

105TH CONGRESS
1ST SESSION

H. R. 2748

To amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and airports not receiving sufficient air service, to improve jet aircraft service to underserved markets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1997

Mr. DUNCAN (for himself, Mr. BLUNT, Mr. FOX of Pennsylvania, Mr. EWING, Mr. COOK, Mr. WALSH, Mr. QUINN, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and airports not receiving sufficient air service, to improve jet aircraft service to underserved markets, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airline Service Im-
5 provement Act of 1997”.

1 **TITLE I—SERVICE TO AIRPORTS**
2 **NOT RECEIVING SUFFICIENT**
3 **SERVICE**

4 **SEC. 101. AVAILABILITY OF SLOTS.**

5 (a) PERIOD OF EFFECTIVENESS.—

6 (1) SLOTS FOR FOREIGN AIR TRANSPORTATION.—Section 41714(b) of title 49, United
7 States Code, is amended by striking paragraph (4).
8

9 (2) SLOTS FOR NEW ENTRANTS.—Section
10 41714(c) of such title is amended—

11 (A) by striking “(1) IN GENERAL.—”;

12 (B) by striking paragraph (2); and

13 (C) by moving the text of paragraph (1) so
14 that it follows the subsection heading and its
15 margin is aligned with the margin for sub-
16 section (g).

17 (b) SLOTS FOR AIRPORTS NOT RECEIVING SUFFI-
18 CIENT SERVICE.—Section 41714 of such title is amend-
19 ed—

20 (1) by striking subsections (e) and (f) and in-
21 serting the following:

22 “(e) SLOTS FOR AIRPORTS NOT RECEIVING SUFFI-
23 CIENT SERVICE.—

24 “(1) EXEMPTIONS.—Notwithstanding the Met-
25 ropolitan Washington Airports Act of 1986, the Sec-

1 retary may by order grant exemptions from the re-
2 quirements under subparts K and S of part 93 of
3 title 14, Code of Federal Regulations (pertaining to
4 slots at high density airports), to enable air carriers
5 to provide nonstop air transportation using aircraft
6 that comply with the stage 3 noise levels of part 36
7 of such title 14 between a high density airport and
8 a small hub airport or nonhub airport that the Sec-
9 retary determines is not receiving sufficient air car-
10 rier service to and from such high density airport.

11 “(2) LIMITATIONS.—No more than 2 exemp-
12 tions per hour may be granted under this subsection
13 for slots at any high density airport, and no more
14 than 6 exemptions per day may be granted under
15 this subsection for slots at Washington National Air-
16 port.

17 “(3) APPLICATION.—An air carrier interested
18 in an exemption under this subsection shall submit
19 to the Secretary an application for such exemption.
20 No application may be submitted to the Secretary
21 before the last day of the 30-day period beginning
22 on the date of the enactment of this subsection.

23 “(4) DEADLINE FOR DECISION.—The Secretary
24 shall make a decision with regard to granting an ex-
25 emption under this subsection not later than the

1 120th day following the date of the application for
2 the exemption. If the Secretary does not make the
3 decision on or before such 120th day, the air carrier
4 applying for the service may provide such service
5 until the Secretary makes the decision or the Admin-
6 istrator of the Federal Aviation Administration de-
7 termines that providing such service would have an
8 adverse effect on air safety.

9 “(5) PERIOD OF EFFECTIVENESS.—An exemp-
10 tion granted under this subsection may remain in ef-
11 fect while the air carrier for whom the exemption is
12 granted continues to provide nonstop air transpor-
13 tation between the airport that the Secretary deter-
14 mined was not receiving sufficient air carrier service
15 and the high density airport.

16 “(6) DEFINITIONS.—In this subsection, the fol-
17 lowing definitions apply:

18 “(A) NONHUB AIRPORT.—The term
19 ‘nonhub airport’ means an airport that each
20 year has less than .05 percent of the total an-
21 nual boardings in the United States; and

22 “(B) SMALL HUB AIRPORT.—The term
23 ‘small hub airport’ means an airport that each
24 year has at least .05 percent, but less than .25

1 percent, of the total annual boardings in the
2 United States.”; and

3 (2) by redesignating subsections (g) and (h) as
4 subsections (f) and (e).

5 **SEC. 102. FUNDING FOR AIR CARRIER SERVICE TO AIR-**
6 **PORTS NOT RECEIVING SUFFICIENT SERV-**
7 **ICE.**

8 Section 41742(b) is amended to read as follows:

9 “(b) FUNDING FOR SMALL COMMUNITY AIR SERV-
10 ICE.—

11 “(1) SOURCE OF FUNDING.—Notwithstanding
12 any other provision of law, moneys credited to the
13 account established under section 45303(a) of this
14 title, including the funds derived from fees imposed
15 under the authority contained in section 45301(a) of
16 this title, shall be used to carry out the essential air
17 service program under this subchapter.

18 “(2) FUNDING FOR AIR CARRIER SERVICE TO
19 AIRPORTS NOT RECEIVING SUFFICIENT SERVICE AND
20 RURAL AIR SAFETY.—Any amounts from fees im-
21 posed under section 45301(a) that the Secretary de-
22 termines will not be obligated or expended by the
23 last day of a fiscal year for the purpose of funding
24 the essential air service program under this sub-

1 chapter shall be made available in such fiscal year
2 to the Administration as follows:

3 “(A) First, not to exceed \$10,000,000 in
4 each fiscal year beginning after September 30,
5 1998—

6 “(i) for assisting an air carrier to pur-
7 chase aircraft to provide air transportation
8 to an underserved airport, to purchase
9 slots to provide air service between a high
10 density airport and an airport that the
11 Secretary determines is not receiving suffi-
12 cient air carrier service to and from such
13 high density airport, and to subsidize serv-
14 ice to and from an underserved airport for
15 a period not to exceed 3 years; and

16 “(ii) for assisting an underserved air-
17 port to market service to and from the un-
18 derserved airport.

19 “(B) Second, for use under this subchapter
20 in improving rural air safety at airports with
21 less than 100,000 annual boardings.

22 “(3) UNDERSERVED AIRPORT.—In this sub-
23 section, the term ‘underserved airport’ means a
24 nonhub airport or small hub airport that the Sec-

1 retary determines is not receiving sufficient air car-
2 rier service.”.

3 **SEC. 103. UNFAIR COMPETITION COMPLAINTS.**

4 Section 41712 of title 49, United States Code, is
5 amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “On”; and

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

9 “(b) DEADLINE FOR DECISION ON UNFAIR COMPETI-
10 TION COMPLAINTS.—The Secretary shall make a decision
11 on any complaint the Secretary receives under this section
12 regarding whether an air carrier has been or is engaged
13 in an unfair method of competition in air transportation
14 or the sale of air transportation not later than 180 days
15 after the date of receipt of the complaint.”.

16 **TITLE II—REGIONAL AIR**
17 **SERVICE INCENTIVE PROGRAM**

18 **SEC. 201. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

19 (a) IN GENERAL.—Chapter 417 of title 49, United
20 States Code, is amended by adding at the end the follow-
21 ing:

1 “SUBCHAPTER III—REGIONAL AIR SERVICE
2 INCENTIVE PROGRAM

3 “§ 41761. Purpose

4 “The purpose of this subchapter is to improve service
5 by jet aircraft to underserved markets by providing assist-
6 ance, in the form of loan guarantees, to commuter air car-
7 riers that purchase regional jet aircraft for use in serving
8 those markets.

9 “§ 41762. Definitions

10 “In this subchapter, the following definitions apply:

11 “(1) AIRCRAFT PURCHASE LOAN.—The term
12 ‘aircraft purchase loan’ means any loan made for the
13 purchase of commercial transport aircraft, including
14 spare parts normally associated with the aircraft.

15 “(2) AIR CARRIER.—The term ‘air carrier’
16 means any air carrier holding a certificate of public
17 convenience and necessity issued by the Secretary of
18 Transportation under section 41102.

19 “(3) COMMUTER AIR CARRIER.—The term
20 ‘commuter air carrier’ means an air carrier that pri-
21 marily operates aircraft designed to have a maxi-
22 mum passenger seating capacity of 75 or less in ac-
23 cordance with published flight schedules.

24 “(4) NEW ENTRANT AIR CARRIER.—The term
25 ‘new entrant air carrier’ means an air carrier that

1 has been providing air transportation according to
2 a published schedule for less than 5 years, including
3 any person that has received authority from the Sec-
4 retary to provide air transportation but is not pro-
5 viding air transportation.

6 “(5) NONHUB AIRPORT.—The term ‘nonhub
7 airport’ means an airport that each year has less
8 than .05 percent of the total annual boardings in the
9 United States.

10 “(6) REGIONAL JET AIRCRAFT.—The term ‘re-
11 gional jet aircraft’ means a civil aircraft—

12 “(A) powered by jet propulsion; and

13 “(B) designed to have a maximum pas-
14 senger seating capacity of not less than 30 nor
15 more than 75.

16 “(7) SMALL HUB AIRPORT.—The term ‘small
17 hub airport’ means an airport that each year has at
18 least .05 percent, but less than .25 percent, of the
19 total annual boardings in the United States.

20 “(8) UNDERSERVED MARKET.—The term ‘un-
21 derserved market’ means a passenger air transpor-
22 tation market (as defined by the Secretary) that—

23 “(A) is served (as determined by the Sec-
24 retary) by a nonhub airport or a small hub air-
25 port;

1 “(B) is not within a 40-mile radius of an
2 airport that each year has at least .25 percent
3 of the total annual boardings in the United
4 States; and

5 “(C) the Secretary determines does not
6 have sufficient air service.

7 **“§ 41763. Loan guarantees**

8 “(a) IN GENERAL.—The Secretary of Transportation
9 may guarantee any lender against loss of principal or in-
10 terest on any aircraft purchase loan made by that lender
11 to a commuter air carrier or new entrant air carrier.

12 “(b) FORM, TERMS, AND CONDITIONS.—A guarantee
13 shall be made under subsection (a)—

14 “(1) in such form and on such terms and condi-
15 tions; and

16 “(2) pursuant to such regulations;
17 as the Secretary considers to be necessary and consistent
18 with this subchapter.

19 **“§ 41764. Conditions and limitations**

20 “(a) LIMITATIONS ON FUNDS.—Subject to subsection
21 (d), no loan guarantee shall be made under this sub-
22 chapter—

23 “(1) extending to more than the unpaid interest
24 and 90 percent of the unpaid principal of any loan;

1 “(2) on any loan or combination of loans for
2 more than 90 percent of the purchase price of the
3 aircraft, including spare parts, to be purchased with
4 the loan or loan combination;

5 “(3) on any loan with respect to which terms
6 permit repayment more than 15 years after the date
7 the loan is made;

8 “(4) in any case in which the total face amount
9 of the loan and any other loans to the same air car-
10 rier or corporate predecessor of that air carrier that
11 are guaranteed and outstanding under the terms of
12 this subchapter exceed \$100,000,000.

13 “(b) CONDITIONS FOR MAKING LOANS.—Subject to
14 subsection (c), the Secretary of Transportation may only
15 make a loan guarantee under this subchapter if the Sec-
16 retary finds that—

17 “(1) the aircraft to be purchased with the loan
18 is a regional jet aircraft needed to improve the serv-
19 ice and efficiency of operation of the commuter air
20 carrier or new entrant air carrier;

21 “(2) the commuter air carrier or new entrant
22 air carrier agrees to use the aircraft to provide serv-
23 ice to underserved markets; and

24 “(3) the prospective earning power of the com-
25 muter air carrier or new entrant air carrier, together

1 with the character and value of the security pledged,
2 furnish—

3 “(A) reasonable assurances of the air car-
4 rier’s ability and intention to repay the loan
5 within the term of the loan—

6 “(i) to continue its operations as an
7 air carrier; and

8 “(ii) to the extent that the Secretary
9 determines to be necessary, to continue its
10 operations as an air carrier between the
11 same route or routes being operated by the
12 air carrier at the time of the loan guaran-
13 tee; and

14 “(B) reasonable protection to the United
15 States.

16 “(c) REQUIREMENT.—Subject to subsection (d), no
17 loan guarantee may be made under this subchapter on any
18 loan or combination of loans for the purchase of any re-
19 gional jet aircraft that does not comply with the stage 3
20 noise levels of part 36 of title 14 of the Code of Federal
21 Regulations, as in effect on January 1, 1997.

22 “(d) OTHER LIMITATIONS.—No loan guarantee shall
23 be made by the Secretary under this subchapter on any
24 loan for the purchase of a regional jet aircraft unless the
25 commuter air carrier or new entrant air carrier agrees

1 that it will provide scheduled passenger air transportation
2 to the underserved market for which the aircraft is pur-
3 chased for a period of not less than 24 consecutive months
4 after the aircraft is placed in service.

5 **“§ 41765. Fees**

6 “The Secretary of Transportation shall prescribe and
7 collect from a lending institution a reasonable guarantee
8 fee in connection with each loan guaranteed under this
9 subchapter.

10 **“§ 41766. Use of Federal facilities and assistance**

11 “(a) USE OF FEDERAL FACILITIES.—To permit the
12 Secretary of Transportation to make use of such expert
13 advice and services as the Secretary may require in carry-
14 ing out this subchapter, the Secretary may use available
15 services and facilities of other agencies and instrumental-
16 ities of the Federal Government—

17 “(1) with the consent of the appropriate Fed-
18 eral officials; and

19 “(2) on a reimbursable basis.

20 “(b) ASSISTANCE.—The head of each appropriate de-
21 partment or agency of the Federal Government shall exer-
22 cise the duties and functions of that head in such manner
23 as to assist in carrying out the policy specified in section
24 41761.

1 “(c) OVERSIGHT.—The Secretary shall make avail-
2 able to the Comptroller General of the United States such
3 information with respect to the loan guarantee program
4 conducted under this subchapter as the Comptroller Gen-
5 eral may require to carry out the duties of the Comptroller
6 General under chapter 7 of title 31.

7 **“§ 41767. Receipts; payments**

8 “(a) MISCELLANEOUS.—Amounts received by the
9 Secretary of Transportation under this subchapter shall
10 be credited to miscellaneous receipts of the Treasury.

11 “(b) PAYMENTS.—Payments to lenders required as a
12 consequence of any loan guarantee made under this sub-
13 chapter may be made from funds appropriated pursuant
14 to the authorization under section 202 of the Airline Serv-
15 ice Improvement Act of 1997.

16 “(c) ADMINISTRATIVE EXPENSES.—In carrying out
17 this subchapter, the Secretary shall use funds made avail-
18 able by appropriations to the Department of Transpor-
19 tation for the purpose of administration to cover adminis-
20 trative expenses of the loan guarantee program under this
21 subchapter.

22 **“§ 41768. Termination**

23 “‘The authority of the Secretary of Transportation
24 under section 41763 shall terminate on the date that is

1 5 years after the date of the enactment of this sub-
 2 chapter.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
 4 chapter 417 of such title is amended by adding at the end
 5 the following:

“SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

“Sec.

“41761. Purpose.

“41762. Definitions.

“41763. Loan guarantees.

“41764. Conditions and limitations.

“41765. Fees.

“41766. Use of Federal facilities and assistance.

“41767. Receipts; payments.

“41768. Termination.”.

6 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
 8 as may be necessary to carry out subchapter III of chapter
 9 417 of title 49, United States Code.

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