

106TH CONGRESS
1ST SESSION

H. R. 951

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

MARCH 3, 1999

Mr. DUNCAN 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 1999”.

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
19 amended—

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 part D of
25 chapter 491 of this title, the Secretary may by order

1 grant exemptions from the requirements under sub-
2 parts K and S of part 93 of title 14, Code of Fed-
3 eral Regulations (pertaining to slots at high density
4 airports), to enable air carriers to provide nonstop
5 air transportation using jet aircraft that comply with
6 the stage 3 noise levels of part 36 of such title 14
7 between a high density airport and an airport that
8 had less than 2,000,000 enplanements in the most
9 recent year for which such enplanement data is
10 available or between a high density airport and an
11 airport that does not have such nonstop transpor-
12 tation on the date on which the application for an
13 exemption is filed.

14 “(2) LIMITATIONS.—No more than 2 exemp-
15 tions per hour may be granted under this subsection
16 for slots at any high density airport, and no more
17 than 6 exemptions per day may be granted under
18 this subsection for slots at Ronald Reagan Washing-
19 ton National Airport. An exemption may be granted
20 under this subsection for a slot at Ronald Reagan
21 Washington National Airport only if the flight utiliz-
22 ing such slot begins or ends within 1,250 miles of
23 the Airport and a stage 3 aircraft is used for such
24 flight.

1 “(3) APPLICATION.—An air carrier interested
2 in an exemption under this subsection shall submit
3 to the Secretary an application for such exemption.
4 No application may be submitted to the Secretary
5 before the last day of the 30-day period beginning
6 on the date of the enactment of this paragraph.

7 “(4) DEADLINE FOR DECISION.—Notwithstand-
8 ing any other provision of law, the Secretary shall
9 make a decision with regard to granting an exemp-
10 tion under this subsection on or before the 120th
11 day following the date of the application for the ex-
12 emption. If the Secretary does not make the decision
13 on or before such 120th day, the air carrier applying
14 for the service may provide such service until the
15 Secretary makes the decision or the Administrator of
16 the Federal Aviation Administration determines that
17 providing such service would have an adverse effect
18 on air safety.

19 “(5) PERIOD OF EFFECTIVENESS.—An exemp-
20 tion granted under this subsection may remain in ef-
21 fect only while the air carrier for whom the exemp-
22 tion is granted continues to provide nonstop air
23 transportation between the airport for which the ex-
24 emption was granted under paragraph (1) and the
25 high density airport.

1 “(B) not to exceed \$5,000,000 for such fis-
2 cal year shall be used—

3 “(i) for assisting an air carrier to sub-
4 sidize service to and from an underserved
5 airport for a period not to exceed 3 years;
6 and

7 “(ii) for assisting an underserved air-
8 port to obtain jet aircraft service to and
9 from the underserved airport and to pro-
10 mote passenger usage of that service.

11 “(2) RURAL AIR SAFETY.—Any funds that are
12 made available by paragraph (1) for a fiscal year
13 and that the Secretary determines will not be obli-
14 gated or expended before the last day of such fiscal
15 year shall be available to the Administrator for use
16 under this subchapter in improving rural air safety
17 at airports with less than 100,000 annual boardings.

18 “(3) ALLOCATION OF ADDITIONAL FUNDING.—
19 If, for a fiscal year beginning after September 30,
20 1999, more than \$50,000,000 is made available
21 under subsection (a) to carry out the small commu-
22 nity air service program, 1/2 of the amounts in excess
23 of \$50,000,000 shall be used for the purposes speci-
24 fied in paragraph (1)(B), in addition to amounts

1 made available for such purposes under paragraph
2 (1)(B).

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—In
4 addition to amounts made available under paragraph
5 (1), there is authorized to be appropriated to the
6 Secretary of Transportation for each fiscal year be-
7 ginning after September 30, 1999, \$15,000,000—

8 “(A) to provide assistance to an air carrier
9 to subsidize service to and from an underserved
10 airport for a period not to exceed 3 years; and

11 “(B) to provide assistance to an under-
12 served airport to obtain jet aircraft service to
13 and from the underserved airport and to pro-
14 mote passenger usage of that service.

15 “(5) PRIORITY CRITERIA FOR ASSISTING AIR-
16 PORTS NOT RECEIVING SUFFICIENT SERVICE.—In
17 providing assistance to airports under paragraphs
18 (1)(B) and (4), the Administrator shall give priority
19 to those airports for which a community will provide,
20 from local sources (other than airport revenues), a
21 portion of the cost of the activity to be assisted.

22 “(6) UNDERSERVED AIRPORT DEFINED.—In this
23 subsection, the term ‘underserved airport’ means a
24 nonhub airport or small hub airport (as such terms
25 are defined in section 41714(e)) that the Secretary

1 determines is not receiving sufficient air carrier serv-
2 ice.”.

3 (b) CONFORMING AMENDMENTS.—Chapter 417 of
4 such title is amended—

5 (1) section 41742 is amended—

6 (A) in the section heading by striking “**Es-**
7 **sential**” and inserting “**Small commu-**
8 **nity**”; and

9 (B) in each of subsections (a) and (c) by
10 striking “essential air” and inserting “small
11 community”; and

12 (2) in the analysis for such chapter by striking
13 the item relating to section 41742 and inserting the
14 following:

“41742. Small community air service authorization.”.

15 **SEC. 103. WAIVER OF LOCAL CONTRIBUTION.**

16 Section 41736(b) of title 49, United States Code, is
17 amended by adding at the end the following:

18 “Paragraph (4) shall not apply to any place for which a
19 proposal was approved or that was designated as eligible
20 under this section in the period beginning on October 1,
21 1991, and ending on December 31, 1997.”.

1 “(3) NEW ENTRANT AIR CARRIER.—The term
2 ‘new entrant air carrier’ means an air carrier that
3 has been providing air transportation according to a
4 published schedule for less than 5 years, including
5 any person that has received authority from the Sec-
6 retary to provide air transportation but is not pro-
7 viding air transportation.

8 “(4) NONHUB AIRPORT.—The term ‘nonhub
9 airport’ means an airport that each year has at least
10 2,500 passenger boardings, but less than .05 percent
11 of the total annual boardings in the United States.

12 “(5) REGIONAL JET AIRCRAFT.—The term ‘re-
13 gional jet aircraft’ means a civil aircraft—

14 “(A) powered by jet propulsion; and

15 “(B) designed to have a maximum pas-
16 senger seating capacity of not less than 30 nor
17 more than 60.

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

22 “(7) UNDERSERVED AIRPORT.—The term ‘un-
23 derserved airport’ means an airport that—

24 “(A) is a nonhub airport or a small hub
25 airport;

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

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

7 **“§ 41763. Loan guarantees**

8 “(a) IN GENERAL.—Subject to advance appropria-
9 tions, the Secretary of Transportation may guarantee any
10 lender against loss of principal or interest on any aircraft
11 purchase loan made by that lender to a commuter air car-
12 rier or new entrant air carrier.

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

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

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

20 “(c) TREATMENT OF CERTAIN COMMUTER AIR CAR-
21 RIERS.—The Secretary shall treat all commuter air car-
22 riers that have cooperative agreements, including code
23 share agreements with other air carriers, equally for deter-
24 mining eligibility for guarantees under this section regard-

1 less of the form of the corporate relationship between the
2 commuter air carrier and the other air carrier.

3 **“§ 41764. Conditions and limitations**

4 “(a) LIMITATIONS ON FUNDS.—Subject to subsection
5 (d), no loan guarantee shall be made under this
6 subchapter—

7 “(1) extending to more than the unpaid interest
8 and 80 percent of the unpaid principal of any loan;

9 “(2) on any loan or combination of loans for
10 more than 80 percent of the purchase price of the
11 aircraft, including spare parts, to be purchased with
12 the loan or loan combination;

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

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

21 “(b) CONDITIONS FOR MAKING LOANS.—Subject to
22 subsection (c), the Secretary of Transportation may only
23 make a loan guarantee under this subchapter if—

24 “(1) the Secretary finds that the aircraft to be
25 purchased with the loan is a regional jet aircraft to

1 be used by the commuter air carrier or new entrant
2 air carrier;

3 “(2) the commuter air carrier or new entrant
4 air carrier agrees to use the aircraft to provide at
5 least 2 round-trips per day 5 days per week to the
6 underserved airport; and

7 “(3) the Secretary finds that the prospective
8 earning power of the commuter air carrier or new
9 entrant air carrier, together with the character and
10 value of the security pledged, furnish—

11 “(A) reasonable assurances of the air car-
12 rier’s ability and intention to repay the loan
13 within the term of the loan—

14 “(i) to continue its operations as an
15 air carrier; and

16 “(ii) to the extent that the Secretary
17 determines to be necessary, to continue its
18 operations as an air carrier between the
19 same route or routes being operated by the
20 air carrier at the time of the loan guaran-
21 tee; and

22 “(B) reasonable protection to the United
23 States.

24 “(c) REQUIREMENT.—Subject to subsection (d), no
25 loan guarantee may be made under this subchapter on any

1 loan or combination of loans for the purchase of any re-
2 gional jet aircraft that does not comply with the stage 3
3 noise levels of part 36 of title 14 of the Code of Federal
4 Regulations, as in effect on January 1, 1999.

5 “(d) OTHER LIMITATIONS.—

6 “(1) ON PURCHASE OF REGIONAL JET AIR-
7 CRAFT.—No loan guarantee shall be made by the
8 Secretary under this subchapter on any loan for the
9 purchase of a regional jet aircraft unless the com-
10 muter air carrier or new entrant air carrier agrees
11 that it will provide scheduled passenger air transpor-
12 tation to the underserved airport for which the air-
13 craft is purchased, or to another underserved air-
14 port, for a period of not less than 24 consecutive
15 months after the aircraft is placed in service.

16 “(2) ON SUBORDINATION.—No loan guarantee
17 made under this subchapter may be subordinated to
18 another debt of the carrier or to any other claims
19 against the carrier.

20 “(3) TO PROTECT INTERESTS OF UNITED
21 STATES.—No loan may be guaranteed under this
22 subchapter unless the Secretary determines that the
23 lender is responsible and that adequate provision is
24 made for servicing the loan on reasonable terms and

1 protecting the financial interests of the United
2 States.

3 **“§ 41765. Payment of losses**

4 “(a) IN GENERAL.—If, as a result of a default by
5 a carrier under a loan guaranteed under this subchapter
6 and after the holder of the loan has made such further
7 collection efforts as the Secretary of Transportation may
8 require, the Secretary determines that the holder has suf-
9 fered a loss, the Secretary shall pay the holder the amount
10 of the loss under the guarantee contract. Upon making
11 the payment, the Secretary shall be subrogated to all the
12 rights of the recipient of the payment.

13 “(b) ENFORCEMENT OF UNITED STATES RIGHTS.—
14 The Attorney General shall take such action as may be
15 necessary to enforce any right accruing to the United
16 States as a result of the issuance of any guarantee under
17 this subchapter.

18 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
19 Nothing in this subchapter shall be construed as preclud-
20 ing any forbearance for the carrier which may be agreed
21 upon by the parties to the guaranteed loan and approved
22 by the Secretary.

23 “(d) AUTHORITY OF SECRETARY.—Notwithstanding
24 any other provision of law relating to the acquisition, han-
25 dling, or disposal of property by the United States, the

1 Secretary may complete, recondition, reconstruct, ren-
2 ovate, repair, maintain, operate, or sell any property ac-
3 quired under this subchapter.

4 **“§ 41766. Fees**

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

9 **“§ 41767. Use of Federal facilities and assistance**

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

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

18 “(2) on a reimbursable basis.

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

24 “(c) OVERSIGHT.—The Secretary shall make avail-
25 able to the Comptroller General of the United States such

1 information with respect to the loan guarantee program
 2 conducted under this subchapter as the Comptroller Gen-
 3 eral may require to carry out the duties of the Comptroller
 4 General under chapter 7 of title 31.

5 **“§ 41768. Payments; administrative expenses**

6 “(a) PAYMENTS.—Payments to lenders required as a
 7 consequence of any loan guarantee made under this sub-
 8 chapter may be made from funds appropriated pursuant
 9 to the authorization under section 202 of the Airline Serv-
 10 ice Improvement Act of 1999.

11 “(b) ADMINISTRATIVE EXPENSES.—In carrying out
 12 this subchapter, the Secretary shall use funds made avail-
 13 able by appropriations to the Department of Transpor-
 14 tation for the purpose of administration to cover adminis-
 15 trative expenses of the loan guarantee program under this
 16 subchapter.

17 **“§ 41769. Termination**

18 “‘The authority of the Secretary of Transportation
 19 under section 41763 shall terminate on the date that is
 20 5 years after the date of the enactment of this sub-
 21 chapter.’”.

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

“SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM
 “41761. Purpose.

“41762. Definitions.
 “41763. Loan guarantees.
 “41764. Conditions and limitations.
 “41765. Payment of losses.
 “41766. Fees.
 “41767. Use of Federal facilities and assistance.
 “41768. Payments; administrative expenses.
 “41769. Termination.”.

1 SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

2 There is authorized to be appropriated for the cost
 3 of loan guarantee commitments authorized in subchapter
 4 III of chapter 417 of title 49, United States Code,
 5 \$120,000,000 per fiscal year for fiscal years 2000, 2001,
 6 2002, 2003, and 2004.

7 **TITLE III—CONTRACT TOWER**
 8 **PROGRAM**

9 SEC. 301. CONTRACT TOWERS.

10 Section 47124(b) of title 49, United States Code, is
 11 amended by adding at the end the following:

12 “(3) NONQUALIFYING AIR TRAFFIC CONTROL
 13 TOWERS.—

14 “(A) IN GENERAL.—The Secretary shall
 15 establish a program to contract for air traffic
 16 control services at not more than 20 level I air
 17 traffic control towers, as defined by the Admin-
 18 istrator of the Federal Aviation Administration,
 19 that do not qualify for the program established
 20 under subsection (a) and continued under para-
 21 graph (1).

1 “(B) PRIORITY.—In selecting facilities to
2 participate in the program under this para-
3 graph, the Administrator shall give priority to
4 the following:

5 “(i) Air traffic control towers that are
6 participating in the program continued
7 under paragraph (1) but have been notified
8 that they will be terminated from such pro-
9 gram because the Administrator has deter-
10 mined that the benefit-to-cost ratio for
11 their continuation in such program is less
12 than 1.

13 “(ii) Level I air traffic control towers
14 of the Federal Aviation Administration
15 that are closed as a result of the air traffic
16 controllers strike in 1981.

17 “(iii) Air traffic control towers that
18 are located at airports that receive air
19 service from an air carrier that is receiving
20 compensation under the essential air serv-
21 ice program of subchapter II of chapter
22 417.

23 “(iv) Air traffic control towers located
24 at airports that are prepared to assume re-

1 sponsibility for tower construction and
2 maintenance costs.

3 “(v) Air traffic control towers that are
4 located at airports with safety or oper-
5 ational problems related to topography,
6 weather, runway configuration, or mix of
7 aircraft.

8 “(C) COSTS EXCEEDING BENEFITS.—If
9 the costs of operating a control tower under the
10 program established under this paragraph ex-
11 ceed the benefits, the airport sponsor or State
12 or local government having jurisdiction over the
13 airport shall pay the portion of the costs that
14 exceed such benefits.

15 “(D) AUTHORIZATION OF APPROPRIA-
16 TIONS.—There is authorized to be appropriated
17 \$6,000,000 per fiscal year to carry out this
18 paragraph.”.

○