents,  
3 and employees of the Corporation; and

4           “(8) shall have such other corporate powers as  
5 are necessary or appropriate to carry out the pur-  
6 poses of this subtitle and of the Corporation.

7           “(b) PROHIBITION.—The Corporation may not issue  
8 or sell equity shares in the Corporation.

9           **“§ 90311. Charges and fees for air traffic services**

10          “(a) ASSESSMENT AND COLLECTION OF CHARGES  
11 AND FEES.—Beginning on the date of transfer, and sub-  
12 ject to section 90502, the Corporation may assess and col-  
13 lect charges and fees from any air traffic services user for  
14 air traffic services provided by the Corporation in United  
15 States airspace or international airspace delegated to the  
16 United States.

17          “(b) PUBLICATION AND BOARD APPROVAL OF PRO-  
18 POSALS.—

19           “(1) PUBLICATION.—The Corporation shall  
20 publish any proposed charge or fee under subsection  
21 (a) and any changes thereto.

22           “(2) BOARD APPROVAL.—The Board shall—

23           “(A) approve any proposed charge or fee  
24 under subsection (a) and any changes thereto;  
25 and

1           “(B) carry out the approval in a form and  
2           manner accessible to the public and aircraft op-  
3           erators using United States airspace or inter-  
4           national airspace delegated to the United  
5           States.

6           “(c) CHARGING PRINCIPLES AND METHODOLOGY.—  
7           The Corporation shall comply with the following charging  
8           principles when proposing a charge or fee under sub-  
9           section (a):

10           “(1) Charges and fees shall be consistent with  
11           the International Civil Aviation Organization’s Poli-  
12           cies on Charges for Air Navigation Services, Ninth  
13           Edition, 2012.

14           “(2) Charges and fees for certain categories of  
15           users may be charged on a flat-fee basis so long as  
16           the charge or fee is otherwise consistent with the  
17           charging principles described in paragraph (1).

18           “(3) Charges and fees may not be imposed for  
19           operations of aircraft owned or operated by the  
20           Armed Forces or described in section 40125(c).

21           “(4) Charges and fees may not be imposed for  
22           air traffic services provided with respect to—

23           “(A) aircraft operations of piston engine  
24           aircraft; or

1                   “(B) noncommercial aircraft operations of  
2                   turbine engine aircraft.

3                   “(5) Charges and fees may not be imposed for  
4                   operations of air taxis in remote locations.

5                   “(6) Charges and fees may not violate any  
6                   international obligation of the United States.

7                   “(d) ACCESS TO AIRSPACE.—Neither the amount of  
8                   charges and fees paid nor the applicability of subsection  
9                   (c)(4) shall be determinant of access to airspace.

10                  “(e) PAYMENT OF CHARGES AND FEES.—

11                   “(1) IN GENERAL.—An operator using air traf-  
12                   fic services in United States airspace or inter-  
13                   national airspace delegated to the United States  
14                   shall pay a charge or fee assessed by the Corpora-  
15                   tion under subsection (a) for services rendered and  
16                   any interest and penalties assessed under paragraph  
17                   (2).

18                   “(2) LATE PAYMENT OR NONPAYMENT.—The  
19                   Corporation may assess and collect interest and pen-  
20                   alties for late payment or nonpayment of a charge  
21                   or fee assessed by the Corporation under subsection  
22                   (a).

23                   “(3) PRIVATE RIGHT OF ACTION.—The Cor-  
24                   poration may file suit in any district court of the  
25                   United States having jurisdiction over the parties,

1 without respect to the amount in controversy and  
2 without regard to the citizenship of the parties, to  
3 enforce this subsection not later than 2 years after  
4 the date on which a claim accrues. A claim accrues,  
5 under this paragraph, upon the rendering of the rel-  
6 evant air traffic services by the Corporation.

7 “(f) PUBLICATION OF FEE SCHEDULE.—The Cor-  
8 poration shall publish a schedule of charges and fees to  
9 be assessed under subsection (a) and interest and pen-  
10 alties to be assessed under subsection (e)(2), including any  
11 changes thereto—

12 “(1) at least 90 days before initiating the col-  
13 lection of the charges, fees, interest, or penalties  
14 pursuant to the schedule or change thereto; and

15 “(2) in a form and manner accessible to air-  
16 craft operators using United States airspace or  
17 international airspace delegated to the United  
18 States.

19 “(g) INITIAL SCHEDULE.—

20 “(1) PUBLICATION OF INITIAL SCHEDULE.—  
21 The Corporation shall publish the initial schedule  
22 under subsection (f)—

23 “(A) at least 180 days before the date of  
24 transfer; and



1           “(B) in a form and manner accessible to  
2           aircraft operators using United States airspace  
3           or international airspace delegated to the  
4           United States.

5           “(2) DISPUTE RESOLUTION REQUIREMENTS  
6           FOR INITIAL SCHEDULE.—The requirements of sec-  
7           tion 90502 shall apply if a written complaint is filed  
8           with the Secretary for a determination of reason-  
9           ableness with respect to the initial schedule.

10          “(h) DEFINITIONS.—In this section, the following  
11          definitions apply:

12           “(1) AIRCRAFT OPERATION.—The term ‘air-  
13           craft operation’ means the movement of an aircraft  
14           beginning with the take-off of the aircraft and end-  
15           ing with the landing of the aircraft.

16           “(2) GAS TURBINE ENGINE.—The term ‘gas  
17           turbine engine’ means a turboprop, turbofan, or tur-  
18           bojet aircraft engine.

19           “(3) NONCOMMERCIAL AIRCRAFT OPER-  
20           ATION.—The term ‘noncommercial aircraft oper-  
21           ation’ means an aircraft operation that does not in-  
22           volve the transportation of passengers, cargo, or  
23           mail for remuneration or hire.

24           “(4) OPERATIONS OF AIR TAXIS.—The term  
25           ‘operations of air taxis’ means the commuter or on-

1 demand operations of a person who holds or is re-  
2 quired to hold an air carrier certificate or operating  
3 certificate under part 119 of title 14, Code of Fed-  
4 eral Regulations, or helicopter air ambulance oper-  
5 ations as defined in section 135.601(b)(1) of title  
6 14, Code of Federal Regulations.

7 “(5) PISTON ENGINE AIRCRAFT.—The term  
8 ‘piston engine aircraft’ means an aircraft that has 1  
9 or more piston-powered engines connected to 1 or  
10 more propellers, which provide thrust to move the  
11 aircraft on the ground and through the air.

12 “(6) REMOTE LOCATION.—The term ‘remote lo-  
13 cation’ means a location in the United States where  
14 alternatives to transportation by air taxi are unavail-  
15 able or infeasible, as determined by the Secretary.

16 “(7) TURBINE ENGINE AIRCRAFT.—The term  
17 ‘turbine engine aircraft’ means any aircraft that uti-  
18 lizes a gas turbine engine as a means of propulsion.

19 **“§ 90312. Preemption of authority over air traffic**  
20 **services**

21 “(a) STATE DEFINED.—In this section, the term  
22 ‘State’ means a State, the District of Columbia, and a ter-  
23 ritory or possession of the United States.

24 “(b) PREEMPTION.—A State, political subdivision of  
25 a State, or political authority of at least 2 States may not

1 enact or enforce a law, regulation, or other provision hav-  
2 ing the force and effect of law related to air traffic serv-  
3 ices.

4 “(c) AIRPORT OWNER OR OPERATOR.—Subsection  
5 (b) may not be construed to limit a State, political subdivi-  
6 sion of a State, or political authority of at least 2 States  
7 that owns or operates a landing area from carrying out  
8 its proprietary powers and rights over the landing area.

9 **“§ 90313. Actions by and against Corporation**

10 “(a) JURISDICTION FOR LEGAL ACTIONS GEN-  
11 ERALLY.—

12 “(1) JURISDICTION OF UNITED STATES DIS-  
13 TRICT COURTS.—The United States district courts  
14 shall have original jurisdiction over all actions  
15 brought by or against the Corporation, except as  
16 otherwise provided in this subtitle.

17 “(2) REMOVAL OF ACTIONS IN STATE  
18 COURTS.—Any action brought in a State court to  
19 which the Corporation is a party shall be removed  
20 to the appropriate United States district court under  
21 the provisions of chapter 89 of title 28.

22 “(b) TESTIMONY OF CORPORATION EMPLOYEES.—

23 “(1) IN GENERAL.—Except with the consent of  
24 the chief legal officer of the Corporation, employees  
25 of the Corporation may not provide expert opinion or

1 expert testimony in civil litigation related to the Cor-  
2 poration.

3 “(2) EXCEPTIONS.—The Corporation may pre-  
4 scribe the circumstances, if any, under which em-  
5 ployees of the Corporation may provide expert opin-  
6 ion or expert testimony in civil litigation related to  
7 the Corporation.

8 **“§ 90314. Air traffic services for Federal agencies**

9 “Before the date of transfer, the Secretary shall es-  
10 tablish processes, requirements, procedures, and regula-  
11 tions and take any other measure necessary, consistent  
12 with the purposes of this subtitle, to ensure that all United  
13 States Government activities supported by the FAA’s op-  
14 eration of air traffic services as of the date of transfer  
15 receive support from the Corporation after the date of  
16 transfer and on an ongoing basis.

17 **“§ 90315. Transfer of Federal personnel to Corpora-**  
18 **tion**

19 “(a) TRANSFER OF FAA EMPLOYEES TO CORPORA-  
20 TION.—

21 “(1) PROCESS.—Not later than 180 days after  
22 the date of enactment of this subtitle, the Secretary,  
23 after meeting and conferring with the CEO and rep-  
24 resentatives of the labor organizations recognized  
25 under section 7111 of title 5 as exclusive representa-

1       tives of FAA employees, shall commence a process to  
2       determine, consistent with the purposes of this sub-  
3       title, which activities and employees, or categories of  
4       employees, of the FAA shall be transferred to the  
5       Corporation on or before the date of transfer.

6               “(2) DETERMINATION; TRANSFER.—The Sec-  
7       retary shall—

8               “(A) not later than 180 days prior to the  
9       date of transfer, complete the determination of  
10      which activities, employees, or categories of em-  
11      ployees shall be transferred to the Corporation  
12      under paragraph (1);

13              “(B) upon completing the determination,  
14      notify the CEO, the labor organizations recog-  
15      nized under section 7111 of title 5 as exclusive  
16      representatives of FAA employees, and all af-  
17      fected employees of such determination; and

18              “(C) on or before the date of transfer,  
19      transfer such activities, employees, or categories  
20      of employees.

21              “(b) SUBSEQUENT TRANSFER OF EMPLOYEES.—

22              “(1) IN GENERAL.—

23              “(A) TRANSFERS FROM FAA TO CORPORA-  
24      TION.—During the 180-day period beginning on  
25      the date of transfer, the Secretary, after meet-

1           ing and conferring with the CEO and represent-  
2           atives of the certified labor organizations recog-  
3           nized under section 90705 and labor organiza-  
4           tions recognized under section 7111 of title 5 as  
5           exclusive representatives of FAA employees,  
6           may transfer an employee from the FAA to the  
7           Corporation if the Secretary, after meeting and  
8           conferring with the CEO and the representa-  
9           tives, finds that the determination with respect  
10          to the employee under subsection (a) was incon-  
11          sistent with the purposes of this subtitle.

12                   “(B) TRANSFERS FROM CORPORATION TO  
13           FAA.—During the 180-day period beginning on  
14           the date of transfer, the Secretary, after meet-  
15           ing and conferring with the CEO and represent-  
16           atives of the certified labor organizations recog-  
17           nized under section 90705 and labor organiza-  
18           tions recognized under section 7111 of title 5 as  
19           exclusive representatives of FAA employees,  
20           may transfer an employee from the Corporation  
21           to the FAA if the Secretary, after the consulta-  
22           tion with the CEO and the representatives,  
23           finds that the determination with respect to the  
24           employee under subsection (a) was inconsistent  
25           with the purposes of this subtitle.

1           “(2) REEMPLOYMENT OF FEDERAL EMPLOY-  
2           EES.—An employee transferred from the Corpora-  
3           tion to the FAA under this subsection shall be enti-  
4           tled to the same rights and benefits, and reemploy-  
5           ment, in the same manner as if covered by section  
6           3582 of title 5 notwithstanding section 8347(o),  
7           8713, or 8914 of such title.

8           “(3) ELECTION OF BENEFITS FOR EMPLOYEES  
9           SUBJECT TO DELAYED TRANSFER TO CORPORA-  
10          TION.—In the case of an employee of the FAA  
11          transferred to the Corporation under this subsection,  
12          such employee shall be afforded the opportunity to  
13          make the election provided under section 90702(b)  
14          with respect to benefits.

15          “(c) CORPORATION EMPLOYEE BENEFITS.—At least  
16          180 days before the date of transfer, the Corporation shall  
17          establish a compensation and benefits program for—

18                 “(1) employees hired by the Corporation after  
19                 the date of transfer; and

20                 “(2) employees that make the election under  
21                 section 90702(b)(1)(A)(ii).

22          “(d) PROTECTIONS FOR EMPLOYEES NOT TRANS-  
23          FERRED TO CORPORATION.—For those employees of the  
24          FAA directly involved in the operation of air traffic serv-  
25          ices who are not transferred to the Corporation pursuant

1 to subsection (a) or who transferred back to the FAA pur-  
2 suant to subsection (b), the Secretary shall provide to such  
3 employees compensation and benefits consistent with the  
4 applicable collective-bargaining agreement that are not  
5 less than the level of compensation and benefits provided  
6 to such FAA employees prior to the date of transfer unless  
7 mutually agreed to by the FAA and representatives of the  
8 certified labor organization.

9 “(e) SUITABILITY, CLEARANCES, AND MEDICAL  
10 QUALIFICATIONS.—All federally issued or federally re-  
11 quired credentials, certificates, clearances, medical quali-  
12 fications, access rights, substance testing results, and any  
13 other Federal permissions or approvals held by any em-  
14 ployee of the FAA in the operation of air traffic services  
15 that are valid and effective on the day prior to the date  
16 of transfer shall remain valid and effective after the date  
17 of transfer—

18 “(1) unless revoked for cause; or

19 “(2) until equivalent or substantially equivalent  
20 credentials, certificates, clearances, medical quali-  
21 fications, access rights, substance testing results,  
22 and any other Federal permissions or approvals have  
23 been issued to the employee on or after the date of  
24 transfer.

25 “(f) TRANSITION AGREEMENTS.—



1 “(1) BIPARTITE AGREEMENT.—

2 “(A) MEETINGS.—At least 180 days before  
3 the date of transfer, the Corporation shall meet  
4 with the labor organizations recognized under  
5 section 7111 of title 5 as exclusive representa-  
6 tives of FAA employees to resolve employment-  
7 related transition matters that affect employees  
8 represented by those labor organizations and  
9 that are not otherwise covered under this sec-  
10 tion.

11 “(B) DUTY TO BARGAIN IN GOOD FAITH.—  
12 The Corporation and the labor organizations  
13 described in subparagraph (A) (in this sub-  
14 section referred to as the ‘parties’) shall be sub-  
15 ject to the duty to bargain in good faith under  
16 chapter 907 in any meetings pursuant to this  
17 paragraph.

18 “(C) DISPUTE RESOLUTION PROCE-  
19 DURES.—If the parties fail to reach an agree-  
20 ment over the initial or subsequent employ-  
21 ment-related transition issues not otherwise  
22 covered under this section, the matters shall be  
23 subject to the dispute resolution procedures es-  
24 tablished under subsections (a), (b), and (e) of  
25 section 90707.

1           “(2) TRIPARTITE AGREEMENT.—

2                   “(A) MEETINGS.—At least 1 year before  
3 the date of transfer, the Corporation and the  
4 FAA shall meet with the labor organizations  
5 recognized under section 7111 of title 5 as ex-  
6 clusive representatives of FAA employees to re-  
7 solve transition matters related to the separa-  
8 tion of air traffic services from the FAA pursu-  
9 ant to this subtitle that affect employees rep-  
10 resented by those labor organizations and that  
11 are not otherwise covered under this section.

12                   “(B) DUTY TO BARGAIN IN GOOD FAITH.—  
13 To the extent applicable, the Corporation and  
14 the labor organizations described in subpara-  
15 graph (A) shall be subject to the duty to bar-  
16 gain in good faith under chapter 907 in any  
17 meetings pursuant to this paragraph.

18                   “(C) DISPUTE RESOLUTION PROCE-  
19 DURES.—If the Corporation and the certified  
20 labor organizations described in subparagraph  
21 (A) fail to reach an agreement over the initial  
22 or subsequent transition issues related to the  
23 separation of air traffic services from the FAA,  
24 not otherwise covered under this section, the  
25 matters shall be subject to the dispute resolu-

1           tion procedures established under subsections  
2           (a), (b), and (e) of section 90707.

3   **“§ 90316. Transfer of facilities to Corporation**

4           “(a) INVENTORY OF FAA PROPERTY AND FACILI-  
5 TIES.—At least 1 year before the date of transfer, the Sec-  
6 retary, in consultation with the CEO, shall identify the  
7 licenses, patents, software rights, and real and personal  
8 property, including air navigation facilities (as defined in  
9 section 40102(a)) of the United States under FAA juris-  
10 diction, that are necessary and appropriate for the Cor-  
11 poration to carry out the air traffic services transferred  
12 to the Corporation under this subtitle.

13          “(b) TRANSFER OF FEDERAL PROPERTY.—

14               “(1) CONVEYANCE OF PROPERTY TO CORPORA-  
15 TION.—On the date of transfer, the Secretary shall  
16 convey, without charge, all right, title, and interest  
17 of the United States in, and the use, possession, and  
18 control of, properties identified under subsection (a).

19               “(2) SALE OF PROPERTY BY CORPORATION  
20 AFTER DATE OF TRANSFER.—If the Corporation  
21 sells any of the property conveyed to the Corporation  
22 under paragraph (1), the Corporation shall use the  
23 proceeds received from the sale of such property for  
24 the acquisition or improvement of air navigation fa-  
25 cilities or other capital assets.

1           “(3) REVERSIONARY INTEREST.—Any convey-  
2           ance of real property under this section located at an  
3           FAA technical facility shall be subject to the condi-  
4           tion that all right, title, and interest in the real  
5           property shall revert to the United States and be  
6           placed under the administrative control of the Sec-  
7           retary if—

8                   “(A) the Corporation determines the real  
9                   property is no longer necessary to carry out the  
10                  air traffic services transferred to the Corpora-  
11                  tion under this subtitle; and

12                   “(B) the Secretary determines the rever-  
13                  sion is necessary to protect the interests of the  
14                  United States.

15           “(c) CONSOLIDATION AND REALIGNMENT OF TRANS-  
16           FERRED SERVICES AND FACILITIES.—

17                   “(1) IN GENERAL.—At least 180 days before  
18                  the date of transfer, and subject to section 90707,  
19                  the Corporation, in consultation with representatives  
20                  of labor organizations representing operations and  
21                  maintenance employees of the air traffic control sys-  
22                  tem, shall establish a process for the realignment  
23                  and consolidation of services and facilities to be  
24                  transferred to the Corporation from the FAA.



1 **“§ 90501. Safety oversight and regulation of Corpora-**  
2 **tion**

3 “(a) PERFORMANCE-BASED REGULATIONS AND MIN-  
4 IMUM SAFETY STANDARDS.—Before the date of transfer,  
5 the Secretary shall—

6 “(1) prescribe performance-based regulations  
7 and minimum safety standards for the operation of  
8 air traffic services by the Corporation; and

9 “(2) adopt, after consultation with the Corpora-  
10 tion and the FAA’s certified bargaining representa-  
11 tives, policies and other administrative materials of  
12 the FAA in effect before the date of transfer for  
13 providing air traffic services.

14 “(b) SAFETY MANAGEMENT SYSTEM.—

15 “(1) IN GENERAL.—The regulations and stand-  
16 ards shall include a safety management system for  
17 air traffic services provided by the Corporation.

18 “(2) FOUNDATION.—The safety management  
19 system shall be based on the safety management  
20 system used by the Air Traffic Organization of the  
21 FAA before the date of transfer.

22 “(3) USE BY CORPORATION.—Beginning on the  
23 date of transfer, the Corporation shall use the safety  
24 management system, including any changes thereto,  
25 when assessing and managing risks in all proce-

1       dures, processes, and practices necessary to provide  
2       air traffic services.

3       “(c) PROPOSALS TO MODIFY AIR TRAFFIC MANAGE-  
4       MENT PROCEDURES, ASSIGNMENTS, AND CLASSIFICA-  
5       TIONS OF AIRSPACE.—

6               “(1) SUBMISSION OF PROPOSALS TO SEC-  
7       RETARY.—The Corporation or another interested  
8       party may submit to the Secretary a proposal to  
9       modify—

10               “(A) air traffic management procedures,  
11       assignments, classifications of airspace, or other  
12       actions affecting airspace access that are devel-  
13       oped pursuant to the safety management sys-  
14       tem; and

15               “(B) FAA policies and other administra-  
16       tive materials adopted under subsection (a)(2).

17       “(2) REVIEW AND APPROVAL OF PROPOSALS.—  
18       The regulations and standards prescribed under sub-  
19       section (a)(1) shall include a process for expedited  
20       review and approval of a proposal received under  
21       paragraph (1).

22               “(3) STANDARD FOR APPROVAL.—The Sec-  
23       retary shall approve a proposal received under para-  
24       graph (1) if the Secretary determines that the pro-  
25       posal complies with the regulations and standards

1 prescribed under subsection (a)(1) and is otherwise  
2 consistent with the public interest.

3 “(4) APPROVALS, DISAPPROVALS, AND MODI-  
4 FICATIONS.—

5 “(A) IN GENERAL.—During the 45-day pe-  
6 riod beginning on the date of receipt of a pro-  
7 posal under paragraph (1), the Secretary shall  
8 approve, disapprove, or modify the proposal.

9 “(B) WRITTEN EXPLANATION.—If the  
10 Secretary disapproves or modifies the proposal,  
11 the Secretary shall provide a written expla-  
12 nation of the Secretary’s decision, including—

13 “(i) any instances of inconsistency  
14 with the regulations and standards pre-  
15 scribed under subsection (a)(1); and

16 “(ii) any other information that  
17 formed the basis for the Secretary’s deci-  
18 sion.

19 “(5) FAILURE TO ACT.—If the Secretary fails  
20 to act on a proposal received under paragraph (1)  
21 during the 45-day period described in paragraph  
22 (4)(A), the Corporation or other party making the  
23 proposal shall be entitled to a writ of mandamus in  
24 a Federal district court with venue.

25 “(d) JUDICIAL REVIEW.—



1           “(1) IN GENERAL.—Any decision made by the  
2           Secretary to approve, disapprove, or modify a pro-  
3           posal received under subsection (c)(1) shall be sub-  
4           ject to judicial review pursuant to subsections (a),  
5           (b), (d), and (e) of section 46110.

6           “(2) STANDARD OF REVIEW.—

7           “(A) DISAPPROVALS; MODIFICATIONS.—In  
8           the case of a petition filed under section  
9           46110(a) to review a decision of the Secretary  
10          that disapproves or modifies a proposal received  
11          from the Corporation under subsection (c)(1),  
12          the court shall, without deference to the Sec-  
13          retary’s determination, review de novo the  
14          record to determine if the Secretary’s deter-  
15          mination is consistent with the regulations and  
16          standards prescribed under subsection (a)(1).

17          “(B) APPROVALS.—In the case of a peti-  
18          tion filed under section 46110(a) to review a  
19          decision of the Secretary that approves a pro-  
20          posal received from the Corporation under sub-  
21          section (c)(1), the court may overturn the ap-  
22          proval only upon a finding of clear error or an  
23          abuse of discretion.

24          “(e) COMPILATION.—

1           “(1) ESTABLISHMENT.—The Corporation shall  
2           establish and maintain a compilation of the policies  
3           and other materials referred to in subsection (a)(2).

4           “(2) UPDATES.—The Corporation shall update  
5           the compilation each time a proposal described in  
6           subsection (c)(1)(B) is approved.

7           “(3) PUBLICATION.—The Corporation shall  
8           make the compilation available to the public.

9           “(f) SPECIAL RULES FOR PROPOSALS AFFECTING  
10          CERTAIN AIRSPACE.—The regulations and standards pre-  
11          scribed under subsection (a)(1) shall include procedures  
12          (including advance submission of necessary supporting  
13          data, analysis, and documentation) for the Secretary to  
14          evaluate, at least 180 days before its submission under  
15          subsection (c)(1), a proposal for an airspace change that  
16          would affect airspace that is—

17                 “(1) within an area designated as a ‘Metroplex’  
18                 by the FAA as of June 8, 2015;

19                 “(2) within an area subject to a major, large-  
20                 scale airspace redesign project; or

21                 “(3) adjacent to or containing special use air-  
22                 space.

23           “(g) SPECIAL RULES FOR PROPOSALS RELATING TO  
24          OPERATION OF CONTRACT TOWERS.—

1           “(1) IN GENERAL.—The regulations and stand-  
2           ards prescribed under subsection (a)(1) shall include  
3           procedures for the Secretary to evaluate, under sub-  
4           section (c), a proposal for an airspace change that  
5           results from the proposed closure of a tower that is  
6           operating under a contract with the Corporation and  
7           that, prior to the date of transfer, was operated  
8           under a contract with the Secretary pursuant to sec-  
9           tion 47124.

10           “(2) PROCEDURES.—The procedures required  
11           pursuant to paragraph (1) shall include—

12                   “(A) the advance submission of necessary  
13                   supporting data, analysis, and documentation  
14                   related to—

15                           “(i) the safety risk management as-  
16                           sessment of the proposed contract tower  
17                           closure;

18                           “(ii) an assessment of the impact of  
19                           the proposed closure on the operation of  
20                           the national airspace system;

21                           “(iii) an assessment of the impact of  
22                           the proposed closure on air service to af-  
23                           fected communities; and

24                           “(iv) any other safety or operational  
25                           information the Secretary determines to be

1 necessary to understand the safety impact  
2 of the proposed closure; and

3 “(B) a process to receive input from the  
4 public, impacted air traffic services users, local  
5 communities, and the airport operator of the  
6 airport where the contract tower proposed to be  
7 closed is located.

8 “(h) EXEMPTED AIRSPACE ACTIONS.—The require-  
9 ments of this section shall not apply to—

10 “(1) temporary airspace actions directed by the  
11 Administrator or Secretary;

12 “(2) airspace actions necessitated by an exer-  
13 cise of authority under section 40106; or

14 “(3) certain emergency circumstances, as de-  
15 fined by the Secretary in regulation.

16 “(i) DELEGATION.—Notwithstanding section  
17 90303(b), and except for the process and procedures re-  
18 quired by subsection (g), the Secretary may delegate safe-  
19 ty oversight functions to the Administrator.

20 **“§ 90502. Resolution of disputes concerning air traffic**  
21 **services charges and fees**

22 “(a) AUTHORITY TO REQUEST SECRETARY’S DETER-  
23 MINATION.—

24 “(1) IN GENERAL.—The Secretary shall issue a  
25 determination as to whether a charge or fee assessed

1 by the Corporation for the use of air traffic services  
2 in United States airspace or international airspace  
3 delegated to the United States is reasonable if a  
4 written complaint for such determination is filed  
5 with the Secretary by an affected air traffic services  
6 user not later than 60 days after the air traffic serv-  
7 ices user receives written notice of the establishment  
8 or increase of such charge or fee.

9 “(2) SECRETARY’S DETERMINATION.—In deter-  
10 mining under paragraph (1) whether a charge or fee  
11 is reasonable, the Secretary may only determine  
12 whether the charge or fee is reasonable pursuant to  
13 subsection (c).

14 “(3) TREATMENT OF INTEREST AND PEN-  
15 ALTIES.—In this section, the terms ‘charge’ and  
16 ‘fee’ include any interest and penalties relating  
17 thereto.

18 “(b) PROCEDURAL REGULATIONS.—At least 270  
19 days before the date of transfer, the Secretary shall pub-  
20 lish in the Federal Register final regulations, policy state-  
21 ments, or guidelines establishing the procedures for acting  
22 upon written complaints filed under subsection (a)(1) and  
23 requests of the Corporation pursuant to subsection (e)(3).

24 “(c) DETERMINATION OF REASONABLENESS.—In de-  
25 termining under subsection (a)(1) whether a charge or fee

1 is reasonable, the Secretary shall determine only if the  
2 charge or fee is—

3 “(1) consistent with the charging principles de-  
4 scribed in section 90311(c); and

5 “(2) otherwise consistent with the public inter-  
6 est.

7 “(d) DECISIONS BY SECRETARY.—The final regula-  
8 tions, policy statements, or guidelines required in sub-  
9 section (b) shall provide for the following:

10 “(1) Not later than 90 days after an air traffic  
11 services user files with the Secretary a written com-  
12 plaint relating to an air traffic service charge or fee,  
13 the Secretary shall issue a final order determining  
14 whether the charge or fee is reasonable.

15 “(2) Not later than 30 days after such com-  
16 plaint is filed with the Secretary, the Secretary shall  
17 dismiss the complaint if no significant dispute exists  
18 or shall assign the matter to an administrative law  
19 judge. Thereafter, the matter shall be handled in ac-  
20 cordance with part 302 of title 14, Code of Federal  
21 Regulations, or as modified by the Secretary, to en-  
22 sure an orderly disposition of the matter within the  
23 90-day period and any specifically applicable provi-  
24 sions of this section.

1           “(3) The administrative law judge shall issue a  
2           recommended decision within 45 days after the com-  
3           plaint is assigned or within such shorter period as  
4           the Secretary may specify.

5           “(4) If the Secretary, upon the expiration of 90  
6           days after the filing of the complaint, has not issued  
7           a final order, the decision of the administrative law  
8           judge shall be deemed to be the final order of the  
9           Secretary.

10           “(5) Any party to the dispute may seek review  
11           of a final order of the Secretary under this sub-  
12           section in the Circuit Court of Appeals for the Dis-  
13           trict of Columbia Circuit or the court of appeals in  
14           the circuit with venue.

15           “(6) Any findings of fact in a final order of the  
16           Secretary under this subsection, if supported by sub-  
17           stantial evidence, shall be conclusive if challenged in  
18           a court pursuant to this subsection. No objection to  
19           such a final order shall be considered by the court  
20           unless objection was urged before an administrative  
21           law judge or the Secretary at a proceeding under  
22           this subsection or, if not so urged, unless there were  
23           reasonable grounds for failure to do so.

24           “(e) PAYMENT UNDER PROTEST; GUARANTEE OF  
25           AIR TRAFFIC SERVICES USER ACCESS.—

1           “(1) PAYMENT UNDER PROTEST.—

2           “(A) IN GENERAL.—Any charge or fee in-  
3           crease or newly established charge or fee that  
4           is the subject of a complaint that is not dis-  
5           missed by the Secretary shall be paid by the  
6           complainant air traffic services user to the Cor-  
7           poration under protest.

8           “(B) REFERRAL OR CREDIT.—Any  
9           amounts paid under this subsection by a com-  
10          plainant air traffic services user to the Corpora-  
11          tion under protest shall be subject to refund or  
12          credit to the air traffic services user in accord-  
13          ance with directions in the final order of the  
14          Secretary within 30 days of such order.

15          “(C) TIMELY REPAYMENT.—In order to  
16          ensure the timely repayment, with interest, of  
17          amounts in dispute determined not to be rea-  
18          sonable by the Secretary, the Corporation shall  
19          obtain a letter of credit, or surety bond, or  
20          other suitable credit facility, equal to the  
21          amount in dispute that is due during the 90-  
22          day period established by this section, plus in-  
23          terest, unless the Corporation and the air traf-  
24          fic services user agree otherwise.



1           “(D) DEADLINE.—The letter of credit, or  
2           surety bond, or other suitable credit facility  
3           shall be provided to the Secretary not later than  
4           20 days after the filing of the complaint and  
5           shall remain in effect for 30 days after the ear-  
6           lier of 90 days or the issuance of a timely final  
7           order by the Secretary determining whether  
8           such charge or fee is reasonable.

9           “(2) GUARANTEE OF AIR TRAFFIC SERVICES  
10          USER ACCESS.—Contingent upon an air traffic serv-  
11          ices user’s compliance with the requirements of  
12          paragraph (1) and pending the issuance of a final  
13          order by the Secretary determining the reasonable-  
14          ness of a charge or fee that is the subject of a com-  
15          plaint filed under subsection (a)(1), the Corporation  
16          may not withhold air traffic services as a means of  
17          enforcing the charge or fee.

18          “(3) NONCOMPLIANCE.—Prior to the issuance  
19          of a final order by the Secretary determining the  
20          reasonableness of a charge or fee that is the subject  
21          of a complaint filed under subsection (a)(1), if an  
22          air traffic services user does not comply with the re-  
23          quirements of paragraph (1) of this subsection, the  
24          Corporation shall withhold air traffic services from  
25          the user if the Corporation requests and receives ap-

1       proval from the Secretary to withhold air traffic  
2       services.

3       **“§ 90503. Air navigation facilities established after**  
4               **date of transfer**

5       “(a) SAFETY MANAGEMENT SYSTEM FOR AIR NAVI-  
6 GATION FACILITIES.—Notwithstanding section 44702 or  
7 44708, or any other provision of law, the Secretary shall  
8 establish procedures under which the Corporation or any  
9 other interested person may submit to the Secretary for  
10 approval a safety management system for use by the Cor-  
11 poration or person in designing, manufacturing, testing,  
12 or operating an air navigation facility, as defined in sec-  
13 tion 40102(a), established after the date of transfer.

14       “(b) ESTABLISHMENT OF PROCEDURES.—The proce-  
15 dures established under subsection (a) shall—

16               “(1) be established before the date of transfer;

17               “(2) include a process for the Secretary to peri-  
18 odically review, in an expedited manner, a safety  
19 management system approved under subsection (a)  
20 and its implementation; and

21               “(3) allow for enforcement of the terms and  
22 conditions of the safety management system by the  
23 Secretary pursuant to section 46301(a)(1)(A).

24       “(c) COMPLIANCE REQUIRED.—In carrying out ac-  
25 tivities related to the design, manufacture, testing, or op-

1 eration of air navigation facilities, the Corporation or any  
2 other interested person shall act in accordance with the  
3 applicable safety management system approved pursuant  
4 to this section.

5 **“§ 90504. International agreements and activities**

6 “(a) CONSISTENCY WITH INTERNATIONAL OBLIGA-  
7 TIONS AND LAWS OF OTHER COUNTRIES.—The Corpora-  
8 tion shall provide air traffic services under this subtitle  
9 in a manner that is consistent with any obligation as-  
10 sumed by the United States in a treaty, convention, or  
11 agreement that may be in force between the United States  
12 and a foreign country or foreign countries or between the  
13 United States and an international organization, and shall  
14 take into consideration any applicable laws and require-  
15 ments of foreign countries.

16 “(b) PROHIBITION.—The Corporation may not nego-  
17 tiate on behalf of or otherwise represent the United States  
18 before any foreign government or international organiza-  
19 tion.

20 **“§ 90505. Availability of safety information**

21 “(a) SAFETY INFORMATION.—The Corporation shall  
22 make available to air traffic services users and the pub-  
23 lic—

24 “(1) the same type of safety information made  
25 available by the FAA before the date of transfer;

1           “(2) any additional safety information needed  
2           by air traffic services users to operate safely; and

3           “(3) any updates or revisions to the safety in-  
4           formation referred to in paragraphs (1) and (2).

5           “(b) METEOROLOGICAL SERVICES; AERONAUTICAL  
6 CHARTS.—The Corporation may provide for the dissemi-  
7 nation of available aviation-related meteorological infor-  
8 mation and aeronautical charts to air traffic services  
9 users.

10 **“§ 90506. Reporting of safety violations to FAA**

11           “(a) IN GENERAL.—In a manner, form, and process  
12 prescribed by the Administrator, the Corporation shall re-  
13 port to the Administrator complaints or instances of—

14           “(1) noncompliance with or deviations from air  
15 traffic control clearances or instructions;

16           “(2) noncompliant operations in controlled air-  
17 space or special use airspace; and

18           “(3) any other observed activities endangering  
19 persons or property in the air or on the ground.

20           “(b) ASSISTANCE IN ENFORCEMENT ACTIONS.—The  
21 Corporation shall provide necessary assistance in any en-  
22 forcement action taken by the Administrator resulting  
23 from a report of the Corporation or another person or en-  
24 tity.

1           “(c) STATUTORY CONSTRUCTION.—This section may  
2 not be construed to limit the authority of the Adminis-  
3 trator to undertake enforcement actions upon the Admin-  
4 istrator’s initiative.

5   **“§ 90507. Insurance requirements**

6           “The Corporation shall maintain adequate liability  
7 insurance policies and coverages, as determined by the  
8 Secretary, including complete indemnification of employ-  
9 ees of the Corporation for acts within the scope of employ-  
10 ment.

11   **“CHAPTER 907—EMPLOYEE MANAGEMENT**

“Sec.

“90701. Definitions.

“90702. Employee management and benefits election.

“90703. Labor and employment policy.

“90704. Bargaining units.

“90705. Recognition of labor organizations.

“90706. Collective-bargaining agreements.

“90707. Collective-bargaining dispute resolution.

“90708. Potential and pending grievances, arbitrations, and settlements.

“90709. Legal action.

12   **“§ 90701. Definitions**

13           “In this chapter, the following definitions apply:

14           “(1) AGENCY.—The term ‘Agency’ means, as  
15 the context requires, the Department of Transpor-  
16 tation or the FAA.

17           “(2) AIR TRAFFIC CONTROLLER.—

18           “(A) IN GENERAL.—The term ‘air traffic  
19 controller’ means an employee of the Corpora-

1           tion who, in an air traffic control facility or  
2           flight service station facility—

3                   “(i) is actively engaged—

4                           “(I) in the separation and control  
5                           of air traffic; or

6                           “(II) in providing preflight,  
7                           inflight, or airport advisory service to  
8                           aircraft operators; or

9                   “(ii) is the immediate supervisor of  
10                  any employee described in clause (i).

11                  “(B) LIMITATION.—Notwithstanding sub-  
12                  paragraph (A), the definition of ‘air traffic con-  
13                  troller’ for purposes of section 8336(e) of chap-  
14                  ter 83 of title 5 and section 8412(e) of chapter  
15                  84 of such title shall mean only employees ac-  
16                  tively engaged in the separation of air traffic  
17                  and the immediate supervisors of such employ-  
18                  ees, as set forth in section 8331(30) of such  
19                  title, and section 8401(35) of such title.

20                  “(3) AUTHORITY.—The term ‘Authority’ means  
21                  the Federal Labor Relations Authority, as described  
22                  in section 7104(a) of title 5.

23                  “(4) SERVICE.—The term ‘Service’ means the  
24                  Federal Mediation and Conciliation Service estab-

1 lished by section 202 of the Labor Management Re-  
2 lations Act, 1947 (29 U.S.C. 172).

3 **“§ 90702. Employee management and benefits elec-**  
4 **tion**

5 “(a) AUTHORITY OF CEO.—

6 “(1) IN GENERAL.—Except as otherwise pro-  
7 vided by law, the CEO shall classify and fix the com-  
8 pensation and benefits of employees in the Corpora-  
9 tion.

10 “(2) NEGOTIATIONS.—In developing, making  
11 changes to, and implementing wages, hours, and  
12 other terms and conditions of employment, including  
13 when establishing the compensation and benefits  
14 program under section 90315(c), the Corporation  
15 shall negotiate with exclusive representatives recog-  
16 nized under section 90705.

17 “(3) BEFORE DATE OF TRANSFER.—For pur-  
18 poses of paragraph (2), before the date of transfer,  
19 the term ‘exclusive representatives recognized under  
20 section 90705’ shall refer to labor organizations rec-  
21 ognized under section 7111 of title 5 as exclusive  
22 representatives of FAA employees.

23 “(b) FORMER FEDERAL EMPLOYEES.—

24 “(1) FEDERAL RETIREMENT BENEFITS.—

1           “(A) ELECTION OF RETIREMENT BENE-  
2           FITS.—At least 90 days before the date of  
3           transfer, an employee transferring to the Cor-  
4           poration who will be subject to either the Civil  
5           Service Retirement System under chapter 83 of  
6           title 5 (in this section referred to as ‘CSRS’) or  
7           the Federal Employees Retirement System  
8           under chapter 84 of title 5 (in this section re-  
9           ferred to as ‘FERS’) on the day immediately  
10          preceding the date of transfer shall elect either  
11          to—

12                   “(i) retain the employee’s coverage  
13                   under either CSRS or FERS, as applica-  
14                   ble, in lieu of coverage by the Corpora-  
15                   tion’s employee benefits system established  
16                   under section 90315(c); or

17                   “(ii) receive a deferred annuity, lump-  
18                   sum benefit, or any other benefit available  
19                   to the employee under CSRS or FERS, in  
20                   the same manner that would have been  
21                   available to the employee if the employee  
22                   had voluntarily separated from Federal  
23                   employment on the day before the date of  
24                   transfer.



1           “(B) THRIFT SAVINGS PLAN ACCOUNTS.—

2           An employee who makes the election under sub-  
3           paragraph (A)(ii) shall have the option to trans-  
4           fer the balance in the employee’s Thrift Savings  
5           Plan account to the plan under the Corpora-  
6           tion’s retirement system, consistent with appli-  
7           cable law and the terms of the Corporation’s  
8           plan.

9           “(C) PERIODIC ELECTION.—The Corpora-  
10          tion shall provide for periodic election seasons  
11          during which an employee who transferred to  
12          the Corporation on the date of transfer may be-  
13          come eligible for retirement benefits under the  
14          Corporation’s employee benefits system estab-  
15          lished under section 90315(c) by making an  
16          election under subparagraph (A)(ii).

17          “(D) CONTINUITY OF ANNUITANT BENE-  
18          FITS.—Notwithstanding any other provision of  
19          law, any individual who is receiving an annuity  
20          under chapter 83 or chapter 84 of title 5 may  
21          continue to receive such annuity while employed  
22          by the Corporation.

23          “(E) HIGH-3 DETERMINATION.—With re-  
24          spect to any employee who retains CSRS or  
25          FERS coverage pursuant to subparagraph (A),

1           such employee’s basic pay while with the Cor-  
2           poration shall be included in any determination  
3           of such employee’s average pay under section  
4           8331(4) or 8401(3), as the case may be, of title  
5           5 when calculating the annuity (if any) of such  
6           employee. For purposes of this section, an em-  
7           ployee’s basic pay shall be defined as such em-  
8           ployee’s total annual salary or wages from the  
9           Corporation, including any location-based ad-  
10          justment.

11           “(2) PAYMENTS TO CIVIL SERVICE RETIRE-  
12          MENT AND DISABILITY FUND.—For employees of the  
13          Corporation who elect to retain their coverage under  
14          either CSRS or FERS pursuant to paragraph (1),  
15          the Corporation shall only be required to pay to the  
16          Civil Service Retirement and Disability Fund—

17                   “(A) such employee deductions and agency  
18                   contributions as are required by sections 8334,  
19                   8422, and 8423 of title 5; and

20                   “(B) such additional amounts, not to ex-  
21                   ceed 2 percent of the amounts under subpara-  
22                   graph (A), as are determined necessary by the  
23                   Office of Personnel Management to pay the cost  
24                   of administering retirement benefits for employ-  
25                   ees who retire from the Corporation after the

1 date of transfer under either CSRS or FERS,  
2 for their survivors, and for survivors of employ-  
3 ees of the Corporation who die after the date of  
4 transfer (which amounts shall be available to  
5 the Office of Personnel Management as pro-  
6 vided in section 8348(a)(1)(B) of title 5).

7 “(3) THRIFT SAVINGS FUND.—The Corporation  
8 shall pay to the Thrift Savings Fund such employee  
9 and agency contributions as are required by section  
10 8432 of title 5 for employees who elect to retain  
11 their coverage under FERS pursuant to paragraph  
12 (1).

13 “(4) HEALTH BENEFITS PLAN ELECTION.—Any  
14 employee of the Corporation who was subject to the  
15 Federal Employees Health Benefits Program under  
16 chapter 89 of title 5 (in this section referred to as  
17 ‘FEHBP’) on the day immediately preceding the  
18 date of transfer shall have the option to receive  
19 health benefits from a health benefit plan estab-  
20 lished by the Corporation under section 90315(e) or  
21 to continue coverage under FEHBP without inter-  
22 ruption.

23 “(5) PAYMENTS TO EMPLOYEES HEALTH BENE-  
24 FITS FUND.—For employees of the Corporation who  
25 elect to retain their coverage under FEHBP pursu-

1 ant to paragraph (4), the Corporation shall pay to  
2 the Employees Health Benefits Fund—

3 “(A) such employee deductions and agency  
4 contributions as are required by subsections (a)  
5 through (f) of section 8906 of title 5; and

6 “(B) such amounts as are determined nec-  
7 essary by the Office of Personnel Management  
8 under paragraph (6) to reimburse the Office of  
9 Personnel Management for contributions under  
10 section 8906(g)(1) of title 5.

11 “(6) REIMBURSEMENT AMOUNTS.—The  
12 amounts required to be paid by the Corporation  
13 under paragraph (5)(B) shall be equal to the  
14 amount of Government contributions for retired em-  
15 ployees who retire from the Corporation after the  
16 date of transfer under either CSRS or FERS, for  
17 survivors of such retired employees, and for sur-  
18 vivors of employees of the Corporation who die after  
19 the date of transfer, with said amounts prorated to  
20 reflect only that portion of the total service of such  
21 employees and retired persons that was performed  
22 for the Corporation after the date of transfer.

23 “(7) ADDITIONAL BENEFITS.—Subject to the  
24 provisions of this chapter, any employee of the Cor-  
25 poration who was subject to the provisions of sub-

1 chapter I of chapter 85 (concerning unemployment  
2 compensation) and chapters 87 (concerning life in-  
3 surance), 89A (concerning enhanced dental bene-  
4 fits), and 89B (concerning enhanced vision benefits)  
5 of title 5 shall have the option to continue coverage  
6 under such provisions without interruption in lieu of  
7 applicable coverage by the Corporation's employee  
8 benefits system established under section 90315(c).  
9 The Corporation shall withhold from pay, and shall  
10 make contributions, under the provisions of title 5  
11 referred to in this subsection at the same rates ap-  
12 plicable to agencies of the Federal Government for  
13 such employees.

14 “(8) WORKERS COMPENSATION.—Officers and  
15 employees of the Corporation shall be covered by,  
16 and shall be considered employees for purposes of,  
17 subchapter I of chapter 81 of title 5 (concerning  
18 compensation for work injuries). The Corporation  
19 shall make contributions to the Employees' Com-  
20 pensation Fund under the provisions of section 8147  
21 of title 5 at the same rates applicable to agencies of  
22 the Federal Government.

23 “(9) NON-FOREIGN AREA.—To the extent con-  
24 sistent with law, the Non-Foreign Area Retirement  
25 Equity Assurance Act of 2009 shall apply to officers

1 and employees of the Corporation transferred under  
2 section 90315.

3 “(10) TRANSFER OF LEAVE.—Sick and annual  
4 leave, credit hours, and compensatory time of offi-  
5 cers and employees of the Corporation, whether ac-  
6 crued before or after the date of transfer, shall be  
7 obligations of the Corporation under the provisions  
8 of this chapter.

9 “(11) WHISTLEBLOWER PROTECTION.—Neither  
10 the Corporation, nor any officer or employee of the  
11 Corporation, may take any action described in sub-  
12 section (b)(8), (b)(9), or (b)(13), or the final para-  
13 graph of subsection (b), of section 2302 of title 5  
14 (relating to whistleblower protection).

15 **“§ 90703. Labor and employment policy**

16 “(a) APPLICATION OF CHAPTER 71 OF TITLE 5.—  
17 To the extent not inconsistent with this chapter, labor-  
18 management relations shall be subject to the provisions  
19 of chapter 71 of title 5, provided that the obligation of  
20 the Corporation and an exclusive bargaining representa-  
21 tive recognized under section 90705 to bargain collectively  
22 in good faith over conditions of employment shall mean  
23 to bargain over the same wages, hours, and other terms  
24 and conditions of employment as are negotiable under sec-  
25 tion 8(d) of the Act of July 5, 1935, as amended (29

1 U.S.C. 158(d)), and without application of section  
2 7103(a)(14) of title 5 and section 7117 of title 5, which  
3 shall not apply.

4 “(b) APPLICABILITY.—To the limited extent nec-  
5 essary for the implementation of this chapter, the Cor-  
6 poration shall have the rights and obligations of an agency  
7 under chapter 71 of title 5.

8 “(c) APPLICATION OF FAIR LABOR STANDARDS  
9 ACT.—The provisions of the Fair Labor Standards Act  
10 of 1938 (29 U.S.C. 201 et seq.) shall apply to the Cor-  
11 poration and to its officers and employees.

12 “(d) REPORTING AND DISCLOSURE.—The provisions  
13 of the Labor-Management Reporting and Disclosure Act  
14 of 1959 (29 U.S.C. 401 et seq.) shall be applicable to labor  
15 organizations that have or are seeking to attain recogni-  
16 tion under section 90705, and to such organizations’ offi-  
17 cers, agents, shop stewards, other representatives, and  
18 members.

19 “(e) RIGHT TO COLLECTIVELY BARGAIN.—Each em-  
20 ployee of the Corporation shall have the right, freely and  
21 without fear of penalty or reprisal, to form, join, and assist  
22 a labor organization or to refrain from any such activity,  
23 and each employee shall be protected in the exercise of  
24 this right. Such right shall include the right to engage in  
25 collective bargaining with respect to the same wages,

1 hours, and other terms and conditions of employment as  
2 are negotiable under section 8(d) of the Act of July 5,  
3 1935, as amended (29 U.S.C. 158(d)).

4 **“§ 90704. Bargaining units**

5 “(a) IN GENERAL.—Pursuant to section 7112 of title  
6 5 and subject to the requirements of this chapter, the Au-  
7 thority shall decide in each case the unit appropriate for  
8 collective bargaining with the Corporation.

9 “(b) PREVIOUSLY CERTIFIED UNITS.—Notwith-  
10 standing subsection (a), the Authority may not adopt, cer-  
11 tify, or decide upon bargaining units that include employ-  
12 ees in bargaining units previously certified by the Author-  
13 ity that are smaller in geographic scope than such pre-  
14 viously certified bargaining units, unless the Authority  
15 finds by compelling evidence that such previously certified  
16 units would not, absent modification, remain units appro-  
17 priate for collective bargaining with the Corporation.

18 “(c) OTHER UNITS.—Notwithstanding subsection (a)  
19 or (b), the Authority shall not recognize or certify any bar-  
20 gaining unit different than the bargaining units previously  
21 certified by the Authority prior to the date described in  
22 section 90705(g).

23 **“§ 90705. Recognition of labor organizations**

24 “(a) APPLICATION OF CHAPTER 71 OF TITLE 5.—  
25 To the extent not inconsistent with this chapter, section



1 7111 of title 5 shall apply to the recognition and certifi-  
2 cation of labor organizations for the employees of the Cor-  
3 poration and the Corporation shall accord exclusive rec-  
4 ognition to and bargain collectively with a labor organiza-  
5 tion when the organization has been selected by a majority  
6 of the employees in an appropriate unit as their represent-  
7 ative.

8 “(b) RECOGNITION OF EXCLUSIVE REPRESENTA-  
9 TIVE.—Notwithstanding subsection (a), each labor organi-  
10 zation that, immediately before the date of transfer, was  
11 recognized as the exclusive representative for a bargaining  
12 unit of employees of the Agency shall be deemed to be  
13 recognized on the date of transfer or thereafter as the ex-  
14 clusive representative for those employees of the Corpora-  
15 tion in the same or similar bargaining unit unless another  
16 representative for a bargaining unit of employees is cer-  
17 tified pursuant to section 7111 of title 5 and this section.

18 “(c) EXPIRATION OF TERM.—Every collective-bar-  
19 gaining agreement or arbitration award that applies to an  
20 employee of the Agency and that is in force immediately  
21 before the date of transfer continues in force until its term  
22 expires. To the extent that the Corporation assumes the  
23 functions and responsibilities that, prior to the date of  
24 transfer, were conducted by the Agency, agreements and  
25 supplements (including any arbitration award, as applica-

1 ble) covering employees of the Agency that are in effect  
2 on the date of transfer shall continue to be recognized by  
3 and binding on the Corporation, the bargaining represent-  
4 ative, and all covered employees until altered or amended  
5 pursuant to law. Any agreement, supplement, or arbitra-  
6 tion award continued by this section is deemed to be an  
7 agreement, supplement, or arbitration award binding on  
8 the Corporation, the bargaining representative, and all  
9 covered employees for purposes of this chapter and title  
10 5.

11 “(d) LIMITATION ON APPLICATION.—Notwith-  
12 standing section 90703, sections 7106 and 7113 of title  
13 5 shall not apply to this chapter.

14 “(e) CONTINUATION OF BARGAINING.—If an exclu-  
15 sive representative and the Agency are engaged in bar-  
16 gaining (whether concerning a collective-bargaining agree-  
17 ment, issues related to the transfer of functions and re-  
18 sponsibilities from the Agency to the Corporation, or oth-  
19 erwise) prior to the date of transfer, such bargaining shall  
20 continue between the exclusive representative and the Cor-  
21 poration, and the Corporation shall be bound by any com-  
22 mitments made during bargaining by the Agency.

23 “(f) STATUTORY CONSTRUCTION.—Nothing in this  
24 section may be construed to prohibit the waiving of hear-  
25 ings by stipulation for the purpose of a consent election

1 in conformity with regulations and rules of decision of the  
2 Authority.

3 “(g) LIMITATION.—Notwithstanding any other provi-  
4 sion of this chapter or any provision of title 5, no bar-  
5 gaining unit or part of a bargaining unit consisting of em-  
6 ployees of the Corporation represented by a labor organi-  
7 zation pursuant to subsection (b) may be reviewed, re-  
8 scinded, amended, altered, or varied, other than—

9 “(1) to include in the unit any employees who  
10 are not represented by a labor organization, or

11 “(2) to merge bargaining units that are rep-  
12 resented by the same labor organization,

13 before the first day of the last 3 months of the first collec-  
14 tive agreement entered into after the date of transfer that  
15 applies to those employees and that has resulted from col-  
16 lective bargaining between such labor organization and the  
17 Corporation.

18 “(h) DEDUCTION.—

19 “(1) IN GENERAL.—Notwithstanding section  
20 90703, section 7115 of title 5 shall not apply to this  
21 chapter.

22 “(2) DUES.—When a labor organization holds  
23 exclusive recognition, the Corporation shall deduct  
24 the regular and periodic dues, initiation fees, and as-  
25 sessments (not including fines and penalties) of the

1 organization from the pay of all members of the or-  
2 ganization in the unit of recognition if the Corpora-  
3 tion (or, before the date of transfer, the Agency) has  
4 received from each employee, on whose account such  
5 deductions are made, a written assignment which  
6 shall be irrevocable for a period of not more than 1  
7 year.

8 “(3) CONTINUATION.—Any agreement de-  
9 scribed in subsection (c) that provides for deduction  
10 by the Agency of the regular and periodic dues, initi-  
11 ation fees, and assessments (not including fines and  
12 penalties) of the labor organization from the pay of  
13 its members shall continue in full force and effect  
14 and the obligation for such deductions shall be as-  
15 sumed by the Corporation. No such deduction may  
16 be made from the pay of any employee except on the  
17 employee’s written assignment, which shall be irrev-  
18 ocable for a period of not more than 1 year.

19 **“§ 90706. Collective-bargaining agreements**

20 “(a) IN GENERAL.—Except as provided under section  
21 90705(c), collective-bargaining agreements between the  
22 Corporation and bargaining representatives shall be effec-  
23 tive for not less than 2 years.

24 “(b) PROCEDURES.—Collective-bargaining agree-  
25 ments between the Corporation and bargaining represent-

1 atives recognized under section 90705 may include any  
2 procedures for resolution by the parties of grievances and  
3 adverse actions arising under the agreement, including  
4 procedures culminating in binding third-party arbitration,  
5 or the parties may adopt any such procedures by mutual  
6 agreement in the event of a dispute.

7 “(c) LIMITATION ON APPLICATION.—Notwith-  
8 standing section 90703, section 7121(c) of title 5 shall not  
9 apply to this chapter.

10 “(d) DISPUTE RESOLUTION PROCEDURES.—The  
11 Corporation and bargaining representatives recognized  
12 under section 90705 may by mutual agreement adopt pro-  
13 cedures for the resolution of disputes or impasses arising  
14 in the negotiation of a collective-bargaining agreement.

15 **“§ 90707. Collective-bargaining dispute resolution**

16 “(a) RESOLUTION OF DISPUTES.—

17 “(1) IN GENERAL.—If, prior to 90 days after  
18 the expiration of the term collective-bargaining  
19 agreement or 90 days after the parties begin mid-  
20 term negotiations, the Corporation and the exclusive  
21 bargaining representative of the employees of the  
22 Corporation (in this section referred to collectively  
23 as the ‘parties’) do not reach an agreement under  
24 sections 7114(a)(1), 7114(a)(4), and 7114(b) of title  
25 5 (as such sections apply to the Corporation under

1       this chapter), or 90706(d) of this chapter, the Cor-  
2       poration and the bargaining representative shall use  
3       the mediation services of the Service to attempt to  
4       reach such agreement in accordance with part 1425  
5       of title 29, Code of Federal Regulations (as in effect  
6       on the date of enactment of this subtitle).

7               “(2) MEDIATION PERIOD.—The mediation pe-  
8       riod under paragraph (1) may not exceed 60 days  
9       unless extended by written agreement of the parties.

10       “(b) BINDING ARBITRATION FOR TERM BAR-  
11       GAINING.—

12               “(1) THREE MEMBER PRIVATE ARBITRATION  
13       BOARD.—If the mediation services of the Service  
14       under subsection (a)(1) do not lead to the resolution  
15       of issues in controversy arising from the negotiation  
16       of a term collective-bargaining agreement, the par-  
17       ties shall submit their issues in controversy to a pri-  
18       vate arbitration board consisting of 3 members.

19               “(2) APPOINTMENT OF ARBITRATION BOARD.—

20               “(A) PREPARATION OF LIST OF ARBITRA-  
21       TORS.—The Director of the Service shall pro-  
22       vide for the appointment of the 3 members of  
23       an arbitration board by—

24                       “(i) preparing a list of not fewer than  
25                       15 names of arbitrators of nationwide rep-

1           utation and professional stature with at  
2           least 20 years of experience in labor-man-  
3           agement arbitration and considerable expe-  
4           rience in interest arbitration in major in-  
5           dustries; and

6                   “(ii) providing the list to the parties.

7                   “(B) SELECTION OF ARBITRATORS BY  
8           PARTIES.—Not later than 10 days after receiv-  
9           ing a list of names under subparagraph (A), the  
10          parties shall each select one arbitrator. The ar-  
11          bitrators selected by the parties do not need to  
12          be arbitrators whose names appear on the list.

13                   “(C) SELECTION OF THIRD ARBI-  
14          TRATOR.—Not later than 7 days after the date  
15          on which the 2 arbitrators are selected by the  
16          parties under subparagraph (B), the 2 arbitra-  
17          tors, acting jointly, shall select a third person  
18          from the list prepared under subparagraph (A).

19                   “(D) FAILURE TO ACT.—If either of the  
20          parties fails to select a person or if the 2 arbi-  
21          trators are unable to agree on the third person  
22          in 7 days, the parties shall make the selection  
23          by alternately striking names on the list pre-  
24          pared under subparagraph (A), beginning with

1           the party chosen on a random basis, until one  
2           arbitrator remains.

3           “(3) FRAMING ISSUES IN CONTROVERSY.—If  
4           the parties do not agree on the framing of the issues  
5           to be submitted for arbitration, the arbitration board  
6           shall frame the issues.

7           “(4) HEARINGS.—The arbitration board shall  
8           give the parties a full and fair hearing, including an  
9           opportunity to present evidence and witnesses in  
10          support of their claims and an opportunity to  
11          present their case in person, by counsel, or by other  
12          representative as they may elect.

13          “(5) DECISIONS.—The arbitration board shall  
14          render its written decision not later than 90 days  
15          after the date of its appointment. Decisions of the  
16          arbitration board shall be conclusive and binding  
17          upon the parties.

18          “(6) EVIDENCE.—The arbitration board shall  
19          consider and afford the proper weight to all of the  
20          evidence presented by the parties.

21          “(7) COSTS.—The parties shall share costs of  
22          the arbitration equally.

23          “(c) RATIFICATION OF AGREEMENTS.—Upon reach-  
24          ing a voluntary agreement or at the conclusion of the bind-  
25          ing arbitration under subsection (b), the final agreement,



1 except for those matters decided by a private arbitration  
2 board, shall be—

3 “(1) subject to ratification by the exclusive bar-  
4 gaining representative of the employees, if so re-  
5 quested by the bargaining representative; and

6 “(2) subject to approval by the head of the Cor-  
7 poration in accordance with section 7114(c) of title  
8 5.

9 “(d) MID-TERM BARGAINING.—

10 “(1) PREPARATION OF LIST OF ARBITRA-  
11 TORS.—If the mediation services of the Service  
12 under subsection (a) do not lead to the resolution of  
13 issues in controversy arising from the negotiation of  
14 a mid-term collective-bargaining agreement, the Di-  
15 rector shall provide the parties a list of not fewer  
16 than 10 names of arbitrators of nationwide reputa-  
17 tion and professional stature with at least 20 years  
18 of experience in labor-management arbitration and  
19 considerable experience in interest arbitration in  
20 major industries.

21 “(2) SELECTION OF ARBITRATOR.—The parties  
22 shall alternately strike names on the list, beginning  
23 with the party chosen on a random basis, until one  
24 arbitrator remains.



1           “(1) the Corporation as if it were the employer  
2 referred to in such agreement or supplement;

3           “(2) the bargaining representative that is a  
4 party to the agreement or supplement; and

5           “(3) the employees of the Corporation in the  
6 bargaining unit with respect to whom that bar-  
7 gaining representative has been certified.

8           “(c) JURISDICTION.—Subject to section 90703, the  
9 Authority shall retain jurisdiction over all matters arising  
10 before the date of transfer in relation to the interpretation  
11 and application of any agreement or supplement referred  
12 to in section 90705(c), whether or not such agreement or  
13 supplement has expired.

14          “(d) EXISTING GRIEVANCES OR ARBITRATIONS.—  
15 Grievances or arbitrations that were filed or commenced  
16 before the date of transfer with respect to any agreement  
17 or supplement referred to in section 90705(c) shall be con-  
18 tinued as though the Corporation were the employer re-  
19 ferred to in the agreement or supplement.

20          “(e) PROCEEDINGS AFTER DATE OF TRANSFER.—  
21 Where events giving rise to a grievance under any agree-  
22 ment or supplement referred to in section 90705(c) oc-  
23 curred before the date of transfer but the proceedings had  
24 not commenced before that date, the proceedings may be  
25 commenced on or after the date of transfer in accordance

1 with such agreement or supplement as though the Cor-  
2 poration were the employer referred to in such agreement  
3 or supplement.

4 “(f) ACTIONS DEEMED TO BE BY CORPORATION.—  
5 For the purposes of subsections (c), (d), and (e), anything  
6 done, or not done, by the Agency is deemed to have been  
7 done, or to have not been done, as the case may be, by  
8 the Corporation.

9 “(g) EXCEPTIONS TO ARBITRAL AWARDS.—

10 “(1) IN GENERAL.—Notwithstanding section  
11 90703, section 7122 of title 5 shall not apply to this  
12 chapter.

13 “(2) ACTIONS TO VACATE.—Either party to  
14 grievance arbitration under this chapter may file an  
15 action pursuant to section 90709(a) to enforce the  
16 arbitration process or to vacate or enforce an arbi-  
17 tration award. An arbitration award may only be va-  
18 cated on the grounds, and pursuant to the stand-  
19 ards, that would be applicable to an action to vacate  
20 an arbitration award brought in the Federal courts  
21 under section 301 of the Labor Management Rela-  
22 tions Act, 1947 (29 U.S.C. 185).

23 **“§ 90709. Legal action**

24 “(a) IN GENERAL.—Consistent with the require-  
25 ments of section 90313, actions to enforce the arbitration

1 process or vacate or enforce an arbitral award under sec-  
2 tion 90708(g)(2) between the Corporation and a labor or-  
3 ganization representing Corporation employees, or be-  
4 tween any such labor organizations, may be brought in  
5 any district court of the United States having jurisdiction  
6 of the parties, without respect to the amount in con-  
7 troversy.

8       “(b) AUTHORIZED ACTS.—A labor organization rec-  
9 ognized under section 90705 and the Corporation shall be  
10 bound by the authorized acts of their agents. Any labor  
11 organization may sue or be sued as an entity and on behalf  
12 of the employees whom it represents in the courts of the  
13 United States. Any money judgment against a labor orga-  
14 nization in a district court of the United States shall be  
15 enforceable only against the organization as an entity and  
16 against its assets, and shall not be enforceable against any  
17 individual member or his assets.

18       “(c) JURISDICTION.—Under this subtitle, for the  
19 purposes of actions and proceedings by or against labor  
20 organizations in the district courts of the United States,  
21 district courts shall be deemed to have jurisdiction of a  
22 labor organization—

23               “(1) in the district in which such organization  
24 maintains its principal offices; or

1           “(2) in any district in which its duly authorized  
2           officers or agents are engaged in representing or  
3           acting for employee members.

4           “(d) SUMMONS OR SUBPOENA.—The service of sum-  
5           mons, subpoena, or other legal process of any court of the  
6           United States upon an officer or agent of a labor organiza-  
7           tion, in his capacity as such, shall constitute service upon  
8           the labor organization.

## 9           **“CHAPTER 909—OTHER MATTERS**

“Sec.

“90901. Termination of Government functions.

“90902. Savings provisions.

“90903. Inspector General reports to Congress on transition.

### 10          **“§ 90901. Termination of Government functions**

11           “Except as otherwise provided in this subtitle, when-  
12           ever any function vested by law in the Secretary, Adminis-  
13           trator, Department of Transportation, or FAA has been  
14           transferred to the Corporation pursuant to this subtitle,  
15           it shall no longer be a function of the Government.

### 16          **“§ 90902. Savings provisions**

17           “(a) COMPLETED ADMINISTRATIVE ACTIONS.—

18           “(1) IN GENERAL.—Completed administrative  
19           actions of the Department of Transportation or the  
20           FAA shall not be affected by the enactment of this  
21           subtitle, but shall continue in effect according to  
22           their terms until amended, modified, superseded,

1 terminated, set aside, or revoked in accordance with  
2 law.

3 “(2) COMPLETED ADMINISTRATIVE ACTION DE-  
4 FINED.—In paragraph (1), the term ‘completed ad-  
5 ministrative action’ includes orders, determinations,  
6 rules, regulations, personnel actions, permits, agree-  
7 ments, grants, contracts, certificates, licenses, reg-  
8 istrations, and privileges.

9 “(b) CONTINUED EFFECTIVENESS OF PENDING AC-  
10 TIONS.—

11 “(1) PENDING ACTIONS AND PROCEEDINGS.—  
12 The provisions of this subtitle shall not affect any  
13 proceedings of the Department of Transportation or  
14 the FAA pending on the date of transfer, includ-  
15 ing—

16 “(A) notices of proposed rulemaking re-  
17 lated to activities of the FAA not transferred to  
18 the Corporation;

19 “(B) an application for a license, a permit,  
20 a certificate, or financial assistance pending on  
21 the date of transfer before the Department of  
22 Transportation or the FAA, or any officer  
23 thereof, with respect to activities not trans-  
24 ferred by this subtitle; or

1           “(C) an application for a license, a permit,  
2           a certificate, or financial assistance pending on  
3           the date of transfer before the Department of  
4           Transportation or the FAA, or any officer  
5           thereof, with respect to activities transferred by  
6           this subtitle.

7           “(2) EFFECT OF ORDERS.—Orders issued in  
8           any proceedings referred to in paragraph (1) shall  
9           continue in effect until modified, terminated, super-  
10          seded, or revoked in accordance with law. Nothing in  
11          this subsection prohibits the discontinuance or modi-  
12          fication of any such proceeding under the same  
13          terms and conditions and to the same extent that  
14          such proceeding could have been discontinued or  
15          modified if this subtitle had not been enacted.

16          “(c) CONTINUED EFFECTIVENESS OF ADMINISTRA-  
17          TIVE AND JUDICIAL ACTIONS.—No causes of action or ac-  
18          tions by or against the Department of Transportation or  
19          the FAA arising from acts or omissions occurring before  
20          the date of transfer shall abate by reason of the enactment  
21          of this subtitle.

22          “(d) SUBSTITUTION OR ADDITION OF PARTIES TO  
23          JUDICIAL ACTIONS.—Except as provided by subsection  
24          (e)(2), if, on the date of transfer, the Department of  
25          Transportation or the FAA, or any officer thereof in the



1 officer's capacity, is a party to an action and, under this  
2 subtitle, the performance of that activity of the Depart-  
3 ment, FAA, or officer is transferred to the Corporation,  
4 such action shall be continued with the CEO substituted  
5 or added as a party.

6       “(e) AIR TRAFFIC SERVICE LIABILITIES AND OBLI-  
7 GATIONS.—

8               “(1) ASSUMPTION OF OBLIGATIONS.—Except as  
9 provided in paragraph (2), the Corporation shall as-  
10 sume—

11                       “(A) all obligations (tangible and incorpo-  
12 real, present, and executory) associated with the  
13 air traffic services transferred under this sub-  
14 title on the date of transfer, including leases,  
15 permits, licenses, contracts, agreements, ac-  
16 counts receivable, and accounts payable; and

17                       “(B) all claims and liabilities associated  
18 with the air traffic services transferred under  
19 this subtitle pending on the date of transfer.

20       “(2) CLAIMS AND ACTIONS THAT REMAIN LI-  
21 ABILITIES OF UNITED STATES.—

22                       “(A) CLAIMS AND ACTIONS ARISING IN  
23 TORT.—All claims and actions arising in tort  
24 pending on the date of transfer and arising out  
25 of the alleged acts or omissions of employees of

1 the FAA who transfer to the Corporation shall  
2 remain liabilities of the United States.

3 “(B) CONTINGENT LIABILITIES.—All con-  
4 tingent liabilities existing on the date of trans-  
5 fer shall remain with the United States, includ-  
6 ing (without limitation) environmental and in-  
7 tellectual property infringement claims.

8 “(C) OTHER CLAIMS AND LIABILITIES.—  
9 All other claims and liabilities arising out of the  
10 alleged acts or omissions of the United States  
11 before the date of transfer (including those aris-  
12 ing under an agreement referred to in section  
13 90705(c)) whose remedy is financial or mone-  
14 tary in nature shall remain liabilities of the  
15 United States.

16 “(D) ACCESS OF FEDERAL REPRESENTA-  
17 TIVES TO EMPLOYEES AND RECORDS.—The  
18 Secretary shall ensure that, before the date of  
19 transfer, the Corporation has agreed to allow  
20 representatives of the Secretary and the Attor-  
21 ney General such access as they may require to  
22 employees and records of the Corporation for  
23 all purposes relating to the handling of such  
24 claims under this paragraph.

1 **“§ 90903. Inspector General reports to Congress on**  
2 **transition**

3 “(a) IN GENERAL.—Before the date of transfer, the  
4 Inspector General of the Department of Transportation  
5 shall submit regular reports to Congress on the progress  
6 of the preparation of the Department of Transportation  
7 and of the Corporation for the transfer of operational con-  
8 trol of air traffic services under this subtitle.

9 “(b) TIMING.—The reports described in subsection  
10 (a) shall be submitted, at a minimum, on a quarterly basis  
11 until the date of transfer.

12 “(c) SUNSET.—This section shall expire on the date  
13 of transfer.

14 “(d) STATUTORY CONSTRUCTION.—Nothing in this  
15 section may be construed to limit the authority of the In-  
16 spector General of the Department of Transportation to  
17 conduct oversight of the Department of Transportation’s  
18 interactions with the Corporation after the date of trans-  
19 fer.”.

20 (b) ANALYSIS FOR TITLE 49.—The analysis for title  
21 49, United States Code, is amended by adding at the end  
22 the following:

**“XI. ATC Corporation .....90101”.**

1                   **Subtitle B—Amendments to**  
2                   **Federal Aviation Laws**

3   **SEC. 1021. DEFINITIONS.**

4           Section 40102(a) of title 49, United States Code, is  
5 amended by adding at the end the following:

6                   “(48) ‘ATC Corporation’ means the ATC Cor-  
7                   poration established by subtitle XI.”.

8   **SEC. 1022. SUNSET OF FAA AIR TRAFFIC ENTITIES AND OF-**  
9                   **FICERS.**

10           (a) AIR TRAFFIC SERVICES COMMITTEE.—Section  
11 106(p) of title 49, United States Code, is amended—

12                   (1) in paragraph (7) by adding at the end the  
13 following:

14                           “(I) SUNSET.—The Committee shall termi-  
15                           nate and this paragraph shall cease to be effec-  
16                           tive beginning on the date of transfer (as de-  
17                           fined in section 90101(a)).”; and

18                   (2) by adding at the end the following:

19                           “(9) SUNSET OF AIR TRAFFIC ADVISORY  
20                           ROLE.—Beginning on the date of transfer (as de-  
21                           fined in section 90101(a)), the Council shall not de-  
22                           velop or submit comments, recommended modifica-  
23                           tions, or dissenting views directly regarding the ATC  
24                           Corporation or air traffic services.”.

1 (b) AIRCRAFT NOISE OMBUDSMAN.—Section  
2 106(q)(2)(C) of title 49, United States Code, is amended  
3 by inserting “before the date of transfer (as defined in  
4 section 90101(a)),” before “be consulted”.

5 (c) CHIEF OPERATING OFFICER.—Section 106(r) of  
6 title 49, United States Code, is amended by adding at the  
7 end the following:

8 “(6) SUNSET.—The position of Chief Operating  
9 Officer shall terminate and this subsection shall  
10 cease to be effective beginning on the date of trans-  
11 fer (as defined in section 90101(a)).”.

12 (d) CHIEF NEXTGEN OFFICER.—Section 106(s) of  
13 title 49, United States Code, is amended by adding at the  
14 end the following:

15 “(8) SUNSET.—The position of Chief NextGen  
16 Officer shall terminate and this subsection shall  
17 cease to be effective beginning on the date of trans-  
18 fer (as defined in section 90101(a)).”.

19 **SEC. 1023. ROLE OF ADMINISTRATOR.**

20 Section 40103(b) of title 49, United States Code, is  
21 amended—

22 (1) in paragraph (1) by striking “The Adminis-  
23 trator” and inserting “Before the date of transfer  
24 (as defined in section 90101(a)), the Adminis-  
25 trator”;

1           (2) by striking paragraph (2) and inserting the  
2 following:

3           “(2) The Administrator shall—

4           “(A) before the date of transfer (as defined in  
5 section 90101(a)), prescribe air traffic regulations  
6 on the flight of aircraft (including regulations on  
7 safe altitudes) for—

8           “(i) navigating, protecting, and identifying  
9 aircraft;

10           “(ii) protecting individuals and property on  
11 the ground;

12           “(iii) using the navigable airspace effi-  
13 ciently; and

14           “(iv) preventing collision between aircraft,  
15 between aircraft and land or water vehicles, and  
16 between aircraft and airborne objects; and

17           “(B) on and after the date of transfer (as de-  
18 fined in section 90101(a)), prescribe safety regula-  
19 tions on the flight of aircraft (including regulations  
20 on safe altitudes) for—

21           “(i) navigating, protecting, and identifying  
22 aircraft;

23           “(ii) protecting individuals and property on  
24 the ground; and

1                   “(iii) preventing collision between aircraft,  
2                   between aircraft and land or water vehicles, and  
3                   between aircraft and airborne objects.”; and  
4                   (3) in paragraph (3) by striking “Adminis-  
5                   trator” each place it appears and inserting “Sec-  
6                   retary”.

7 **SEC. 1024. EMERGENCY POWERS.**

8                   Section 40106(a) of title 49, United States Code, is  
9 amended—

10                   (1) in the matter preceding paragraph (1) by  
11 striking “air traffic”;

12                   (2) in paragraph (1) by inserting “and the ATC  
13 Corporation” after “Administration”; and

14                   (3) in paragraph (2) by inserting “and the ATC  
15 Corporation” after “Administrator”.

16 **SEC. 1025. PRESIDENTIAL TRANSFERS IN TIME OF WAR.**

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

19                   “(b) DURING WAR.—If war occurs, the President by  
20 Executive order may temporarily transfer to the Secretary  
21 of Defense a duty, power, activity, or facility of the Ad-  
22 ministrator or the ATC Corporation. In making the trans-  
23 fer, the President may temporarily transfer records, prop-  
24 erty, officers, and employees of the Administration or the  
25 ATC Corporation to the Department of Defense.”.

1 **SEC. 1026. AIRWAY CAPITAL INVESTMENT PLAN BEFORE**  
2 **DATE OF TRANSFER.**

3 Section 44501(b) of title 49, United States Code, is  
4 amended—

5 (1) in the first sentence by striking “The Ad-  
6 ministrator” and inserting “Before the date of  
7 transfer (as defined in section 90101(a)), the Ad-  
8 ministrator”;

9 (2) in paragraph (4)(B) by striking “and” at  
10 the end;

11 (3) in paragraph (5) by striking the period at  
12 the end and inserting “; and”; and

13 (4) by adding at the end the following:

14 “(6) for fiscal years **【2016 through 2019】**, a  
15 process under which the Administrator shall con-  
16 tinue to comply with the requirements of this section  
17 before the date of transfer (as defined in section  
18 90101(a)).”.

19 **SEC. 1027. AVIATION FACILITIES BEFORE DATE OF TRANS-**  
20 **FER.**

21 (a) GENERAL AUTHORITY.—Section 44502(a) of title  
22 49, United States Code, is amended—

23 (1) in paragraph (1) by striking “The Adminis-  
24 trator of the Federal Aviation Administration may”  
25 and inserting “Before the date of transfer (as de-



1       fined in section 90101(a)), the Secretary of Trans-  
2       portation may”;

3           (2) in paragraph (2) by striking “The cost”  
4       and inserting “Before the date of transfer (as de-  
5       fined in section 90101(a)), the cost”;

6           (3) in paragraph (3) by striking “The Sec-  
7       retary” and inserting “Before the date of transfer  
8       (as defined in section 90101(a)), the Secretary”;

9           (4) by striking paragraph (4);

10          (5) by redesignating paragraph (5) as para-  
11       graph (4); and

12          (6) in paragraph (4) (as so redesignated) by  
13       striking “The Administrator” and inserting “Before  
14       the date of transfer (as defined in section 90101(a)),  
15       the Secretary of Transportation”.

16       (b) CERTIFICATION OF NECESSITY.—Section  
17       44502(b) of title 49, United States Code, is amended—

18           (1) by striking “Except” and inserting “Before  
19       the date of transfer (as defined in section 90101(a)),  
20       except”; and

21           (2) by striking “the Administrator of the Fed-  
22       eral Aviation Administration” and inserting “the  
23       Secretary of Transportation”.

1           (c) ENSURING CONFORMITY WITH PLANS AND POLI-  
2 CIES.—Section 44502(c) of title 49, United States Code,  
3 is amended—

4           (1) in paragraph (1)—

5                 (A) by striking “by the Administrator of  
6 the Federal Aviation Administration under sec-  
7 tion 40103(b)(1) of this title”;

8                 (B) by striking “Administrator of the Fed-  
9 eral Aviation Administration” the second, third,  
10 and fourth places it appears and inserting “Sec-  
11 retary of Transportation”; and

12                 (C) by striking “Congress” and inserting  
13 “Congress, the ATC Corporation,”; and

14           (2) in paragraph (2)—

15                 (A) by striking “Administrator of the Fed-  
16 eral Aviation Administration” and inserting  
17 “Secretary of Transportation”; and

18                 (B) by striking “that the Administrator”  
19 and inserting “that the Secretary”.

20           (d) TRANSFERS OF INSTRUMENT LANDING SYS-  
21 TEMS.—Section 44502(e) of title 49, United States Code,  
22 is amended by striking “An airport may transfer” and in-  
23 serting “Before the date of transfer (as defined in section  
24 90101(a)), an airport may transfer”.

1 **SEC. 1028. JUDICIAL REVIEW.**

2 Section 46110(a) of title 49, United States Code, is  
3 amended by striking “or subsection (l) or (s) of section  
4 114” and inserting “subsection (l) or (s) of section 114,  
5 or section 90501”.

6 **SEC. 1029. CIVIL PENALTIES.**

7 Section 46301(a)(1)(A) of title 49, United States  
8 Code, is amended by striking “or section 47133” and in-  
9 serting “, section 47133, or section 90503(c)”.

10 **Subtitle C—Other Matters**

11 **SEC. 1031. USE OF FEDERAL TECHNICAL FACILITIES.**

12 (a) IN GENERAL.—The Administrator of the Federal  
13 Aviation Administration shall make Administration tech-  
14 nical facilities available to the ATC Corporation for air  
15 traffic control research and development projects.

16 (b) COOPERATIVE AGREEMENT.—

17 (1) IN GENERAL.—To ensure the safe transi-  
18 tion of air traffic services, not later than 180 days  
19 prior to the date of transfer (as defined in section  
20 90101(a) of title 49, United States Code, as added  
21 by this Act), the Administrator shall enter into an  
22 agreement with the ATC Corporation, for a period  
23 of not less than 5 years, concerning services that  
24 could be provided at the Federal Aviation Adminis-  
25 tration technical center, including the integrated air  
26 traffic control laboratories.

1           (2) SERVICES DEFINED.—In this subsection,  
2           the term “services” includes—

3                   (A) activities associated with the approval  
4                   of a safety management system under chapter  
5                   905 of title 49, United States Code, as added  
6                   by this Act; and

7                   (B) any other activity the Secretary con-  
8                   siders necessary to promote safety in air traffic  
9                   services, including verification of the safety  
10                  functions of new air traffic control technologies.

11          (c) STATUTORY CONSTRUCTION.—Nothing in this  
12          title, or the amendments made by this title, may be con-  
13          strued to limit the safety regulatory authority of the De-  
14          partment of Transportation, including the research and  
15          development functions of the Department.

16          (d) SAFETY.—Before the date of transfer (as defined  
17          by section 90101(a) of title 49, United States Code, as  
18          added by this Act) all operational testing and integration  
19          of air traffic control systems conducted by the Administra-  
20          tion shall continue.

21          **SEC. 1032. SEVERABILITY.**

22          If a provision of this title (including any amendment  
23          made by this title) or its application to any person or cir-  
24          cumstance is held invalid, neither the remainder of this

- 1 title nor the application of the provision to other persons
- 2 or circumstances shall be affected.

