

106TH CONGRESS
1ST SESSION

S. 304

To improve air transportation service available to small communities.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 1999

Mr. FRIST introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To improve air transportation service available to small
communities.

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 Communities
5 Air Service Act of 1999”.

6 **SEC. 2. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET**
7 **SERVICE.**

8 (a) IN GENERAL.—Subchapter I of chapter 417 of
9 title 49, United States Code, is amended by adding at the
10 end thereof the following:

1 **“§ 41716. Slot exemptions for nonstop regional jet**
 2 **service**

3 “(a) IN GENERAL.—Within 90 days after receiving
 4 an joint application from an air carrier and a community
 5 primarily served by a small hub airport or a nonhub air-
 6 port (as such terms are defined in section 41731(a) (3)
 7 and (4)), respectively, for an exemption to provide nonstop
 8 regional jet air service between—

9 “(1) that small hub airport or nonhub airport;
 10 and

11 “(2) a high density airport, the Secretary of
 12 Transportation shall grant the exemption.

13 “(b) APPLICATION MAY BE DENIED FOR SAFETY OR
 14 ENVIRONMENTAL REASONS.—Notwithstanding subsection
 15 (a), the Secretary shall not grant an exemption requested
 16 under subsection (a) if—

17 “(1) granting the exemption would not be in ac-
 18 cordance with established principles of safety; or

19 “(2) the exemption would violate the National
 20 Environmental Policy Act of 1969 (42 U.S.C. 4332).

21 “(c) CONDITIONS.—The Secretary may grant an ex-
 22emption to an air carrier under subsection (a)—

23 “(1) for a period of not less than 12 months;

24 “(2) for a minimum of 2 daily roundtrip flights;

25 and

1 “(3) for a maximum of 4 daily roundtrip
2 flights.

3 “(d) FOREFEITURE FOR MISUSE.—Any exemption
4 granted under subsection (a) shall be terminated imme-
5 diately by the Secretary if the air carrier to which it was
6 granted uses the slot for any purpose other than the pur-
7 pose for which it was granted or in violation of the condi-
8 tions under which it was granted.

9 “(e) PRIORITY TO NEW ENTRANTS AND LIMITED IN-
10 CUMBENT CARRIERS.—

11 “(1) IN GENERAL.—In granting slot exemptions
12 under this section the Secretary shall give priority
13 consideration to an application from an air carrier
14 that, as of July 1, 1998, operated or held fewer than
15 20 slots or slot exemptions at the high density air-
16 port for which it filed an exemption application.

17 “(2) LIMITATION.—No priority may be given
18 under paragraph (1) to an air carrier that, at the
19 time of application, operates or holds 20 or more
20 slots and slot exemptions at the airport for which
21 the exemption application is filed.

22 “(3) AFFILIATED CARRIERS.—The Secretary
23 shall treat all commuter air carriers that have coop-
24 erative agreements including code-share agreements,
25 with other air carriers equally for determining eligi-

1 bility for exemptions under this section regardless of
 2 the form of the corporate relationship between the
 3 commuter air carrier and the other air carrier.

4 “(f) STAGE 3 AIRCRAFT REQUIRED.— An exemption
 5 may not be granted under this section with respect to any
 6 aircraft that is not a Stage 3 aircraft (as defined by the
 7 Secretary).

8 “(g) REGIONAL JET DEFINED.—In this section, the
 9 term ‘regional jet’ means a passenger, turbofan-powered
 10 aircraft carrying not fewer than 30 and not more than
 11 50 passengers.

12 “(h) PREEMPTION.—If the provisions of this section
 13 conflict with any other provision of law or regulation pre-
 14 scribed there under which a limitation is imposed on the
 15 number of slots available at any airport, then the provi-
 16 sions of this section shall take precedence.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 40102 is amendment by inserting
 19 after paragraph (28) the following:

20 “(28A) LIMITED INCUMBENT AIR CARRIER.—

21 The term ‘limited incumbent air carrier’ has the
 22 meaning given that term in subpart S of part 93 of
 23 title 14, Code of Federal Regulations, except that
 24 ‘20’ shall be substituted for ‘12’ in sections

1 93.213(a)(5), 93.223(c)(32), and 93.226(h) as such
2 sections were in effect on August 1, 1998.”.

3 (2) The chapter analysis for chapter 417 is
4 amended by striking the item relating to section
5 41716 and inserting the following:

“41716. Slot exemptions for nonstop regional jet services.”.

6 **SEC. 3. REGIONAL AIR SERVICE INCENTIVE OPTIONS.**

7 (a) PURPOSE.—The purpose of this section is to pro-
8 vide the Congress with an analysis of means to improve
9 service by jet aircraft to underserved markets by authoriz-
10 ing a review of different programs of Federal financial as-
11 sistance, including loan guarantees like those that would
12 have been provided for by section 2 of S. 1353, 105th Con-
13 gress, as introduced, to commuter air carriers that would
14 purchase regional jet aircraft for use in serving those mar-
15 kets.

16 (b) STUDY.—The Secretary of Transportation shall
17 study the efficacy of a program of Federal loan guarantees
18 for the purchase of regional jets by commuter air carriers.
19 The Secretary shall include in the study a review of op-
20 tions for funding, including alternatives to Federal fund-
21 ing. In the study, the Secretary shall analyze—

- 22 (1) the need for such a program;
- 23 (2) its potential benefit to small communities;
- 24 (3) the trade implications of such a program;

1 (4) market implications of such a program for
2 the sale of regional jets;

3 (5) the types of markets that would benefit the
4 most from such a program;

5 (6) the competitive implications of such a pro-
6 gram; and

7 (7) the cost of such a program.

8 (c) REPORT—The Secretary shall submit a report of
9 the results of the study to the Senate Committee on Com-
10 merce, Science, and Transportation and the House of Rep-
11 resentatives Committee on Transportation and Infrastruc-
12 ture not later than 24 months after the date of enactment
13 of this Act.

14 **SEC. 4. AIRPORT SECURITY PROGRAM.**

15 (a) IN GENERAL.—Subchapter I of chapter 471 of
16 title 49, United States Code, is amended by adding at the
17 end thereof the following new section:

18 **“§ 47135. Airport security program**

19 “(a) GENERAL AUTHORITY.—To improve security at
20 public airports in the United States, the Secretary of
21 Transportation shall carry out at least 1 project to test
22 and evaluate innovative airport security systems and relat-
23 ed technology.

24 “(b) PRIORITY.—In carrying out this section, the
25 Secretary shall give the highest priority to a request from

1 an eligible sponsor for a grant to undertake a project
2 that—

3 “(1) evaluates and tests the benefits of innova-
4 tive airport security systems or related technology,
5 including explosives detection systems, for the pur-
6 pose of improving airport and aircraft physical secu-
7 rity and access control; and

8 “(2) provides testing and evaluation of airport
9 security systems and technology in an operational,
10 test bed environment.

11 “(c) MATCHING SHARE.—Notwithstanding section
12 47109, the United States Government’s share of allowable
13 project costs for a project under this section is 100 per-
14 cent.

15 “(d) TERMS AND CONDITIONS.—The Secretary may
16 establish such terms and conditions as the Secretary de-
17 termines appropriate for carrying out a project under this
18 section, including terms and conditions relating to the
19 form and content of a proposal for a project, project assur-
20 ance, and schedule of payments.

21 “(e) ELIGIBLE SPONSOR DEFINED.—In this section,
22 the term ‘eligible sponsor’ means a nonprofit corporation
23 composed of a consortium of public and private persons,
24 including a sponsor of a primary airport, with the nec-
25 essary engineering and technical expertise to successfully

1 conduct the testing and evaluation of airport and aircraft
2 related security systems.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—Of the
4 amounts made available to the Secretary under section
5 47115 in a fiscal year, the Secretary shall make available
6 not less than \$5,000,000 for the purpose of carrying out
7 this section.”.

8 (b) CONFORMING AMENDMENT.—The chapter analy-
9 sis for such subchapter is amended by inserting after the
10 item relating to section 47134 the following:

“47135. Airport security program.”.

11 **SEC. 5 CONTRACT TOWER PROGRAM.**

12 There are authorized to be appropriated to the Sec-
13 retary of Transportation such sums as may be necessary
14 to carry out the Federal Contract Tower Program under
15 title 49, United States Code.

16 **SEC. 6. REPORT ON EFFORTS TO IMPLEMENT CAPACITY**
17 **ENHANCEMENTS.**

18 Within 9 months after the date of enactment of this
19 Act, the Secretary of Transportation shall report to the
20 Committee on Commerce, Science, and Transportation of
21 the Senate and the Committee on Transportation and In-
22 frastructure of the House of Representatives on efforts by
23 the Federal Aviation Administration to implement capac-
24 ity enhancements and improvements, such as precision

1 runway monitoring systems, and the time frame for imple-
 2 mentation of such enhancements and improvements.

3 **SEC. 7. COMMUNITY-CARRIER AIR SERVICE PROGRAM.**

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

7 **“§ 41743. Air service program for small communities**

8 “(a) COMMUNITIES PROGRAM.—Under advisory
 9 guidelines prescribed by the Secretary of Transportation,
 10 a small community or a consortia of small communities
 11 or a State may develop an assessment of its air service
 12 requirements and submit the assessment and service pro-
 13 posal to the Secretary.

14 “(b) SELECTION OF PARTICIPANTS.—In selecting
 15 community programs for participation in the communities
 16 program under subsection (a), the Secretary shall apply
 17 criteria, including geographical diversity and the presen-
 18 tation of unique circumstances, that will demonstrate the
 19 feasibility of the program. For purposes of this subsection,
 20 the application of geographical diversity criteria means
 21 criteria that—

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

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

1 “(c) CARRIERS PROGRAM.—The Secretary shall in-
2 vite part 121 air carriers and regional/commuter carriers
3 (as such terms are defined in section 41715(d) of this
4 title) to offer service proposals in response to, or in con-
5 junction with, community aircraft service assessments
6 submitted to the office under subsection (a). A service pro-
7 posal under this paragraph shall include—

8 “(1) an assessment of potential daily passenger
9 traffic, revenues, and costs necessary for the carrier
10 to offer the service;

11 “(2) a forecast of the minimum percentage of
12 that traffic the carrier would require the community
13 to garner in order for the carrier to start up and
14 maintain the service; and

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

17 “(d) PROGRAM SUPPORT FUNCTION.—The Secretary
18 shall work with small communities and air carriers, taking
19 into account their proposals and needs, to facilitate the
20 initiation of service. The Secretary—

21 “(1) may work with communities to develop in-
22 novative means and incentives for the initiation of
23 service;

1 “(2) may obligate funds authorized by the
2 Small Communities Air Service Act of 1999 to carry
3 out this section;

4 “(3) shall continue to work with both the car-
5 riers and the communities to develop a combination
6 of community incentives and carrier service levels
7 that—

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

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

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

19 “(5) take such other action under this chapter
20 as may be appropriate.

21 “(e) LIMITATIONS.—

22 “(1) COMMUNITY SUPPORT.—The Secretary
23 may not provide financial assistance under sub-
24 section (c)(2) to any community unless the Secretary
25 determines that—

1 “(A) a public-private partnership exists at
2 the community level to carry out the commu-
3 nity’s proposal;

4 “(B) the community will make a substan-
5 tial financial contribution that is appropriate
6 for that community’s resources, but of not less
7 than 25 percent of the cost of the project in
8 any event;

9 “(C) the community has established an
10 open process for soliciting air service proposals;
11 and

12 “(D) the community will accord similar
13 benefits to air carriers that are similarly situ-
14 ated.

15 “(2) AMOUNT.—The Secretary may not obligate
16 more than \$30,000,000 of the amounts authorized
17 the Small Communities Air Service Act of 1999 over
18 the 4 years of the program.

19 “(3) NUMBER OF PARTICIPANTS.—The pro-
20 gram established under subsection (a) shall not in-
21 volve more than 40 communities or consortia of
22 communities.

23 “(f) REPORT.—The Secretary shall report through
24 the Secretary to the Congress annually on the progress
25 made under this section during the preceding year in ex-

1 panding commercial aviation service to smaller commu-
2 nities.

3 **“§ 41744. Pilot program project authority**

4 “(a) IN GENERAL.—The Secretary of Transportation
5 under section 102(g)(1) shall establish a 4-year pilot
6 program—

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

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

12 “(b) PROJECT AUTHORITY.—Under the pilot pro-
13 gram established pursuant to subsection (a), the Secretary
14 may—

15 “(1) out of amounts authorized by the Small
16 Communities Air Service Act of 1999, provide finan-
17 cial assistance by way of grants to small commu-
18 nities or consortia of small communities under sec-
19 tion 41743 of up to \$500,000 per year; and

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

22 “(c) OTHER ACTION.—Under the pilot program es-
23 tablished pursuant to subsection (a), the Secretary may
24 facilitate service by—

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

4 “(2) collecting data on air carrier service to
5 small communities; and

6 “(3) stimulating air service and competition to
7 small communities.

8 **“§ 41745. Assistance to communities for service**

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

13 “(1) 4 communities within any State at any
14 given time; and

15 “(2) 40 communities in the entire program at
16 any time.

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

19 “(b) ELIBIGILITY.—In order to participate in a pilot
20 project under this subchapter, a State, community, or
21 group of communities shall apply to the Secretary in such
22 form and at such time, and shall supply such information,
23 as the Secretary may require, and shall demonstrate to
24 the satisfaction of the Secretary that—

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

4 “(2) the pilot project will provide material bene-
5 fits to a broad section of the travelling public, busi-
6 nesses, educational institutions, and other enter-
7 prises whose access to the national air transpor-
8 tation system is limited;

9 “(3) the pilot project will not impede competi-
10 tion; and

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

14 “(c) COORDINATION WITH OTHER PROVISIONS OF
15 SUBCHAPTER.—The Secretary shall carry out the 4-year
16 pilot program authorized by this subchapter in such a
17 manner as to complement action taken under the other
18 provisions of this subchapter. To the extent the Secretary
19 determines to be appropriate, the Secretary may adopt cri-
20 teria for implementation of the 4-year pilot program that
21 are the same as, or similar to, the criteria developed under
22 the preceding sections of this subchapter for determining
23 which airports are eligible under those sections. The Sec-
24 retary shall also, to the extent possible, provide incentives
25 where no direct, viable, and feasible alternative service ex-

1 ists, taking into account geographical diversity and appro-
 2 priate market definitions.

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

6 “(1) permit the participation of the maximum
 7 feasible number of communities and States over a 4-
 8 year period by limiting the number of years of par-
 9 ticipation or otherwise; and

10 “(2) obtain the greatest possible leverage from
 11 the financial resources available to the Secretary and
 12 the applicant by—

13 “(A) progressively decreasing, on a project-
 14 by-project basis, any Federal financial incen-
 15 tives provided under this chapter over the 4-
 16 year period; and

17 “(B) terminating as early as feasible Fed-
 18 eral financial incentives for any project deter-
 19 mined by the Secretary after its implementation
 20 to be—

21 “(i) viable without further support
 22 under this subchapter; or

23 “(ii) failing to meet the purposes of
 24 this chapter or criteria established by the
 25 Secretary under the pilot program.

1 “(e) SUCCESS BONUS.—If Federal financial incen-
 2 tives to a community are terminated under subsection
 3 (d)(2)(B) because of the success of the program in that
 4 community, then that community may receive a one-time
 5 incentive grant to ensure the continued success of that
 6 program.

7 “(f) PROGRAM TO TERMINATE IN 4 YEARS.—No new
 8 financial assistance may be provided under this sub-
 9 chapter for any fiscal year beginning more than 4 years
 10 after the date of enactment of the Small Communities Air
 11 Service Act of 1999.

12 **“§ 41746. Additional authority**

13 “In carrying out this chapter, the Secretary—

14 “(1) may provide assistance to States and com-
 15 munities in the design and application phase of any
 16 project under this chapter, and oversee the imple-
 17 mentation of any such project;

18 “(2) may assist States and communities in put-
 19 ting together projects under this chapter to utilize
 20 private sector resources, other Federal resources, or
 21 a combination of public and private resources;

22 “(3) may accord priority to service by jet air-
 23 craft;

24 “(4) take such action as may be necessary to
 25 ensure that financial resources, facilities, and admin-

1 istrative arrangements made under this chapter are
 2 used to carry out the Small Communities Air Service
 3 Act of 1999; and

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

7 **§ 41747. Air traffic control services pilot program**

8 “(a) IN GENERAL.—To further facilitate the use of,
 9 and improve the safety at, small airports, the Adminis-
 10 trator of the Federal Aviation Administration shall estab-
 11 lish a pilot program to contract for Level I air traffic con-
 12 trol services at 20 facilities not eligible for participation
 13 in the Federal Contract Tower Program.

14 “(b) PROGRAM COMPONENTS.—In carrying out the
 15 pilot program established under subsection (a), the Ad-
 16 ministrator may—

17 “(1) utilize current, actual, site-specific, data,
 18 forecast estimates, or airport system plan data pro-
 19 vided by a facility owner or operator;

20 “(2) take into consideration unique aviation
 21 safety, weather, strategic national interest, disaster
 22 relief, medical and other emergency management re-
 23 lief services, status of regional airline service, and
 24 related factors at the facility;

1 “(3) approve for participation any facility will-
 2 ing to fund a pro rata share of the operating costs
 3 used by the Federal Aviation Administration to cal-
 4 culate, and, as necessary, a 1:1 benefit-to-cost ratio,
 5 as required for eligibility under the Federal Contract
 6 Tower Program; and

7 “(4) approve for participation no more than 3
 8 facilities willing to fund a pro rata share of con-
 9 struction costs for an air traffic control tower so as
 10 to achieve, at a minimum, a 1:1 benefit-to-cost ratio,
 11 as required for eligibility under the Federal Contract
 12 Tower Program, and for each of such facilities the
 13 Federal share of construction costs does not exceed
 14 \$1,000,000.

15 “(c) REPORT.—One year before the pilot program es-
 16 tablished under subsection (a) terminates, the Adminis-
 17 trator shall report to the Congress on the effectiveness of
 18 the program, with particular emphasis on the safety and
 19 economic benefits provided to program participants and
 20 the national air transportation system.”.

21 (b) CONFORMING AMENDMENT.—The chapter analy-
 22 sis for subchapter II of chapter 417 of such title is amend-
 23 ed by inserting after the item relating to section 41742
 24 the following:

“41743. Air service program for small communities.

“41744. Pilot program project authority.

“41745. Assistance to communities for service.

“41746. Additional authority.

“41747. Air traffic control services pilot program.”.

1 (c) WAIVER OF LOCAL CONTRIBUTION.—Section
2 41736(b) is amended by inserting after paragraph (4) the
3 following:

4 “Paragraph (4) does not apply to any community ap-
5 proved for service under this section during the period be-
6 ginning October 1, 1991, and ending December 31,
7 1997.”.

8 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated to the Sec-
10 retary of Transportation such sums as may be necessary
11 to carry out the provisions of this Act and the amend-
12 ments made by this Act.

○