

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1999

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

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## 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 ignated 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-

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

“(1) may work with communities to develop innovative means and incentives for the initiation of service;

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

“(3) shall continue to work with both the carriers and the communities to develop a combination of community incentives and carrier service levels that—

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

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

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

“(5) take such other action under this subchapter as may be appropriate.



1 “(e) LIMITATIONS.—

2 “(1) COMMUNITY SUPPORT.—The program di-  
3 rector may not provide financial assistance under  
4 subsection (c)(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        involve 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           “(6) any other marketing practice that may  
2           have the same effect.

3           “(c) REGULATIONS.—If the Secretary finds, after  
4           conducting the review required by subsection (b), that  
5           marketing practices inhibit the availability of such service  
6           to such communities, then, after public notice and an op-  
7           portunity for comment, the Secretary shall promulgate  
8           regulations that address the problem.”.

9   **SEC. 8. NONDISCRIMINATORY INTERLINE INTERCONNEC-**  
10                           **TION REQUIREMENTS.**

11           (a) IN GENERAL.—Subchapter I of chapter 417 is  
12           amended by adding at the end the following:

13   **“§ 41717. Interline agreements for domestic transpor-**  
14                           **tation**

15           “(a) NONDISCRIMINATORY REQUIREMENTS.—If a  
16           major air carrier that provides air service to an essential  
17           airport facility has any agreement involving ticketing, bag-  
18           gage and ground handling, and terminal and gate access  
19           with another carrier, it shall provide the same services to  
20           any requesting air carrier that offers service to a commu-  
21           nity selected for participation in the program under sec-  
22           tion 41743 under similar terms and conditions and on a  
23           nondiscriminatory basis within 30 days after receiving the  
24           request, as long as the requesting air carrier meets such  
25           safety, service, financial, and maintenance requirements,

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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