

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals, including joint fares, by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 108–176, title IV, §403, Dec. 12, 2003, 117 Stat. 2543.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41740	49 App.:1389(j).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(j); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “air service or air transportation” are substituted for “air service”, and the words “the service or transportation” are substituted for “service”, for consistency with the source provisions restated in sections 41733, 41735, and 41736 of the revised title.

Editorial Notes

AMENDMENTS

2003—Pub. L. 108–176 inserted “, including joint fares,” after “joint proposals”.

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.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41741	49 App.:1389(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §419(h); added Oct. 24, 1978, Pub. L. 95–504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98–213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98–443, §9(r), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100–223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1516.

The words “The Secretary of Transportation may pay . . . only when” are substituted for “An air carrier

shall not receive . . . unless” for clarity. The words “approved by the Secretary” are substituted for “complies with regulations or orders issued by the Secretary governing the filing and approval” to eliminate unnecessary words. The words “The policy or plan must be sufficient to pay . . . but not more than the amount of the policy or plan limits” are substituted for “in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts” because of the restatement. The words “for which such air carrier may become liable” are omitted as unnecessary. The word “individual” is substituted for “person” because it is more precise. The word “operation” is substituted for “operation or maintenance” because it is inclusive.

§ 41742. Essential air service authorization

(a) IN GENERAL.—

(1) AUTHORIZATION.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of \$50,000,000 for each fiscal year is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(2) ADDITIONAL FUNDS.—In addition to amounts authorized under paragraph (1), 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) \$155,000,000 for fiscal year 2018, \$158,000,000 for fiscal year 2019, \$161,000,000 for fiscal year 2020, \$165,000,000 for fiscal year 2021, \$168,000,000 for fiscal year 2022, and \$172,000,000 for fiscal year 2023, and \$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024, to carry out the essential air service program under this subchapter 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.

(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.

(b) DISTRIBUTION OF ADDITIONAL FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds credited to the account established under section 45303, including the funds derived from fees imposed under the authority contained in section 45301(a), exceed the \$50,000,000 made available under subsection (a)(1), such funds shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter.

(c) AVAILABILITY OF FUNDS.—The funds made available under this section shall remain available until expended.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1152; Pub. L. 104–264, title II, §278(c), Oct. 9, 1996, 110 Stat. 3249; Pub. L. 106–181, title II, §209(a), Apr. 5, 2000, 114 Stat. 95; Pub. L. 108–176, title IV, §404, Dec. 12, 2003, 117 Stat. 2543; Pub. L. 112–30, title

II, §209, Sept. 16, 2011, 125 Stat. 359; Pub. L. 112-91, §9, Jan. 31, 2012, 126 Stat. 5; Pub. L. 112-95, title IV, §428, Feb. 14, 2012, 126 Stat. 99; Pub. L. 114-55, title I, §107, Sept. 30, 2015, 129 Stat. 524; Pub. L. 114-141, title I, §107, Mar. 30, 2016, 130 Stat. 324; Pub. L. 114-190, title I, §1107, July 15, 2016, 130 Stat. 618; Pub. L. 115-63, title I, §104(a), Sept. 29, 2017, 131 Stat. 1170; Pub. L. 115-141, div. M, title I, §104(a), Mar. 23, 2018, 132 Stat. 1047; Pub. L. 115-254, div. B, title IV, §451(a), Oct. 5, 2018, 132 Stat. 3347; Pub. L. 118-15, div. B, title II, §2206(a), Sept. 30, 2023, 137 Stat. 85; Pub. L. 118-34, title I, §106(a), Dec. 26, 2023, 137 Stat. 1115.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41742	49 App.:1389(m).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §419(m); added Oct. 24, 1978, Pub. L. 95-504, §33(a), 92 Stat. 1732; Dec. 8, 1983, Pub. L. 98-213, §10, 97 Stat. 1461; Oct. 4, 1984, Pub. L. 98-443, §9(c), 98 Stat. 1708; restated Dec. 30, 1987, Pub. L. 100-223, §202(a)(1), (2), (b)(1), 101 Stat. 1507, 1517; Nov. 5, 1990, Pub. L. 101-508, §9113(b)(1), 104 Stat. 1388-363.

Editorial Notes

REFERENCES IN TEXT

Section 9502 of the Internal Revenue Code of 1986, referred to in subsec. (a)(2), is classified to section 9502 of Title 26, Internal Revenue Code.

AMENDMENTS

2023—Subsec. (a)(2). Pub. L. 118-34 substituted “\$155,115,628 for the period beginning on October 1, 2023, and ending on March 8, 2024,” for “\$89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023.”

Pub. L. 118-15 substituted “2023, and \$89,191,486 for the period beginning on October 1, 2023, and ending on December 31, 2023,” for “2023”.

2018—Subsec. (a)(2). Pub. L. 115-254 substituted “\$155,000,000 for fiscal year 2018, \$158,000,000 for fiscal year 2019, \$161,000,000 for fiscal year 2020, \$165,000,000 for fiscal year 2021, \$168,000,000 for fiscal year 2022, and \$172,000,000 for fiscal year 2023” for “\$150,000,000 for fiscal year 2011, \$143,000,000 for fiscal year 2012, \$118,000,000 for fiscal year 2013, \$107,000,000 for fiscal year 2014, \$93,000,000 for fiscal year 2015, \$175,000,000 for each of fiscal years 2016 and 2017, and \$150,000,000 for fiscal year 2018”.

Pub. L. 115-141 substituted “2016 and 2017, and \$150,000,000 for fiscal year 2018” for “2016 and 2017, and \$74,794,521 for the period beginning on October 1, 2017, and ending on March 31, 2018.”

2017—Subsec. (a)(2). Pub. L. 115-63 substituted “\$175,000,000 for each of fiscal years 2016 and 2017, and \$74,794,521 for the period beginning on October 1, 2017, 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 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.**—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 10-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 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;

(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;

(E) the assistance will be used to help restore scheduled passenger air service that has been terminated;