

and ending on March 31, 2018,” for “and \$175,000,000 for each of fiscal years 2016 and 2017”.

2016—Subsec. (a)(2). Pub. L. 114-190 substituted “fiscal year 2014, \$93,000,000 for fiscal year 2015, and \$175,000,000 for each of fiscal years 2016 and 2017” for “fiscal year 2014, \$93,000,000 for fiscal year 2015, and \$122,708,333 for the period beginning on October 1, 2015, and ending on July 15, 2016.”.

Pub. L. 114-141 substituted “\$122,708,333 for the period beginning on October 1, 2015, and ending on July 15, 2016.” for “\$77,500,000 for the period beginning on October 1, 2015, and ending on March 31, 2016.”.

2015—Subsec. (a)(2). Pub. L. 114-55 substituted “\$93,000,000 for fiscal year 2015, and \$77,500,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,” for “and \$93,000,000 for fiscal year 2015”.

2012—Subsec. (a)(1). Pub. L. 112-95, § 428(a)(1), inserted “for each fiscal year” before “is authorized” and substituted “under this subchapter” for “under this subchapter for each fiscal year”.

Subsec. (a)(2). Pub. L. 112-95, § 428(a)(2), substituted “, \$143,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, \$107,000,000 for fiscal year 2014, and \$93,000,000 for fiscal year 2015” for “and \$54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012.”.

Pub. L. 112-91 substituted “and \$54,699,454 for the period beginning on October 1, 2011, and ending on February 17, 2012,” for “and \$50,309,016 for the period beginning on October 1, 2011, and ending on January 31, 2012.”.

Subsec. (b). Pub. L. 112-95, § 428(b), amended subsec. (b) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.”

Subsec. (c). Pub. L. 112-95, § 428(c), added subsec. (c). 2011—Subsec. (a)(2). Pub. L. 112-30 substituted “there is authorized to be appropriated out of the Airport and Airway Trust Fund (established under section 9502 of the Internal Revenue Code of 1986) \$150,000,000 for fiscal year 2011 and \$50,309,016 for the period beginning on October 1, 2011, and ending on January 31, 2012,” for “there is authorized to be appropriated \$77,000,000 for each fiscal year”.

2003—Subsec. (a)(2). Pub. L. 108-176, § 404(1), substituted “\$77,000,000” for “\$15,000,000” and inserted “of which not more than \$12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance” before period at end.

Subsec. (a)(3). Pub. L. 108-176, § 404(2), added par. (3).

Subsec. (c). Pub. L. 108-176, § 404(3), struck out heading and text of subsec. (c). Text read as follows: “Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of \$75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.”

2000—Subsec. (a). Pub. L. 106-181 designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Pub. L. 104-264 amended section generally, substituting provisions relating to essential air service authorization for provisions stating that this subchapter was not effective after Sept. 30, 1998.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-264 effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as a note under section 106 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

FUNDING FOR ESSENTIAL AIR SERVICE PROGRAM

Pub. L. 112-55, div. C, title I, Nov. 18, 2011, 125 Stat. 644, provided in part: “That no funds made available under section 41742 of title 49, United States Code, and no funds made available in this Act [div. C of Pub. L. 112-55, see Tables for classification] or any other Act in any fiscal year, shall be available to carry out the essential air service program under sections 41731 through 41742 of such title 49 in communities in the 48 contiguous States unless the community received subsidized essential air service or received a 90-day notice of intent to terminate service and the Secretary required the air carrier to continue to provide service to the community at any time between September 30, 2010, and September 30, 2011, inclusive”.

FINDINGS

Pub. L. 104-264, title II, § 278(b), Oct. 9, 1996, 110 Stat. 3249, provided that: “Congress finds that—

“(1) air service in rural areas is essential to a national and international transportation network;

“(2) the rural air service infrastructure supports the safe operation of all air travel;

“(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

“(4) rural air service has suffered since deregulation;

“(5) the essential air service program under the Department of Transportation—

“(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

“(B) is necessary for the economic growth and development of rural communities;

“(C) is a critical component of the national and international transportation system of the United States; and

“(D) has endured serious funding cuts in recent years; and

“(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.”

§ 41743. Airports not receiving sufficient service

(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) APPLICATION REQUIRED.—In order to participate in the program established under sub-

section (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) an assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) an analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) **CRITERIA FOR PARTICIPATION.**—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) **SIZE.**—On the date of submission of the relevant application under subsection (b), the airport serving the community or consortium—

(A) is not larger than a small hub airport, as determined using the Department of Transportation's most recently published classification; and

(B) has—

- (i) insufficient air carrier service; or
- (ii) unreasonably high air fares.

(2) **CHARACTERISTICS.**—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) **STATE LIMIT.**—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) **OVERALL LIMIT.**—

(A) **IN GENERAL.**—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

(B) **SAME PROJECTS.**—Except as provided in subparagraph (C), no community, consortia of communities, or combination thereof may participate in the program in support of the same project more than once in a 5-year period, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project at any time.

(C) **EXCEPTION.**—The Secretary may waive the limitation under subparagraph (B) related to projects that are the same if the Secretary determines that the community or consortium spent little or no money on its previous project or encountered industry or environmental challenges, due to circumstances that were reasonably beyond the control of the community or consortium.

(5) **PRIORITIES.**—The Secretary shall give priority to communities or consortia of communities where—

(A) air fares are higher than the average air fares for all communities;

(B) the community has demonstrated support from at least 1 air carrier to provide service;

(C) the community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(D) the community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(E) the assistance will provide material benefits to a broad segment of the travelling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited;

(F) the assistance will be used to help restore scheduled passenger air service that has been terminated or substantially reduced (as measured by enplanements, capacity (seats), schedule, connections, or routes);

(G) the assistance will be used in a timely fashion; and

(H) multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport.

(d) **TYPES OF ASSISTANCE.**—The Secretary may use amounts made available under this section—

(1) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years, which shall begin with each new grant, including same-project new grants, and which shall be calculated on a non-consecutive basis for air carriers that provide air service that is seasonal;

(2) to provide assistance to an underserved airport, or an airport where air service has been terminated or substantially reduced, to obtain service to and from the underserved airport; and

(3) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) **AUTHORITY TO MAKE AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary may make agreements to provide assistance under this section. The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project or the community's current air service needs.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary \$15,000,000 for each of fiscal years 2024 through 2028, to carry out this section.

Such sums shall remain available until expended.

(f) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary shall designate an employee of the Department of Transportation—

(1) to function as a facilitator between small communities and air carriers;

(2) to carry out this section;

(3) to ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) to work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities; and

(5) to provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(Added Pub. L. 106–181, title II, §203(a), Apr. 5, 2000, 114 Stat. 92; amended Pub. L. 108–11, title II, §2708, Apr. 16, 2003, 117 Stat. 601; Pub. L. 108–176, title II, §225(b)(3), title IV, §412, Dec. 12, 2003, 117 Stat. 2529, 2551; Pub. L. 110–330, §5(b), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111–69, §5(b), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111–249, §5(b), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 112–30, title II, §205(b), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112–91, §5(b), Jan. 31, 2012, 126 Stat. 4; Pub. L. 112–95, title IV, §429, Feb. 14, 2012, 126 Stat. 100; Pub. L. 114–190, title I, §1102(e), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §104(b), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115–141, div. M, title I, §104(b), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115–254, div. B, title IV, §455, Oct. 5, 2018, 132 Stat. 3349; Pub. L. 118–15, div. B, title II, §2206(b), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118–34, title I, §106(b), Dec. 26, 2023, 137 Stat. 1115; Pub. L. 118–41, title I, §106(b), Mar. 8, 2024, 138 Stat. 23; Pub. L. 118–63, title V, §562, May 16, 2024, 138 Stat. 1217.)

Editorial Notes

AMENDMENTS

2024—Subsec. (c)(4)(B). Pub. L. 118–63, §562(1)(A), substituted “5-year” for “10-year”.

Subsec. (c)(5)(B) to (E). Pub. L. 118–63, §562(1)(B)(i), (ii), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively. Former subpar. (E) redesignated (F).

Subsec. (c)(5)(F). Pub. L. 118–63, §562(1)(B)(i), (iii), redesignated subpar. (E) as (F) and inserted “or substantially reduced (as measured by enplanements, capacity (seats), schedule, connections, or routes)” after “terminated”. Former subpar. (F) redesignated (G).

Subsec. (c)(5)(G), (H). Pub. L. 118–63, §562(1)(B)(i), redesignated subpars. (F) and (G) as (G) and (H), respectively.

Subsec. (d)(1). Pub. L. 118–63, §562(2)(A), inserted “, which shall begin with each new grant, including same-project new grants, and which shall be calculated on a non-consecutive basis for air carriers that provide air service that is seasonal” after “3 years”.

Subsec. (d)(2). Pub. L. 118–63, §562(2)(B), inserted “, or an airport where air service has been terminated or substantially reduced,” before “to obtain service”.

Subsec. (e)(1). Pub. L. 118–63, §562(3)(A), inserted “or the community’s current air service needs” after “the project”.

Subsec. (e)(2). Pub. L. 118–63, §562(3)(B), substituted “\$15,000,000 for each of fiscal years 2024 through 2028”

for “\$10,000,000 for each of fiscal years 2018 through 2023, and \$6,092,896 for the period beginning on October 1, 2023, and ending on May 10, 2024”.

Pub. L. 118–41 substituted “\$6,092,896 for the period beginning on October 1, 2023, and ending on May 10, 2024,” for “\$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024.”

Subsec. (f). Pub. L. 118–63, §562(5), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.”

Subsec. (g). Pub. L. 118–63, §562(5), redesignated subsec. (g) as (f).

Subsec. (g)(4). Pub. L. 118–63, §562(4), struck out “and the creation of aviation development zones” after “small communities”.

Subsec. (h). Pub. L. 118–63, §562(5), struck out subsec. (h). Text read as follows: “The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium 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.”

2023—Subsec. (e)(2). Pub. L. 118–34 substituted “\$4,371,585 for the period beginning on October 1, 2023, and ending on March 8, 2024,” for “\$2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023.”

Pub. L. 118–15 inserted “, and \$2,513,661 for the period beginning on October 1, 2023, and ending on December 31, 2023,” after “fiscal years 2018 through 2023”.

2018—Subsec. (c)(1). Pub. L. 115–254, §455(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

“(A) had insufficient air carrier service; or

“(B) had unreasonably high air fares.”

Subsec. (c)(4). Pub. L. 115–254, §455(a)(2), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”

Subsec. (c)(5)(E) to (G). Pub. L. 115–254, §455(a)(3), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 115–254, §455(b), inserted at end “The Secretary may amend the scope of a grant agreement at the request of the community or consortium and any participating air carrier, and may limit the scope of a grant agreement to only the elements using grant assistance or to only the elements achieved, if the Secretary determines that the amendment is reasonably consistent with the original purpose of the project.”

Subsec. (e)(2). Pub. L. 115–254, §455(c), amended par. (2) generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to the Secretary \$6,000,000 for each of fiscal years 2012 through 2017 and \$10,000,000 for fiscal year 2018 to carry out this section. Such sums shall remain available until expended.”

Pub. L. 115–141 substituted “2012 through 2017 and \$10,000,000 for fiscal year 2018” for “2012 through 2017 and \$4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018.”

2017—Subsec. (e)(2). Pub. L. 115–63 inserted “and \$4,986,301 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

2016—Subsec. (e)(2). Pub. L. 114–190 substituted “2017” for “2015”.

2012—Subsec. (c)(5)(F). Pub. L. 112–95, § 429(a), added subpar. (F).

Subsec. (e)(2). Pub. L. 112–95, § 429(b), amended par. (2) generally. Prior to amendment, par. (2) provided for authorization of appropriations for fiscal years 2001 through 2011 and for the portion of fiscal year 2012 ending before Feb. 18, 2012.

Pub. L. 112–91 substituted “and \$2,295,082 for the portion of fiscal year 2012 ending before February 18, 2012,” for “and \$2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012,”.

2011—Subsec. (e)(2). Pub. L. 112–30 substituted “\$35,000,000 for each of fiscal years 2004 through 2011, and \$2,016,393 for the portion of fiscal year 2012 ending before February 1, 2012,” for “and \$35,000,000 for each of fiscal years 2004 through 2011”.

2010—Subsec. (e)(2). Pub. L. 111–249 substituted “2011” for “2010”.

2009—Subsec. (e)(2). Pub. L. 111–69 substituted “2010” for “2009”.

2008—Subsec. (e)(2). Pub. L. 110–330 substituted “2009” for “2008”.

2003—Subsec. (a). Pub. L. 108–176, § 412(1), (2), struck out “PILOT” before “PROGRAM” in heading and “pilot” before “program” in text.

Subsec. (c)(1). Pub. L. 108–176, § 225(b)(3)(A), struck out “(as that term is defined in section 41731(a)(5))” after “small hub airport” in introductory provisions.

Subsec. (c)(3). Pub. L. 108–176, § 412(3)(A), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “No more than four communities or consortia of communities, or a combination thereof, may be located in the same State.”

Subsec. (c)(4). Pub. L. 108–176, § 412(3)(B), inserted at end “No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”

Pub. L. 108–11 inserted before period at end “in each year for which funds are appropriated for the program”.

Subsec. (c)(5)(E). Pub. L. 108–176, § 412(3)(C), added subpar. (E).

Subsec. (e)(2). Pub. L. 108–176, § 412(4), substituted “fiscal year 2001,” for “fiscal year 2001 and” and inserted “, and \$35,000,000 for each of fiscal years 2004 through 2008” after “2003”.

Subsec. (f). Pub. L. 108–176, §§ 225(b)(3)(B), 412(5), struck out “pilot” after “Under the” and “(as defined in section 41731(a)(3))” after “large hub airports”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–249 effective Oct. 1, 2010, see section 5(l) of Pub. L. 111–249, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–330 effective Oct. 1, 2008, see section 5(l) of Pub. L. 110–330, set out as a note under section 40117 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set

out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 41744. Repealed. Pub. L. 118–63, title V, § 561(j), May 16, 2024, 138 Stat. 1216]

Section, added Pub. L. 106–181, title II, § 204(a), Apr. 5, 2000, 114 Stat. 93; amended Pub. L. 108–176, title II, § 225(b)(4), Dec. 12, 2003, 117 Stat. 2529, related to preservation of basic essential air service at single carrier dominated hub airports.

§ 41745. Community and regional choice programs

(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

(E) To pay for other transportation or related services that the Secretary may permit.

(b) APPLICATIONS.—

(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

(A) a statement of the amount of compensation or assistance required; and

(B) a description of how the compensation or assistance will be used.

(c) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is