

Airport

#000132

Submitted  
by  
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106TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } 106-513

*Excerpt*

WENDELL H. FORD AVIATION INVESTMENT AND REFORM  
ACT FOR THE 21ST CENTURY

MARCH 8, 2000.—Ordered to be printed

Mr. SHUSTER, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1000]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1000), to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Wendell H. Ford Aviation Investment and Reform Act for the 21st Century”.

(b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Applicability.
- Sec. 4. Definitions.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding

- Sec. 101. Airport improvement program.
- Sec. 102. Airway facilities improvement program.
- Sec. 103. FAA operations.
- Sec. 104. AIP formula changes.
- Sec. 105. Passenger facility fees.
- Sec. 106. Funding for aviation programs.

## TITLE II—AIRLINE SERVICE IMPROVEMENTS

### Subtitle A—Small Communities

**SEC. 201. POLICY FOR AIR SERVICE TO RURAL AREAS.**

Section 40101(a) is amended by adding at the end the following:

“(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.”.

**SEC. 202. WAIVER OF LOCAL CONTRIBUTION.**

Section 41736(b) is amended by inserting after paragraph (4) the following:

“Paragraph (4) does not apply to any community approved for service under this section during the period beginning October 1, 1991, and ending December 31, 1997.”.

**SEC. 203. IMPROVED AIR CARRIER SERVICE TO AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.**

(a) **IN GENERAL.**—Subchapter II of chapter 417 is amended by adding at the end the following:

**“§ 41743. Airports not receiving sufficient service**

**“(a) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.**—The Secretary of Transportation shall establish a pilot 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 subsection (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.**—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport (as that term is defined in section 41731(a)(5)), and—

“(A) had insufficient air carrier service; or

“(B) had 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.—No more than 4 communities or consortia of communities, or a combination thereof, may be located in the same State.

"(4) OVERALL LIMIT.—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program.

"(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 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;

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

"(D) 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.

"(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;

"(2) to provide assistance to an underserved airport 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.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$20,000,000 for fiscal year 2001 and \$27,500,000 for each of fiscal years 2002 and 2003 to carry out this section. Such sums shall remain available until expended.

"(f) ADDITIONAL ACTION.—Under the pilot 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 (as defined in section 41731(a)(3)) to facilitate joint-fare arrangements consistent with normal industry practice.

"(g) 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;

# 500K 1st yr

# 687,500 2nd & 3rd yrs.

"(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 the creation of aviation development zones; 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.

"(h) **AIR SERVICE DEVELOPMENT ZONE.**—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."

(b) **CONFORMING AMENDMENT.**—The analysis for subchapter II of chapter 417 is amended by adding at the end the following:

"41743. Airports not receiving sufficient service."

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1000) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

### 63. AIR SERVICE DEVELOPMENT PROGRAM

#### *House Bill*

Section 202: Provides \$25 million in contract authority from the Trust Fund for grants to underserved airports (defined as nonhubs or small hubs with insufficient air service or unreasonably high air fares (more than 19 cents per mile)) to help them market

and promote their air service. In making grants, priority should be given airports that put up a local share from non-aviation revenue sources.

#### *Senate Amendment*

Sections 501-504: DOT shall establish a 4-year program administered by a program director who shall work with communities and carriers, ensure that data is collected, provide an annual report to Congress, select up to 40 communities to participate in an \$80 million program to improve air service at small communities. This program is limited to communities where a public-private partnership exists and that are willing to put up at least 25% of the cost. The program director may make grants of not more than \$500,000 per year to small communities (no more than 4 in one state) to assist communities improve their air service. The program director also may help ensure that gates are available and facilitate joint fare arrangements. \$80 million is authorized for this program.

#### *Conference Substitute*

Section 203: Subsection (a) requires DOT to establish a pilot program to help improve air service to airports not receiving sufficient air service. Subsection (b) sets forth the application requirements for a community or group of communities that want to participate in the program. The application should include information justifying the community's need to participate in the program. Subsection (c) describes the criteria for participation. In order to participate, a community must be a non-hub or small hub with insufficient air service or unreasonably high airfares. The total number of communities or groups of communities that can participate is limited to no more than 4 in any one state and no more than 40 overall. Priority should be given to communities that have high air fares, will provide a local share of the cost, will establish a public-private partnership to facilitate airline service, and where assistance will provide material benefits to a broad segment of the traveling public. The local share should not come from airport revenues. DOT and the communities are given flexibility as to the types of programs that will best serve to improve service at the local airport. Marketing and promotion of air service is encouraged. Any direct subsidy to an air carrier is limited to 3 years. DOT should designate an official responsible for this program. DOT should take action to ensure that interested communities and Members of Congress are aware of the name and title of the official so designated.

"SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE  
PROGRAM

**"§ 41761. Purpose**

*"The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.*

**"§ 41762. Definitions**

*"In this subchapter, the following definitions apply:*

*"(1) AIR CARRIER.—The term 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.*

*"(2) AIRCRAFT PURCHASE.—The term 'aircraft purchase' means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.*

*"(3) CAPITAL RESERVE SUBSIDY AMOUNT.—The term 'capital reserve subsidy amount' means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on government receipts or outlays in accordance*

with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(4) **COMMUTER AIR CARRIER.**—The term 'commuter air carrier' means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

"(5) **FEDERAL CREDIT INSTRUMENT.**—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

"(6) **FINANCIAL OBLIGATION.**—The term 'financial obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

"(7) **LENDER.**—The term 'lender' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

"(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

"(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

"(8) **LINE OF CREDIT.**—The term 'line of credit' means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

"(9) **LOAN GUARANTEE.**—The term 'loan guarantee' means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

"(10) **NEW ENTRANT AIR CARRIER.**—The term 'new entrant air carrier' means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

"(11) **NONHUB AIRPORT.**—The term 'nonhub airport' means an airport that each year has less than .05 percent of the total annual boardings in the United States.

"(12) **OBLIGOR.**—The term 'obligor' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

"(13) **REGIONAL JET AIRCRAFT.**—The term 'regional jet aircraft' means a civil aircraft—

"(A) powered by jet propulsion; and

"(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

"(14) SECURED LOAN.—The term 'secured loan' means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

"(15) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

"(16) UNDERSERVED MARKET.—The term 'underserved market' means a passenger air transportation market (as defined by the Secretary) that—

"(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

"(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

"(C) the Secretary determines does not have sufficient air service.

**"§ 41763. Federal credit instruments**

"(a) IN GENERAL.—Subject to this section and section 41766, the Secretary of Transportation may enter into agreements with one or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

"(b) SECURED LOANS.—

"(1) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

"(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

"(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than \$100,000,000 of outstanding credit to any single obligor.

"(C) FINAL PAYMENT DATE.—The final payment on the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

"(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

"(E) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the



program established under this subchapter and shall be available upon deposit until expended.

"(2) REPAYMENT.—

"(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

"(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

"(3) PREPAYMENT.—

"(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

"(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

"(c) LOAN GUARANTEES.—

"(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

"(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

"(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

"(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

"(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than \$100,000,000 of outstanding credit to any single obligor.

"(3) FEES.—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all or a portion of the administrative costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

"(d) LINES OF CREDIT.—

"(1) *IN GENERAL.*—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of credit to one or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any aircraft purchase selected under this section.

"(2) *TERMS AND LIMITATIONS.*—

"(A) *IN GENERAL.*—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(B) *MAXIMUM AMOUNT.*—

"(i) *TOTAL AMOUNT.*—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

"(ii) *1-YEAR DRAWS.*—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

"(C) *DRAWS.*—Any draw on the line of credit shall represent a direct loan.

"(D) *PERIOD OF AVAILABILITY.*—The line of credit shall be available not more than 5 years after the aircraft purchase date.

"(E) *RIGHTS OF THIRD-PARTY CREDITORS.*—

"(i) *AGAINST UNITED STATES GOVERNMENT.*—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

"(ii) *ASSIGNMENT.*—An obligor may assign the line of credit to one or more lenders or to a trustee on the lender's behalf.

"(F) *SUBORDINATION.*—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

"(G) *FEEES.*—The Secretary, subject to appropriations, may establish fees at a level sufficient to cover all of a portion of the administrative costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

"(3) *REPAYMENT.*—

"(A) *SCHEDULE.*—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

"(B) *COMMENCEMENT.*—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the

first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

“(e) **RISK ASSESSMENT.**—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

“(f) **CONDITIONS.**—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

“(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

“(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

“(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

“(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

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

“(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

“(B) reasonable protection to the United States.

“(g) **LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.**—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

“(1) 50 percent of the cost of the aircraft purchase; or

“(2) \$100,000,000 for any single obligor.

“(h) **REQUIREMENT.**—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

“(i) **OTHER LIMITATIONS.**—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

**“§ 41764. Use of Federal facilities and assistance**

*“(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—*

*“(1) with the consent of the appropriate Federal officials; and*

*“(2) on a reimbursable basis.*

*“(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.*

*“(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31, United States Code.*

**“§ 41765. Administrative expenses**

*“In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.*

**“§ 41766. Funding.**

*“Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2003, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.*

**“§ 41767. Termination**

*“(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.*

*“(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.”*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by adding at the end the following:*

**“SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM**

*“Sec.*

*“41761. Purpose.*

*“41762. Definitions.*

*“41763. Federal credit instruments.*

*“41764. Use of Federal facilities and assistance.*