

CHAPTER 189

GOVERNMENT - STATE

SENATE BILL 96-081

BY SENATORS Norton, Bishop, Dennis, Johnson, L. Powers, and Thiebaut;
also REPRESENTATIVES Foster, Acquafresca, Allen, Armstrong, Martin, Prinster, Reeser, Schwarz, Sullivan, Taylor, and Young.

AN ACT

CONCERNING THE PROVISION OF INTRASTATE AIR SERVICE WITHIN COLORADO, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 46.6

Intrastate Air Service Within the State of Colorado

24-46.6-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES:

(a) THAT THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF THIS STATE ARE DEPENDENT UPON THE CONTINUED EXISTENCE AND EXPANSION OF INTRASTATE AIR SERVICE IN THIS STATE;

(b) THAT THE RECENT OPENING OF THE DENVER INTERNATIONAL AIRPORT (DIA) HAS PERMANENTLY CHANGED INTRASTATE AIR TRAVEL IN COLORADO SINCE THE INCREASED COSTS OF OPERATING OUT OF DIA HAS FORCED AIR CARRIERS TO DROP OR SIGNIFICANTLY REDUCE SERVICE ON THEIR LESS PROFITABLE INTRASTATE ROUTES;

(c) THAT LIMITED AND UNDEPENDABLE INTRASTATE AIR SERVICE HAS ADVERSELY IMPACTED THE ECONOMIC WELL-BEING OF THE STATE THROUGH UNDERUTILIZATION OF DIA AS A REGIONAL TRANSPORTATION HUB, REQUIRING TRAVELERS TO MAKE A GREATER INVESTMENT IN TRAVEL TIME AND COSTS, AND CREATING MORE OBSTACLES TO CONDUCTING BUSINESS EFFICIENTLY;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) THAT IT IS VITAL TO THE CONTINUED DEVELOPMENT OF ECONOMIC OPPORTUNITY IN THIS STATE, AND ESPECIALLY ON THE WESTERN SLOPE OF THE STATE, THAT THE STATE PROVIDE INCENTIVES TO AIR CARRIERS THAT PROVIDE INTRASTATE AIR SERVICES; AND

(e) THAT THE PUBLIC PURPOSE TO BE SERVED BY THE PASSAGE OF THIS ARTICLE OUTWEIGHS ALL OTHER INDIVIDUAL INTERESTS.

24-46.6-102. Study on intrastate air service in Colorado - funding. (1) (a) NO LATER THAN AUGUST 15, 1996, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL CONTRACT WITH A PRIVATE PERSON TO CONDUCT A STUDY TO EVALUATE INTRASTATE AIR SERVICE IN COLORADO AND TO MAKE RECOMMENDATIONS AS TO WHAT ACTIONS SHOULD BE TAKEN IN ORDER TO ENCOURAGE THE EXPANSION AND IMPROVEMENT OF INTRASTATE AIR SERVICE IN COLORADO.

(b) THE STUDY SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(I) AN EXAMINATION OF THE CURRENT CONDITION OF INTRASTATE AIR SERVICE IN COLORADO AND THE FACTORS CONTRIBUTING TO ITS CURRENT CONDITION;

(II) AN EXAMINATION OF ACTIONS TAKEN BY GOVERNMENTS IN OTHER STATES TO ADDRESS ISSUES CONCERNING INTRASTATE AIR SERVICE IN THEIR RESPECTIVE STATES; AND

(III) RECOMMENDATIONS AS TO WHAT ACTIONS THE STATE SHOULD TAKE TO EXPAND AND IMPROVE INTRASTATE AIR SERVICE INCLUDING:

(A) THE PROVISION OF INTRASTATE AIR SERVICE TO MAJOR POPULATION AREAS AS WELL AS TO RESORT AREAS IN THE STATE;

(B) THE PROVISION OF CONSISTENT AND DEPENDENT SCHEDULING OF INTRASTATE AIR SERVICE IN THE STATE; AND

(C) THE PROVISION OF INTRASTATE AIR SERVICE IN THE STATE AT REASONABLE AND AFFORDABLE PRICES.

(c) THE PERSON CONDUCTING THE STUDY SHALL SEEK INPUT FROM AND CONSULT WITH ALL INTERESTED PARTIES, INCLUDING BUT NOT LIMITED TO REPRESENTATIVES OF THE STATE, REPRESENTATIVES OF LOCAL GOVERNMENTS, INCLUDING THE CITY AND COUNTY OF DENVER, REPRESENTATIVES OF AIR CARRIERS, AND BUSINESS REPRESENTATIVES.

(d) AIR CARRIERS THAT PROVIDE INTRASTATE AIR SERVICE WITHIN COLORADO SHALL COOPERATE FULLY WITH THE PERSON CONDUCTING THE STUDY AND SHALL PROVIDE IN A TIMELY MANNER SUCH INFORMATION AS THE PERSON CONDUCTING THE STUDY MAY REQUEST.

(e) THE STUDY SHALL BE COMPLETED AND A FINAL REPORT OF FINDINGS AND RECOMMENDATIONS SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY BY JANUARY 1, 1997.

(2) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO INTRASTATE AIR SERVICE STUDY FUND. THE FUND SHALL CONSIST OF MONEYS RECEIVED AS A RESULT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND COUNTY OF DENVER AND THE DIVISION OF AERONAUTICS, WHICH IS HEREBY AUTHORIZED TO ENTER INTO SUCH AGREEMENT, OR MONEYS TRANSFERRED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 43-10-110 (2) (a) (I), C.R.S., AS APPLICABLE. MONEYS IN THE FUND SHALL BE USED TO FUND A STUDY OF INTRASTATE AIR SERVICE IN COLORADO AS PROVIDED IN SUBSECTION (1) OF THIS SECTION. ANY MONEYS RECEIVED AS A RESULT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND COUNTY OF DENVER AND THE DIVISION OF AERONAUTICS REMAINING IN THE FUND AS OF JULY 1, 1997, SHALL BE RETURNED TO THE CITY AND COUNTY OF DENVER. ANY MONEYS TRANSFERRED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 43-10-110 (2) (a) (I), C.R.S., REMAINING IN THE FUND AS OF JULY 1, 1997, SHALL BE TRANSFERRED TO THE GOVERNMENTAL ENTITY OPERATING THE LARGEST AIRPORT IN THE STATE DURING THE FISCAL YEAR COMMENCING JULY 1, 1996.

24-46.6-103. Intrastate air carriers - on-time performance - oversales - reports to aeronautics division. (1) ANY AIR CARRIER THAT PROVIDES INTRASTATE AIR SERVICE WITHIN COLORADO SHALL FILE A SEMIANNUAL REPORT WITH THE AERONAUTICS DIVISION REGARDING THE ON-TIME PERFORMANCE AND THE NUMBER OF PASSENGERS DENIED BOARDING ON INTRASTATE FLIGHTS BY THE AIR CARRIER DURING THE SIX-MONTH PERIOD COVERED BY THE REPORT. THE REPORT SHALL BE SUBMITTED WITHIN THIRTY DAYS AFTER THE END OF THE SIX-MONTH PERIOD COVERED BY THE REPORT WITH THE SIX-MONTH PERIOD ENDING JUNE 30 AND DECEMBER 31.

(2) THE REPORT FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE THE FOLLOWING INFORMATION FOR EACH FLIGHT BY THE AIR CARRIER DURING THE SIX-MONTH PERIOD COVERED BY THE REPORT THAT ORIGINATED AND TERMINATED AT POINTS WITHIN COLORADO:

(a) THE AIR CARRIER AND FLIGHT NUMBER;

(b) THE ORIGATION POINT AND TERMINATION POINT OF THE FLIGHT;

(c) THE DEPARTURE AND ARRIVAL TIME FOR EACH SCHEDULED OPERATION OF THE FLIGHT, AS PUBLISHED IN THE OFFICIAL AIRLINE GUIDE, COMPUTER RESERVATION SYSTEMS, OR OTHER SERVICE PUBLICATIONS;

(d) THE SCHEDULED DEPARTURE AND ARRIVAL TIME FOR EACH SCHEDULED OPERATION OF THE FLIGHT AS LISTED IN A COMPUTER RESERVATION SYSTEM REGULATED BY 14 C.F.R. PART 255;

(e) THE ACTUAL DEPARTURE AND ARRIVAL TIME FOR EACH OPERATION OF THE FLIGHT;

(f) THE DATE AND DAY OF THE WEEK OF THE SCHEDULED FLIGHT OPERATION;

(g) THE AMOUNT OF DEPARTURE DELAY, IF ANY, FOR EACH OPERATION OF THE FLIGHT;

(h) THE AMOUNT OF ARRIVAL DELAY, IF ANY, FOR EACH OPERATION OF THE FLIGHT;

(i) THE TOTAL NUMBER OF PASSENGERS HOLDING CONFIRMED RESERVED SPACE, AS DEFINED BY 14 C.F.R. SEC. 250.1, ON EACH OPERATION OF THE FLIGHT THAT WERE DENIED BOARDING INVOLUNTARILY.

SECTION 2. 43-10-110 (2), Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

43-10-110. Revenues in aviation fund - disbursements. (2) (a) The board shall transfer from the fund, on a monthly basis, to the airport operating fund of the governmental entity operating the public-accessible airport an amount equal to four cents per gallon of gasoline, as defined in section 39-27-101 (2) (b), C.R.S., sold at such airport and an amount equal to seventy-five percent of any sales and use taxes collected by the state on aviation fuel sold for use at such airport by turbo-propeller or jet engine aircraft and credited to the fund pursuant to section 43-10-109 (2); except that:

(I) IF ONE HUNDRED THOUSAND DOLLARS IS NOT CREDITED TO THE COLORADO INTRASTATE AIR SERVICE STUDY FUND CREATED IN SECTION 24-46.6-102, C.R.S., ON OR BEFORE JULY 1, 1996, PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND COUNTY OF DENVER AND THE DIVISION OF AERONAUTICS, OF THE PORTION OF THE SALES AND USE TAX REVENUES THAT WOULD OTHERWISE BE TRANSFERRED TO THE GOVERNMENTAL ENTITY OPERATING THE LARGEST AIRPORT IN THE STATE DURING THE FISCAL YEAR COMMENCING JULY 1, 1996, AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS SHALL BE TRANSFERRED TO THE COLORADO INTRASTATE AIR SERVICE STUDY FUND, CREATED IN SECTION 24-46.6-102 (2), C.R.S.; AND

(II) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), if an intergovernmental agreement is entered into pursuant to the provisions of section 24-46.5-103 (1), C.R.S., the portion of the sales and use tax revenues that would otherwise be transferred to the governmental entity operating the largest airport in the state shall be transferred to the Colorado business incentive fund created in section 24-46.5-102, C.R.S. If such an intergovernmental agreement is entered into, moneys shall be transferred by the state treasurer, beginning July 1, 1991, for the length of the intergovernmental agreement, and, following the conclusion of the agreement, or if no agreement is entered into, the moneys shall be transferred to such governmental entity in accordance with the provisions of this section.

(b) The transfer of moneys pursuant to this subsection (2) shall be based upon monthly reports made by the department of revenue, pursuant to the provisions of sections 39-26-114 (1) (a) (VII), 39-26-203 (1) (c), and 39-27-102 (1) (a) (IV) (C), C.R.S., and transmitted to the division. Such moneys shall only be used for aviation purposes. Each entity operating a public-accessible airport ~~which~~ THAT receives moneys pursuant to the provisions of this subsection (2) shall submit an annual report to the division providing information concerning the aviation purposes for which the moneys have been used. Moneys in the fund derived from the sale of gasoline and aviation fuel at airports not qualified to receive revenue pursuant to the provisions of this subsection (2) shall remain in the fund.

SECTION 3. Appropriation. In addition to any other appropriation, there is

hereby appropriated, out of any moneys in the Colorado intrastate air service study fund, created pursuant to section 24-46.6-102 (2), Colorado Revised Statutes, not otherwise appropriated, to the general assembly for allocation to the legislative council, for the fiscal year beginning July 1, 1996, the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, for the implementation of the study on intrastate air service in Colorado pursuant to section 24-46.6-102, Colorado Revised Statutes.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 23, 1996