

108TH CONGRESS
1ST SESSION

S. 964

To reauthorize the essential air service program under chapter 471 of title 49, United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2003

Mr. LOTT (for himself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To reauthorize the essential air service program under chapter 471 of title 49, United States Code, 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 “Small Community and
5 Rural Air Service Revitalization Act of 2003”.

6 **SEC. 2. REAUTHORIZATION OF ESSENTIAL AIR SERVICE**
7 **PROGRAM.**

8 Section 41742(a) of title 49, United States Code, is
9 amended to read as follows:

1 “(2) to reduce subsidy costs under subchapter
2 II of this chapter as a consequence of such increased
3 usage; and

4 “(3) to provide such communities with opportu-
5 nities to obtain, retain, and improve transportation
6 services.

7 **“§ 41782. Marketing program**

8 “(a) IN GENERAL.—The Secretary of Transportation
9 shall establish a marketing incentive program for eligible
10 essential air service communities receiving assistance
11 under subchapter II under which the airport sponsor in
12 such a community may receive a grant of not more than
13 \$50,000 to develop and implement a marketing plan to
14 increase passenger boardings and the level of passenger
15 usage of its airport facilities.

16 “(b) MATCHING REQUIREMENT; SUCCESS BO-
17 NUSES—

18 “(1) IN GENERAL.—Except as provided in para-
19 graphs (2) and (3), not less than 25 percent of the
20 publicly financed costs associated with the marketing
21 plan shall come from non-Federal sources. For pur-
22 poses of this paragraph—

23 “(A) the non-Federal portion of the pub-
24 licly financed costs may be derived from con-
25 tributions in kind; and

1 “(B) State or local matching contributions
2 may not be derived, directly or indirectly, from
3 Federal funds, but the use by a state or local
4 government of proceeds from the sale of bonds
5 to provide the matching contribution is not con-
6 sidered to be a contribution derived directly or
7 indirectly from Federal funds, without regard to
8 the Federal income tax treatment of interest
9 paid on those bonds or the Federal income tax
10 treatment of those bonds.

11 “(2) BONUS FOR 25-PERCENT INCREASE IN
12 USAGE.—Except as provided in paragraph (3), if,
13 after any 12-month period during which a marketing
14 plan has been in effect, the Secretary determines
15 that the marketing plan has increased average
16 monthly boardings, or the level of passenger usage,
17 at the airport facilities at the eligible place, by 25
18 percent or more, then only 10 percent of the publicly
19 financed costs associated with the marketing plan
20 shall be required to come from non-Federal sources
21 for the following 12-month period.

22 “(3) BONUS FOR 50-PERCENT INCREASE IN
23 USAGE.—If, after any 12-month period during which
24 a marketing plan has been in effect, the Secretary
25 determines that the marketing plan has increased

1 average monthly boardings, or the level of passenger
2 usage, at the airport facilities at the eligible place,
3 by 50 percent or more, then no portion of the pub-
4 licly financed costs associated with the marketing
5 plan shall be required to come from non-Federal
6 sources for the following 12-month period.

7 **“§ 41783. State marketing assistance**

8 The Secretary of Transportation may provide up to
9 \$50,000 in technical assistance to any State within which
10 an eligible essential air service community is located for
11 the purpose of assisting the State and such communities
12 to develop methods to increase boardings in such commu-
13 nities. At least 10 percent of the costs of the activity with
14 which the assistance is associated shall come from non-
15 Federal sources, including contributions in kind.

16 **“§ 41784. Definitions**

17 “In this subchapter:

18 “(1) ELIGIBLE PLACE.—The term ‘eligible
19 place’ has the meaning given that term in section
20 41731(a)(1).

21 “(2) ELIGIBLE ESSENTIAL AIR SERVICE COM-
22 MUNITY.—The term ‘eligible essential air service
23 community’ means an eligible place that—

24 “(A) submits an application to the Sec-
25 retary in such form, at such time, and con-

1 taining such information as the Secretary may
 2 require, including a detailed marketing plan, or
 3 specifications for the development of such a
 4 plan, to increase average boardings, or the level
 5 of passenger usage, at its airport facilities; and

6 “(B) provides assurances, satisfactory to
 7 the Secretary, that it is able to meet the non-
 8 Federal funding requirements of section
 9 41782(b)(1).

10 “(3) PASSENGER BOARDINGS.—The term ‘pas-
 11 senger boardings’ has the meaning given that term
 12 by section 47102(10).

13 “(4) SPONSOR.—The term ‘sponsor’ has the
 14 meaning given that term in section 47102(19).

15 **“§ 41785. Authorization of appropriations**

16 “‘There are authorized to be appropriated to the Sec-
 17 retary of Transportation \$12,000,000 for each of fiscal
 18 years 2004 through 2007, not more than \$200,000 per
 19 year of which may be used for administrative costs.’”.

20 (b) CONFORMING AMENDMENT.—The chapter anal-
 21 ysis for chapter 417 of such title is amended by inserting
 22 after the item relating to section 41767 the following:

 “SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

- “41781. Purpose.
- “41782. Marketing program.
- “41783. State marketing assistance.
- “41784. Definitions.
- “41785. Authorization of appropriations.”.

1 **SEC. 4. PILOT PROGRAMS.**

2 (a) IN GENERAL.—Subchapter II of chapter 417 of
3 title 49, United States Code, is amended by adding at the
4 end the following:

5 **“§41745. Other pilot programs**

6 “(a) IN GENERAL.—If the entire amount authorized
7 to be appropriated to the Secretary of Transportation by
8 section 41785 is appropriated for fiscal years 2004
9 through 2007, the Secretary of Transportation shall es-
10 tablish pilot programs that meet the requirements of this
11 section for improving service to communities receiving es-
12 sential air service assistance under this subchapter or con-
13 sortia of such communities.

14 “(b) PROGRAMS AUTHORIZED.—

15 “(1) COMMUNITY FLEXIBILITY.—The Secretary
16 shall establish a pilot program for not more than 10
17 communities or consortia of communities under
18 which the airport sponsor of an airport serving the
19 community or consortium may elect to forego any
20 essential air service assistance under preceding sec-
21 tions of this subchapter for a 10-year period in ex-
22 change for a grant from the Secretary equal in value
23 to twice the annual essential air service assistance
24 received for the most recently ended calendar year.
25 Under the program, and notwithstanding any provi-
26 sion of law to the contrary, the Secretary shall make

1 a grant to each participating sponsor for use by the
2 recipient for any project that—

3 “(A) is eligible for assistance under chap-
4 ter 471;

5 “(B) is located on the airport property; or

6 “(C) will improve airport facilities in a way
7 that would make such facilities more usable for
8 general aviation.

9 “(2) EQUIPMENT CHANGES.—

10 “(A) IN GENERAL.—The Secretary shall
11 establish a pilot program for not more than 10
12 communities or consortia of communities under
13 which, upon receiving a petition from the spon-
14 sor of the airport serving the community or
15 consortium, the Secretary shall authorize and
16 request the essential air service provider for
17 that community or consortium to use smaller
18 equipment to provide the service and to con-
19 sider increasing the frequency of service using
20 such smaller equipment. Before granting any
21 such petition, the Secretary shall determine
22 that passenger safety would not be com-
23 promised by the use of such smaller equipment.

24 “(B) ALTERNATIVE SERVICES.—For any 3
25 airport sponsors participating in the program es-

1 tablISHED under subparagraph (A), the Sec-
2 retary may establish a pilot program under
3 which—

4 “(i) the Secretary provides 100 per-
5 cent Federal funding for reasonable levels
6 of alternative transportation services from
7 the eligible place to the nearest hub airport
8 or small hub airport;

9 “(ii) the Secretary will authorize the
10 sponsor to use its essential air service sub-
11 sidy funds provided under preceding sec-
12 tions of this subchapter for any airport-re-
13 lated project that would improve airport
14 facilities; and

15 “(iii) the sponsor may make an irrev-
16 ocable election to terminate its participa-
17 tion in the pilot program established under
18 this paragraph after 1 year.

19 “(3) COST-SHARING.—The Secretary shall es-
20 tablish a pilot program under which the sponsors of
21 airports serving a community or consortium of com-
22 munities share the cost of providing air transpor-
23 tation service greater than the basic essential air
24 service provided under this subchapter.

25 “(4) EAS LOCAL PARTICIPATION PROGRAM.—

1 “(A) IN GENERAL.—The Secretary of
2 Transportation shall establish a pilot program
3 under which designated essential air service
4 communities located in proximity to hub air-
5 ports are required to assume 10 percent of their
6 essential air service subsidy costs for a 3-year
7 period.

8 “(B) DESIGNATION OF COMMUNITIES.—

9 “(i) IN GENERAL.—The Secretary
10 may not designate any community under
11 this paragraph unless it is located within
12 100 miles by road of a hub airport and is
13 not located in a noncontiguous State. In
14 making the designation, the Secretary may
15 take into consideration the total traveltime
16 between a community and the nearest hub
17 airport, taking into account terrain, traffic,
18 weather, road conditions, and other rel-
19 evant factors.

20 “(ii) ONE COMMUNITY PER STATE.—

21 The Secretary may not designate—

22 “(I) more than 1 community per
23 State under this paragraph; or

24 “(II) a community in a State in
25 which another community that is eligi-

1 ble to participate in the essential air
2 service program has elected not to
3 participate in the essential air service
4 program.

5 “(C) APPEAL OF DESIGNATION.—A com-
6 munity may appeal its designation under this
7 section. The Secretary may withdraw the des-
8 ignation of a community under this paragraph
9 based on—

10 “(i) the airport sponsor’s ability to
11 pay; or

12 “(ii) the relative lack of financial re-
13 sources in a community, based on a com-
14 parison of the median income of the com-
15 munity with other communities in the
16 State.

17 “(D) NON-FEDERAL SHARE.—

18 “(i) NON-FEDERAL AMOUNTS.—For
19 purposes of this section, the non-Federal
20 portion of the essential air service subsidy
21 may be derived from contributions in kind,
22 or through reduction in the amount of the
23 essential air service subsidy through reduc-
24 tion of air carrier costs, increased rider-
25 ship, pre-purchase of tickets, or other

1 means. The Secretary shall provide assist-
2 ance to designated communities in identi-
3 fying potential means of reducing the
4 amount of the subsidy without adversely
5 affecting air transportation service to the
6 community.

7 “(ii) APPLICATION WITH OTHER
8 MATCHING REQUIREMENTS.—This section
9 shall apply to the Federal share of essen-
10 tial air service provided this subchapter,
11 after the application of any other non-Fed-
12 eral share matching requirements imposed
13 by law.

14 “(E) ELIGIBILITY FOR OTHER PROGRAMS
15 NOT AFFECTED.—Nothing in this paragraph af-
16 fects the eligibility of a community or Consor-
17 tium of communities, an airport sponsor, or any
18 other person to participate in any program au-
19 thorized by this subchapter. A community des-
20 ignated under this paragraph may participate
21 in any program (including pilot programs) au-
22 thorized by this subchapter for which it is oth-
23 erwise eligible—

1 “(i) without regard to any limitation
2 on the number of communities that may
3 participate in that program; and

4 “(ii) without reducing the number of
5 other communities that may participate in
6 that program.

7 “(F) SECRETARY TO REPORT TO CON-
8 GRESS ON IMPACT.—The Secretary shall trans-
9 mit a report to the Senate Committee on Com-
10 merce, Science, and Transportation and the
11 House of Representatives Committee on Trans-
12 portation and Infrastructure on—

13 “(i) the economic condition of commu-
14 nities designated under this paragraph be-
15 fore their designation;

16 “(ii) the impact of designation under
17 this paragraph on such communities at the
18 end of each of the 3 years following their
19 designation; and

20 “(iii) the impact of designation on air
21 traffic patterns affecting air transportation
22 to and from communities designated under
23 this paragraph.

24 “(c) CODE-SHARING.—Under the pilot program es-
25 tablished under subsection (a), the Secretary is authorized

1 to require air carriers providing service to participating
2 communities and major air carriers (as defined in section
3 41716(a)(2)) serving large hub airports (as defined in sec-
4 tion 41731(a)(3)) to participate in multiple code-share ar-
5 rangements consistent with normal industry practice
6 whenever and wherever the Secretary determines that such
7 multiple code-sharing arrangements would improve air
8 transportation services. The Secretary may not require air
9 carriers to participate in such arrangements under this
10 subsection for more than 10 such communities.

11 “(d) TRACK SERVICE.—The Secretary shall require
12 essential air service providers to track changes in service,
13 including on-time arrivals and departures.

14 “(e) ADMINISTRATIVE PROVISIONS.—In order to par-
15 ticipate in a pilot program established under this section,
16 the airport sponsor for a community or consortium of com-
17 munities shall submit an application to the Secretary in
18 such form, at such time, and containing such information
19 as the Secretary may require.”.

20 (b) CONFORMING AMENDMENT.—The chapter anal-
21 ysis for chapter 417 of such title is amended by inserting
22 after the item relating to section 41744 the following:

“41745. Other pilot programs”.

23 **SEC. 5. EAS PROGRAM AUTHORITY CHANGES.**

24 (a) RATE RENEGOTIATION.—If the Secretary of
25 Transportation determines that essential air service pro-

1 viders are experiencing significantly increased costs of pro-
2 viding service under subchapter II of chapter 417 of title
3 49, United States Code, the Secretary of Transportation
4 may increase the rates of compensation payable under that
5 subchapter within 30 days after the date of enactment of
6 this Act without regard to any agreements or require-
7 ments relating to the renegotiation of contracts. For pur-
8 poses of this subsection, the term “significantly increased
9 costs” means an average monthly cost increase of 10 per-
10 cent or more.

11 (b) RETURNED FUNDS.—Notwithstanding any provi-
12 sion of law to the contrary, any funds made available
13 under subchapter II of chapter 417 of title 49, United
14 States Code, that are returned to the Secretary by an air-
15 port sponsor because of decreased subsidy needs for essen-
16 tial air service under that subchapter shall remain avail-
17 able to the Secretary and may be used by the Secretary
18 under that subchapter to increase the frequency of flights
19 at that airport.

20 (c) SMALL COMMUNITY AIR SERVICE DEVELOPMENT
21 PILOT PROGRAM.—Section 41743(h) of such title is
22 amended by striking “an airport” and inserting “each air-
23 port”.

○