

106TH CONGRESS
1ST SESSION

H. R. 1679

To amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and certain small and nonhub airports that have unreasonably high airfares, to improve jet aircraft service to markets that have unreasonably high airfares, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1999

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

A BILL

To amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and certain small and nonhub airports that have unreasonably high airfares, to improve jet aircraft service to markets that have unreasonably high airfares, 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 “Airfare Relief Act of
5 1999”.

1 **TITLE I—SERVICE TO AIRPORTS**
2 **NOT RECEIVING SUFFICIENT**
3 **SERVICE**

4 **SEC. 101. AVAILABILITY OF SLOTS.**

5 (a) PERIOD OF EFFECTIVENESS.—

6 (1) SLOTS FOR FOREIGN AIR TRANSPOR-
7 TATION.—Section 41714(b) of title 49, United
8 States Code, is amended by striking paragraph (4).

9 (2) SLOTS FOR NEW ENTRANTS.—Section
10 41714(c) of such title is amended—

11 (A) by striking “(1) IN GENERAL.—”;

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

13 (C) by moving the text of paragraph (1) so
14 that it follows the subsection heading and its
15 margin is aligned with the margin for sub-
16 section (g).

17 (b) SLOTS FOR AIRPORTS WITH UNREASONABLY
18 HIGH AIRFARES.—Section 41714 of such title is
19 amended—

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

22 “(e) SLOTS FOR AIRPORTS WITH UNREASONABLY
23 HIGH AIRFARES.—

24 “(1) EXEMPTIONS.—Notwithstanding part D of
25 chapter 491 of this title, the Secretary may by order

1 grant exemptions from the requirements under sub-
2 parts K and S of part 93 of title 14, Code of Fed-
3 eral Regulations (pertaining to slots at high density
4 airports), to enable air carriers to provide nonstop
5 air transportation using jet aircraft that comply with
6 the stage 3 noise levels of part 36 of such title 14
7 between a high density airport and a small hub air-
8 port or nonhub airport that has unreasonably high
9 airfares.

10 “(2) LIMITATIONS.—No more than 4 exemp-
11 tions per hour may be granted under this subsection
12 for slots at any high density airport, and no more
13 than 6 exemptions per day may be granted under
14 this subsection for slots at Ronald Reagan Wash-
15 ington National Airport. An exemption may be
16 granted under this subsection for a slot at Ronald
17 Reagan Washington National Airport only if the
18 flight utilizing such slot begins or ends within 1,250
19 miles of the Airport and a stage 3 aircraft is used
20 for such flight.

21 “(3) APPLICATION.—An air carrier interested
22 in an exemption under this subsection shall submit
23 to the Secretary an application for such exemption.
24 No application may be submitted to the Secretary

1 before the last day of the 30-day period beginning
2 on the date of the enactment of this paragraph.

3 “(4) DEADLINE FOR DECISION.—Notwith-
4 standing any other provision of law, the Secretary
5 shall make a decision with regard to granting an ex-
6 emption under this subsection on or before the
7 120th day following the date of the application for
8 the exemption. If the Secretary does not make the
9 decision on or before such 120th day, the air carrier
10 applying for the service may provide such service
11 until the Secretary makes the decision or the Admin-
12 istrator of the Federal Aviation Administration de-
13 termines that providing such service would have an
14 adverse effect on air safety.

15 “(5) PERIOD OF EFFECTIVENESS.—An exemp-
16 tion granted under this subsection may remain in ef-
17 fect only while the air carrier for whom the exemp-
18 tion is granted continues to provide nonstop air
19 transportation between the airport that has unrea-
20 sonably high airfares and the high density airport.

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

23 “(A) NONHUB AIRPORT.—The term
24 ‘nonhub airport’ means an airport that each
25 year has at least 2,500 passenger boardings but

1 less than .05 percent of the total annual
2 boardings in the United States.

3 “(B) SMALL HUB AIRPORT.—The term
4 ‘small hub airport’ means an airport that each
5 year has at least .05 percent but less than .25
6 percent of the total annual boardings in the
7 United States.

8 “(C) UNREASONABLY HIGH AIRFARE.—
9 The term ‘unreasonably high airfare’, as used
10 with respect to an airport, means that the air-
11 fare listed in the table entitled ‘Top 1,000 City-
12 Pair Market Summarized by City’, contained in
13 the Domestic Airline Fares Consumer Report of
14 the Department of Transportation, for one or
15 more markets for which the airport is a part of
16 has an average yield listed in such table that is
17 more than 19 cents.”.

18 **SEC. 102. FUNDING FOR AIR CARRIER SERVICE TO AIR-**
19 **PORTS NOT RECEIVING SUFFICIENT SERV-**
20 **ICE.**

21 (a) FUNDING FOR SMALL COMMUNITY AIR SERV-
22 ICE.—Section 41742(b) of title 49, United States Code,
23 is amended to read as follows:

24 “(b) FUNDING FOR SMALL COMMUNITY AIR SERV-
25 ICE.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, from moneys credited to the ac-
3 count established under section 45303(a), including
4 the funds derived from fees imposed under the au-
5 thority contained in section 45301(a)—

6 “(A) not to exceed \$45,000,000 for each
7 fiscal year beginning after September 30, 1999,
8 shall be used to carry out the essential air serv-
9 ice program under this subchapter; and

10 “(B) not to exceed \$5,000,000 for such fis-
11 cal year shall be used—

12 “(i) for assisting an air carrier to sub-
13 sidize service to and from an small hub or
14 nonhub airport that has unreasonably high
15 airfares for a period not to exceed 3 years;
16 and

17 “(ii) for assisting such an airport to
18 obtain jet aircraft service to and from the
19 airport and to promote passenger usage of
20 that service.

21 “(2) RURAL AIR SAFETY.—Any funds that are
22 made available by paragraph (1) for a fiscal year
23 and that the Secretary determines will not be obli-
24 gated or expended before the last day of such fiscal
25 year shall be available to the Administrator for use

1 under this subchapter in improving rural air safety
2 at airports with less than 100,000 annual boardings.

3 “(3) ALLOCATION OF ADDITIONAL FUNDING.—
4 If, for a fiscal year beginning after September 30,
5 1999, more than \$50,000,000 is made available
6 under subsection (a) to carry out the small commu-
7 nity air service program, 1/2 of the amounts in excess
8 of \$50,000,000 shall be used for the purposes speci-
9 fied in paragraph (1)(B), in addition to amounts
10 made available for such purposes under paragraph
11 (1)(B).

12 “(4) AUTHORIZATION OF APPROPRIATIONS.—In
13 addition to amounts made available under paragraph
14 (1), there is authorized to be appropriated to the
15 Secretary of Transportation for each fiscal year be-
16 ginning after September 30, 1999, \$15,000,000—

17 “(A) to provide assistance to an air carrier
18 to subsidize service to and from a small hub or
19 nonhub airport that has unreasonably high air-
20 fares for a period not to exceed 3 years; and

21 “(B) to provide assistance to such an air-
22 port to obtain jet aircraft service to and from
23 the airport and to promote passenger usage of
24 that service.

1 “(5) PRIORITY CRITERIA FOR ASSISTING AIR-
2 PORTS NOT RECEIVING SUFFICIENT SERVICE.—In
3 providing assistance to airports under paragraphs
4 (1)(B) and (4), the Administrator shall give priority
5 to those airports for which a community will provide,
6 from local sources (other than airport revenues), a
7 portion of the cost of the activity to be assisted.

8 “(6) DEFINITIONS.—In this subsection, the
9 terms ‘nonhub airport’, ‘small hub airport’, and ‘un-
10 reasonably high airfare’ have the meaning such
11 terms have in section 41714(e)(6).”.

12 (b) CONFORMING AMENDMENTS.—Chapter 417 of
13 such title is amended—

14 (1) section 41742 is amended—

15 (A) in the section heading by striking “**Es-**
16 **sential**” and inserting “**Small commu-**
17 **nity**”; and

18 (B) in each of subsections (a) and (c) by
19 striking “essential air” and inserting “small
20 community”; and

21 (2) in the analysis for such chapter by striking
22 the item relating to section 41742 and inserting the
23 following:

“41742. Small community air service authorization.”.

1 **SEC. 103. JOINT FARES AND INTERLINE AGREEMENTS.**

2 (a) Subchapter I of chapter 417 is amended by add-
3 ing at the end the following:

4 **“§ 41717. Joint fares and interline agreements for do-
5 mestic transportation**

6 “(a) DEFINITIONS.—In this section, the following
7 definitions apply:

8 “(1) QUALIFYING AIR CARRIER.—The term
9 ‘qualifying air carrier’ means an air carrier that op-
10 erates under a certificate of public convenience and
11 necessity under chapter 411 of this title.

12 “(2) HIGH AIRFARE AIRPORT.—The term ‘high
13 airfare airport’ means a commercial service airport
14 that is a nonhub airport (as defined in section
15 41731 of this title) or a small hub airport (as de-
16 fined in section 41731 of this title) that has unrea-
17 sonably high airfares as defined in section
18 41714(e)(6).

19 “(3) ESSENTIAL AIRPORT FACILITY.—The term
20 ‘essential airport facility’ means a large hub airport
21 (as defined in section 41731 of this title) in the con-
22 tiguous 48 States.

23 “(b) SECRETARY MAY COMPEL JOINT FARE STRUC-
24 TURE.—If the Secretary of Transportation determines
25 that it is necessary to enhance competition at a high air-
26 fare airport, the Secretary may require an air carrier that

1 serves an essential airport facility to enter into a joint-
 2 fare or interline agreement, that the Secretary determines
 3 is reasonable, with a qualifying air carrier that serves the
 4 high airfare airport to facilitate air transportation in the
 5 market.”.

6 **TITLE II—REGIONAL AIR**
 7 **SERVICE INCENTIVE PROGRAM**

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

9 (a) IN GENERAL.—Chapter 417 of title 49, United
 10 States Code, is amended by adding at the end the fol-
 11 lowing:

12 “SUBCHAPTER III—REGIONAL AIR SERVICE
 13 INCENTIVE PROGRAM

14 “§ 41761. Purpose

15 “The purpose of this subchapter is to improve service
 16 by jet aircraft to underserved markets by providing assist-
 17 ance, in the form of loan guarantees, to commuter air car-
 18 riers that purchase regional jet aircraft for use in serving
 19 those markets.

20 “§ 41762. Definitions

21 “In this subchapter, the following definitions apply:

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

1 “(2) COMMUTER AIR CARRIER.—The term
2 ‘commuter air carrier’ means an air carrier that pri-
3 marily operates aircraft designed to have a max-
4 imum passenger seating capacity of 90 or less in ac-
5 cordance with published flight schedules.

6 “(3) NEW ENTRANT AIR CARRIER.—The term
7 ‘new entrant air carrier’ means an air carrier that
8 has been providing air transportation according to a
9 published schedule for less than 5 years, including
10 any person that has received authority from the Sec-
11 retary to provide air transportation but is not pro-
12 viding air transportation.

13 “(4) NONHUB AIRPORT.—The term ‘nonhub
14 airport’ means an airport that each year has at least
15 2,500 passenger boardings, but less than .05 percent
16 of the total annual boardings in the United States.

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

19 “(A) powered by jet propulsion; and

20 “(B) designed to have a maximum pas-
21 senger seating capacity of not less than 30 nor
22 more than 90.

23 “(6) SMALL HUB AIRPORT.—The term ‘small
24 hub airport’ means an airport that each year has at

1 least .05 percent, but less than .25 percent, of the
2 total annual boardings in the United States.

3 “(7) HIGH AIRFARE AIRPORT.—The term ‘high
4 airfare airport’ means a nonhub airport or small hub
5 airport that has unreasonably high airfares as de-
6 fined in section 41714(e)(6).

7 **“§ 41763. Loan guarantees**

8 “(a) IN GENERAL.—Subject to advance appropria-
9 tions, the Secretary of Transportation may guarantee any
10 lender against loss of principal or interest on any aircraft
11 purchase loan made by that lender to a commuter air car-
12 rier or new entrant air carrier.

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

15 “(1) in such form and on such terms and condi-
16 tions; and

17 “(2) pursuant to such regulations;
18 as the Secretary considers to be necessary and consistent
19 with this subchapter.

20 “(c) TREATMENT OF CERTAIN COMMUTER AIR CAR-
21 RIERS.—The Secretary shall treat all commuter air car-
22 riers that have cooperative agreements, including code
23 share agreements with other air carriers, equally for deter-
24 mining eligibility for guarantees under this section regard-

1 less of the form of the corporate relationship between the
2 commuter air carrier and the other air carrier.

3 **“§ 41764. Conditions and limitations**

4 “(a) LIMITATIONS ON FUNDS.—Subject to subsection
5 (d), no loan guarantee shall be made under this
6 subchapter—

7 “(1) extending to more than the unpaid interest
8 and 80 percent of the unpaid principal of any loan;

9 “(2) on any loan or combination of loans for
10 more than 80 percent of the purchase price of the
11 aircraft, including spare parts, to be purchased with
12 the loan or loan combination;

13 “(3) on any loan with respect to which terms
14 permit repayment more than 15 years after the date
15 the loan is made;

16 “(4) in any case in which the total face amount
17 of the loan and any other loans to the same air car-
18 rier or corporate predecessor of that air carrier that
19 are guaranteed and outstanding under the terms of
20 this subchapter exceed \$100,000,000.

21 “(b) CONDITIONS FOR MAKING LOANS.—Subject to
22 subsection (c), the Secretary of Transportation may only
23 make a loan guarantee under this subchapter if—

24 “(1) the Secretary finds that the aircraft to be
25 purchased with the loan is a regional jet aircraft to

1 be used by the commuter air carrier or new entrant
2 air carrier;

3 “(2) the commuter air carrier or new entrant
4 air carrier agrees to use the aircraft to provide at
5 least 2 round-trips per day 5 days per week to the
6 high airfare airport; and

7 “(3) the Secretary finds that the prospective
8 earning power of the commuter air carrier or new
9 entrant air carrier, together with the character and
10 value of the security pledged, furnish—

11 “(A) reasonable assurances of the air car-
12 rier’s ability and intention to repay the loan
13 within the term of the loan—

14 “(i) to continue its operations as an
15 air carrier; and

16 “(ii) to the extent that the Secretary
17 determines to be necessary, to continue its
18 operations as an air carrier between the
19 same route or routes being operated by the
20 air carrier at the time of the loan guar-
21 antee; and

22 “(B) reasonable protection to the United
23 States.

24 “(c) REQUIREMENT.—Subject to subsection (d), no
25 loan guarantee may be made under this subchapter on any

1 loan or combination of loans for the purchase of any re-
2 gional jet aircraft that does not comply with the stage 3
3 noise levels of part 36 of title 14 of the Code of Federal
4 Regulations, as in effect on January 1, 1999.

5 “(d) OTHER LIMITATIONS.—

6 “(1) ON PURCHASE OF REGIONAL JET AIR-
7 CRAFT.—No loan guarantee shall be made by the
8 Secretary under this subchapter on any loan for the
9 purchase of a regional jet aircraft unless the com-
10 muter air carrier or new entrant air carrier agrees
11 that it will provide scheduled passenger air transpor-
12 tation to the high airfare airport for which the air-
13 craft is purchased, or to another underserved air-
14 port, for a period of not less than 24 consecutive
15 months after the aircraft is placed in service.

16 “(2) ON SUBORDINATION.—No loan guarantee
17 made under this subchapter may be subordinated to
18 another debt of the carrier or to any other claims
19 against the carrier.

20 “(3) TO PROTECT INTERESTS OF UNITED
21 STATES.—No loan may be guaranteed under this
22 subchapter unless the Secretary determines that the
23 lender is responsible and that adequate provision is
24 made for servicing the loan on reasonable terms and

1 protecting the financial interests of the United
2 States.

3 **“§ 41765. Payment of losses**

4 “(a) IN GENERAL.—If, as a result of a default by
5 a carrier under a loan guaranteed under this subchapter
6 and after the holder of the loan has made such further
7 collection efforts as the Secretary of Transportation may
8 require, the Secretary determines that the holder has suf-
9 fered a loss, the Secretary shall pay the holder the amount
10 of the loss under the guarantee contract. Upon making
11 the payment, the Secretary shall be subrogated to all the
12 rights of the recipient of the payment.

13 “(b) ENFORCEMENT OF UNITED STATES RIGHTS.—
14 The Attorney General shall take such action as may be
15 necessary to enforce any right accruing to the United
16 States as a result of the issuance of any guarantee under
17 this subchapter.

18 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
19 Nothing in this subchapter shall be construed as pre-
20 cluding any forbearance for the carrier which may be
21 agreed upon by the parties to the guaranteed loan and
22 approved by the Secretary.

23 “(d) AUTHORITY OF SECRETARY.—Notwithstanding
24 any other provision of law relating to the acquisition, han-
25 dling, or disposal of property by the United States, the

1 Secretary may complete, recondition, reconstruct, ren-
2 ovate, repair, maintain, operate, or sell any property ac-
3 quired under this subchapter.

4 **“§ 41766. Fees**

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

9 **“§ 41767. Use of Federal facilities and assistance**

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

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

18 “(2) on a reimbursable basis.

19 “(b) ASSISTANCE.—The head of each appropriate de-
20 partment or agency of the Federal Government shall exer-
21 cise the duties and functions of that head in such manner
22 as to assist in carrying out the policy specified in section
23 41761.

24 “(c) OVERSIGHT.—The Secretary shall make avail-
25 able to the Comptroller General of the United States such

1 information with respect to the loan guarantee program
 2 conducted under this subchapter as the Comptroller Gen-
 3 eral may require to carry out the duties of the Comptroller
 4 General under chapter 7 of title 31.

5 **“§ 41768. Payments; administrative expenses**

6 “(a) PAYMENTS.—Payments to lenders required as a
 7 consequence of any loan guarantee made under this sub-
 8 chapter may be made from funds appropriated pursuant
 9 to the authorization under section 202 of the Airfare Re-
 10 lief Act of 1999.

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

17 **“§ 41769. Termination**

18 “‘The authority of the Secretary of Transportation
 19 under section 41763 shall terminate on the date that is
 20 5 years after the date of the enactment of this sub-
 21 chapter.’”.

22 (b) CONFORMING AMENDMENT.—The analysis for
 23 chapter 417 of such title is amended by adding at the end
 24 the following:

“SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM
 “41761. Purpose.

- “41762. Definitions.
- “41763. Loan guarantees.
- “41764. Conditions and limitations.
- “41765. Payment of losses.
- “41766. Fees.
- “41767. Use of Federal facilities and assistance.
- “41768. Payments; administrative expenses.
- “41769. Termination.”.

1 SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

2 There is authorized to be appropriated for the cost
3 of loan guarantee commitments authorized in subchapter
4 III of chapter 417 of title 49, United States Code,
5 \$120,000,000 per fiscal year for fiscal years 2000, 2001,
6 2002, 2003, and 2004.

○