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# HOUSE CONCURRENT RESOLUTION

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REQUESTING CONGRESS TO ENACT ENABLING LEGISLATION TO PERMIT  
STATE REGULATION OF INTERISLAND AIR CARRIERS BY AN AIR  
CARRIER COMMISSION ESTABLISHED PURSUANT TO ACT 332, SESSION  
LAWS OF HAWAII 1993.

1 WHEREAS, interisland air transportation is of paramount  
2 importance to the State and its economy; and

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4 WHEREAS, being an island state, Hawaii is unique among her  
5 sister states in having no major highway system connecting  
6 various points throughout the state; and

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8 WHEREAS, residents and visitors must depend almost  
9 exclusively upon interisland air transportation to meet their  
10 transport mobility needs; and

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12 WHEREAS, consequently, a safe, efficient, and economical  
13 interisland air transportation system is essential for the  
14 public safety and welfare; and

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16 WHEREAS, of perhaps even more significance to the state's  
17 economy is the availability of frequent, reliable, and  
18 economical interisland air cargo transportation; and

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20 WHEREAS, an increase in air shipping rates or a reduction  
21 in the number of flights to carry cargo interisland will  
22 undoubtedly have a detrimental effect on Neighbor Island farmers  
23 and result in higher prices for all commodities shipped by air,  
24 including food, medicine, machinery parts, and clothing; and

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26 WHEREAS, accordingly, it is critical that Hawaii's  
27 interisland air transportation system continue to operate in a  
28 competitive environment to protect consumers from price gouging  
29 and unacceptable service levels; and



1 WHEREAS, the Legislature has long been concerned over  
2 maintaining a competitive environment for Hawaii's interisland  
3 air transportation system; and

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5 WHEREAS, for example, such concern prompted the  
6 Legislature, through Act 332, Session Laws of Hawaii 1993, to  
7 establish a comprehensive process to regulate interisland air  
8 transportation; and

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10 WHEREAS, Act 332 established an Air Carrier Commission  
11 (Commission) having general supervision over all Hawaii air  
12 carriers and any related company that provides air  
13 transportation; and

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15 WHEREAS, Act 332 further provided that no person may engage  
16 in intrastate air transportation without having first been  
17 granted a certificate of public convenience and necessity by the  
18 Commission; and

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20 WHEREAS, the general powers of the Commission include  
21 regulating air carriers through its investigative powers,  
22 establishing reasonable classifications of air carriers, and  
23 adopting rules to regulate those classes; and

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25 WHEREAS, Act 332 recognized, however, that the federal  
26 Airline Deregulation Act of 1978, expressly preempts the states  
27 from enacting or enforcing any law, rule, or regulation  
28 "relating to rates, routes, or services of any air carrier  
29 having federal operating authority"; and

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31 WHEREAS, furthermore, federal statutes and case law make  
32 clear that air travel between the Hawaiian islands is considered  
33 interstate or overseas air transportation; and

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35 WHEREAS, Act 332 therefore made the establishment of an air  
36 carrier commission contingent upon enactment of federal  
37 legislation permitting such a regulatory scheme; and

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39 WHEREAS, the Legislature finds that in the past, proposed  
40 mergers of interisland air carriers would have resulted in one  
41 air carrier dominating intrastate air traffic, thus having a  
42 tremendous impact on the health, safety, welfare, and general  
43 transportation needs of the people of Hawaii; and



1 WHEREAS, the Legislature is concerned that a loss of air  
2 carrier competition could have a severely negative impact on  
3 residents of and visitors to Hawaii due to:

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5 (1) An increase in air passenger ticket and cargo fares;  
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7 (2) A reduction in the frequency or availability of  
8 certain routes; and  
9  
10 (3) An increase in unemployment and its attendant costs to  
11 society, as work forces are consolidated;

12  
13 and  
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15 WHEREAS, in particular, the Legislature is concerned that  
16 loss of interisland air carrier competition could negatively  
17 affect the struggling economies of the Neighbor Islands, by  
18 reducing visitor travel to the Neighbor Islands, as a result of  
19 increased ticket fares and reduced flights, and negatively  
20 affect commerce by increasing the cost of goods air shipped by  
21 Neighbor Island producers, as well as those shipped to Neighbor  
22 Island consumers; and  
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24 WHEREAS, the Legislature finds that our sister state of  
25 Alaska has similar challenges to meeting the needs of its people  
26 with regard to air transportation and has recently been granted  
27 authority by Congress to regulate air travel in their state to  
28 protect the public interest; and  
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30 WHEREAS, given the potential negative impacts of the loss  
31 of interisland air carrier competition on consumers, the State  
32 of Hawaii should have the authority to regulate air travel to  
33 protect the public's interests; now, therefore,  
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35 BE IT RESOLVED by the House of Representatives of the  
36 Twenty-fourth Legislature of the State of Hawaii, Regular  
37 Session of 2007, the Senate concurring, that the United States  
38 Congress is requested to enact enabling legislation that would  
39 permit state regulation of interisland air carriers by an Air  
40 Carrier Commission pursuant to Act 332, Session Laws of Hawaii  
41 1993; and



1 BE IT FURTHER RESOLVED that certified copies of this  
2 Concurrent Resolution be transmitted to the President of the  
3 United States Senate, the Speaker of the United States House of  
4 Representatives, and the members of Hawaii's congressional  
5 delegation.  
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