

110TH CONGRESS
1ST SESSION

H. R. 3004

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

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2007

Mr. SALAZAR (for himself and Mr. PETERSON of Pennsylvania) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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-

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

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

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

8 (a) IN GENERAL.—Section 41742 of title 49, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(c) PER PASSENGER SUBSIDY CAP.—

12 “(1) IN GENERAL.—The Secretary of Transpor-
13 tation may not provide compensation to an air car-
14 rier to provide air transportation under this sub-
15 chapter to an otherwise eligible place in the 48 con-
16 tiguous States if the eligible place—

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

20 “(B) is fewer than 210 miles from the
21 nearest large or medium hub airport and re-
22 quires a per passenger subsidy in excess of the
23 dollar amount described in paragraph (2).

24 “(2) DOLLAR AMOUNT OF PER PASSENGER
25 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 consumer 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 priate.

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 preferred air carrier
9 that submits the lowest cost bid to provide air
10 transportation 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 (e)(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 “(g) PETITION TO TERMINATE SERVICE.—An af-
5 fected community, State or local government, or person
6 agreeing to pay compensation under subsection (c)(2) may
7 petition the Secretary at anytime to terminate service
8 from the preferred carrier if the carrier does not meet ex-
9 pectations within the preferred carrier agreement as deter-
10 mined by the Secretary, at which time the Secretary may
11 terminate the existing service and accept new proposals
12 from other carriers and allow a new preferred carrier to
13 begin service within 90 days of such termination.”.

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

 “41750. Preferred essential air service.”.

18 **SEC. 6. RESTORATION OF ELIGIBILITY TO A PLACE DETER-**
19 **MINED BY THE SECRETARY TO BE INELI-**
20 **GIBLE FOR SUBSIDIZED ESSENTIAL AIR**
21 **SERVICE.**

22 Section 41733 of title 49, United States Code, is
23 amended by adding at the end the following new sub-
24 section:

1 “(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED
2 ESSENTIAL AIR SERVICE.—

3 “(1) IN GENERAL.—If the Secretary of Trans-
4 portation terminates the eligibility of an otherwise
5 eligible place to receive basic essential air service by
6 an air carrier for compensation under subsection (c),
7 a State or local government may submit to the Sec-
8 retary a proposal for restoring such eligibility.

9 “(2) DETERMINATION BY SECRETARY.—If the
10 per passenger subsidy required by the proposal sub-
11 mitted by a State or local government under para-
12 graph (1) does not exceed the per passenger subsidy
13 cap provided under section 41742(e), the Secretary
14 shall issue an order restoring the eligibility of the
15 otherwise eligible place to receive basic essential air
16 service by an air carrier for compensation under
17 subsection (c).”.

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

20 (a) IN GENERAL.—Section 41731 of title 49, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 “(c) CALCULATION OF HIGHWAY MILEAGE TO ME-
24 DIUM AND LARGE HUB AIRPORTS.—

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

8 “(2) MOST COMMONLY USED ROUTE.—The Sec-
9 retary of Transportation shall identify the most com-
10 monly used route between an eligible place and the
11 nearest medium hub airport or large hub airport
12 by—

13 “(A) consulting with the Governor or a
14 designee of the Governor in the State in which
15 the eligible place is located; and

16 “(B) considering the certification of the
17 Governor or a designee of the Governor as to
18 the most commonly used route.

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

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

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

2 (a) ESTABLISHMENT.—There is established within
3 the Office of the Secretary of Transportation the Office
4 of Rural Aviation (referred to in this section as the “Of-
5 fice”).

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

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

11 (2) to develop a mechanism for comparing ap-
12 plications submitted by air carriers under section
13 41733(c) to provide essential air service to commu-
14 nities, including comparing—

15 (A) estimates from air carriers on—

16 (i) the cost of providing essential air
17 service; and

18 (ii) the revenues air carriers expect to
19 receive when providing essential air service;
20 and

21 (B) estimated schedules for air transpor-
22 tation; and

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

1 **SEC. 9. EXTENSION OF AUTHORITY TO MAKE AGREEMENTS**
2 **UNDER THE ESSENTIAL AIR SERVICE PRO-**
3 **GRAM.**

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

6 **SEC. 10. ADJUSTMENTS TO COMPENSATION FOR SIGNIFI-**
7 **CANTLY INCREASED COSTS.**

8 Section 41737 of title 49, United States Code, is
9 amended—

10 (1) in subsection (a)(1)—

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

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

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

16 “(D) provide for an adjustment in com-
17 pensation to account for significant increases in
18 fuel costs, in accordance with subsection (e).”;
19 and

20 (2) in subsection (e)—

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

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

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

2 Notwithstanding any other provision of law, the Sec-
3 retary of Transportation shall treat passenger boardings
4 on aircraft operated by charter air carriers at airports re-
5 ceiving essential air service under subchapter II of chapter
6 417 of title 49, United States Code, as passenger
7 boardings for purposes of section 47114(c)(1)(E) of such
8 title.

9 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS FOR ESSEN-**
10 **TIAL AIR SERVICE.**

11 (a) **ADJUSTMENT TO AUTHORIZATION OF APPRO-**
12 **PRIATIONS.**—Section 41742 of title 49, United States
13 Code, is amended—

14 (1) in subsection (a)(2), by striking
15 “\$77,000,000” and inserting “\$40,000,000”; and

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

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

21 “(2) In addition to amounts authorized to be
22 appropriated under section 41742(a), not more than
23 \$50,000,000 shall be available to the Secretary out
24 of the Fund for each of the fiscal years 2008
25 through 2011 to incur obligations under this section.

- 1 Amounts made available under this section remain
- 2 available until expended.”.

○