

106TH CONGRESS
1ST SESSION

H. R. 907

To amend title 49, United States Code, to authorize the Secretary of Transportation to implement a pilot program to improve access to the national transportation system for small communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1999

Mr. DEFAZIO introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to authorize the Secretary of Transportation to implement a pilot program to improve access to the national transportation system for small communities, 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; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Air Service Restoration Act”.

6 (b) **REFERENCES.**—Except as otherwise specifically
7 provided, whenever in this Act an amendment or repeal
8 is expressed in terms of an amendment to, or repeal of,

1 a section or other provision of law, the reference shall be
2 considered to be made to a section or other provision of
3 title 49, United States Code.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) a national transportation system providing
7 safe, high quality service to all areas of the United
8 States is essential to interstate commerce and the
9 economic well-being of cities and towns throughout
10 the United States;

11 (2) taxpayers throughout the United States
12 have supported and helped to fund the United
13 States aviation infrastructure and have a right to
14 expect that aviation services will be provided in an
15 equitable and fair manner to every region of the
16 country;

17 (3) some communities have not benefited from
18 airline deregulation and access to essential airports
19 and air services has been limited;

20 (4) air service to a number of small commu-
21 nities has suffered since deregulation;

22 (5) studies by the Department of Transpor-
23 tation have documented that, since the airline indus-
24 try was deregulated in 1978—

1 (A) 34 small communities have lost service
2 and many small communities have had jet air-
3 craft service replaced by turboprop aircraft
4 service;

5 (B) out of a total of 320 small commu-
6 nities, the number of small communities being
7 served by major air carriers declined from 213
8 in 1978 to 33 in 1995;

9 (C) the number of small communities re-
10 ceiving service to only one major hub airport in-
11 creased from 79 in 1978 to 134 in 1995; and

12 (D) the number of small communities re-
13 ceiving multiple-carrier service decreased from
14 136 in 1978 to 122 in 1995; and

15 (6) improving air service to small and medium-
16 sized communities that have not benefited from fare
17 reductions and improved service since deregulation
18 will likely entail a range of Federal, State, regional,
19 local, and private sector initiatives.

20 **SEC. 3. PURPOSE.**

21 The purpose of this Act is to facilitate, through a
22 pilot program, incentives and projects that will help com-
23 munities to improve their access to the essential airport
24 facilities of the national air transportation system through
25 public-private partnerships and to identify and establish

1 ways to overcome the unique policy, economic, geographic,
2 and marketplace factors that may inhibit the availability
3 of quality, affordable air service to small communities.

4 **SEC. 4. ESTABLISHMENT OF SMALL COMMUNITY AVIATION**
5 **DEVELOPMENT PROGRAM.**

6 Section 102 is amended by adding at the end the fol-
7 lowing:

8 “(g) SMALL COMMUNITY AIR SERVICE DEVELOP-
9 MENT PROGRAM.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a 5-year pilot aviation development program
12 to be administered by a program director designated
13 by the Secretary.

14 “(2) FUNCTIONS.—The program director
15 shall—

16 “(A) function as a facilitator between
17 small communities and air carriers;

18 “(B) carry out section 41743 of this title;

19 “(C) carry out the airline service restora-
20 tion program under sections 41744, 41745, and
21 41746 of this title;

22 “(D) ensure that the Bureau of Transpor-
23 tation Statistics collects data on passenger in-
24 formation to assess the service needs of small
25 communities;

1 “(E) work with and coordinate efforts with
2 other Federal, State, and local agencies to in-
3 crease the viability of service to small commu-
4 nities and the creation of aviation development
5 zones; and

6 “(F) provide policy recommendations to
7 the Secretary and the Congress that will ensure
8 that small communities have access to quality,
9 affordable air transportation services.

10 “(3) REPORTS.—The program director shall
11 provide an annual report to the Secretary and Con-
12 gress beginning in 2000 that—

13 “(A) analyzes the availability of air trans-
14 portation services in small communities, includ-
15 ing, but not limited to, an assessment of the air
16 fares charged for air transportation services in
17 small communities compared to air fares
18 charged for air transportation services in larger
19 metropolitan areas and an assessment of the
20 levels of service, measured by types of aircraft
21 used, the availability of seats, and scheduling of
22 flights, provided to small communities;

23 “(B) identifies the policy, economic, geo-
24 graphic, and marketplace factors that inhibit

1 the availability of quality, affordable air trans-
2 portation services to small communities; and

3 “(C) provides policy recommendations to
4 address the policy, economic, geographic, and
5 marketplace factors inhibiting the availability of
6 quality, affordable air transportation services to
7 small communities.”.

8 **SEC. 5. COMMUNITY-CARRIER AIR SERVICE PROGRAM.**

9 (a) IN GENERAL.—Subchapter II of chapter 417 is
10 amended by adding at the end the following:

11 **“§ 41743. Air service program for small communities**

12 “(a) COMMUNITIES PROGRAM.—Under advisory
13 guidelines prescribed by the Secretary of Transportation,
14 a small community or a consortia of small communities
15 or a State may develop an assessment of its air service
16 requirements, in such form as the program director des-
17 igned by the Secretary under section 102(g) may re-
18 quire, and submit the assessment and service proposal to
19 the program director.

20 “(b) SELECTION OF PARTICIPANTS.—In selecting
21 community programs for participation in the communities
22 program under subsection (a), the program director shall
23 apply criteria, including geographical diversity and the
24 presentation of unique circumstances, that will dem-
25 onstrate the feasibility of the program. For purposes of

1 this subsection, the application of geographical diversity
2 criteria means criteria that—

3 “(1) will promote the development of a national
4 air transportation system; and

5 “(2) will involve the participation of commu-
6 nities in all regions of the country.

7 “(c) CARRIERS PROGRAM.—The program director
8 shall invite part 121 air carriers and regional/commuter
9 carriers (as such terms are defined in section 41715(d)
10 of this title) to offer service proposals in response to, or
11 in conjunction with, community aircraft service assess-
12 ments submitted to the office under subsection (a). A serv-
13 ice proposal under this subsection shall include—

14 “(1) an assessment of potential daily passenger
15 traffic, revenues, and costs necessary for the carrier
16 to offer the service;

17 “(2) a forecast of the minimum percentage of
18 that traffic the carrier would require the community
19 to garner in order for the carrier to start up and
20 maintain the service; and

21 “(3) the costs and benefits of providing jet serv-
22 ice by regional or other jet aircraft.

23 “(d) PROGRAM SUPPORT FUNCTION.—The program
24 director shall work with small communities and air car-

1 riers, taking into account their proposals and needs, to
2 facilitate the initiation of service. The program director—

3 “(1) may work with communities to develop in-
4 novative means and incentives for the initiation of
5 service;

6 “(2) may obligate funds authorized under sec-
7 tion 6 of the Air Service Restoration Act to carry
8 out this section;

9 “(3) shall continue to work with both the car-
10 riers and the communities to develop a combination
11 of community incentives and carrier service levels
12 that—

13 “(A) are acceptable to communities and
14 carriers; and

15 “(B) do not conflict with other Federal or
16 State programs to facilitate air transportation
17 to the communities;

18 “(4) designate an airport in the program as an
19 Air Service Development Zone and work with the
20 community on means to attract business to the area
21 surrounding the airport, to develop land use options
22 for the area, and provide data, working with the De-
23 partment of Commerce and other agencies; and

24 “(5) take such other action under this sub-
25 chapter as may be appropriate.

1 “(e) LIMITATIONS.—

2 “(1) COMMUNITY SUPPORT.—The program di-
3 rector may not provide financial assistance under
4 subsection (e)(2) to any community unless the pro-
5 gram director determines that—

6 “(A) a public-private partnership exists at
7 the community level to carry out the commu-
8 nity’s proposal;

9 “(B) the community will make a substan-
10 tial financial contribution that is appropriate
11 for that community’s resources, but of not less
12 than 25 percent of the cost of the project in
13 any event;

14 “(C) the community has established an
15 open process for soliciting air service proposals;
16 and

17 “(D) the community will accord similar
18 benefits to air carriers that are similarly situ-
19 ated.

20 “(2) AMOUNT.—The program director may not
21 obligate more than \$100,000,000 of the amounts au-
22 thorized under section 6 of the Air Service Restora-
23 tion Act over the 5 years of the program.

24 “(3) NUMBER OF PARTICIPANTS.—The pro-
25 gram established under subsection (a) shall not in-

1 volve more than 40 communities or consortia of
2 communities.

3 “(f) REPORT.—The program director shall report
4 through the Secretary to Congress annually on the
5 progress made under this section during the preceding
6 year in expanding commercial aviation service to smaller
7 communities.

8 **“§ 41744. Pilot program project authority**

9 “(a) IN GENERAL.—The program director designated
10 by the Secretary of Transportation under section
11 102(g)(1) shall establish a 5-year pilot program—

12 “(1) to assist communities and States with in-
13 adequate access to the national transportation sys-
14 tem to improve their access to that system; and

15 “(2) to facilitate better air service link-ups to
16 support the improved access.

17 “(b) PROJECT AUTHORITY.—Under the pilot pro-
18 gram established pursuant to subsection (a), the program
19 director may—

20 “(1) out of amounts authorized under section 6
21 of the Air Service Restoration Act, provide financial
22 assistance by way of grants to small communities or
23 consortia of small communities under section 41743
24 of up to \$500,000 per year; and

1 “(2) take such other action as may be appro-
2 priate.

3 “(c) OTHER ACTION.—Under the pilot program es-
4 tablished pursuant to subsection (a), the program director
5 may facilitate service by—

6 “(1) working with airports and air carriers to
7 ensure that appropriate facilities are made available
8 at essential airports;

9 “(2) collecting data on air carrier service to
10 small communities; and

11 “(3) providing policy recommendations to the
12 Secretary to stimulate air service and competition to
13 small communities.

14 “(d) ADDITIONAL ACTION.—Under the pilot program
15 established pursuant to subsection (a), the Secretary shall
16 work with air carriers providing service to participating
17 communities and major air carriers serving large hub air-
18 ports (as defined in section 41731(a)(3)) to facilitate joint
19 fare arrangements consistent with normal industry prac-
20 tice.

21 **“§ 41745. Assistance to communities for service**

22 “(a) IN GENERAL.—Financial assistance provided
23 under section 41743 during any fiscal year as part of the
24 pilot program established under section 41744(a) shall be
25 implemented for not more than—

1 “(1) 4 communities within any State at any
2 given time; and

3 “(2) 40 communities in the entire program at
4 any time.

5 For purposes of this subsection, a consortium of commu-
6 nities shall be treated as a single community.

7 “(b) ELIGIBILITY.—In order to participate in a pilot
8 project under this subchapter, a State, community, or
9 group of communities shall apply to the Secretary in such
10 form and at such time, and shall supply such information,
11 as the Secretary may require, and shall demonstrate to
12 the satisfaction of the Secretary that—

13 “(1) the applicant has an identifiable need for
14 access, or improved access, to the national air trans-
15 portation system that would benefit the public;

16 “(2) the pilot project will provide material bene-
17 fits to a broad section of the travelling public, busi-
18 nesses, educational institutions, and other enter-
19 prises whose access to the national air transpor-
20 tation system is limited;

21 “(3) the pilot project will not impede competi-
22 tion; and

23 “(4) the applicant has established, or will estab-
24 lish, public-private partnerships in connection with
25 the pilot project to facilitate service to the public.

1 “(c) COORDINATION WITH OTHER PROVISIONS OF
2 SUBCHAPTER.—The Secretary shall carry out the 5-year
3 pilot program authorized by this subchapter in such a
4 manner as to complement action taken under the other
5 provisions of this subchapter. To the extent the Secretary
6 determines to be appropriate, the Secretary may adopt cri-
7 teria for implementation of the 5-year pilot program that
8 are the same as, or similar to, the criteria developed under
9 the preceding sections of this subchapter for determining
10 which airports are eligible under those sections. The Sec-
11 retary shall also, to the extent possible, provide incentives
12 where no direct, viable, and feasible alternative service ex-
13 ists, taking into account geographical diversity and appro-
14 priate market definitions.

15 “(d) MAXIMIZATION OF PARTICIPATION.—The Sec-
16 retary shall structure the program established pursuant
17 to section 41744(a) in a way designed to—

18 “(1) permit the participation of the maximum
19 feasible number of communities and States over a 5-
20 year period by limiting the number of years of par-
21 ticipation or otherwise; and

22 “(2) obtain the greatest possible leverage from
23 the financial resources available to the Secretary and
24 the applicant by—

1 “(A) progressively decreasing, on a project-
2 by-project basis, any Federal financial incen-
3 tives provided under this subchapter over the 5-
4 year period; and

5 “(B) terminating as early as feasible Fed-
6 eral financial incentives for any project deter-
7 mined by the Secretary after its implementation
8 to be—

9 “(i) viable without further support
10 under this subchapter; or

11 “(ii) failing to meet the purposes of
12 this subchapter or criteria established by
13 the Secretary under the pilot program.

14 “(e) SUCCESS BONUS.—If Federal financial incen-
15 tives to a community are terminated under subsection
16 (d)(2)(B) because of the success of the program in that
17 community, then that community may receive a one-time
18 incentive grant to ensure the continued success of that
19 program.

20 “(f) PROGRAM TO TERMINATE IN 5 YEARS.—No new
21 financial assistance may be provided under this sub-
22 chapter for any fiscal year beginning more than 5 years
23 after the date of enactment of the Air Service Restoration
24 Act.

1 **“§ 41746. Additional authority**

2 “In carrying out this subchapter, the Secretary—

3 “(1) may provide assistance to States and com-
4 munities in the design and application phase of any
5 project under this subchapter, and oversee the im-
6 plementation of any such project;

7 “(2) may assist States and communities in put-
8 ting together projects under this subchapter to uti-
9 lize private sector resources, other Federal re-
10 sources, or a combination of public and private re-
11 sources;

12 “(3) may accord priority to service by jet air-
13 craft;

14 “(4) take such action as may be necessary to
15 ensure that financial resources, facilities, and admin-
16 istrative arrangements made under this subchapter
17 are used to carry out the purposes of the Air Service
18 Restoration Act; and

19 “(5) shall work with the Federal Aviation Ad-
20 ministration on airport and air traffic control needs
21 of communities in the program.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 subchapter II of chapter 417 of such title is amended by
24 inserting after the item relating to section 41742 the fol-
25 lowing:

“41743. Air service program for small communities.

“41744. Pilot program project authority.

“41745. Assistance to communities for service.

“41746. Additional authority.”.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 To carry out sections 41743 through 41746 of title
3 49, United States Code, for the 5 fiscal year period begin-
4 ning with fiscal year 2000 there are authorized to be ap-
5 propriated to the Secretary of Transportation not more
6 than \$100,000,000.

7 **SEC. 7. MARKETING PRACTICES.**

8 Section 41712 is amended—

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

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

12 “(b) MARKETING PRACTICES THAT ADVERSELY AF-
13 FECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—

14 Within 180 days after the date of enactment of the Air
15 Service Restoration Act, the Secretary shall review the
16 marketing practices of air carriers that may inhibit the
17 availability of quality, affordable air transportation serv-
18 ices to small- and medium-sized communities, including—

19 “(1) marketing arrangements between airlines
20 and travel agents;

21 “(2) code-sharing partnerships;

22 “(3) computer reservation system displays;

23 “(4) gate arrangements at airports;

24 “(5) exclusive dealing arrangements; and

1 if any, as the Secretary may by regulation establish con-
 2 sistent with public convenience and necessity. The Sec-
 3 retary must review any proposed agreement to determine
 4 if the requesting carrier meets operational requirements
 5 consistent with the rules, procedures, and policies of the
 6 major carrier. This agreement may be terminated by ei-
 7 ther party in the event of failure to meet the standards
 8 and conditions outlined in the agreement.”.

9 “(b) DEFINITIONS.—In this section the term ‘essen-
 10 tial airport facility’ means a large hub airport (as defined
 11 in section 41731(a)(3)) in the contiguous 48 States in
 12 which one carrier has more than 50 percent of such air-
 13 port’s total annual enplanements.”.

14 (b) CLERICAL AMENDMENT.—The analysis for sub-
 15 chapter I of chapter 417 is amended by adding at the end
 16 the following:

“41717. Interline agreements for domestic transportation.”.

17 **SEC. 9. PRICES FOR AIR TRANSPORTATION ON ROUTES**
 18 **USING SINGLE CARRIER DOMINATED AIR-**
 19 **PORTS.**

20 (a) IN GENERAL.—Chapter 415 is amended by add-
 21 ing at the end the following:

22 **“§ 41512. Prices for air transportation on routes**
 23 **using single carrier dominated airports**

24 “(a) AUTHORITY TO REQUEST SECRETARY’S DETER-
 25 MINATION.—

1 “(1) IN GENERAL.—The Secretary of Transpor-
2 tation shall issue a determination as to whether a
3 price established by an air carrier for a route in air
4 transportation that contains a flight segment to or
5 from an airport dominated by the carrier is reason-
6 able if any individual files with the Secretary a writ-
7 ten request for the determination.

8 “(2) SECRETARY NOT TO SET PRICE.—In deter-
9 mining whether a price is reasonable under this sec-
10 tion, the Secretary may only determine whether the
11 price is reasonable or unreasonable and shall not set
12 the price.

13 “(b) SINGLE CARRIER DOMINATED AIRPORTS.—For
14 purposes of subsection (a), an airport shall be treated as
15 an airport dominated by a carrier if more than 50 percent
16 of the daily passenger enplanements at the airport are
17 enplanements of the carrier.

18 “(c) PROCEDURAL REGULATIONS.—Not later than
19 90 days after the date of enactment of this section, the
20 Secretary shall publish in the Federal Register final regu-
21 lations, policy statements, or guidelines establishing—

22 “(1) the procedures for acting upon a written
23 request filed under subsection (a)(1); and

1 “(2) the standards or guidelines that shall be
2 used by the Secretary in determining under this sec-
3 tion whether a price is reasonable.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 415 is amended by adding at the end the follow-
6 ing:

 “41512. Prices for air transportation on routes using single carrier dominated
 airports.”.

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