

110TH CONGRESS  
1ST SESSION

# S. 1571

To reform the essential air service program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 7, 2007

Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. HAGEL, and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reform the essential air service program, 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 “Rural Aviation Im-  
5       provement Act”.

6       **SEC. 2. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PAR-**  
7       **TICIPATION PROGRAM.**

8       (a) IN GENERAL.—Subchapter II of chapter 417 of  
9       title 49, United States Code, is amended by striking sec-

tion 41747, and such title 49 shall be applied as if such section 41747 had not been enacted.

(b) CLERICAL AMENDMENT.—The analysis for chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

**SEC. 3. PER PASSENGER SUBSIDY FOR ESSENTIAL AIR SERVICE.**

(a) IN GENERAL.—Section 41742 of title 49, United States Code, is amended by adding at the end the following:

“(c) PER PASSENGER SUBSIDY CAP.—

“(1) IN GENERAL.—The Secretary of Transportation may not provide compensation to an air carrier to provide air transportation under this subchapter to an otherwise eligible place in the 48 contiguous States if the eligible place—

“(A) is located fewer than 70 highway miles from the nearest large or medium hub airport; or

“(B) is fewer than 210 miles from the nearest large or medium hub airport and requires a per passenger subsidy in excess of the dollar amount described in paragraph (2).

“(2) DOLLAR AMOUNT OF PER PASSENGER SUBSIDY.—

1           “(A) IN GENERAL.—The dollar amount de-  
2           scribed in this paragraph is—

3                   “(i) for calendar year 2008, \$200;  
4                   and

5                   “(ii) for each calendar year after cal-  
6                   endar year 2008, \$200 increased by an  
7                   amount equal to—

8                           “(I) \$200, multiplied by

9                           “(II) the percentage (if any) by  
10                   which the CPI for the preceding cal-  
11                   endar year exceeds the CPI for cal-  
12                   endar year 2007.

13           “(B) ROUNDING.—Any increase under  
14           subparagraph (A)(ii) shall be rounded to the  
15           nearest dollar.

16           “(3) DEFINITIONS.—In this subsection:

17                   “(A) CPI FOR THE PRECEDING CALENDAR  
18                   YEAR.—The term ‘CPI for the preceding cal-  
19                   endar year’ means the average of the Consumer  
20                   Price Index as of the close of the 12-month pe-  
21                   riod ending on August 31 of such calendar  
22                   year.

23                   “(B) CONSUMER PRICE INDEX.—The term  
24                   ‘Consumer Price Index’ means the last Con-

1           sumer Price Index for all-urban consumers pub-  
 2           lished by the Department of Labor.”.

3           (b) PER PASSENGER SUBSIDY DEFINED.—Section  
 4 41731(a) of title 49, United States Code, is amended by  
 5 adding at the end the following:

6           “(3) ‘per passenger subsidy’ means—

7           “(A) the total compensation provided by  
 8           the Secretary of Transportation to an air car-  
 9           rier under this subchapter that is necessary for  
 10          the air carrier to provide air transportation to  
 11          an eligible place, divided by

12          “(B) the total number of passengers using  
 13          such air transportation.”.

14          (c) CONFORMING REPEAL.—Section 332 of the De-  
 15          partment of Transportation and Related Agencies Appro-  
 16          priations Act, 2000 (Public Law 106–69; 49 U.S.C.  
 17          41731 note) is repealed.

18 **SEC. 4. COMMUNITIES ABOVE PER PASSENGER SUBSIDY**

19 **CAP.**

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

1   **“§ 41749. Essential air service for eligible places**  
 2                   **above per passenger subsidy cap**

3           “(a) PROPOSALS.—A State or local government may  
 4 submit a proposal to the Secretary of Transportation for  
 5 compensation for an air carrier to provide air transpor-  
 6 tation to a place described in subsection (b).

7           “(b) PLACE DESCRIBED.—A place described in this  
 8 subsection is a place—

9                   “(1) that is otherwise an eligible place; and

10                   “(2) for which the per passenger subsidy ex-  
 11 ceeds the dollar amount allowable under section  
 12 41742(c).

13           “(c) DECISIONS.—Not later than 90 days after re-  
 14 ceiving a proposal under subsection (a) for compensation  
 15 for an air carrier to provide air transportation to a place  
 16 described in subsection (b), the Secretary shall—

17                   “(1) decide whether to provide compensation  
 18 for the air carrier to provide air transportation to  
 19 the place; and

20                   “(2) approve the proposal if the State or local  
 21 government or a person is willing and able to pay  
 22 the difference between—

23                           “(A) the per passenger subsidy; and

24                           “(B) the dollar amount allowable for such  
 25 subsidy under section 41742(c).

26           “(d) COMPENSATION PAYMENTS.—

1           “(1) IN GENERAL.—The Secretary shall pay  
2           compensation under this section at such time and in  
3           such manner as the Secretary determines is appro-  
4           prium.

5           “(2) DURATION OF PAYMENTS.—The Secretary  
6           shall continue to pay compensation under this sec-  
7           tion only as long as—

8                   “(A) the State or local government or per-  
9                   son agreeing to pay compensation under sub-  
10                  section (c)(2) continues to pay such compensa-  
11                  tion; and

12                   “(B) the Secretary decides the compensa-  
13                  tion is necessary to maintain air transportation  
14                  to the place.

15           “(e) REVIEW.—

16           “(1) IN GENERAL.—The Secretary shall peri-  
17           odically review the type and level of air service pro-  
18           vided under this section.

19           “(2) CONSULTATION.—The Secretary may  
20           make appropriate adjustments in the type and level  
21           of air service to a place under this section based on  
22           the review under paragraph (1) and consultation  
23           with the affected community and the State or local  
24           government or person agreeing to pay compensation  
25           under subsection (c)(2).

1       “(f) ENDING, SUSPENDING, AND REDUCING AIR  
 2       TRANSPORTATION.—An air carrier providing air transpor-  
 3       tation to a place under this section may end, suspend, or  
 4       reduce such air transportation if, not later than 30 days  
 5       before ending, suspending, or reducing such air transpor-  
 6       tation, the air carrier provides notice of the intent of the  
 7       air carrier to end, suspend, or reduce such air transpor-  
 8       tation to—

9               “(1) the Secretary;

10              “(2) the affected community; and

11              “(3) the State or local government or person  
 12       agreeing to pay compensation under subsection  
 13       (c)(2).”.

14       (b) CLERICAL AMENDMENT.—The analysis for chap-  
 15       ter 417 of title 49, United States Code, is amended by  
 16       adding after the item relating to section 41748 the fol-  
 17       lowing new item:

“41749. Essential air service for eligible places above per passenger subsidy  
 cap.”.

18       **SEC. 5. PREFERRED ESSENTIAL AIR SERVICE.**

19       (a) IN GENERAL.—Subchapter II of chapter 417 of  
 20       title 49, United States Code, as amended by section 4,  
 21       is further amended by adding after section 41749 the fol-  
 22       lowing:

1 **“§ 41750. Preferred essential air service**

2       “(a) PROPOSALS.—A State or local government may  
3 submit a proposal to the Secretary of Transportation for  
4 compensation for a preferred air carrier described in sub-  
5 section (b) to provide air transportation to an eligible  
6 place.

7       “(b) PREFERRED AIR CARRIER DESCRIBED.—A pre-  
8 ferred air carrier described in this subsection is an air car-  
9 rier that—

10           “(1) submits an application under section  
11 41733(c) to provide air transportation to an eligible  
12 place;

13           “(2) is not the air carrier that submits the low-  
14 est cost bid to provide air transportation to the eligi-  
15 ble place; and

16           “(3) is an air carrier that the affected commu-  
17 nity prefers to provide air transportation to the eligi-  
18 ble place instead of the air carrier that submits the  
19 lowest cost bid.

20       “(c) DECISIONS.—Not later than 90 days after re-  
21 ceiving a proposal under subsection (a) for compensation  
22 for a preferred air carrier described in subsection (b) to  
23 provide air transportation to an eligible place, the Sec-  
24 retary shall—



1 “(1) decide whether to provide compensation  
 2 for the preferred air carrier to provide air transpor-  
 3 tation to the eligible place; and

4 “(2) approve the proposal if the State or local  
 5 government or a person is willing and able to pay  
 6 the difference between—

7 “(A) the rate of compensation the Sec-  
 8 retary would provide to the air carrier that sub-  
 9 mits the lowest cost bid to provide air transpor-  
 10 tation to the eligible place; and

11 “(B) the rate of compensation the pre-  
 12 ferred air carrier estimates to be necessary to  
 13 provide air transportation to the eligible place.

14 “(d) COMPENSATION PAYMENTS.—

15 “(1) IN GENERAL.—The Secretary shall pay  
 16 compensation under this section at such time and in  
 17 such manner as the Secretary determines is appro-  
 18 priate.

19 “(2) DURATION OF PAYMENTS.—The Secretary  
 20 shall continue to pay compensation under this sec-  
 21 tion only as long as—

22 “(A) the State or local government or per-  
 23 son agreeing to pay compensation under sub-  
 24 section (c)(2) continues to pay such compensa-  
 25 tion; and

1           “(B) the Secretary decides the compensa-  
2           tion is necessary to maintain air transportation  
3           to the eligible place.

4           “(e) REVIEW.—

5           “(1) IN GENERAL.—The Secretary shall peri-  
6           odically review the type and level of air service pro-  
7           vided under this section.

8           “(2) CONSULTATION.—The Secretary may  
9           make appropriate adjustments in the type and level  
10          of air service to an eligible place under this section  
11          based on the review under paragraph (1) and con-  
12          sultation with the affected community and the State  
13          or local government or person agreeing to pay com-  
14          pensation under subsection (c)(2).

15          “(f) ENDING, SUSPENDING, AND REDUCING AIR  
16          TRANSPORTATION.—A preferred air carrier providing air  
17          transportation to an eligible place under this section may  
18          end, suspend, or reduce such air transportation if, not  
19          later than 30 days before ending, suspending, or reducing  
20          such air transportation, the preferred air carrier provides  
21          notice of the intent of the preferred air carrier to end,  
22          suspend, or reduce such air transportation to—

23                 “(1) the Secretary;

24                 “(2) the affected community; and

1 “(3) the State or local government or person  
2 agreeing to pay compensation under subsection  
3 (c)(2).”.

4 (b) CLERICAL AMENDMENT.—The analysis for chap-  
5 ter 417 of title 49, United States Code, as amended by  
6 section 4, is further amended by adding after the item re-  
7 lating to section 41749 the following new item:

“41750. Preferred essential air service.”.

8 **SEC. 6. RESTORATION OF ELIGIBILITY TO A PLACE DETER-**  
9 **MINED BY THE SECRETARY TO BE INELI-**  
10 **GIBLE FOR SUBSIDIZED ESSENTIAL AIR**  
11 **SERVICE.**

12 Section 41733 of title 49, United States Code, is  
13 amended by adding at the end the following new sub-  
14 section:

15 “(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED  
16 ESSENTIAL AIR SERVICE.—

17 “(1) IN GENERAL.—If the Secretary of Trans-  
18 portation terminates the eligibility of an otherwise  
19 eligible place to receive basic essential air service by  
20 an air carrier for compensation under subsection (c),  
21 a State or local government may submit to the Sec-  
22 retary a proposal for restoring such eligibility.

23 “(2) DETERMINATION BY SECRETARY.—If the  
24 per passenger subsidy required by the proposal sub-  
25 mitted by a State or local government under para-

graph (1) does not exceed the per passenger subsidy cap provided under section 41742(c), the Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c).”.

**SEC. 7. CALCULATION OF HIGHWAY MILEAGE TO MEDIUM AND LARGE HUB AIRPORTS.**

(a) IN GENERAL.—Section 41731 of title 49, United States Code, is amended by adding at the end the following:

“(c) CALCULATION OF HIGHWAY MILEAGE TO MEDIUM AND LARGE HUB AIRPORTS.—

“(1) IN GENERAL.—In any determination under this subchapter of compensation or eligibility for compensation for essential air service based on the highway mileage of an eligible place from the nearest medium hub airport or large hub airport, the highway mileage shall be that of the most commonly used route, as identified under paragraph (2).

“(2) MOST COMMONLY USED ROUTE.—The Secretary of Transportation shall identify the most commonly used route between an eligible place and the nearest medium hub airport or large hub airport by—

1           “(A) consulting with the Governor or a  
2           designee of the Governor in the State in which  
3           the eligible place is located; and

4           “(B) considering the certification of the  
5           Governor or a designee of the Governor as to  
6           the most commonly used route.

7           “(3) APPLICABILITY.—This subsection shall  
8           apply only to eligible places in the 48 contiguous  
9           States and the District of Columbia.”.

10          (b) CONFORMING AMENDMENT.—Section 409 of Vi-  
11          sion 100—Century of Aviation Reauthorization Act (Pub-  
12          lic Law 108–176; 49 U.S.C. 41731 note) is repealed.

13          **SEC. 8. OFFICE OF RURAL AVIATION.**

14          (a) ESTABLISHMENT.—There is established within  
15          the Office of the Secretary of Transportation the Office  
16          of Rural Aviation (referred to in this section as the “Of-  
17          fice”).

18          (b) FUNCTIONS.—The functions of the Office are—

19               (1) to develop a uniform 4-year contract for air  
20               carriers providing essential air service to commu-  
21               nities under subchapter II of chapter 417 of title 49,  
22               United States Code;

23               (2) to develop a mechanism for comparing ap-  
24               plications submitted by air carriers under section

1       41733(c) to provide essential air service to commu-  
 2       nities, including comparing—

3               (A) estimates from air carriers on—

4                       (i) the cost of providing essential air  
 5                       service; and

6                       (ii) the revenues air carriers expect to  
 7                       receive when providing essential air service;  
 8                       and

9               (B) estimated schedules for air transpor-  
 10       tation; and

11       (3) to select an air carrier from among air car-  
 12       riers applying to provide essential air service, based  
 13       on the criteria described in paragraph (2).

14   **SEC. 9. EXTENSION OF AUTHORITY TO MAKE AGREEMENTS**

15                       **UNDER THE ESSENTIAL AIR SERVICE PRO-**  
 16                       **GRAM.**

17       Section 41743(e)(2) of title 49, United States Code,  
 18       is amended by striking “2008” and inserting “2011”.

19   **SEC. 10. ADJUSTMENTS TO COMPENSATION FOR SIGNIFI-**  
 20                       **CANTLY INCREASED COSTS.**

21       Section 41737 of title 49, United States Code, is  
 22       amended—

23               (1) in subsection (a)(1)—

24                       (A) in subparagraph (B), by striking “;  
 25                       and” and inserting a semicolon;

1 (B) in subparagraph (C), by striking the  
2 period and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(D) provide for an adjustment in com-  
5 pensation to account for significant increases in  
6 fuel costs, in accordance with subsection (e).”;  
7 and

8 (2) in subsection (e)—

9 (A) in paragraph (1), by striking “may”  
10 and inserting “shall”; and

11 (B) in paragraph (2), by striking “may”  
12 and inserting “shall”.

13 **SEC. 11. CHARTER AIR CARRIER PASSENGER BOARDINGS.**

14 Notwithstanding any other provision of law, the Sec-  
15 retary of Transportation shall treat passenger boardings  
16 on aircraft operated by charter air carriers at airports re-  
17 ceiving essential air service under subchapter II of chapter  
18 417 of title 49, United States Code, as passenger  
19 boardings for purposes of section 47114(c)(1)(E) of such  
20 title.

21 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS FOR ESSEN-**  
22 **TIAL AIR SERVICE.**

23 (a) ADJUSTMENT TO AUTHORIZATION OF APPRO-  
24 PRIATIONS.—Section 41742 of title 49, United States  
25 Code, is amended—

1           (1) in subsection (a)(2), by striking  
2       “\$77,000,000” and inserting “\$33,000,000”; and

3           (2) in subsection (b), by striking “Notwith-  
4       standing section 47114” and all that follows.

5       (b) FUNDS FROM AIRPORT AND AIRWAY TRUST  
6       FUND.—Section 41737(d)(2) of title 49, United States  
7       Code, is amended to read as follows:

8           “(2) In addition to amounts authorized to be  
9       appropriated under section 41742(a), not more than  
10      \$50,000,000 shall be available to the Secretary out  
11      of the Fund for each of the fiscal years 2008  
12      through 2011 to incur obligations under this section.  
13      Amounts made available under this section remain  
14      available until expended.”.

○