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TITLE 49--TRANSPORTATION

SUBTITLE I--DEPARTMENT OF TRANSPORTATION

CHAPTER 1--ORGANIZATION

Sec. 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. Except as provided in subsection (f) or in other provisions of law, the Administrator reports directly to the Secretary of Transportation. The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years.

(c) The Administrator must--

- (1) be a citizen of the United States;
- (2) be a civilian; and
- (3) have experience in a field directly related to aviation.

(d)(1) The Deputy Administrator must be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.

(3) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(4) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

(f) Authority of the Secretary and the Administrator.--

(1) Authority of the secretary.--Except as provided in paragraph (2), the Secretary of Transportation shall carry out the duties and powers, and controls the personnel and activities, of the Administration. Neither the Secretary nor the Administrator may submit decisions for the approval of, or be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(2) Authority of the administrator.--The Administrator--

(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to--

(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

(ii) the acquisition and maintenance of property, services, and equipment of the Administration;

(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

(iv) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

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

(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

(D) except as otherwise provided for in this title, and notwithstanding any other provision of law, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

(3) Regulations.--

(A) In general.--In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking. On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.

(B) Approval of secretary of transportation.--(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$250,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to--

(I) have an annual effect on the economy of \$250,000,000 or more or adversely affect in a substantial and material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; or

(II) raise novel or significant legal or policy issues arising out of legal mandates that may substantially and materially affect other transportation modes.

(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

(C) Periodic review.--(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually burdensome regulation

issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

(iii) For purposes of this subparagraph, the term ``unusually burdensome regulation'' means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$25,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Act of 1996) in any year.

(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).

(4) Definition of political appointee.--For purposes of this subsection, the term ``political appointee'' means any individual who--

(A) is employed in a position listed in sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(g) Duties and Powers of Administrator.--(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out--

(A) duties and powers of the Secretary of Transportation under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907-44911, 44913, 44915, and 44931-44934), chapter 451, chapter 453, sections 46104, 46301(d) and (h)(2), 46303(c), 46304-46308, 46310, 46311, and 46313-46316, chapter 465, and sections 47504(b) (related to flight procedures), 47508(a), and 48107 of this title; and

(B) additional duties and powers prescribed by the Secretary of Transportation.

(2) In carrying out sections 40119, 44901, 44903(a)-(c) and (e), 44906, 44912, 44935-44937, 44938(a) and (b), and 48107 of this title, paragraph (1)(A) of this subsection does not apply to duties and powers vested in the Director of Intelligence and Security by section 44931 \1\ of this title.

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 \1\ See References in Text note below.  
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(h) Section 40101(d) of this title applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final.

(i) The Deputy Administrator shall carry out duties and powers prescribed by the Administrator. The Deputy Administrator acts for the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant.

(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 44507 of this title. Such institute shall be known as the ``Civil Aeromedical Institute''. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.

(k) Authorization of Appropriations for Operations.--

(1) Salaries, operations, and maintenance.--There is authorized to be appropriated to the Secretary of Transportation for salaries,

operations, and maintenance of the Administration--

- (A) \$7,591,000,000 for fiscal year 2004;
- (B) \$7,732,000,000 for fiscal year 2005;
- (C) \$7,889,000,000 for fiscal year 2006; and
- (D) \$8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

(2) Authorized expenditures.--Out of amounts appropriated under paragraph (1), the following expenditures are authorized:

(A) Such sums as may be necessary for fiscal years 2004 through 2007 to support infrastructure systems development for both general aviation and the vertical flight industry.

(B) Such sums as may be necessary for fiscal years 2004 through 2007 to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients.

(C) Such sums as may be necessary for fiscal years 2004 through 2007 to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft.

(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System.

(1) Personnel and Services.--

(1) Officers and employees.--Except as provided in subsections (a) and (g) of section 40122, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

(2) Experts and consultants.--The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

(3) Transportation and per diem expenses.--The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

(4) Use of personnel from other agencies.--The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

(5) Voluntary services.--

(A) General rule.--In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) Incidental expenses.--The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection.

(C) Limited treatment as federal employees.--An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.

(6) Contracts.--The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other

transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.

(m) Cooperation by Administrator.--With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies, personnel, services, and equipment other than administrative supplies or equipment.

(n) Acquisition.--

(1) In general.--The Administrator is authorized--

(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain--  
(i) air traffic control facilities and equipment;  
(ii) research and testing sites and facilities; and  
(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

(B) to lease to others such real and personal property; and

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

(2) Title.--Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

(o) Transfers of Funds.--The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.

(p) Management Advisory Council and Air Traffic Services Board.--

(1) Establishment.--Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the ``Council``). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

(2) Membership.--The Council shall consist of 13 members, who shall consist of--

(A) a designee of the Secretary of Transportation;

(B) a designee of the Secretary of Defense;

(C) 10 members representing aviation interests, appointed

by--

(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate, except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation; and

(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation; and

(D) 1 member appointed, from among individuals who are the leaders of their respective unions of air traffic control system employees, by the Secretary of Transportation.

(3) Qualifications.--No officer or employee of the United States Government may be appointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.

(4) Functions.--

(A) In general.--(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

(ii) The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

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

(B) Meetings.--The Council shall meet on a regular and periodic basis or at the call of the chairman or of the Administrator.

(C) Access to documents and staff.--The Administration may give the Council or Air Traffic Services Committee appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the ``Freedom of Information Act''), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council or Air Traffic Services Committee who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

(5) Federal advisory committee act not to apply.--The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council, the Air Traffic Services Committee, or such aviation rulemaking committees as the Administrator shall designate.

(6) Administrative matters.--

(A) Terms of members appointed under paragraph (2)(c).--Members of the Council appointed under paragraph (2)(C) shall be appointed for a term of 3 years. Of the members first appointed by the President under paragraph (2)(C)--

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 3 shall be appointed for terms of 3 years.

(B) Term for air traffic control representative.--The member appointed under paragraph (2)(D) shall be appointed for a term of 3 years, except that the term of such individual shall end whenever the individual no longer meets the requirements of paragraph (2)(D).

(C) Terms for air traffic services committee members.--The members appointed to the Air Traffic Services Committee shall be appointed for a term of 5 years, except that the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100--Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).

(D) Reappointment.--An individual may not be appointed to the Committee to more than two 5-year terms.

(E) Vacancy.--Any vacancy on the Council or Committee shall be filled in the same manner as the original appointment, except that any vacancy caused by a member appointed by the President under paragraph (2)(C)(i) shall be filled by the Secretary in accordance with paragraph (2)(C)(ii). Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(F) Continuation in office.--A member of the Council or Committee whose term expires shall continue to serve until the date on which the member's successor takes office.

(G) Removal.--Any member of the Council appointed under paragraph (2)(D) may be removed for cause by the President or Secretary whoever makes the appointment. Any member of the Committee may be removed for cause by the Secretary.

(H) Claims against members of committee.--

(i) In general.--A member appointed to the Committee shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act

or omission by such member within the scope of service as a member of the Committee.

(ii) Effect on other law.--This subparagraph shall not be construed--

(I) to affect any other immunity or protection that may be available to a member of the Subcommittee under applicable law with respect to such transactions;

(II) to affect any other right or remedy against the United States under applicable law; or

(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

(I) Ethical considerations.--

(i) Financial disclosure.--During the entire period that an individual is serving as a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

(ii) Restrictions on post-employment.--For purposes of section 207(c) of title 18, an individual who is a member of the Committee shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

(J) Chairman; vice chairman.--The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

(K) Travel and per diem.--Each member of the Council or Committee shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

(L) Detail of personnel from the administration.--The Administrator shall make available to the Council or Committee such staff, information, and administrative services and assistance as may reasonably be required to enable the Council or Committee to carry out its responsibilities under this subsection.

(7) Air traffic services committee.--

(A) Establishment.--The Administrator shall establish a committee that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Vision 100--Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee (in this subsection referred to as the ``Committee``).

(B) Membership and qualifications.--Subject to paragraph (6)(C), the Committee shall consist of five members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and--

(i) shall have a fiduciary responsibility to represent the public interest;

(ii) shall be citizens of the United States; and

(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

(I) Management of large service organizations.

(II) Customer service.

(III) Management of large procurements.

(IV) Information and communications technology.

(V) Organizational development.

(VI) Labor relations.

(C) Prohibitions on members of committee.--No member of the Committee may--

(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

(ii) engage in another business related to aviation or aeronautics; or

(iii) be a member of any organization that engages, as a

substantial part of its activities, in activities to influence aviation-related legislation.

(D) General responsibilities.--

(i) Oversight.--The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

(ii) Confidentiality.--The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(E) Specific responsibilities.--The Committee shall have the following specific responsibilities:

(i) Strategic plans.--To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of--

(I) a mission and objectives;

(II) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

(III) annual and long-range strategic plans.

(ii) Modernization and improvement.--To review and approve--

(I) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

(II) procurements of air traffic control equipment in excess of \$100,000,000.

(iii) Operational plans.--To review the operational functions of the air traffic control system, including--

(I) plans for modernization of the air traffic control system;

(II) plans for increasing productivity or implementing cost-saving measures; and

(III) plans for training and education.

(iv) Management.--To--

(I) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(r);

(II) review the Administrator's selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

(III) review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

(IV) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

(V) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

(v) Budget.--To--

(I) review and make recommendations on the budget request of the Administration related to the air traffic control system prepared by the Administrator;

(II) submit such budget recommendations to the Secretary; and

(III) base such budget recommendations on the annual and long-range strategic plans.

(F) Committee personnel matters and expenses.--

(i) Personnel matters.--The Committee may appoint and terminate for purposes of employment by the Committee any personnel that may be necessary to enable the Committee to perform its duties, and may procure temporary and intermittent services under section 40122.

(ii) Travel expenses.--Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(G) Administrative matters.--

(i) Powers of chair.--Except as otherwise provided by a

majority vote of the Committee, the powers of the chairperson shall include--

- (I) establishing committees;
- (II) setting meeting places and times;
- (III) establishing meeting agendas; and
- (IV) developing rules for the conduct of business.

(ii) Meetings.--The Committee shall meet at least quarterly and at such other times as the chairperson determines appropriate.

(iii) Quorum.--Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

(H) Reports.--

(i) Annual.--The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(ii) Additional report.--If a determination by the Committee under subparagraph (D)(i) that the organization and operation of the air traffic control system are not allowing the Administration to carry out its mission, the Committee shall report such determination to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(iii) Action of administrator on report.--Not later than 60 days after the date of a report of the Committee under this subparagraph, the Administrator shall take action with respect to such report. If the Administrator overturns a recommendation of the Committee, the Administrator shall report such action to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(iv) Comptroller general's report.--Not later than April 30, 2003, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Committee in improving the performance of the air traffic control system.

(I) Authorization.--There are authorized to be appropriated to the Committee such sums as may be necessary for the Committee to carry out its activities.

(8) Air traffic control system defined.--In this section, the term ``air traffic control system'' has the meaning such term has under section 40102(a).

(q) Aircraft Noise Ombudsman.--

(1) Establishment.--There shall be in the Administration an Aircraft Noise Ombudsman.

(2) General duties and responsibilities.--The Ombudsman shall--

- (A) be appointed by the Administrator;
- (B) serve as a liaison with the public on issues regarding aircraft noise; and
- (C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

(3) Number of full-time equivalent employees.--The appointment of an Ombudsman under this subsection shall not result in an increase in the number of full-time equivalent employees in the Administration.

(r) Chief Operating Officer.--

(1) In general.--

(A) Appointment.--There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, with the approval of the Air Traffic Services Committee. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

(B) Qualifications.--The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

(C) Term.--The Chief Operating Officer shall be appointed

for a term of 5 years.

(D) Removal.--The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

(E) Vacancy.--Any individual appointed to fill a vacancy in the position of Chief Operating Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(2) Compensation.--

(A) In general.--The Chief Operating Officer shall be paid at an annual rate of basic pay to be determined by the Administrator, with the approval of the Air Traffic Services Committee. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if the position of Chief Operating Officer were described in section 207(c)(2)(A)(i) of that title.

(B) Bonus.--In addition to the annual rate of basic pay authorized by subparagraph (A), the Chief Operating Officer may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the Chief Operating Officer's performance in relation to the performance goals set forth in the performance agreement described in paragraph (3).

(3) Annual performance agreement.--The Administrator and the Chief Operating Officer, in consultation with the Air Traffic Services Committee, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

(4) Annual performance report.--The Chief Operating Officer shall prepare and transmit to the Secretary of Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

(5) Responsibilities.--The Administrator may delegate to the Chief Operating Officer, or any other authority within the Administration responsibilities, including the following:

(A) Strategic plans.--To implement the strategic plan of the Administration for the air traffic control system in order to further--

- (i) a mission and objectives;
- (ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity;
- (iii) annual and long-range strategic plans; and
- (iv) methods of the Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control.

(B) Operations.--To oversee the day-to-day operational functions of the Administration for air traffic control, including--

- (i) modernization of the air traffic control system;
- (ii) increasing productivity or implementing cost-saving measures;
- (iii) training and education; and
- (iv) the management of cost-reimbursable contracts.

(C) Budget.--To--

- (i) develop a budget request of the Administration related to the air traffic control system;
- (ii) submit such budget request to the Administrator and the Committee; and
- (iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.

(Pub. L. 97-449, Sec. 1(b), Jan. 12, 1983, 96 Stat. 2416; Pub. L. 98-216, Sec. 2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 100-591, Sec. 5(a), Nov. 3, 1988, 102 Stat. 3013; Pub. L. 101-508, title IX, Sec. 9106, Nov. 5, 1990, 104 Stat. 1388-355; Pub. L. 101-604, title I, Sec. 101(c), Nov. 16, 1990, 104 Stat. 3068; Pub. L. 102-581, title I, Sec. 104, Oct. 31, 1992, 106 Stat. 4877; Pub. L. 103-272, Secs. 4(j)(3), 5(m)(4), July 5, 1994, 108 Stat. 1365, 1375; Pub. L. 103-305, title I, Sec. 103, title II, Sec. 201, Aug. 23, 1994, 108 Stat. 1571, 1581; Pub. L. 104-264, title I, Sec. 103(a), title II, Secs. 223(a), 224-230, 276(c), title

XII, Sec. 1210, Oct. 9, 1996, 110 Stat. 3216, 3229-3234, 3282; Pub. L. 104-287, Sec. 5(1), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105-102, Sec. 3(c)(3), Nov. 20, 1997, 111 Stat. 2215; Pub. L. 106-6, Sec. 4, Mar. 31, 1999, 113 Stat. 10; Pub. L. 106-181, title I, Sec. 103(a), title III, Secs. 302(a)-(c), 303, 305, 306, 307(c)(1), title VII, Sec. 701, Apr. 5, 2000, 114 Stat. 66, 115-118, 121, 123, 124, 126, 154; Pub. L. 106-528, Sec. 8(a), Nov. 22, 2000, 114 Stat. 2522; Pub. L. 107-71, title I, Sec. 101(c)(3), (d), Nov. 19, 2001, 115 Stat. 602, 603; Pub. L. 108-176, title I, Sec. 103(a),(b), title II, Secs. 201-204, 224(c), Dec. 12, 2003, 117 Stat. 2495, 2496, 2522-2526, 2528.)

Historical and Revision Notes  
Pub. L. 97-449

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
106(a).....	49:1341(a) (1st sentence).  49:1652(e)(1) (related to FAA).	Aug. 23, 1958, Pub. L. 85-726, Secs. 301(a), (b), 302(a), (b), 72 Stat. 744; Aug. 14, 1964, Pub. L. 88-426, Sec. 305(16) (B), (C), 78 Stat. 424. Oct. 15, 1966, Pub. L. 89-670, Sec. 3(e) (related to FAA), 80 Stat. 932.
106(b).....	49:1341(a) (2d sentence), (b) (1st sentence less 1st-10th words). 49:1342(a) (1st sentence), (b) (1st sentence less 1st-11th words). 49:1652(e) (related to FAA) (1) (less 1st sentence), (3) (last sentence).	
106(c).....	49:1341(b) (1st sentence 1st-10th words, 2d sentence). 49:1652(e)(2) (related to Administrator).	
106(d).....	49:1342(b) (1st sentence 1st-11th words, 2d sentence, 4th-6th sentences). 49:1652(e)(2) (1st sentence less Administrator). 49:1343(a)(2) (related to Deputy Administrator).	Aug. 23, 1958, Pub. L. 85-726, Sec. 302(c)(2) (related to Deputy Administrator), 72 Stat. 745.
106(e).....	49:1341(b) (less 1st, 2d sentences). 49:1342(b) (3d sentence).	
106(f).....	49:1341(a) (less 1st, 2d sentences).	
106(g).....	49:1652(e)(3) (related to FAA) (less last sentence). 49:1655(c)(1) (1st sentence proviso).	Oct. 15, 1966, Pub. L. 89-670, Sec. 6(c)(1) (1st sentence proviso, 2d, last sentences), 80 Stat. 938; Jan. 3, 1975, Pub. L. 93-633, Sec. 113(d), 88 Stat. 2163.
106(h).....	49:1652(e)(4) (related to FAA). 49:1655(c)(1) (2d, last sentences).	
106(i).....	49:1342(a) (2d, last sentences).	

In subsections (a) and (b), the source provisions are combined for clarity.

In subsection (a), the words "referred to in this chapter as the 'Administration'" are omitted because of the style of the revised title.

In subsection (b), the word "due" in 49:1342(b) (1st sentence less 1st-11th words) is omitted as surplus. The words "the duties and powers" are substituted for "the powers and duties vested in and imposed upon him by this chapter" to eliminate surplus words and for consistency. The word "consider" is substituted for "with . . . regard to" for clarity.

In subsections (c) and (d), the words "At the time of his nomination" are omitted as unnecessary and for consistency.

In subsection (c), the text of 49:1652(e)(2) (last sentence) is omitted as executed.

In subsection (d)(1), the words "Nothing in this chapter or other law shall preclude" in 49:1342(b) (4th sentence) are omitted as unnecessary because of the positive statement of authority. The words "armed force" are substituted for "armed services" to conform to title 10. The words "to the position of" are omitted as surplus.

In subsection (d)(2), the word ``continue'' is omitted as surplus. The words ``pay provided by law for the Deputy Administrator'' are substituted for ``compensation provided for the Deputy Administrator'' in 49:1342(b) because the pay provisions were repealed and replaced by 5:5315. The words ``(including personal money allowance)'' are omitted as being within the meaning of ``allowance'' in title 37. The words ``as the case may be'' are omitted as surplus. The words ``of the military grade held'' are substituted for ``military . . . payable to a commissioned officer of his grade and length of service'' to eliminate unnecessary words. The words ``Administration'' and ``military'' are added for clarity. The words ``to defray'' are omitted as surplus.

In subsection (d)(3), the words ``acceptance of, and'' are omitted as unnecessary. The word ``held'' is substituted for ``may occupy or hold'' to eliminate unnecessary words. The words ``right or benefit'' are substituted for ``emolument, perquisite, right, privilege, or benefit'' to eliminate unnecessary words. The words ``incident to or'' before ``arising'' are omitted as surplus.

In subsection (f), the word ``Secretary'' is substituted for ``Administrator'' because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words ``In the exercise of his duties and the discharge of his responsibilities under this chapter'' are omitted as surplus.

In subsection (g), the words ``are hereby transferred to'' in 49:1655(c)(1) are omitted as executed. The words ``carry out'' are substituted for ``it shall be his duty to exercise'' in 49:1655(c)(1) for clarity, consistency, and to eliminate surplus words. The words ``In addition to such functions, powers, and duties as are specified in this chapter'' in 49:1652(e)(3) are omitted as unnecessary because of the restatement.

In subsection (h), the first sentence is substituted for 49:1655(c)(1) (2d sentence) for clarity and consistency. The word ``law'' is substituted for ``statute'' in 49:1652(e)(4) for consistency. The words ``carrying out'' in 49:1655(c)(1) (last sentence) are substituted for ``the exercise of'' for consistency. The words after ``administratively final'' are omitted as unnecessary because of the restatement of the revised title and those laws giving a right of appeal.

In subsection (i), the words ``and exercise the powers of'' are omitted as surplus. The words ``when the office of the Administrator is vacant'' are inserted to conform to section 102 of the revised title.

#### Pub. L. 103-272

Section 4(j)(3)(B) amends 49:106(g) to list the duties and powers of the Secretary of Transportation that the Administrator of the Federal Aviation Administration carries out. The duties and powers are derived from 2 sources. Some were transferred by former 49 App.:1655(c)(1), restated as 49:106 in section 1 of the Act of January 12, 1983 (Public Law 97-449, 96 Stat. 2417). The others are from laws enacted after October 15, 1966, in which the duties and powers are to be carried out by the Administrator rather than the Secretary.

#### References in Text

The Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f)(2)(A)(iv), is title II of Pub. L. 104-264, Oct. 9, 1996, 110 Stat. 3227. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 40101 of this title and Tables.

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (f)(3)(B)(i), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

The date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsecs. (f)(3)(C), (o), and (p)(1), is the date of enactment of Pub. L. 104-264, which was approved Oct. 9, 1996.

Section 44931 of this title, referred to in subsec. (g)(2), was repealed by Pub. L. 107-71, title I, Sec. 101(f)(6), Nov. 19, 2001, 115 Stat. 603.

The Federal Advisory Committee Act, referred to in subsec. (p)(5), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of the Vision 100--Century of Aviation Reauthorization Act, referred to in subsec. (p)(6)(C), (7)(A), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

The Ethics in Government Act of 1978, referred to in subsec. (p)(6)(I)(i), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, as amended. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of

Pub. L. 95-521 in the Appendix to Title 5 and Tables.

#### Amendments

2003--Subsec. (d)(2) to (4). Pub. L. 108-176, Sec. 204, added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f)(2)(A)(ii). Pub. L. 108-176, Sec. 224(c), inserted ``services,' after ``property''.

Subsec. (k)(1). Pub. L. 108-176, Sec. 103(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

``(1) In general.--There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration--

``(A) such sums as may be necessary for fiscal year 2000;

``(B) \$6,592,235,000 for fiscal year 2001;

``(C) \$6,886,000,000 for fiscal year 2002; and

``(D) \$7,357,000,000 for fiscal year 2003.

Such sums shall remain available until expended.''

Subsec. (k)(2). Pub. L. 108-176, Sec. 103(b), redesignated subpars. (C) to (E) as subpars. (A) to (C), respectively, in subpars. (A) to (C), substituted ``fiscal years 2004 through 2007'' for ``fiscal years 2000 through 2003'', added subpars. (D) to (G), struck out former subpars. (A) and (B), which related to expenditures for wildlife measures and a university consortium for an air safety and security management certificate program, and struck out former subpars. (F) to (I), which related to expenditures for the 1998 airport surface operations safety action plan, United States membership obligations in the International Civil Aviation Organization, additional inspectors to enhance air cargo security programs, and improved training programs for airport security screening personnel.

Subsec. (p). Pub. L. 108-176, Sec. 201(1), inserted ``and Air Traffic Services Board'' after ``Council'' in heading.

Subsec. (p)(2). Pub. L. 108-176, Sec. 201(2)(A), substituted ``consist of 13 members, who'' for ``consist of 18 members, who'' in introductory provisions.

Subsec. (p)(2)(C)(i). Pub. L. 108-176, Sec. 201(2)(B), inserted ``except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation'' after ``Senate''.

Subsec. (p)(2)(C)(ii). Pub. L. 108-176, Sec. 201(2)(C)(ii), substituted ``; and'' for semicolon at end.

Subsec. (p)(2)(D). Pub. L. 108-176, Sec. 201(2)(D), substituted ``employees, by the Secretary of Transportation.' for ``employees, by--

``(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

``(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation; and''.

Subsec. (p)(2)(E). Pub. L. 108-176, Sec. 201(2)(D), struck out subpar. (E) which read as follows: ``5 members appointed by the Secretary after consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.''

Subsec. (p)(3). Pub. L. 108-176, Sec. 202(1), added par. (3) and struck out former par. (3) which related to qualifications for serving on the Council.

Subsec. (p)(4)(C). Pub. L. 108-176, Sec. 202(2), inserted ``or Air Traffic Services Committee'' after ``Council'' in two places.

Subsec. (p)(5). Pub. L. 108-176, Sec. 202(3), inserted ``the Air Traffic Services Committee,' after ``Council''.

Subsec. (p)(6)(C). Pub. L. 108-176, Sec. 202(4), in heading substituted ``committee'' for ``subcommittee'' and in text substituted ``members appointed'' for ``member appointed'', ``to the Air Traffic Services Committee shall'' for ``under paragraph (2)(E) shall'', and ``the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100--Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).'' for ``of the members first appointed under paragraph (2)(E)--

``(i) 2 members shall be appointed for a term of 3 years;

``(ii) 2 members shall be appointed for a term of 4 years; and

``(iii) 1 member shall be appointed for a term of 5 years.''

Subsec. (p)(6)(D). Pub. L. 108-176, Sec. 202(5), substituted ``to the Committee'' for ``under paragraph (2)(E)''.

Subsec. (p)(6)(E). Pub. L. 108-176, Sec. 202(6), inserted ``or Committee'' after ``Council''.

Subsec. (p)(6)(F). Pub. L. 108-176, Sec. 202(7), inserted ``of the Council or Committee'' after ``member''.

Subsec. (p)(6)(G). Pub. L. 108-176, Sec. 202(8), in second sentence substituted ``Committee'' for ``Council'' and struck out ``appointed under paragraph (2)(E)'' before ``may be removed''.

Subsec. (p)(6)(H). Pub. L. 108-176, Sec. 202(9)(A), substituted

``committee'' for ``subcommittee'' in heading.

Subsec. (p)(6)(H)(i). Pub. L. 108-176, Sec. 202(9)(B), (C), substituted ``to the Committee'' for ``under paragraph (2)(E)'' and ``of the Committee'' for ``of the Air Traffic Services Subcommittee''.

Subsec. (p)(6)(I)(i). Pub. L. 108-176, Sec. 202(10), substituted ``is serving as'' for ``appointed under paragraph (2)(E) is'' and ``Committee'' for ``Subcommittee''.

Subsec. (p)(6)(I)(ii). Pub. L. 108-176, Sec. 202(11), substituted ``who is a member of the Committee'' for ``appointed under paragraph (2)(E)'' and ``Committee;'' for ``Subcommittee;''.

Subsec. (p)(6)(K). Pub. L. 108-176, Sec. 202(12), inserted ``or Committee'' after ``Council''.

Subsec. (p)(6)(L). Pub. L. 108-176, Sec. 202(13), inserted ``or Committee'' after ``Council'' in two places.

Subsec. (p)(7). Pub. L. 108-176, Sec. 202(14)(A), substituted ``committee'' for ``subcommittee'' in heading.

Subsec. (p)(7)(A). Pub. L. 108-176, Sec. 202(14)(B), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ``The Management Advisory Council shall have an air traffic services subcommittee (in this paragraph referred to as the `Subcommittee') composed of the five members appointed under paragraph (2)(E).''

Subsec. (p)(7)(B), (C). Pub. L. 108-176, Sec. 202(14)(D), added subpars. (B) and (C). Former subpars. (B) and (C) redesignated (D) and (E), respectively.

Subsec. (p)(7)(D). Pub. L. 108-176, Sec. 202(14)(E), substituted ``Committee'' for ``Subcommittee'' in two places.

Pub. L. 108-176, Sec. 202(14)(C), redesignated subpar. (B) as (D). Former subpar. (D) redesignated (F).

Subsec. (p)(7)(E). Pub. L. 108-176, Sec. 202(14)(I), struck out concluding provisions which read as follows: ``The Secretary shall submit the budget request referred to in clause (v)(II) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.''

Pub. L. 108-176, Sec. 202(14)(E), substituted ``Committee'' for ``Subcommittee'' in introductory provisions.

Pub. L. 108-176, Sec. 202(14)(C), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (p)(7)(E)(v)(I). Pub. L. 108-176, Sec. 202(14)(F), substituted ``make recommendations on'' for ``approve''.

Subsec. (p)(7)(E)(v)(II). Pub. L. 108-176, Sec. 202(14)(G), substituted ``recommendations'' for ``request''.

Subsec. (p)(7)(E)(v)(III). Pub. L. 108-176, Sec. 202(14)(H), substituted ``base such budget recommendations on'' for ``ensure that the budget request supports''.

Subsec. (p)(7)(F). Pub. L. 108-176, Sec. 202(14)(J), added subpar. (F) and struck out heading and text of former subpar. (F). Text read as follows:

- ``(i) Compensation of members.--Each member of the Subcommittee shall be compensated at a rate of \$25,000 per year.
- ``(ii) Compensation of chairperson.--Notwithstanding clause (i), the chairperson of the Subcommittee shall be compensated at a rate of \$40,000 per year.
- ``(iii) Staff.--The chairperson of the Subcommittee may appoint and terminate any personnel that may be necessary to enable the Subcommittee to perform its duties.
- ``(iv) Procurement of temporary and intermittent services.--The chairperson of the Subcommittee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.''

Pub. L. 108-176, Sec. 202(14)(C), redesignated subpar (D) as (F). Former subpar. (F) redesignated (H).

Subsec. (p)(7)(G). Pub. L. 108-176, Sec. 202(14)(K), substituted ``Committee'' for ``Subcommittee'' wherever appearing, redesignated cls. (ii) to (iv) as (i) to (iii), respectively, and struck out former cl. (i) which read as follows: ``Term of chair.--The members of the Subcommittee shall elect for a 2-year term a chairperson from among the members of the Subcommittee.''

Pub. L. 108-176, Sec. 202(14)(C), redesignated subpar. (E) as (G).

Subsec. (p)(7)(H). Pub. L. 108-176, Sec. 202(14)(C), redesignated subpar. (F) as (H).

Subsec. (p)(7)(H)(i). Pub. L. 108-176, Sec. 202(14)(L)(i), (ii), substituted ``Committee shall'' for ``Subcommittee shall'' and ``Secretary'' for ``Administrator, the Council''.

Subsec. (p)(7)(H)(ii). Pub. L. 108-176, Sec. 202(14)(L), substituted ``Committee under'' for ``Subcommittee under'', ``subparagraph (D)(i)'' for ``subparagraph (B)(i)'' , ``Committee shall'' for ``Subcommittee shall'', and ``Secretary'' for ``Administrator, the Council''.

Subsec. (p)(7)(H)(iii), (iv). Pub. L. 108-176, Sec. 202(14)(L)(i),

in cl. (iii) substituted ``Committee under'' for ``Subcommittee under'' and ``Committee, the'' for ``Subcommittee, the'' and in cl. (iv) substituted ``Committee in'' for ``Subcommittee in''.

Subsec. (p)(7)(I). Pub. L. 108-176, Sec. 202(14)(M), added subpar. (I).

Subsec. (r)(1)(A), (2)(A). Pub. L. 108-176, Sec. 203(1), substituted ``Air Traffic Services Committee'' for ``Air Traffic Services Subcommittee of the Aviation Management Advisory Council''.

Subsec. (r)(2)(B). Pub. L. 108-176, Sec. 203(2), inserted ``in'' before ``paragraph (3)''.

Subsec. (r)(3). Pub. L. 108-176, Sec. 203(3), substituted ``Air Traffic Services Committee'' for ``Air Traffic Control Subcommittee of the Aviation Management Advisory Committee''.

Subsec. (r)(4). Pub. L. 108-176, Sec. 203(4), substituted ``Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate'' for ``Transportation and Congress''.

Subsec. (r)(5)(A). Pub. L. 108-176, Sec. 203(5), in introductory provisions substituted ``implement the'' for ``develop a'' and ``in order to further'' for ```, including the establishment of''.

Subsec. (r)(5)(B). Pub. L. 108-176, Sec. 203(6)(A), substituted ``oversee the day-to-day operational functions of the Administration for air traffic control,'' for ``review the operational functions of the Administration,'' in introductory provisions.

Subsec. (r)(5)(B)(iv). Pub. L. 108-176, Sec. 203(6)(B)-(D), added cl. (iv).

Subsec. (r)(5)(C)(i). Pub. L. 108-176, Sec. 203(7), struck out ``prepared by the Administrator'' after ``air traffic control system''.

Subsec. (r)(5)(C)(ii). Pub. L. 108-176, Sec. 203(8), substituted ``and the Committee'' for ``and the Secretary of Transportation''.

Subsec. (r)(5)(C)(iii). Pub. L. 108-176, Sec. 203(9), inserted ``agency's'' before ``annual'' and substituted ``for air traffic control services'' for ``developed under subparagraph (A) of this subsection''.

2001--Subsec. (m). Pub. L. 107-71, Sec. 101(d), substituted ``supplies, personnel, services, and'' for ``supplies and'' in last sentence.

Subsec. (r)(2)(A). Pub. L. 107-71, Sec. 101(c)(3), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: ``The Chief Operating Officer shall be paid at an annual rate of basic pay equal to the annual rate of basic pay of the Administrator. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if this position were described in section 207(c)(2)(A)(i) of that title.''

2000--Subsec. (f)(3)(A). Pub. L. 106-181, Sec. 306, inserted at end ``On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.''

Subsec. (f)(3)(B)(i). Pub. L. 106-181, Sec. 305(1), (2), in introductory provisions, substituted ``\$250,000,000'' for ``\$100,000,000'' and ``Wendell H. Ford Aviation Investment and Reform Act for the 21st Century'' for ``Air Traffic Management System Performance Improvement Act of 1996''.

Subsec. (f)(3)(B)(i)(I). Pub. L. 106-181, Sec. 305(1), (3), substituted ``\$250,000,000'' for ``\$100,000,000'' and inserted ``substantial and'' before ``material'' and ``or'' after semicolon at end.

Subsec. (f)(3)(B)(i)(II) to (IV). Pub. L. 106-181, Sec. 305(4), added subcl. (II) and struck out former subcls. (II) to (IV) which read as follows:

``(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

``(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

``(IV) raise novel legal or policy issues arising out of legal mandates.''

Subsec. (g)(1)(A). Pub. L. 106-181, Sec. 701, substituted ``40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907-44911, 44913, 44915, and 44931-44934), chapter 451, chapter 453, sections'' for ``40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b), and (c), 44504, 44505, 44507, 44508, 44511-44513, 44701-44716, 44718(c), 44721(a), 44901, 44902, 44903(a)-(c) and (e), 44906, 44912, 44935-44937, and 44938(a) and (b), chapter 451, sections

45302-45304,''.

Subsec. (k). Pub. L. 106-181, Sec. 103(a), amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows:

``There is authorized to be appropriated to the Secretary of Transportation for operations of the Administration \$5,632,000,000 for fiscal year 1999.''

Subsec. (l)(1). Pub. L. 106-181, Sec. 307(c)(1), substituted ``subsections (a) and (g) of section 40122'' for ``section 40122(a) of this title and section 347 of Public Law 104-50''.

Subsec. (p)(2). Pub. L. 106-528, which directed the substitution of ``18'' for ``15'' in section 106(p)(2), without specifying the Code title to be amended, was executed by making the substitution in the introductory provisions of subsec. (p)(2) of this section, to reflect the probable intent of Congress.

Subsec. (p)(2)(C) to (E). Pub. L. 106-181, Sec. 302(a)(1), added subpars. (C) to (E) and struck out former subpar. (C) which read as follows: ``13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.''

Subsec. (p)(3). Pub. L. 106-181, Sec. 302(a)(2), designated existing provisions as subpar. (A), inserted subpar. heading, realigned margins, inserted ``or (2)(E)'' after ``paragraph (2)(C)'', and added subpars. (B) and (C).

Subsec. (p)(6). Pub. L. 106-181, Sec. 302(b), added subpars. (A) to (I), redesignated former subpars. (B) to (D) as (J) to (L), respectively, and struck out former subpar. (A) which related to terms of members appointed to the Advisory Council.

Subsec. (p)(7), (8). Pub. L. 106-181, Sec. 302(c), added pars. (7) and (8).

Subsec. (r). Pub. L. 106-181, Sec. 303, added subsec. (r).

1999--Subsec. (k). Pub. L. 106-6 substituted ``\$5,632,000,000 for fiscal year 1999.''' for ``\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998.''

1997--Subsec. (g)(1)(A). Pub. L. 105-102 added Pub. L. 104-264, Sec. 276(c). See 1996 Amendment note below.

1996--Subsec. (b). Pub. L. 104-287 substituted ``August 23, 1994,''' for ``the date of the enactment of this sentence''.

Pub. L. 104-264, Sec. 223(a)(1), substituted ``Except as provided in subsection (f) or in other provisions of law, the Administrator'' for ``The Administrator''.

Subsec. (f). Pub. L. 104-264, Sec. 223(a)(2), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted ``Except as provided in paragraph (2), the Secretary'' for ``The Secretary'', realigned margins, substituted ``Neither the Secretary nor the Administrator may'' for ``The Secretary may not'' and ``or be bound'' for ``nor be bound'', and added pars. (2) and (3).

Subsec. (f)(3). Pub. L. 104-264, Sec. 224(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 104-264, Sec. 224(1), redesignated par. (3) as (4).

Subsec. (g)(1)(A). Pub. L. 104-264, Sec. 276(c), as added by Pub. L. 105-102, substituted ``45302-45304'' for ``45302, 45303''.

Subsec. (k). Pub. L. 104-264, Sec. 103(a), substituted ``\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for fiscal year 1998.''' for ``\$4,088,000,000 for fiscal year 1991, \$4,412,600,000 for fiscal year 1992, \$4,716,500,000 for fiscal year 1993, \$4,576,000,000 for fiscal year 1994, \$4,674,000,000 for fiscal year 1995, and \$4,810,000,000 for fiscal year 1996.''

Subsec. (l). Pub. L. 104-264, Sec. 225, added subsec. (l).

Subsec. (l)(6). Pub. L. 104-264, Sec. 226, added par. (6).

Subsec. (m). Pub. L. 104-264, Sec. 227, added subsec. (m).

Subsec. (n). Pub. L. 104-264, Sec. 228, added subsec. (n).

Subsec. (o). Pub. L. 104-264, Sec. 229, added subsec. (o).

Subsec. (p). Pub. L. 104-264, Sec. 230, added subsec. (p).

Subsec. (q). Pub. L. 104-264, Sec. 1210, added subsec. (q).

1994--Subsec. (b). Pub. L. 103-305, Sec. 201, inserted at end ``The term of office for any individual appointed as Administrator after the date of the enactment of this sentence shall be 5 years.''

Subsec. (f). Pub. L. 103-272, Sec. 4(j)(3)(A), substituted ``Secretary of Transportation shall'' for ``Secretary shall''.

Subsec. (g). Pub. L. 103-272, Sec. 4(j)(3)(B), inserted heading and amended text generally. Prior to amendment, text read as follows: ``The Administrator shall carry out--

``(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306-309, 312-314, 315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990), 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 App. U.S.C. 1347-1350, 1353-1355, 1421 et seq., 1441 et seq., 1471 et

seq., 1501, 1505, 1511, and 1521 et seq.); and  
 ``(2) additional duties and powers prescribed by the  
 Secretary.''

Subsec. (h). Pub. L. 103-272, Sec. 5(m)(4)(A), substituted ``Section  
 40101(d) of this title'' for ``Section 103 of the Federal Aviation Act  
 of 1958 (49 App. U.S.C. 1303)''.

Subsec. (j). Pub. L. 103-272, Sec. 5(m)(4)(B), substituted ``section  
 44507 of this title'' for ``section 312(e) of the Federal Aviation Act  
 of 1958''.

Subsec. (k). Pub. L. 103-305, Sec. 103, substituted ``,  
 \$4,576,000,000 for fiscal year 1994, \$4,674,000,000 for fiscal year  
 1995, and \$4,810,000,000 for fiscal year 1996'' for `` , \$5,100,000,000  
 for fiscal year 1994, and \$5,520,000,000 for fiscal year 1995''.

Pub. L. 103-272, Sec. 4(j)(3)(C), inserted ``to the Secretary of  
 Transportation'' after ``appropriated''.

1992--Subsec. (k). Pub. L. 102-581 substituted ``1991,'' for ``1991  
 and'' and inserted before period at end `` , \$4,716,500,000 for fiscal  
 year 1993, \$5,100,000,000 for fiscal year 1994, and \$5,520,000,000 for  
 fiscal year 1995''.

1990--Subsec. (g)(1). Pub. L. 101-604 inserted ``315-316 (except for  
 the duties and powers vested in the Director of Intelligence and  
 Security by or under section 101 of the Aviation Security Improvement  
 Act of 1990),'' after ``312-314,''

Subsec. (k). Pub. L. 101-508 added subsec. (k).

1988--Subsec. (j). Pub. L. 100-591 added subsec. (j).

1984--Subsecs. (g)(1), (h). Pub. L. 98-216 substituted ``49 App.  
 U.S.C.' for ``49 U.S.C.''

#### Effective Date of 2003 Amendment

Pub. L. 108-176, Sec. 3, Dec. 12, 2003, 117 Stat. 2493, provided  
 that: ``Except as otherwise specifically provided, this Act [see Tables  
 for classification] and the amendments made by this Act shall apply only  
 to fiscal years beginning after September 30, 2003.''

#### Effective Date of 2000 Amendments

Pub. L. 106-528, Sec. 9, Nov. 22, 2000, 114 Stat. 2523, provided  
 that: ``Except as otherwise expressly provided, this Act [amending this  
 section and sections 41104, 44903, 44935, and 44936 of this title,  
 enacting provisions set out as notes under sections 40101, 44903, and  
 44936 of this title, and amending provisions set out as notes under  
 sections 40128 and 47501 of this title] and the amendments made by this  
 Act shall take effect 30 days after the date of enactment of this Act  
 [Nov. 22, 2000].''

Pub. L. 106-181, Sec. 3, Apr. 5, 2000, 114 Stat. 64, provided that:  
 ``Except as otherwise specifically provided, this Act [see Tables for  
 classification] and the amendments made by this Act shall apply only to  
 fiscal years beginning after September 30, 1999.''

Pub. L. 106-181, title III, Sec. 302(d), Apr. 5, 2000, 114 Stat.  
 121, provided that:

``(1) In general.--The amendments made by this section [amending  
 this section] shall take effect on the date of the enactment of this Act  
 [Apr. 5, 2000].

``(2) Initial nominations to air traffic services subcommittee.--The  
 Secretary [of Transportation] shall make the initial appointments of the  
 Air Traffic Services Subcommittee of the Aviation Management Advisory  
 Council not later than 3 months after the date of the enactment of this  
 Act.

``(3) Effect on actions prior to appointment of subcommittee.--  
 Nothing in this section shall be construed to invalidate the actions and  
 authority of the Federal Aviation Administration prior to the  
 appointment of the members of the Air Traffic Services Subcommittee.''

#### Effective Date of 1997 Amendment

Pub. L. 105-102, Sec. 3(c), Nov. 20, 1997, 111 Stat. 2215, provided  
 that the amendment made by section 3(c)(3) is effective Oct. 9, 1996.

Pub. L. 105-102, Sec. 3(f), Nov. 20, 1997, 111 Stat. 2216, provided  
 that: ``The amendments made by subsections (a) through (d) of this  
 section [amending this section and sections 5302, 30501 to 30504, 45301,  
 46301, 46316, 47117, and 47128 of this title, renumbering section 40121  
 of this title as 40124 of this title, and amending provisions set out as  
 notes under sections 5303 and 47117 of this title] shall take effect as  
 if included in the provisions of the Acts to which the amendments  
 relate.''

#### Effective Date of 1996 Amendment

Section 3 of Pub. L. 104-264 provided that:

``(a) In General.--Except as otherwise specifically provided, this Act [see Tables for classification] and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.

``(b) Limitation on Statutory Construction.--Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1996.''

Section 203 of title II of Pub. L. 104-264 provided that: ``The provisions of this title [enacting sections 40121, 40122, 45301, 45303, 48111, and 48201 of this title, amending this section and section 41742 of this title, renumbering section 45303 of this title as section 45304, repealing section 45301 of this title, and enacting provisions set out as notes under this section and sections 40101, 40110, and 41742 of this title] and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act [Oct. 9, 1996].''

Federal Aviation Administration Science and Technology Scholarship Program

Pub. L. 108-176, title VII, Sec. 702, Dec. 12, 2003, 117 Stat. 2576, provided that:

``(a)(1) The Administrator of the Federal Aviation Administration shall establish a Federal Aviation Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Federal Aviation Administration.

``(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act [42 U.S.C. 1885a, 1885b].

``(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Federal Aviation Administration, for the period described in subsection (f)(1), in positions needed by the Federal Aviation Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

``(b) In order to be eligible to participate in the Program, an individual must--

``(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

``(2) be a United States citizen or permanent resident; and

``(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

``(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

``(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

``(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

``(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

``(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

``(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

``(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

``(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Federal Aviation Administration

is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

``(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

``(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

``(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

``(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to--

``(A) the total amount of scholarships received by such individual under this section; plus

``(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

``(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

``(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

``(i) For purposes of this section--

``(1) the term 'cost of attendance' has the meaning given that term in section 472 of the Higher Education Act of 1965 [20 U.S.C. 108711];

``(2) the term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 [20 U.S.C. 1001(a)]; and

``(3) the term 'Program' means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

``(j)(1) There is authorized to be appropriated to the Federal Aviation Administration for the Program \$10,000,000 for each fiscal year.

``(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

``(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.'

#### Internet Availability of Information

Pub. L. 106-181, title IX, Sec. 903, Apr. 5, 2000, 114 Stat. 196, provided that: ``The Administrator [of the Federal Aviation Administration] shall make available through the Internet home page of the Federal Aviation Administration the abstracts relating to all research grants and awards made with funds authorized by the amendments made by this Act [see Tables for classification]. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.'

## Findings

Section 221 of Pub. L. 104-264 provided that: ``Congress finds the following:

- ``(1) In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.
- ``(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution over the years is one measure of the benefit received by the general public, military, and other users of Administration's services.
- ``(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.
- ``(4) The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration's future budget needs.
- ``(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.
- ``(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.
- ``(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.
- ``(8) Absent significant and meaningful reform, future challenges and needs cannot be met.
- ``(9) The Administration must have a new way of doing business.
- ``(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.
- ``(11) To the extent that Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, Congress should appropriate the difference between such costs and any receipts received from such segment.
- ``(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.
- ``(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.
- ``(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.
- ``(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.
- ``(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.
- ``(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.''

## Purposes

Section 222 of title II of Pub. L. 104-264 provided that: ``The purposes of this title [see Effective Date of 1996 Amendment note set out above] are--

- ``(1) to ensure that final action shall be taken on all notices

of proposed rulemaking of the Administration within 18 months after the date of their publication;

((2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

((3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

((4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.''

#### Preservation of Existing Authority

Section 223(b) of title II of Pub. L. 104-264 provided that:

'Nothing in this title [see Effective Date of 1996 Amendment note set out above] or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of the enactment of this Act [Oct. 9, 1996].'

#### Personnel Management System for Federal Aviation Administration

Pub. L. 104-50, title III, Sec. 347, Nov. 15, 1995, 109 Stat. 460, as amended by Pub. L. 104-122, Mar. 29, 1996, 110 Stat. 876; Pub. L. 105-339, Sec. 5, Oct. 31, 1998, 112 Stat. 3187, which required the Administrator of the Federal Aviation Administration to develop and implement, not later than Jan. 1, 1996, a personnel management system, exempt from most provisions of Title 5, Government Organization and Employees, to provide for greater flexibility in the hiring, training, compensation, and location of personnel, was repealed by Pub. L. 106-181, title III, Sec. 307(d), Apr. 5, 2000, 114 Stat. 126.

#### Dependents of Federal Aviation Administration Personnel

Pub. L. 106-346, Sec. 101(a) [title III, Sec. 303], Oct. 23, 2000, 114 Stat. 1356, 1356A-23, provided that: 'Hereafter, funds appropriated under this or any other Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.'

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 106-69, title III, Sec. 303, Oct. 9, 1999, 113 Stat. 1015.
- Pub. L. 105-277, div. A, Sec. 101(g) [title III, Sec. 303], Oct. 21, 1998, 112 Stat. 2681-439, 2681-464.
- Pub. L. 105-66, title III, Sec. 303, Oct. 27, 1997, 111 Stat. 1441.
- Pub. L. 104-205, title III, Sec. 303, Sept. 30, 1996, 110 Stat. 2968.
- Pub. L. 104-50, title III, Sec. 303, Nov. 15, 1995, 109 Stat. 453.
- Pub. L. 103-331, title III, Sec. 303, Sept. 30, 1994, 108 Stat. 2488.
- Pub. L. 103-122, title III, Sec. 303, Oct. 27, 1993, 107 Stat. 1219.
- Pub. L. 102-388, title III, Sec. 303, Oct. 6, 1992, 106 Stat. 1543.
- Pub. L. 102-143, title III, Sec. 303, Oct. 28, 1991, 105 Stat. 939.
- Pub. L. 101-516, title III, Sec. 303, Nov. 5, 1990, 104 Stat. 2178.
- Pub. L. 101-164, title III, Sec. 303, Nov. 21, 1989, 103 Stat. 1091.
- Pub. L. 100-457, title III, Sec. 303, Sept. 30, 1988, 102 Stat. 2146.
- Pub. L. 100-202, Sec. 101(l) [title III, Sec. 303], Dec. 22, 1987, 101 Stat. 1329-358, 1329-377.
- Pub. L. 99-500, Sec. 101(l) [H.R. 5205, title III, Sec. 303], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, Sec. 101(l), Oct. 30, 1986, 100 Stat. 3341-308.
- Pub. L. 99-190, Sec. 101(e) [title III, Sec. 303], Dec. 19, 1985, 99 Stat. 1267, 1284.
- Pub. L. 98-473, title I, Sec. 101(i) [title III, Sec. 303], Oct. 12, 1984, 98 Stat. 1944, 1961.

Pub. L. 98-78, title III, Sec. 303, Aug. 15, 1983, 97 Stat. 470.  
 Pub. L. 97-369, title III, Sec. 306, Dec. 18, 1982, 96 Stat. 1781.  
 Pub. L. 97-102, title III, Sec. 306, Dec. 23, 1981, 95 Stat. 1458.  
 Pub. L. 96-400, title III, Sec. 306, Oct. 9, 1980, 94 Stat. 1695.  
 Pub. L. 96-131, title III, Sec. 307, Nov. 30, 1979, 93 Stat. 1037.  
 Pub. L. 95-335, title III, Sec. 310, Aug. 4, 1978, 92 Stat. 448.  
 Pub. L. 95-85, title III, Sec. 310, Aug. 2, 1977, 91 Stat. 416.  
 Pub. L. 94-387, title III, Sec. 312, Aug. 14, 1976, 90 Stat. 1185.  
 Pub. L. 94-134, title III, Sec. 310, Nov. 24, 1975, 89 Stat. 711.  
 Pub. L. 93-391, title III, Sec. 311, Aug. 28, 1974, 88 Stat. 780.  
 Pub. L. 93-98, title III, Sec. 313, Aug. 16, 1973, 87 Stat. 340.  
 Pub. L. 92-398, title III, Sec. 313, Aug. 22, 1972, 86 Stat. 591.  
 Pub. L. 92-74, title I, Aug. 10, 1971, 85 Stat. 203.  
 Pub. L. 91-168, title I, Dec. 26, 1969, 83 Stat. 455.  
 Pub. L. 90-464, title I, Aug. 8, 1968, 82 Stat. 655.  
 Pub. L. 90-112, title II, Oct. 23, 1967, 81 Stat. 312.  
 Pub. L. 89-474, title I, June 29, 1966, 80 Stat. 223.  
 Pub. L. 89-57, title I, June 30, 1965, 79 Stat. 197.  
 Pub. L. 88-392, title I, Aug. 1, 1964, 78 Stat. 369.  
 Pub. L. 88-39, title I, June 13, 1963, 77 Stat. 59.  
 Pub. L. 87-575, title I, Aug. 6, 1962, 76 Stat. 311.  
 Pub. L. 87-159, title I, Aug. 21, 1961, 75 Stat. 395.  
 Pub. L. 86-561, title I, June 30, 1960, 74 Stat. 285.  
 Pub. L. 86-39, title I, June 11, 1959, 73 Stat. 67.  
 Pub. L. 85-354, title I, Mar. 28, 1958, 72 Stat. 63.  
 Pub. L. 85-37, title I, May 27, 1957, 71 Stat. 37.  
 Apr. 2, 1956, ch. 161, title I, 70 Stat. 94.  
 June 1, 1955, ch. 113, title I, 69 Stat. 74.  
 May 28, 1954, ch. 242, title I, 68 Stat. 146.  
 June 18, 1953, ch. 132, title I, 67 Stat. 69.

#### Aviation Safety Commission

Pub. L. 99-500, title V, Secs. 501-507, Oct. 18, 1986, 100 Stat. 1783-370 to 1783-373, and Pub. L. 99-591, title V, Secs. 501-507, Oct. 30, 1986, 100 Stat. 3341-373 to 3341-376, known as the Aviation Safety Commission Act of 1986, established Aviation Safety Commission, directed Commission to study organization and functions of Federal Aviation Administration and means by which it could most efficiently and effectively perform its responsibilities and increase aviation safety and to submit reports to the President and the two houses of Congress within 9 months after Oct. 18, 1986, and within 18 months after Oct. 18, 1986, and provided that Commission was to cease to exist 18 months after Oct. 18, 1986.

#### Appointment of Retired Military Officer as Administrator

Pub. L. 102-308, June 26, 1992, 106 Stat. 273, provided: ``That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General Thomas C. Richards, United States Air Force, Retired, to the Office of Administrator of the Federal Aviation Administration. General Richards' appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, General Richards shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Air Force, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Air Force, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

``Sec. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, General Richards shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Air Force.

``Sec. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.''

Prior provisions authorizing the appointment of a retired military officer as Administrator were contained in the following acts:

Pub. L. 102-223, Dec. 11, 1991, 105 Stat. 1678.

Pub. L. 101-47, June 30, 1989, 103 Stat. 134.

Pub. L. 98-256, Apr. 10, 1984, 98 Stat. 125.

Pub. L. 89-46, June 22, 1965, 79 Stat. 171.

Ex. Ord. No. 13180. Air Traffic Performance-Based Organization

Ex. Ord. No. 13180, Dec. 7, 2000, 65 F.R. 77493, as amended by Ex. Ord. No. 13264, June 4, 2002, 67 F.R. 39243, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further improve the provision of air traffic services in ways that increase efficiency, take better advantage of new technologies, accelerate modernization efforts, and respond more effectively to the needs of the traveling public, while enhancing the safety, security, and efficiency of the Nation's air transportation system, it is hereby ordered as follows:

Section 1. Establishment of the Air Traffic Organization. (a) The Secretary of Transportation (Secretary) shall, consistent with his legal authorities, move to establish within the Federal Aviation Administration (FAA) a performance-based organization to be known as the ``Air Traffic Organization'' (ATO).

(b) The ATO shall be composed of those elements of the FAA's Air Traffic Services and Research and Acquisition organizations that have direct connection and give support to the provision of day-to-day operational air traffic services, as determined by the Administrator of the Federal Aviation Administration (Administrator). The Administrator may delegate responsibility for any operational activity of the air traffic control system to the head of the ATO. The Administrator's responsibility for general safety, security, and policymaking functions for the National Airspace System is unaffected by this order.

(c) The Chief Operating Officer (COO) of the Air Traffic Control System, established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Air-21) (Public Law 106-181) [see Short Title of 2000 Amendments note set out under section 40101 of this title], shall head the ATO and shall report directly to the Administrator and be subject to the authority of the Administrator. The COO, in consultation with the Air Traffic Control Subcommittee of the Aviation Management Advisory Committee, shall enter into an annual performance agreement with the Administrator that sets forth measurable organization and individual goals in key operational areas and describes specific targets and how such goals will be achieved. The COO may receive an annual bonus not to exceed 30 percent of the annual rate of basic pay, based upon the Administrator's evaluation of the COO's performance in relation to the targets and goals described above.

(d) The COO shall develop a 5-year strategic plan for the air traffic control system, including a clear statement of the mission and objectives for the system's safety, efficiency, and productivity. This strategic plan must ensure that ATO actions are consistent with long-term FAA strategies for the aviation system as a whole.

(e) The COO shall also enter into a framework agreement with the Administrator that will establish the relationship of the ATO with the other organizations of the FAA.

Sec. 2. Purpose. The FAA's primary mission is to ensure the safety, security, and efficiency of the National Airspace System. The purpose of this order is to enhance that mission and further improve the delivery of air traffic services to the American public by reorganizing the FAA's air traffic services and related offices into a performance-based, results-oriented, organization. The ATO will be better able to make use of the unique procurement and personnel authorities that the FAA currently has and to better use the additional management reforms enacted by the Congress this year under Air-21. Specifically, the ATO shall:

(a) optimize use of existing management flexibilities and authorities to improve the efficiency of air traffic services and increase the capacity of the system;

(b) develop methods to accelerate air traffic control modernization and to improve aviation safety related to air traffic control;

(c) develop agreements with the Administrator of the FAA and users of the products, services, and capabilities it will provide;

(d) operate in accordance with safety performance standards developed by the FAA and rapidly respond to FAA safety and security oversight findings;

(e) consult with its customers, the traveling public, including direct users such as airlines, cargo carriers, manufacturers, airports, general aviation, and commercial space transportation providers, and focus on producing results that satisfy the FAA's external customer needs;

(f) consult with appropriate Federal, State, and local public agencies, including the Department of Defense and the National Aeronautics and Space Administration, to determine the best practices for meeting the diverse needs throughout the National Airspace System;

(g) establish strong incentives to managers for achieving results;  
and

(h) formulate and recommend to the Administrator any management, fiscal, or legislative changes necessary for the organization to achieve its performance goals.

Sec. 3. Aviation Management Advisory Committee. The Air Traffic Control Subcommittee of the Aviation Management Advisory Committee shall provide, consistent with its responsibilities under Air-21, general oversight to ATO regarding the administration, management, conduct, direction, and supervision of the air traffic control system.

Sec. 4. Evaluation and Report. Not later than 5 years after the date of this order, the Aviation Management Advisory Committee shall provide to the Secretary and the Administrator a report on the operation and effectiveness of the ATO, together with any recommendations for management, fiscal, or legislative changes to enable the organization to achieve its goals.

Sec. 5. Definitions. The term ``air traffic control system'' has the same meaning as the term defined by section 40102(a)(42) [now 40102(a)(47)] of title 49, United States Code.

Sec. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

#### Definitions for Title II of Pub. L. 104-264

Section 202 of title II of Pub. L. 104-264 provided that: ``In this title [see Effective Date of 1996 Amendment note set out above], the following definitions apply:

``(1) Administration.--The term `Administration' means the Federal Aviation Administration.

``(2) Administrator.--The term `Administrator' means the Administrator of the Federal Aviation Administration.

``(3) Secretary.--The term `Secretary' means the Secretary of Transportation.''