

MAR 13 2013

SENATE RESOLUTION

REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO PROPOSE
AMENDMENTS TO THE AIRLINE DEREGULATION ACT TO EXEMPT HAWAII
FROM THE UNITED STATES' PREEMPTION OF STATE ECONOMIC
REGULATION OF INTERSTATE AIR TRANSPORTATION.

1 WHEREAS, the Federal Aviation Administration has exclusive
2 responsibility for the safe and efficient management of the
3 navigable air space of the United States pursuant to the Federal
4 Aviation Act; and

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6 WHEREAS, the United States Congress deregulated domestic
7 air transportation pursuant to enactment of the Airline
8 Deregulation Act of 1978 (Public Law No. 95-504); and

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10 WHEREAS, the Airline Deregulation Act of 1978 amended the
11 Federal Aviation Act to prohibit states, political subdivisions
12 of a state, or political authority of at least two states from
13 enacting or enforcing a law, regulation, or other provision
14 having the force and effect of law related to the price, route,
15 or service of an air carrier providing interstate air
16 transportation, including foreign air transportation, interstate
17 air transportation, or the transportation of mail by aircraft;
18 and

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20 WHEREAS, the rationale of the Airline Deregulation Act of
21 1978 is to ensure maximum reliance on competitive market forces
22 in order to best further efficiency, innovation, and low prices
23 as well as the variety and quality of air transportation
24 services (*Morales v. Trans World Airlines, Inc.* 504, U.S. 374
25 (1992)); and

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27 WHEREAS, the *Morales* opinion adopted the standard that
28 state enforcement actions having a connection with or reference
29 to airline rates, routes, or services are pre-empted; and

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31 WHEREAS, Alaska was specifically granted in statute an
32 exemption from the Airline Deregulation Act under title 49
33 United States Code section 41713, which provides in part that



1 the federal preemption provisions of the Act do not apply to air
2 transportation provided entirely in Alaska; and

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4 WHEREAS, Hawaii should have the ability to regulate the
5 price, route, or service of an air carrier for the portion of
6 service providing transportation entirely in Hawaii, which
7 requires a statutory exemption similar to Alaska; and

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9 WHEREAS, Hawaii needs such an exemption to ensure that
10 stable and continuing air service is accessible to all areas of
11 the State, particularly the small, rural airports; and

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13 WHEREAS, Hawaii is unique among all the states because
14 Hawaii is an island state in which air transportation is often
15 the only practical form of intrastate transportation, and Hawaii
16 residents fly frequently among the islands to visit family and
17 friends; and

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19 WHEREAS, Hawaii has only one major interisland air carrier
20 that has no formidable competition; therefore, regulation of
21 interstate air transportation is necessary to limit monopoly
22 pricing and ensure service to less profitable routes; now,
23 therefore,

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25 BE IT RESOLVED by the Senate of the Twenty-seventh
26 Legislature of the State of Hawaii, Regular Session of 2013,
27 that Hawaii's Congressional delegation is requested to propose
28 amendments to the Airline Deregulation Act to exempt Hawaii from
29 the United States' preemption of state economic regulation of
30 interstate air transportation; and

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32 BE IT FURTHER RESOLVED that certified copies of this
33 Resolution be transmitted to Hawaii's Congressional delegation.

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36 OFFERED BY:

Malama
Paul P
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