

105TH CONGRESS
1ST SESSION

S. 1353

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 1997

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

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 that do not receive 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 “Air Service Improve-
5 ment 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 TRANSPOR-
 7 TATION.—Section 41714(b) of title 49, United
 8 States Code, is amended by striking paragraph (4).

9 (2) SLOTS FOR NEW ENTRANTS.—Section
 10 41714(c) of title 49, United States Code, is amend-
 11 ed—

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

13 (B) in paragraph (1), by striking the sub-
 14 section heading and all that follows through “If
 15 the Secretary” and inserting the following:

16 “(c) SLOTS FOR NEW ENTRANTS.—If the Sec-
 17 retary”.

18 (b) SLOTS FOR AIRPORTS NOT RECEIVING SUFFI-
 19 CIENT SERVICE.—Section 41714 of title 49, United States
 20 Code, is amended—

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

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

1 “(1) EXEMPTIONS.—The Secretary may, by
2 order, grant exemptions from the requirements
3 under subparts K and S of part 93 of title 14, Code
4 of Federal Regulations (pertaining to slots at high
5 density airports) (or any subsequent similar regula-
6 tions), to enable air carriers to provide nonstop air
7 transportation using aircraft that comply with the
8 stage 3 noise levels contained in part 36 of such title
9 14 between a high density airport and a small hub
10 airport or nonhub airport that the Secretary deter-
11 mines is not receiving sufficient air carrier service to
12 and from that high density airport.

13 “(2) LIMITATIONS.—

14 “(A) IN GENERAL.—No more than 2 ex-
15 emptions per hour may be granted under this
16 subsection for slots at any high density airport.

17 “(B) WASHINGTON NATIONAL AIRPORT.—
18 Not more than 6 exemptions per day may be
19 granted under this subsection for slots at
20 Washington National Airport.

21 “(3) APPLICATION.—An air carrier interested
22 in an exemption under this subsection shall submit
23 to the Secretary an application for that exemption.
24 No application may be submitted to the Secretary
25 before the last day of the 30-day period beginning

1 on the date of enactment of the Air Service Improve-
2 ment Act of 1997.

3 “(4) DEADLINE FOR DECISION.—

4 “(A) IN GENERAL.—The Secretary shall
5 make a decision with regard to granting an ex-
6 emption under this subsection not later than
7 the 120th day following the date on which the
8 application for the exemption is submitted
9 under paragraph (3).

10 “(B) EFFECTS OF FAILURE OF SECRETARY
11 TO MAKE A DECISION.—If the Secretary does
12 not make a decision on or before the date speci-
13 fied in subparagraph (A), the air carrier re-
14 questing the service may provide the service
15 that is subject to the exemption until such time
16 as—

17 “(i) the Secretary makes a decision to
18 deny that request; or

19 “(ii) the Administrator of the Federal
20 Aviation Administration decides that pro-
21 viding that service would have an adverse
22 effect on air safety.

23 “(5) PERIOD OF EFFECTIVENESS.—An exemp-
24 tion granted under this subsection may remain in ef-
25 fect while the air carrier with respect to which the

1 exemption is granted continues to provide nonstop
 2 air transportation between the airport that the Sec-
 3 retary determined was not receiving sufficient air
 4 carrier service and the high density airport involved.

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

7 “(A) NONHUB AIRPORT.—The term
 8 ‘nonhub airport’ means an airport that each
 9 year has less than 0.05 percent of the total an-
 10 nual boardings in the United States.

11 “(B) SECRETARY.—The term ‘Secretary’
 12 means the Secretary of Transportation.

13 “(C) SMALL HUB AIRPORT.—The term
 14 ‘small hub airport’ means an airport that for an
 15 annual period, has, with respect to the total an-
 16 nual boardings of the United States—

17 “(i) at least 0.05 percent of those
 18 boardings; and

19 “(ii) less than 0.25 percent of those
 20 boardings.”; and

21 (2) by redesignating subsections (g) and (h) as
 22 subsections (e) and (f), respectively.

1 **SEC. 102. FUNDING FOR AIR CARRIER SERVICE TO AIR-**
 2 **PORTS NOT RECEIVING SUFFICIENT SERV-**
 3 **ICE.**

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

5 “(b) FUNDING FOR SMALL COMMUNITY AIR SERV-
 6 ICE.—

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

14 “(2) FUNDING FOR AIR CARRIER SERVICE TO
 15 AIRPORTS NOT RECEIVING SUFFICIENT SERVICE AND
 16 RURAL AIR SAFETY.—Any amounts from fees im-
 17 posed under section 45301(a) that the Secretary de-
 18 termines will not be obligated or expended by the
 19 last day of a fiscal year for the purpose of funding
 20 the essential air service program under this sub-
 21 chapter shall be made available in that fiscal year to
 22 the Administration as follows:

23 “(A) Not more than \$10,000,000 for fiscal
 24 year 1998, and for each fiscal year thereafter,
 25 shall be used—

1 “(i) for assisting an air carrier in pur-
 2 chasing aircraft to provide air transpor-
 3 tation to an airport that serves an under-
 4 served market;

5 “(ii) to purchase slots to provide air
 6 service between a high density airport and
 7 an airport that the Secretary determines is
 8 not receiving sufficient air carrier service
 9 to and from such high density airport;

10 “(iii) to subsidize service to and from
 11 an underserved airport for a period not to
 12 exceed 3 years; and

13 “(iv) for assisting an underserved air-
 14 port to market service to and from the un-
 15 derserved airport.

16 “(B) Any remaining amounts of the
 17 amounts determined by the Secretary under
 18 this paragraph shall be available for use under
 19 this subchapter in improving rural air safety at
 20 airports with less than 100,000 annual
 21 boardings.

22 “(3) UNDERSERVED AIRPORT.—In this sub-
 23 section, the term ‘underserved airport’ means an air-
 24 port that the Secretary determines is not receiving
 25 sufficient air carrier service.”.

1 **SEC. 103. UNFAIR COMPETITION COMPLAINTS.**

2 Section 41712 of title 49, United States Code, is
3 amended—

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

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

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

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

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

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

21 “SUBCHAPTER III—REGIONAL AIR SERVICE
22 INCENTIVE PROGRAM

23 “§ 41761. Purpose

24 “The purpose of this subchapter is to improve service
25 by jet aircraft to underserved markets by providing assist-
26 ance, in the form of loan guarantees, to commuter air car-

riers that purchase regional jet aircraft for use in serving
those markets.

“§ 41762. Definitions

“In this subchapter:

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

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

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

“(4) NONHUB AIRPORT.—The term ‘nonhub
airport’ means an airport that for an annual period
has less than 0.05 percent of the total annual
boardings in the United States.

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

“(A) powered by jet propulsion; and

1 “(B) designed to have a maximum pas-
2 senger seating capacity of—

3 “(i) not less than 30 passengers; and

4 “(ii) not more than 75 passengers.

5 “(6) SECRETARY.—The term ‘Secretary’ means
6 the Secretary of Transportation.

7 “(7) SMALL HUB AIRPORT.—The term ‘small
8 hub airport’ means an airport that for an annual pe-
9 riod has with respect to the total annual boardings
10 of the United States—

11 “(A) at least 0.05 percent of these
12 boardings; and

13 “(B) less than 0.25 percent of these
14 boardings.

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

18 “(A) is served (as determined by the Sec-
19 retary) by a nonhub airport or a small hub air-
20 port;

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

1 “(C) the Secretary determines does not
2 have sufficient air service.

3 **“§ 41763. Loan guarantees**

4 “(a) IN GENERAL.—The Secretary may guarantee
5 any lender against loss of principal or interest on any air-
6 craft purchase loan made by that lender to a commuter
7 air carrier.

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

10 “(1) in such form and on such terms and condi-
11 tions; and

12 “(2) pursuant to such regulations,
13 as the Secretary considers to be necessary and consistent
14 with this subchapter.

15 **“§ 41764. Conditions and limitations**

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

19 “(1) extending to an amount greater than the
20 unpaid interest and 90 percent of the unpaid prin-
21 cipal of any loan;

22 “(2) on any loan or combination of loans for an
23 aggregate amount greater than 90 percent of the
24 purchase price of the aircraft, including spare parts,
25 to be purchased with the loan or loan combination;

1 “(3) on any loan with respect to which terms
2 permit repayment later than 15 years after the date
3 the loan is made; and

4 “(4) in any case in which the total face amount
5 of the loan and any other loans to the same com-
6 muter air carrier or corporate predecessor of that
7 commuter air carrier that are guaranteed and out-
8 standing under the terms of this subchapter exceed
9 \$100,000,000.

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

14 “(1) the aircraft to be purchased with the loan
15 is a regional jet aircraft that is needed to improve
16 the service and efficiency of operation of the com-
17 muter air carrier;

18 “(2) the commuter air carrier agrees to use the
19 aircraft to provide service to underserved markets;
20 and

21 “(3) the prospective earning power of the com-
22 muter air carrier, together with the character and
23 value of the security pledged, furnish—

1 “(A) reasonable assurances of the ability
2 and intention of the air carrier to repay the
3 loan during the term of the loan—

4 “(i) to continue the operations of the
5 air carrier as a commuter air carrier; and

6 “(ii) to the extent that the Secretary
7 determines to be necessary, to continue the
8 operations of the air carrier as a commuter
9 air carrier between the same route or
10 routes that are operated by the air carrier
11 at the time of the loan guarantee; and

12 “(B) reasonable protection to the United
13 States.

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

20 “(d) OTHER LIMITATIONS.—No loan guarantee shall
21 be made by the Secretary under this subchapter on any
22 loan for the purchase of a regional jet aircraft unless the
23 commuter air carrier agrees that the air carrier will pro-
24 vide service to the underserved market for which the air-

1 craft is purchased for a period of not less than 12 consecu-
 2 tive months after the aircraft is placed in service.

3 **“§ 41765. Fees**

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

8 **“§ 41766. Use of Federal facilities and assistance**

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

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

17 “(2) on a reimbursable basis.

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

23 “(c) OVERSIGHT.—The Secretary shall make avail-
 24 able to the Comptroller General of the United States such
 25 information with respect to the loan guarantee program

1 conducted under this subchapter as the Comptroller Gen-
 2 eral may require to carry out the duties of the Comptroller
 3 General under chapter 7 of title 31.

4 **“§ 41767. Receipts; payments**

5 “(a) MISCELLANEOUS.—Amounts received by the
 6 Secretary under this subchapter shall be credited to mis-
 7 cellaneous receipts of the Treasury.

8 “(b) PAYMENTS.—Payments to lenders required as a
 9 consequence of any loan guarantee made under this sub-
 10 chapter may be made from funds appropriated pursuant
 11 to the authorization under section 202 of the Air Service
 12 Improvement Act of 1997.

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

19 **“§ 41768. Termination**

20 “The authority of the Secretary under section 41763
 21 shall terminate on the date that is 5 years after the date
 22 of the enactment of this subchapter.”.

23 (b) CONFORMING AMENDMENT.—The analysis for
 24 chapter 417 of title 49, United States Code, is amended
 25 by adding at the end 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.”.

1 SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

2 There are authorized to be appropriated such sums
 3 as may be necessary to carry out subchapter III of chapter
 4 417 of title 49, United States Code.

○