1958

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MEMORANDUM ON THE "NATIONAL AERONAUTICS AND SPACE ACT OF 1958"

BY JOHN COBB COOPER

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On July 29, 1958 the President approved the newly enacted "National Aeronautics and Space Act of 1958." It takes its place as the third major American statute dealing with the control of flight. The first of these was the "Air Commerce Act of 1926 (44 Stat. 568). The second was the "Civil Aeronautics Act of 1938" (52 Stat. 973).

A copy of the new "National Aeronautics and Space Act of 1958" is attached to this memorandum. Its passage resulted from a special message of President Eisenhower dated April 1, 1958, the first paragraph of which succinctly stated the problem:

"Recent developments in long-range rockets for military purposes have for the first time provided man with new machinery so powerful that it can put satellites into orbit, and eventually provide the means for space exploration. The United States of America and the Union of Soviet Socialist Republics have already successfully placed in orbit a number of earth satellites. In fact, it is now within the means of any technologically advanced nation to embark upon practicable programs for exploring outer space. The early enactment of appropriate legislation will help assure that the United States takes full advantage of the knowledge of its scientists, the skill of its engineers and technicians, and the resourcefulness of its industry in meeting the challenges of the space age." (H. Doc. No. 365, 85th Cong., 2d sess.)

The act contains a most important "Declaration of Policy and Purpose." It also creates a new body to be entitled "National Aeronautics and Space Council" and establishes a new agency to be known as "National Aeronautics and Space Administration." Basic phases of the declaration of policy, and of the powers and duties of the Council and of the Administration, are linked to the definitions set out in Section 103 of the act as follows:

Sec. 103. As used in this Act—

(1) the term "aeronautical and space activities" means (A) research into, and the solution of, problems of flight within and outside the earth's atmosphere, (B) the development, construction,
testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space; and

(2) the term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

The term "aeronautics" and the term "aircraft" as used in the Civil Aeronautics Act are there defined as follows:

Section 1 (1) "aeronautics" means the science and art of flight.

(4) "aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air.

It must be assumed that these statutory definitions may also be considered applicable where the same or similar terms are used in the new act.

It should also be noted that the act does not seek to define either the term "space" or the term "atmosphere" although both are used. Nor does it either use or define the term "airspace."

The definitions in Section 103 of the act were discussed in the "Statement of the managers on the part of the House" incorporated in Report number 2166, House of Representatives, which was presented with the compromise version of the bill which has now become law. The entire act should be read in the light of the background of this authoritative statement:

"Section 103. Definitions.

"This section, which defines 'aeronautical and space activities' and 'aeronautical and space vehicles,' embodies the substance of both the House and Senate versions but does so in a way which will ensure that these expressions can be used throughout the act without further question as to their meaning, inclusions, or exclusions.

"The purpose is to make clear that the act is concerned primarily with research, development, and exploration. The use of the word 'activities' is intended to be broad in the area of outer space because no one can predict with certainty what future requirements may be.

"It is not the intention of Congress, however, to construe activities so broadly as to include such things as the operation of commercial airlines, the control of air traffic, the fixing of airworthiness standards, the setting of airfares, or the assigning of certificates of public convenience and necessity. Whether, in time, the new Administration will run a regular transport route to another planet or to the moon is not a matter of current concern. But the term 'activities' should be construed broadly enough to enable the Administration and the Department of Defense, in their respective fields, to carry on a wide spectrum of activities which relate to the successful use of outer space. These activities would include scientific discovery and research not directly related to travel in outer space but utilizing outer space, and the development of resources which may be discovered in outer space.

"Aeronautical and space activities combine two different categories of concepts but are understood by most persons more easily than some alternate labels. The counterpart of aeronautics is astronautics. Both relate to the design, construction and operation of
vehicles, the former within the atmosphere, and the latter primarily outside the atmosphere, although often passing through the atmosphere on the way to outer space. There is no sharp dividing line between aeronautical and astronautical vehicles.

"Space is a place, and can include the bottom of the sea or the center of the earth as well as the atmosphere and so-called empty outer space. In common usage, many think of space as lying beyond the atmosphere. In this Act, the term means both within and beyond the atmosphere of the earth. There is no sharp dividing line between the atmosphere and outer space, and this act does not attempt to define one.

"At a later time, it may be possible to find universal acceptance of many technical definitions relating to the subject matter of this act. Meanwhile the act has been couched in language which will obviate the most serious shortcomings of such lack of universal definitions today. It will give sufficient leeway to the new agencies being created without infringing upon certain aeronautical activities already being carried on which it is not the intention of the Congress under this act to disturb."

The important "Declaration of Policy and Purpose" in Section 102 of the Act must be read in connection with the foregoing authoritative and contemporary explanation. Subsection (a) declares that it is the policy of the United States "that activities in space should be devoted to peaceful purposes for the benefit of all mankind." Although the Managers on the part of the House have stated that in the act the term "space" means "both within and beyond the atmosphere of the earth," it is not believed that the new act was intended to have any effect on the prior long existing statutory declarations in the Air Commerce Act and the Civil Aeronautics Act that the United States has complete and exclusive sovereignty in the air space above it. In other words, the declaration in Section 102 (a) is not thought to create new privileges of flight for foreign aircraft or other instrumentalities within or through national airspace. On the other hand, this declaration may possibly indicate a step in the direction of a future national policy based on international free transit for peaceful purposes in areas beyond the atmosphere.

Subsection (b) provides, among other things, that aeronautical and space activities should be the responsibility of and directed by a civilian agency except that activities peculiar to the development of weapons systems, military operations, or the defense of the United States should be the responsibility of the Department of Defense, and that the determination as to which such agency has responsibility shall be made by the President.

Subsection (c) states certain objectives for the aeronautical and space activities of the United States. The substance of these objectives was included in the President's message mentioned above, except that the Congress added one very important objective stated as follows:

"(4) The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes."
It is suggested that this provision for the establishment of long-range studies is sufficiently broad to authorize, and perhaps require, research into political, legal and other problems not purely scientific which arise from aeronautical and space activities carried on for peaceful purposes. This view is supported by the definition previously quoted which states that such activities mean, among other things, research into, and the solution of, problems of flight within and outside the earth's atmosphere. It must be noted that such research is not limited either to pure or to applied science.

Section 201 creates an entirely new government body designated as "National Aeronautics and Space Council." It will consist of the President, who will preside, Secretary of State, Secretary of Defense, Administrator of the new National Aeronautics and Space Administration, Chairman of the Atomic Energy Commission, not more than one additional federal government representative, and not more than three members to be appointed from civil life. The sole function of this council is to advise the President with respect to the performance of the duties vested in him by subsection (e) of section 201. These duties are extremely broad. They include making a survey of all aeronautical and space activities, as well as policies, plans, programs and accomplishments of United States agencies; developing a comprehensive program; designating responsibility for the direction of major aeronautical and space activities; providing for effective cooperation between the new agency and the Department of Defense and specifying which activities may be carried on concurrently; and finally the broad duty of resolving differences arising among departments and agencies of the United States with respect to aeronautical and space activities. The Council is authorized to employ a staff to be headed by a civilian executive secretary.

The very broad terms of the President's new duty to resolve differences as stated in subsection (e) (5) should be particularly noted. This duty to resolve differences with respect to aeronautical and space activities is not limited to differences that may arise between the new Administration and the Department of Defense. It covers all such differences between government departments and agencies dealing with the activities covered by the Act. Its significance will be realized by an examination of the broad powers of "Development Planning" contained in section 312 of the Federal Aviation Act of 1958 which replaces the Air Commerce Act and the Civil Aeronautics Act. It creates a new "Federal Aviation Agency" to be headed by an Administrator, who is authorized, in section 312, to make long-range plans for and formulate policy with respect to the orderly development and use of the navigable airspace, and is empowered to undertake developmental work tending, among other things, to the creation of improved aircraft.

Section 103 of the National Aeronautics and Space Act, as indicated earlier in this memorandum, covers the development, construction
and operation for research purposes of aeronautical and space vehicles, which, by the definition included in the same section, covers "aircraft" as well as "space vehicles." If any conflict should arise as to the duties and obligations of the Administrators under these two new statutes, the President, very fortunately, has the power and duty under section 201 (e) (5) of the National Aeronautics and Space Act, to resolve such differences insofar as they arise with respect to "aeronautical and space activities."

Section 202 provides for the establishment of the new "National Aeronautics and Space Administration" to be headed by an Administrator appointed by the President, and a Deputy Administrator.

Section 203 states the functions of the Administration. These are apparently limited under subsection (a) to the planning, directing and conducting of aeronautical and space activities; arranging for certain participation by the scientific community; and providing for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof. In practice, however, these functions may well develop very wide scope. The President, under section 201, is to develop a comprehensive program of aeronautical and space activities to be conducted by agencies of the United States, and designate the responsibility for the direction of such activities. Undoubtedly the new Administration is authorized and directed by the Act to conduct any such activities as may be included in the program fixed by the President as being part of its responsibility.

In addition, section 301 of the Act provides for the transfer to the new Administration of all the functions, powers, duties and obligations of the long established National Advisory Committee for Aeronautics. That agency now has statutory power to adopt rules and regulations, with the approval of the President, and under the same to supervise and direct the scientific study of the problems of flight with a view to their practical solution, and to determine the problems which should be experimentally attacked and to discuss their solution and their application to practical questions. In addition, the President, under section 302 of the Act, may transfer to the new Administration functions of other government departments of agencies which relate primarily to the functions, powers and duties of the new Administration as prescribed in the Act.

Broadly speaking, it may therefore be said that the Act envisions a system under which the President, with the advice of the new National Aeronautics and Space Council, will develop a program of aeronautical and space activities to be conducted by United States agencies, and that the new Administration will direct and conduct such of those activities as are assigned to it by the President. The President will, however, be obligated to take due note of the declaration of policy contained in section 103 (b), requiring that aeronautical and space activities shall be directed by a civilian agency, except those
peculiar to or primarily associated with the development of weapons systems and/or military operations of the defense of the United States, which shall be the responsibility of and directed by the Department of Defense.

Section 204 of the Act creates a Civilian Military Liaison Committee. Through this committee the new Administration and the Department of Defense shall advise and consult with each other on matters within their respective jurisdictions relating to aeronautical and space activities, and keep each other fully informed. Any matters on which they are unable to reach agreement will be referred to the President for decision.

Cooperation between the United States and other nations or groups of nations is provided by section 102 (c) (7) and section 205. The former provides that the aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of various objectives including "cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof." The Administration, in section 205, is authorized, under the foreign policy guidance of the President, to "engage in a program of international cooperation in work done pursuant to this Act, and in the peaceful application of the results thereof, pursuant to international agreements made by the President with the advice and consent of the Senate." Questions may well arise as to how and in what manner the last phrase of section 205 limits the authority of the President and the Administration. Specifically, the question may arise as to whether the Administration may engage in a program of international cooperation pursuant to an executive agreement made by the President with a foreign nation or group of nations which has not been reduced to treaty form and received the "advice and consent of the Senate."

This situation was apparently in the mind of President Eisenhower when he issued a statement on July 29, 1958, on signing the Act, saying in part: "The new Act contains one provision that requires comment. Section 205 authorizes cooperation with other nations and groups of nations in work done pursuant to the Act and in the peaceful application of the results of such work, pursuant to international agreements entered into by the President with the advice and consent of the Senate. I regard this section merely as recognizing that international treaties may be made in this field, and as not precluding, in appropriate cases, less formal arrangements for cooperation. To construe the section otherwise would raise substantial constitutional questions."

Other sections of the bill not specifically dealt with in this memorandum cover the following subjects: security, property rights in inventions, contributions awards and appropriations. These sections do not affect the major policy provisions of the Act.
MEMORANDUM ON SPACE ACT

Public Law 85-568
85th Congress, H. R. 12575
July 29, 1958

AN ACT

To provide for research into problems of flight within and outside the earth's atmosphere, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the “National Aeronautics and Space Act of 1958.”

DECLARATION OF POLICY AND PURPOSE

SEC. 102. (a) The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) The Congress declares that the general welfare and security of the United States requires that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 201 (e).

(c) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

1. The expansion of human knowledge of phenomena in the atmosphere and space;
2. The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;
3. The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;
4. The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;
5. The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;
6. The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value of significance to that agency;
7. Cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof; and
(8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.

(d) It is the purpose of this Act to carry out and effectuate the policies declared in subsections (a), (b), and (c).

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "aeronautical and space activities" means (A) research into, and the solution of, problems of flight within and outside the earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space; and

(2) the term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

TITLE II—COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

NATIONAL AERONAUTICS AND SPACE COUNCIL

SEC. 201. (a) There is hereby established the National Aeronautics and Space Council (hereinafter called the “Council”) which shall be composed of—

(1) the President (who shall preside over meetings of the Council);
(2) the Secretary of State;
(3) the Secretary of Defense;
(4) the Administrator of the National Aeronautics and Space Administration;
(5) the Chairman of the Atomic Energy Commission;
(6) not more than one additional member appointed by the President from the departments and agencies of the Federal Government; and
(7) not more than three other members appointed by the President, solely on the basis of established records of distinguished achievement, from among individuals in private life who are eminent in science, engineering, technology, education, administration, or public affairs.

(b) Each member of the Council from a department or agency of the Federal Government may designate another officer of his department or agency to serve on the Council as his alternate in his unavoidable absence.

(c) Each member of the Council appointed or designated under paragraphs (6) and (7) of subsection (a), and each alternate member designated under subsection (b), shall be appointed or designated to serve as such by and with the advice and consent of the Senate, unless at the time of such appointment or designation he holds an office in the Federal Government to which he was appointed by and with the advice and consent of the Senate.

(d) It shall be the function of the Council to advise the President with respect to the performance of the duties prescribed in subsection (e) of this section.

(e) In conformity with the provisions of section 102 of this Act, it shall be the duty of the President to—

(1) survey all significant aeronautical and space activities, including the policies, plans, programs, and accomplishments of all agencies of the United States engaged in such activities;
(2) develop a comprehensive program of aeronautical and space activities to be conducted by agencies of the United States;
MEMORANDUM ON SPACE ACT

(3) designate and fix responsibility for the direction of major aeronautical and space activities;
(4) provide for effective cooperation between the National Aeronautics and Space Administration and the Department of Defense in all such activities, and specify which of such activities may be carried on concurrently by both such agencies notwithstanding the assignment of primary responsibility therefor to one or the other of such agencies; and
(5) resolve differences arising among departments and agencies of the United States with respect to aeronautical and space activities under this Act, including differences as to whether a particular project is an aeronautical and space activity.

(f) The Council may employ a staff to be headed by a civilian executive secretary, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $20,000 a year. The executive secretary, subject to the direction of the Council, is authorized to appoint and fix the compensation of such personnel, including not more than three persons who may be appointed without regard to the civil service laws or the Classification Act of 1949 and compensated at the rate of not more than $19,000 a year, as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions. Each appointment under this subsection shall be subject to the same security requirements as those established for personnel of the National Aeronautics and Space Administration appointed under section 203 (b) (2) of this Act.

(g) Members of the Council appointed from private life under subsection (a) (7) may be compensated at a rate not to exceed $100 per diem, and may be paid travel expenses and per diem in lieu of subsistence in accordance with the provisions of section 5 of the Administrative Expenses Act of 1946 (5 U. S. C. 73b-2) relating to persons serving without compensation.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 202. (a) There is hereby established the National Aeronautics and Space Administration (hereinafter called the “Administration”). The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of $22,500 per annum. Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of $21,500 per annum, and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) The Administration, in order to carry out the purpose of this Act, shall—

(1) plan, direct, and conduct aeronautical and space activities;
(2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations; and
(3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) In the performance of its functions the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint and fix the compensation (up to a limit of $19,000 a year, or up to a limit of $21,000 a year for a maximum of ten positions) of not more than two hundred and sixty of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule established by the Classification Act of 1949, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 471 et seq.); and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3648 of the Revised Statutes, as amended (31 U. S. C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purpose of this Act, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private
agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies and organizations;

(9) to obtain services as authorized by section 15 of the Act of August 2, 1946 (5 U. S. C. 55a), at rates not to exceed $100 per diem for individuals;

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) to employ retired commissioned officers of the armed forces of the United States and compensate them at the rate established for the positions occupied by them within the Administration, subject only to the limitations in pay set forth in section 212 of the Act of June 30, 1932, as amended (5 U. S. C. 59a);

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be detailed by the appropriate Secretary for services in the performance of functions under this Act to the same extent as that to which they might be lawfully assigned in the Department of Defense; and

(13) (A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for $5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of $5,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.

CIVILIAN-MILITARY LIAISON COMMITTEE

SEC. 204. (a) There shall be a Civilian-Military Liaison Committee consisting of—

(1) a Chairman, who shall be the head thereof and who shall be appointed by the President, shall serve at the pleasure of the President, and shall receive compensation (in the manner provided in subsection (d)) at the rate of $20,000 per annum;
(2) one or more representatives from the Department of Defense, and one or more representatives from each of the Departments of the Army, Navy, and Air Force, to be assigned by the Secretary of Defense to serve on the Committee without additional compensation; and

(3) representatives from the Administration, to be assigned by the Administrator to serve on the Committee without additional compensation, equal in number to the number of representatives assigned to serve on the Committee under paragraph (2).

(b) The Administration and the Department of Defense, through the Liaison Committee, shall advise and consult with each other on all matters within their respective jurisdictions relating to aeronautical and space activities and shall keep each other fully and currently informed with respect to such activities.

(c) If the Secretary of Defense concludes that any request, action, proposed action, or failure to act on the part of the Administrator is adverse to the responsibilities of the Department of Defense, or the Administrator concludes that any request, action, proposed action, or failure to act on the part of the Department of Defense is adverse to the responsibilities of the Administration, and the Administrator and the Secretary of Defense are unable to reach an agreement with respect thereto, either the Administrator or the Secretary of Defense may refer the matter to the President for his decision (which shall be final) as provided in section 201 (e).

(d) Notwithstanding the provisions of any other law, any active or retired officer of the Army, Navy, or Air Force may serve as Chairman of the Liaison Committee without prejudice to his active or retired status as such officer. The compensation received by any such officer for his service as Chairman of the Liaison Committee shall be equal to the amount (if any) by which the compensation fixed by subsection (a) (1) for such Chairman exceeds his pay and allowances (including special and incentive pays) as an active officer, or his retired pay.

INTERNATIONAL COOPERATION

SEC. 205. The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this Act, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate.

REPORTS TO THE CONGRESS

SEC. 206. (a) The Administration shall submit to the President for transmittal to the Congress, semiannually and at such other times as it deems desirable, a report of its activities and accomplishments.

(b) The President shall transmit to the Congress in January of each year a report, which shall include (1) a comprehensive description of the programed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding calendar year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 102 (c) of this Act.

(c) Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 102 (c) of this Act.

(d) No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President.
TITLE III—MISCELLANEOUS
NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

SEC. 301. (a) The National Advisory Committee for Aeronautics, on the effective date of this section, shall cease to exist. On such date all functions, powers, duties, and obligations, and all real and personal property, personnel (other than members of the Committee), funds, and records of that organization, shall be transferred to the Administration.

(b) Section 2302 of title 10 of the United States Code is amended by striking out "or the Executive Secretary of the National Advisory Committee for Aeronautics." and inserting in lieu thereof "or the Administrator of the National Aeronautics and Space Administration."; and section 2303 of such title 10 is amended by striking out "The National Advisory Committee for Aeronautics." and inserting in lieu thereof "The National Aeronautics and Space Administration."

(c) The first section of the Act of August 26, 1950 (5 U. S. C. 22-1), is amended by striking out "the Director, National Advisory Committee for Aeronautics" and inserting in lieu thereof "the Administrator of the National Aeronautics and Space Administration," and by striking out "or National Advisory Committee for Aeronautics" and inserting in lieu thereof "or National Aeronautics and Space Administration."

(d) The Unitary Wind Tunnel Plan Act of 1949 (50 U. S. C. 511-515) is amended (1) by striking out "The National Advisory Committee for Aeronautics (hereinafter referred to as the 'Committee')" and inserting in lieu thereof "The Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the 'Administrator')"; (2) by striking out "Committee" or "Committee's" wherever they appear and inserting in lieu thereof "Administrator" and Administrator's," respectively; and (3) by striking out "its" wherever it appears and inserting in lieu thereof "his."

(e) This section shall take effect ninety days after the date of the enactment of this Act, or on any earlier date on which the Administrator shall determine, and announce by proclamation published in the Federal Register, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it by this Act.

TRANSFER OF RELATED FUNCTIONS

SEC. 302. (a) Subject to the provisions of this section, the President, for a period of four years after the date of enactment of this Act, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by section 203 of this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(b) Whenever any such transfer is made before January 1, 1959, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(c) After December 31, 1958, no transfer shall be made under this section until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.
ACCESS TO INFORMATION

SEC. 303. Information obtained or developed by the Administrator in the performance of his functions under this Act shall be made available for public inspection, except (A) information authorized or required by Federal statute to be withheld, and (B) information classified to protect the national security: Provided, That nothing in this Act shall authorize the withholding of information by the Administrator from the duly authorized committees of the Congress.

SECURITY

SEC. 304. (a) The Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary in the interest of the national security. The Administrator may arrange with the Civil Service Commission for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as he deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.

(b) The Atomic Energy Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under subsection 145 b. of the Atomic Energy Act of 1954 (42 U. S. C. 2165 (b)), to permit any member, officer, or employee of the Council, or the Administrator, or any officer, employee, member of an advisory committee, contractor, subcontractor, or officer or employee of a contractor or subcontractor of the Administration, to have access to Restricted Data relating to aeronautical and space activities which is required in the performance of his duties and so certified by the Council or the Administrator, as the case may be, but only if (1) the Council or Administrator or designee thereof has determined, in accordance with the established personnel security procedures and standards of the Council or Administration, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Council or Administrator or designee thereof finds that the established personnel and other security procedures and standards of the Council or Administration are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 145 of the Atomic Energy Act of 1954 (42 U. S. C. 2165). Any individual granted access to such Restricted Data pursuant to this subsection may exchange such Data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the armed forces, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of section 143 of the Atomic Energy Act of 1954 (42 U. S. C. 2163).

(c) Chapter 37 of title 18 of the United States Code (entitled Espionage and Censorship) is amended by—

(1) adding at the end thereof the following new section:

"§ 799. Violation of regulations of National Aeronautics and Space Administration Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft,
missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than $5,000, or imprisoned not more than one year, or both."

(2) adding at the end of the sectional analysis thereof the following new item:

"799. Violation of regulations of National Aeronautics and Space Administration."

(d) Section 1114 of title 18 of the United States Code is amended by inserting immediately before "while engaged in the performance of his official duties" the following: "or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration."

(e) The Administrator may direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties. The Administrator may also authorize such of those employees of the contractors and subcontractors of the Administration engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as he deems necessary in the public interest, to carry firearms while in the conduct of their official duties.

PROPERTY RIGHTS IN INVENTIONS

SEC. 305. (a) Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),

such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.

(b) Each contract entered into by the Administrator with any party for the performance of any work shall contain effective provisions under which such party shall furnish promptly to the Administrator a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of any such work.

(c) No patent may be issued to any applicant other than the Administrator for any invention which appears to the Commissioner of Patents to have significant utility in the conduct of aeronautical and space activities
unless the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Administrator.

(d) Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before a Board of Patent Interferences on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and determine, in accordance with rules and procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the Court of Customs and Patent Appeals in accordance with procedures governing appeals from decisions of the Board of Patent Interferences in other proceedings.

(e) Whenever any patent has been issued to any applicant in conformity with subsection (d), and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the transfer to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before a Board of Patent Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

(f) Under such regulations in conformity with this subsection as the Administrator shall prescribe, he may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Each such waiver made with respect to any invention shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferrable, royalty-free license for the practice of such invention throughout the world by or on
behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.

(g) The Administrator shall determine, and promulgate regulations specifying, the terms and conditions upon which licenses will be granted by the Administration for the practice by any person (other than an agency of the United States) of any invention for which the Administrator holds a patent on behalf of the United States.

(h) The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use.

(i) The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35 of the United States Code.

(j) As used in this section—

(1) the term “person” means any individual, partnership, corporation, association, institution, or other entity;

(2) the term “contract” means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

(3) the term “made,” when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

CONTRIBUTIONS AWARDS

SEC. 306. (a) Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon application of any person, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any person (as defined by section 305) for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of aeronautical and space activities. Each application made for any such award shall be referred to the Inventions and Contributions Board established under section 305 of this Act. Such Board shall accord to each such applicant an opportunity for hearing upon such application, and shall transmit to the Administrator its recommendation as to the terms of the award, if any, to be made to such applicant for such contribution. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and

(4) such other factors as the Administrator shall determine to be material.
(b) If more than one applicant under subsection (a) claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) with respect to any contribution—

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place;

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

APPROPRIATIONS

SEC. 307. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, except that nothing in this Act shall authorize the appropriation of any amount for (1) the acquisition or condemnation of any real property, or (2) any other item of a capital nature (such as plant or facility acquisition, construction, or expansion) which exceeds $250,000. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.