

MAR 13 2013

SENATE CONCURRENT 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

5
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

9
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

19
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

26
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
30



1 WHEREAS, Alaska was specifically granted in statute an
 2 exemption from the Airline Deregulation Act under title 49
 3 United States Code section 41713, which provides in part that
 4 the federal preemption provisions of the Act do not apply to air
 5 transportation provided entirely in Alaska; and

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

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

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

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

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

35
 36 BE IT FURTHER RESOLVED that certified copies of this
 37 Concurrent Resolution be transmitted to Hawaii's Congressional
 38 delegation.

39
 40
 41

OFFERED BY:

Malene Au
Ross B
Kevin White

