

STATEMENT OF
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SECRETARY OF TRANSPORTATION
BEFORE THE
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON AVIATION
REGARDING
AIRPORT AND AIRWAY LEGISLATION
MARCH 27, 1980

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss pending legislation to provide for the continued safety and efficiency of our nation's airport and airway system. With me this morning are Langhorne Bond, Federal Aviation Administrator, Mort Downey, DOT's Assistant Secretary for Budget and Programs, Clark Onstad, FAA Chief Counsel, and Bob Aaronson, FAA Associate Administrator for Airports.

Mr. Chairman, my presentation this morning consists of three basic parts. First, I will address the tough financial and budgetary issues that all of us must face in the context of airport and airway legislation. The President and the Congressional leadership have been working hard on the budget over the last few weeks, and have developed a consensus on the need for budgetary restraint in virtually all Federal programs. This morning I will describe the increases that we propose over present

program levels to meet the needs of aviation.

Second, I will outline our position on several important program structure issues. Of particular importance, I will describe why we do not support proposals to "defederalize" large and medium sized airports and explain why we continue to support a larger role for the states in the airport development program.

Finally, I will discuss some of the reasons why we continue to support legislation to ensure that airports are operated in a manner consistent with the procompetitive goals of the Airline Deregulation Act. This Subcommittee and the Administration have worked closely together on aviation competition issues, and I am confident that we can work together on the aviation competition issues that are before us today.

BUDGETARY AND FINANCIAL ISSUES

Fiscal Restraint

Mr. Chairman, the efforts of the President and the Congress to balance the budget and hold down Federal spending have dominated the front pages of our newspapers in the last few weeks. While those stories often focus on broad economic concepts, it is clear to us that the issues before this Subcommittee today are very much a part of that broader economic discussion.

Mr. Chairman, despite the critical need to hold down overall Federal spending, I am pleased to report to the Subcommittee that the Administration continues to support the program increases we proposed in H.R. 3745. On the other hand, the need for budgetary restraint is real, and we strongly oppose increases in program levels beyond those we have proposed.

However, before I make specific comments on the funding increases proposed in the bill developed by the Subcommittee, H.R. 6721, I'd like to make two very important points. First, the program levels proposed in the Administration and House bills differ as to the increases that would be authorized. In light of the fact that many other Federal programs that are being cut below present levels, I think it is significant that the Administration is proposing increases, not cuts in airport and airway programs.

Second, I want to assure the members of this Subcommittee that I am fully aware that the House bill was developed before the President announced his anti-inflation program. I know that all of us have been doing a lot of hard thinking about funding levels since then. So, while I am confident that the members of this Subcommittee share the national concern to hold down Federal spending, this morning I have no choice but to address the funding levels contained in H.R. 6721 as it was introduced on March 6.

Mr. Chairman, simply stated, we are very strongly opposed to the funding levels contained in that bill. Let's look at the proposed program levels for facilities and equipment and for airport development,

including noise abatement. The House bill would exceed our proposal by roughly half a billion dollars in fiscal year 1981 alone, and by about 3 billion dollars over a five year period. These increases are substantially in excess of our proposed increases in program levels.

Further, as I said, our bill does call for increases in program levels. For example, the 1980 appropriation for new funds for facilities and equipment totalled \$250 million. We have proposed an authorization of \$350 million for 1981, or an increase of 40 percent. We think that this kind of growth, which exceeds that proposed for virtually all other Federal programs, reflects a strong commitment to the airport and airway system, particularly in these times of fiscal restraint. Additional increases would add fuel to inflationary fires, and this Administration will oppose inflationary bills.

Further, Mr. Chairman, I want to emphasize that the existence of a Trust Fund or the presence of a large surplus in that trust Fund does not justify failure to exercise restraint in spending. Inflation responds to Federal spending of any kind of dollar. Economic forces will respond as surely to Trust Fund dollars as to dollars from the General Fund.

In brief, Mr. Chairman, we are committed to meeting aviation needs and favor increases over present program levels. However, we are approaching this legislation fully mindful of the critical fiscal issues facing all of us in government today.

The Administration Bill

I'd like to turn now to a more specific discussion of the major budgetary and financial aspects of our bill. We believe we have set forth a program that will bring genuine progress toward achieving our common goals of maintaining an excellent safety record and providing more capacity. We would also provide for fundamental, but much needed changes in the way that the Trust Fund is financed and in the way these dollars are used.

Program Levels

In developing our legislative proposal, we very carefully examined how the individual programs should be funded. First priority went to capital investment. The five year program we have proposed would authorize nearly twice the expenditure that was authorized for the five years 1976 through 1980.

Congressional acceptance of the Administration's funding levels will not compromise safety since FAA's comprehensive operational procedures will remain in effect. These procedures take into account the kinds of facilities available at a given airport. FAA procedures are designed to and do provide a high level of safety throughout the system regardless of the facilities available.

As to the corollary question of capacity, the FAA has historically expanded the system to keep pace with air traffic demand. In the future, rather than build to accommodate demand, we would, if required, exercise our authority to control demand in a manner consistent with system safety and capacity. This is a tradeoff we are willing to accept given resource constraints, and we make the same kind of decisions regularly regarding other transportation modes.

Airport development grants would be funded at a gradually increasing level over the five year period. The total for the five years is about one and a half times the level of the 1976-1980 authorizations. This appears to be in line with projected development needs in the National Airport System Plan as corrected for sponsor's withdrawals and postponements.

We have also provided for increases in the research, engineering, and development (R,E&D) program. This is an area where we are continuously studying system needs, and we will keep Congress advised of our recommendations for appropriate levels of R,E&D funding. We have proposed a five year authorization because we believe that certainty in authorization levels over time facilitates program planning and continuity.

As I noted earlier, the funding increases proposed in the House bill are substantially higher than the increases we have proposed and, in these times of severe budget constraint, we strongly oppose proposals for massive increases in these programs. However, I'd like to offer a few additional observations about the House program levels.

First, it has been noted that inflation certainly affects the real purchasing power of program authorizations, but that is true for all programs, not just for aviation programs. Second, such massive increases may well be self-defeating in that they will add to inflationary pressures. Efforts to greatly increase aviation programs in response to inflation will put us in a situation not unlike Catch 22. The proper way to be sure aviation programs do not suffer because of inflation is the same way that we have to solve that problem for all of us--by concerted budgetary and fiscal actions to reduce inflation and ensure the effectiveness of all program dollars. Further, it must be remembered that increased

capital expenditures also, inevitably, drive up total operations and maintenance costs.

Balancing Trust Fund Income and Expenditures

After having made independent judgments on the needs of the capital programs I just discussed, and after having provided for those needs, we took a close look at the Trust Fund balance. We believe that maintenance of a large Trust Fund balance is undesirable.

We felt, and continue to believe, that legislation should provide for reducing that balance to near zero without necessitating severe changes in tax collections or program expenditures. To accomplish this, we devised a proposal that we believed would result in a steady decline in the Trust Fund balance over the next ten years, but would leave a self-sustaining Trust Fund after the surplus is depleted. To draw the balance down more rapidly would require major changes when the surplus is eliminated. We would then have to consider either major tax increases or major decreases in program expenditures, and we would prefer more continuity in the program.

Let me be candid, however, and admit that since the time the Administration bill was developed our estimates of Trust Fund revenues have been revised upward. Because of these changed estimates and uncertainty as to the outcome of energy legislation, it is difficult to say with certainty that any particular set of proposals would have the same effect on the Trust Fund balance that we expected to result from enactment of our bill. However, we continue to believe in the basic approach we tried to follow and would be pleased to discuss specific alternatives with the Subcommittee with a view towards achieving the same objectives.

Trust Fund Financing of Operations and Maintenance

Let me turn now to our strong conviction that, as a matter of equity for the general taxpayers of this country, the Congress should provide for very substantial increases in the levels of operation and maintenance expenses (O&M) financed out of the Trust Fund. It is unfair to continue to ask taxpayers who don't travel by air, or ship by air, or fly aircraft, to pay for 85% of the FAA's operating expenses. Compared to our proposal, the House bill would provide for \$5.7 billion less in Trust Fund operations and maintenance financing over a five year period, and it is tremendously important for us to work together to close that gap.

Part of the reason for this shortfall is the restrictive criteria for eligible O&M expenses set forth in section 5(f) of the House bill. This provision limits the use of the Trust Fund to the direct costs incurred for flight checking and maintenance of air navigation facilities, with maintenance costs limited to costs incurred in the field. This excludes the costs of engineering support and planning, direction, and evaluation activities, all of which we would make eligible for support from the Trust Fund. Further, even with this highly restrictive definition of the activities that can be funded from the Trust Fund, the O&M authorizations of H.R. 6721 would cover less than two-thirds of these limited costs.

First, I want to make it clear that our proposal to increase Trust Fund financing of O&M is not a proposal to increase program levels. FAA operating costs will be incurred whether they are funded from the Trust Fund or from the General Fund, and the Trust Fund generates sufficient revenues to finance these programs without compromising the capital programs we all support. So, we are proposing this change to achieve

broader policy goals.

Mr. Chairman, the purpose of our O&M financing proposal is to obtain a more equitable recovery from system users of the costs of providing FAA services. While general taxpayers certainly benefit from the existence of a strong national system of airports and airways, there can be no doubt that the primary beneficiaries of that system are the pilots, passengers, and shippers who use the system. There can also be no doubt that the current system, which funds about 85% of FAA's O&M expenses from the General Fund, does not reflect that distribution of benefits.

Mr. Chairman, the average citizen has to rely on those of us in government to protect his interests in complex program settings like this. I think it is critically important, now more than ever before, that this Administration and this Congress work together in this bill to strike a blow for the average citizen, who has no idea that the structure of this program affects his or her pocketbook. I know that this Subcommittee is capable of that kind of leadership and we would provide you with the strongest possible support in any effort you would make to achieve this objective.

We do not propose placing the entire cost of the FAA's services on system users. Our bill would still require general taxpayers to finance approximately one-third of O&M costs. We believe this is a much more equitable and reasonable distribution of the financial burden.

As a final point relating to O&M and other program levels, we are disturbed by the limitation that would be placed on O&M funding by section 5(f) of H.R. 6721. That provision would require a reduction in O&M funding by twice any amounts authorized for F&E which are not obligated by the FAA in the fiscal year for which authorized. It is just not reasonable to anticipate that the FAA will obligate all of the F&E funds authorized in a given year in that fiscal year. For one thing, our F&E projects are fully funded appropriations. This means that, although an F&E project may last longer than one year, the funding for the entire project must be appropriated in the initial year. For a variety of reasons, the equipment necessary for a longterm project is often not available in the initial year, so that funds authorized for that project cannot be obligated in that year. A similar situation arises with construction projects.

The Appropriations Committees have recognized this and the Department's Appropriations Acts have provided for the carryover of F&E appropriations beyond the initial fiscal year of the appropriation. In fact, while previous Appropriations Acts provided for a three year life for F&E appropriations, Congress has recently recognized that even three years is too short for some projects and has provided for a five year life for the 1980 F&E appropriations, and extended the 1978 and 1979 appropriations to five years as well.

Congress has thus recognized that the entire F&E appropriations for a given year cannot be obligated in that year. Requiring a reduction in O&M funding from the Trust Fund equal to twice the unobligated F&E authorization fails to recognize the dilemma we face in obligating those funds and, in effect, penalizes the general taxpayer who is called upon to foot the bill for the remaining amount. We urge the Subcommittee to delete this provision from the bill as inconsistent with the way the F&E program works and as inconsistent with the need to relieve the burdens on the general taxpayer which I have already described today.

Aviation User Taxes

I recognize that the Subcommittee has chosen to defer consideration of any recommendations on tax issues until completing consideration of program issues. However, program and user tax issues are intimately linked and should be addressed in a coordinated manner, so I want to cover these issues today.

First, let me briefly outline how our tax proposals relate to our general approach to the Trust Fund. We have proposed maintenance of the present ticket tax levels as a means of furthering equitable cost distribution policies and assuring that both capital and operational programs can be met out of the Trust Fund. We oppose tax cuts that would preclude appropriate recovery of operations and maintenance costs from aviation system users.

Second, returning to overall fiscal policy considerations, this is not the time for significant tax cuts, as tax cuts will create inflationary pressures. Recognizing that present national fiscal needs do not argue in favor of tax cuts, I think it is clear that the only way to control the Trust Fund surplus, short of massive increases in capital programs, is to increase Trust Fund financing of O&M.

This discussion of overall tax considerations relates primarily to the issue of passenger ticket tax levels, since the ticket tax provides the dominant share of Trust Fund revenues.

We also believe there is a need for change in the structure of the other aviation user taxes. We developed these proposals not so much from a consideration of Trust Fund revenue needs, but from considerations of equity.

Specifically, we have proposed increased taxes on general aviation. We have recommended these changes because we believe that system users should pay a proportionate share of the costs of the Federal airport and airway system. Currently, aviation taxes collected from system users equate to nearly 60%, in the aggregate, of the costs allocable to civil aviation that are incurred by the FAA in equipping, operating, and maintaining the airport and airway system.

The users of commercial air service are paying amounts equivalent to about 90% of the costs incurred by the FAA in their behalf, while the comparable figure for general aviation is in the range of 10 to 18%, depending on certain assumptions used in the allocation of costs. Enactment of our proposed tax changes along with our proposed program authorizations for O&M would increase the level of recovery from general aviation to about 24 to 44%, again depending on certain allocation assumptions. Recovery from the users of commercial aviation would be in the 95% range. Though the general aviation users would still be paying a much smaller share of the FAA costs attributable to them than would the users of commercial air service, the gap would not be as great, and thus would represent more equitable treatment of all system users. If, however, current taxes were not changed and the program levels contained in H.R. 6721 enacted, recovery from air carrier users would remain in the 90-100% range, but would drop to 8-9% for general aviation.

Let me also make clear that general aviation really does place demands on the system. The growth rate of general aviation continues to substantially exceed the growth rates of all other system users. General aviation planes are becoming increasingly sophisticated, are often used for business purposes, and are more and more frequently able to use the allweather capability of the facilities purchased with Trust Fund revenues. As general aviation increases its utilization of our system, it is fully appropriate that we increase GA's contribution to the financing of the system, and we have proposed tax changes to accomplish that end.

These tax changes are not expected to be a major burden upon general aviation, but will provide a simple recognition of the level of general aviation demand for Federal aviation services and the concomitant share of costs of that use by general aviation aircraft. We recognize that an effort to achieve 100% cost recovery would certainly have an adverse affect on general aviation but we do not favor or propose such an approach. Ours is a very moderate proposal, again based on notions of tax equity which are important to our system of government.

DEFEDERALIZATION OF AIRPORTS

Clearly, the most significant program structure issue facing us in this legislation is the proposal initiated in the Senate which would "defederalize" many large airports. Specifically, "defederalization", as proposed in S. 1648, would remove the 72 largest airports in the U.S., plus any others so electing, from eligibility for Federal airport grants after a short transition period.

All of us are aware that this proposal could engender significant program savings, but, on the basis of our continuing review of the implications of this proposal, we do not favor "defederalization."

I'd like to spend a few minutes outlining some of the things we've learned from our review of the issue.

Impact on Airport Financing

In the absence of ADAP grants, defederalized airports would need to find new sources of revenue, or increase their collections from existing sources, in order to finance necessary capital improvements. Many of these airports would have difficulty and would require a new source of funds if development to meet needs arising from traffic growth. In addition, environmentally related development is likely to be arrested in many instances.

Renegotiation of fees, through "balanced negotiations" between the airports and the airlines, has been cited by defederalization proponents

as a solution, but there are several problems with this approach. Many of the airports that would be defederalized have some type of contractual impediment in their long term use agreements with the airlines which, prior to their expiration, would restrict their ability to increase fees to offset the loss of Federal funds. Even where fees can be renegotiated, contractual agreements between the airlines and the airports may give the airlines veto power over certain types of development (e.g., land acquisition for noise abatement, capacity improvements to accommodate new or expanded service) that would not benefit them directly.

Further, we are not convinced that a "parasitic" business relationship exists between airlines and airports, which will assure balanced negotiations between them adequate to meet all valid financial needs of an airport. Airlines can be expected to act to maximize their benefit, or profit, from a given airport. Today the competition for capital assets in both the private and public sectors is very keen. Resources are committed to those locations and facilities where there is the highest probability of the greatest return. Often the view of an airline might not coincide exactly with meeting long term needs identified by an airport from its perspective as a public service agency. For example, purchase of land is a significant cost item for many airports and, from an airlines' perspective, expenditures on long-term items like land may appear relatively unattractive compared to such alternative uses of corporate funds as purchasing additional or upgraded aircraft. Similarly, major airlines can't be expected to show great enthusiasm for other projects that may not have a tangible payoff for them, such as general aviation runways and gate and ramp space for new entrants.

Further, in the newly deregulated environment, we don't believe that airlines are as likely as before to want to enter into long term contracts with airport operators. Carriers are no longer as certain of their long term commitments to markets and this, too, casts doubt on the scenario envisioned by the proponents of defederalization.

Clearly, each major airport situation is different, and we do not pretend that these concerns are equally applicable to all situations, but the concerns are real.

Relation to Reliever Airports

Mr. Chairman, we are also concerned that defederalization would have an adverse affect on our efforts to develop a national system of reliever airports.

Inherent in the idea of a "reliever" airport is that it provides an alternative to another, usually larger airport. Developing a system of effective reliever airports involves both capital and operational decisions.

This Subcommittee has recognized this concept in following our recommendation to apportion funds to "primary hubs". The primary hub approach stands for the proposition that all of the airports in a metropolitan area are related, and that, to make most effective use of our resources, we must look at the capacity of all of the airports in an area, not just individual airports.

We have serious reservation as to whether we could give life to this approach under defederalization. Further, because of the Federal role in encouraging planning, I think it will also make it harder for local authorities to deal with these multi-airport issues.

Simply, we are talking about a national system of airports and ways of administering Federal programs for that system. We are very concerned that defederalization will limit our ability to continue that approach in a truly effective way.

Airports Serve a Public Function

Some broader public policy considerations are also important.

First, we are not convinced that it is sound public policy to require airports to rely as extensively on airlines to generate development funds as is contemplated by the defederalization proposal. We do not consider airports to be solely businesses. They are publicly owned and operated facilities in which there is a substantial public interest involved in the provision of capacity and service.

Further, if airports do not receive Federal development aid they might have to look to local governments for some funding support. This is undesirable inasmuch as the large airports -- with the aid of federally collected user funds -- have been able to pay their own way without burdening local governments in recent years. We are reluctant to put this kind of financial pressure on local governments and, unlike proponents of defederalization, we are not convinced that enough new revenue will be generated from the airlines to obviate the need for assistance to airports from local government sources.

There is also a tax equity issue. Barring very significant changes in the structure of aviation user taxes, the bulk of Federal user taxes would continue to be collected at the large airports. The arguments for defederalization would have to be much stronger than they appear to us today before we could consider denying Federal development assistance to the airports whose existence would continue to cause most of our user tax revenues to be collected.

Other Concerns

We have looked closely at other aspects of the defederalization proposal and have a number of other concerns. For example, we are concerned that defederalization could reduce the amount of airport planning that is conducted. We also are concerned that national pursuit of certain civil rights, environmental, labor and other objectives associated with Federal programs could be weakened. While I do not suggest that Federal programs should be established for the purpose of pursuing other important objectives, I think we must give weight to these considerations in a case like this, where the arguments for defederalization are hardly unassailable.

Summary on Defederalization

So, there are a number of factual, programmatic and philosophical reasons why we do not support defederalization. First, we are not convinced by proponents' contentions that there will not be significant airport financing difficulties in the absence of ADAP grants, particularly for the smaller of the airports that would be defederalized by the

Senate bill. Further, we are mindful of other programmatic implications. Defederalization could very well undermine our approach to the reliever airport issue. Planning, environmental, labor and civil rights policies are also of concern. Finally, some weight must also be given to the general public service function of these airports and their dominant role in generating Trust Fund revenues.

So, we have made a thorough examination of the proposal to "defederalize" airports. We have a number of serious problems and concerns and we haven't found answers to them. If the proponents of federalization have answers, we'll look at the answers they propose. However, as I said, the concerns I have just outlined are very serious ones.

OTHER PROGRAM STRUCTURE ISSUESIncreased State Role

As you know, unlike both the House and Senate bills, the Administration's bill contains a proposal for allowing optional participation by qualified states in the administration of grants for small airports that are not part of primary hubs. We believe this is a key provision for increasing local decision-making and reducing Federal involvement in the administration of the airport grants program. Placing grant funding decision-making for these airports at the state level would lead to an airport and airway system more responsive to state and local needs. It would not add a new level of bureaucracy; it would merely substitute State for Federal administration. There is ample support for this proposal among the airports which would actually be affected by it. I would like to emphasize that the larger airports, which have strongly opposed this proposal, would not be affected by it at all. Therefore, we continue to support our proposal for optional participation by qualified states in the administration of grants for certain small airports. Further, the program would not put any airport within a participating state at a disadvantage because each airport would have the option of becoming a part of the state's program or continuing to deal with the FAA on an individual project basis.

General Approach to Development Grants

I am pleased to note that, except for the state role issue I just discussed, and the House bill's proposal to establish a categorical noise abatement program, the basic approach to the airport development program found in the House bill is very similar to that of our own bill. In particular, we are pleased that the bill would adopt our proposed air traffic hub program. We feel that this is the best approach to the

increasingly important need to enhance the development of reliever airports, as well as an excellent means of achieving increased local decision-making and, over time, reducing the Federal role in administering airport development.

Funding for Aviation Noise Programs

One area in which we strongly disagree with the House bill, is in its proposal to establish a separate authorization for noise projects in addition to the program for airport development.

Our approach to this issue has been to expand the definition of airport development to include various noise abatement projects. In particular we would make the acquisition and installation of noise suppression and noise monitoring equipment eligible for funding. Similarly, the soundproofing of certain public facilities such as hospitals and schools would be made eligible for funding as airport development projects.

These noise projects would compete for funds along with other airport development projects, and I think this is appropriate. The depth of concern over aviation noise vis a vis the need for other aviation projects varies greatly from city to city. We would let the local governments decide how they would set their funding priorities. To earmark such a large percentage of airport funds for noise purposes would distort local decisionmaking. However, we do fully intend to pursue noise projects and I would hope that the Subcommittee could reconsider the merits of our approach. Further, the funding levels we have prescribed for the airport grants-in-aid program are sufficient to provide funds for necessary noise projects. We see no need to set aside

a separate authorization for noise projects, particularly the \$900 million authorization proposed in H.R. 6721. Establishment of such a large program runs contrary to the Administration's budgetary objectives, and will add to inflationary pressures.

Lastly, the large authorization prejudices the study that is required by the noise bill which the President so recently signed into law. Section 108 of that law requires the Department to complete by next January a study regarding the effectiveness of the programs to reduce noise that are authorized by that law. It is far, far too early to say what the results of those programs will be and, particularly in this time of fiscal restraint, we strongly oppose such a large expansion of that untested program.

Federal Share of Project Development Costs

H.R. 6721 would continue at 90% of the Federal share for certain development projects. Ninety percent funding was just recently established by the noise bill. We oppose 90% Federal funding. The 80% funding level has worked well in the past. It has provided for substantial Federal assistance to airport operators, yet it has required enough of a financial commitment from the operators themselves to ensure that the airport operators have thoroughly considered the need for the project as well as the appropriate means for carrying it out.

Further, this provision is also related to overall funding levels. Ninety percent financing will result in fewer projects, but funded with higher Federal shares. A Federal share of 80 percent will enable the FAA to fund a larger number of projects and meet more needs. This is particularly important considering the need to hold down overall program levels and make them go as far as they can.

Five Year R,E&D Authorization

With respect to Research, Engineering, and Development (RE&D), H.R. 6721 would provide for only a one year authorization, instead of the five year authorization levels we have proposed. A strong R,E&D program is essential for the continuing development of a safe and efficient airport and airway system. It is also essential to keep the American aviation industry at the forefront of the world market. As the Subcommittee is fully aware, the aviation industry contributes positively and substantially to the country's balance of trade.

A reasonable assurance of adequate long-term funding is important to the viability of our aviation R,E&D program. The very nature of R,E&D work requires continuity, the ability to rely on the availability of funds in the future to sustain on-going research. A one-year authorization for this program could prove disruptive to that continuity, and could impair the planning of long-range projects. which are often the most productive in terms of ultimate results obtained. We urge the Subcommittee to continue the current practice of 5 year funding for R,E&D.

Stronger Enforcement of Aviation Safety Rules

In this discussion of program structure issues, I think it important to remember that legislation to facilitate effective program administration can often have an even greater and more rapid impact on safety than the funding levels of capital programs. In particular, I think we all share the view that one of the ways to assure aviation safety is to assure compliance with aviation safety rules.

An important way in which the Members of this Subcommittee can let it be known that they support a tough enforcement posture to promote aviation safety is to seek early action on a legislative initiative which we have recently forwarded to the Congress. That proposal does two things that will go far towards promoting an increased concern for compliance with our safety rules.

First, it would increase the maximum civil penalty for a violation of the Federal Aviation Act of 1958, or regulations issued thereunder, from \$1,000 to \$25,000. The present \$1,000 level has been in effect since 1938. What used to be a severe economic deterrent has now eroded to the point where it can easily be accepted by an operator as a "cost of doing business."

Second, the legislation calls for criminal sanctions for violations of title VI of the Federal Aviation Act of 1958 or regulations issued thereunder. This would have the effect of providing criminal penalties for violations of the FAA's safety regulations. Under present law, persons committing flagrant aviation safety violations endangering human life can only be subjected to civil penalties, while the same kinds of dangerous activities in an automobile, for example, would be prosecuted criminally. This is inappropriate and should be changed.

I will not spend a great deal of time on this proposal today. Administrator Bond discussed it in depth in a recent hearing before the Oversight and Review Subcommittee. However, I want to reemphasize our commitment to strong safety enforcement and our view that enactment of that proposal would enhance the safety of the travelling public. We would be very pleased if the Committee would place that proposal on the same schedule as airport and airway legislation.

FAIR ACCESS TO AIRPORTS

Before closing, I'd like to turn to the very real problem of ensuring fair access to our country's airports, particularly the problem of allocating access among prospective users when limitations on capacity so require. We consider this to be an important issue, and we appreciate the Subcommittee's invitation to address this matter.

There are two basic factors that have made airport access an important issue which should be addressed by the Congress. First, the Airline Deregulation Act of 1978 created a new era for our air transportation industry; an era in which the consumer has benefited from increased competition among the major airlines and the availability of a whole range of new services from the growing commuter airlines. But at the same time that we have sought to foster a competitive environment for airlines, capacity and noise problems at many of our nation's airports have worked against attaining freer competition. In short, most of our airports are monopolies within the geographic areas they serve. As those airports become congested, it can become increasingly difficult for new airlines to serve those airports.

We're at a point today where it is becoming increasingly difficult to build new airports or even to add runways. This limitation applies to different areas for different reasons or combinations of reasons. Environmental, land-use, and geographical constraints can all act to limit expansion.

Further, under deregulation traffic has increased, as has the number of larger carriers and commuters seeking to enter new markets. The larger carriers have tended to concentrate services into major hubs. At the same time, the commuters need access to these hubs and surrounding airports to take up the slack. This increasing strain on airside capacity, which is most evident at larger airports during peak hours, is further compounded by the clearly finite nature of groundside resources. Ramps, counter space, and other groundside facilities have to be available to a new market entrant or the ability to gain airside access has little or no value. Capacity and noise problems have also begun to spawn potential conflict between general aviation and commuter/air carrier needs.

Therefore, we are faced with a tough situation, in which something ultimately will have to give at the more congested airports. At these airports, the simplest thing for an airport operator to do--thus making it a tempting solution--is to deny access to those seeking market entry in favor of continued service by those already using the airport and its facilities. However, if this happens, the consumer would clearly be the loser. Such an approach stifles competition and the anticompetitive nature of such actions would vitiate the procompetitive intent of the Deregulation Act.

It is also worth mentioning that, to the extent local actions are allowed to impede access for new entrants--particularly foreign carriers--to our international gateway airports, U.S. Government efforts to implement the procompetitive policy embodied in the recently enacted International Air Transportation Competition Act of 1979 could be impaired. Our ability to secure valuable new opportunities for U.S. carriers in foreign markets depends to a great extent upon the quality of the opportunities which we are able to offer in return. Similarly, our ability to encourage the introduction of new international services at new gateway cities may depend to a significant extent upon airport accessibility. For these reasons also, there is a need to ensure that finite groundside facilities are allocated among users in a way which does not discriminate inequitably against new entrants.

I don't want to suggest there are any "bad guys" in this cast of characters, because we find most people are trying hard to find solutions to such problems, but I do want to highlight the pressures that may bring about an undesirable result. For example, the largest carriers typically help the airport operator in maximizing revenues--this relationship can work against the commuters. At the same time, though, an airport operator who wants to bring in a new airline offering new service--whether it be a large certificated carrier offering discount fares or a commuter--may find all the ticket counters and other space tied up by existing lease arrangements. To compound this, pressures for reduced noise have frequently constrained growth. Sometimes they have set the stage for airport operators to deny new access unjustly or to impose unwarranted demands on new entrants not similarly imposed on incumbent carriers.

In theory, these airport access problems can be solved simply by requiring airport operators to provide fair access on reasonably competitive terms. In practice it's not so simple, and we've got to be concerned with our ability to address all the "real life" situations that can occur.

Our legislation contains provisions to enable us to deal with the real life situations. I want to emphasize that what we are seeking is essentially "standby" authority. Often, the mere existence of authority helps keep a situation from worsening. In fact, our present posture on airport access has already had some beneficial effects. We are seeing

some movement toward short-term leases between airport operators and carriers; as well as the withdrawal of unjustly discriminatory entry requirements and even the lifting of a ban on new entrants.

In our bill, we have proposed strengthening the existing provisions in the Federal Aviation Act of 1958 which prohibit the granting of exclusive rights at airports by adding language which would require airport operators to provide access to new entrants within a reasonable time and on reasonably competitive terms. This is intended to reinforce the competitive thrust of the Airline Deregulation Act and U.S. international aviation policy and to establish an express statutory right of reasonable access to airports for new entrants. It also provides an impetus for ensuring that essential air transportation is maintained, and offers leverage to airport operators in dealing with carriers serving their airports.

We recognize that the combination of increased aviation growth, increased competition and limitations on airport expansion will almost certainly produce situations in which prospective new entrants will not receive fair access. Therefore, we have proposed a statutory framework under which those persons who believe they have been unreasonably denied access may file a complaint with the Secretary or, under certain circumstances, seek injunctive relief in Federal district court. We believe it is important to provide a statutory remedy for aggrieved persons to seek enforcement of their statutory rights. Further, this approach is

entirely consistent with the competitive approach to issues of economic regulation in aviation, because it would place a significant enforcement tool in the hands of competitors in the marketplace and would greatly assist and focus any enforcement efforts by DOT.

Our proposal also deals with the problem of groundside capacity by giving the Secretary the authority to modify or rescind contractual agreements between airport operators and carriers. To the extent that available groundside facilities have been allocated among existing carriers, particularly if by longterm leases, it can become extremely difficult for prospective new entrants to obtain ramps, gates, counter space, and the like. We took a look at a number of existing agreements which could constrain the availability of groundside resources in the future. I'd like to highlight some of those findings.

One significant thing we found was that, of the 27 agreements we looked at, the average length of the agreements was 25 years. The agreements we studied usually gave the carriers exclusive use of ticketing, baggage, holding lounge, and ramp areas. Only a few of the agreements provided for space which may be used by a second carrier if the first carrier is not using it. This arrangement usually applied to gates, ramps, and jetways. So it's readily apparent that much of the groundside facilities are legally tied up and will be for an extended period of time. Consequently, the success that new entrants to markets have

had to date in terms of obtaining groundside facilities has generally resulted from voluntary inter-airline subleasing and from airport management receiving the cooperation of the airlines. As long as that spirit of voluntary cooperation on the part of the airlines holds up, we may not experience serious problems of access to groundside facilities. But we have no assurance of continued cooperation in the future, and we don't think we should wait to see if serious problems develop before readying ourselves to be able to deal with them. For that reason, we believe it is important for the Congress to provide the Secretary of Transportation with standby authority to make necessary modifications to leases should the need become critical.

We have also proposed in our legislation that the Secretary be provided statutory authority to develop and administer a system of allocating slots at airports where airside or groundside capacity forces a limitation on the number of flights. The Subcommittee is aware that we already have in place a limitation on the number of aircraft operations at four of our country's busiest airports--JFK, La Guardia, Washington National, and O'Hare. It's significant to note that at those airports, with the exception of La Guardia, system delays have not increased at the same pace they have at other major airports in recent years. Therefore, the limitation of operations has proved beneficial at those airports both from the perspective of system safety and system delays.

Our proposal to deal with the need to allocate slots in the future would establish a statutory framework under which the Secretary would prescribe regulations within which new entrants to an airport could fairly compete for slots. There are a variety of ways in which such a system could be established, auctions being one example, though no one solution stands out at present. The thrust of the proposal is to reinforce the Department's existing authority to limit operations to deal with airside congestion, to explicitly provide that this authority may take into account congestion on the ground, and to assure that competitive factors and the maintenance of essential air service to small communities are considered in allocating slots among existing carriers and new entrants.

As the Subcommittee is aware, the system of allocating slots presently in use at the four airports in which there has been a need for such allocation, calls for airline scheduling committees, operating under an antitrust exemption granted by the CAB, to allocate the pool of slots among the carriers using the airport and those seeking to use the airport. This system, requiring unanimous agreement of the committee members, has worked satisfactorily thus far, though it has become more difficult for the committees to reach agreement on slot allocations as more airlines have sought entry to the affected airports. A case in point is our own National Airport. On the most recent go round there, the scheduling

committee met in late January without resolving the slots issue at National, and had to reconvene for thirteen additional days in February and March before reaching agreement.

If the system has worked reasonably well to date, the logical question for the Subcommittee to ask then is: why is there a need to set up a new system to be administered by the Government? I think the answer is twofold. For one thing, I don't think that a system which is to be based on competition, as our airline industry is, should permit those very same competitors to decide the fate of other competitors who seek market entry. I believe you will find that this view is shared by officials of the Civil Aeronautics Board and of the Department of Justice who, in accordance with the Airline Deregulation Act, will ultimately be given the authority to grant or deny antitrust exemptions for scheduling committees. The second point I would make, which parallels my concerns over groundside access, is that we should not wait for serious problems to develop within the system before taking reasonable steps to be ready to deal with the problems when they do occur.

I am aware that the Subcommittee is interested in looking into the issue of whether the authority to prescribe and allocate slots should be vested in airport operators or in the Department of Transportation. I feel strongly that the Department should be given the authority to establish such regulations as may be necessary to ensure that any local

approach is consistent with national aviation objectives. Foremost in my mind is that fact that we have a national air transportation system dependent upon a national system of airports and airways. What happens at one airport frequently impacts upon other airports in the system. In order to minimize delays, as well as to maintain aviation safety levels, limits on aircraft operations must be viewed from a national perspective. For example, permitting individual airport authorities to prescribe limits on aircraft operations in the absence of Federal guidelines might reduce delays at specific sites but at the cost of even greater delay at other points in the system. Moreover, the Secretary of Transportation is the only official with sufficiently broad authority to meet the needs of the whole system. The Secretary is able to adjust air traffic control procedures, fund additional reliever airports, and make other decisions with important implications for the system. It is appropriate that the Secretary be able to coordinate airport access authority with these other authorities. That airport access issues can impact on international flights and foreign air carriers also argues for a Federal role.

In closing this discussion of airport access, Mr. Chairman, I would reemphasize that the problem is coming on line quickly. Air traffic and competition are increasing and expanded capacity is not going to be a readily available solution. While we are not wedded to the exact language or approach that we have set forth in our legislation, we do believe it is important to act to meet the challenge presented by the trends we have noted, and we look forward to working with the Subcommittee to develop a mutually acceptable solution to this problem.

Summary and Conclusion

Mr. Chairman, in sum, my major points today are as follows:

1. Fiscal Restraint

Aviation is important, and the Administration continues to support increases over present program levels, but we are strongly opposed to massive increases in capital programs and an increased Federal share such as proposed in H.R. 6721.

2. Increases in Trust Fund Financing of O&M

Increases in O&M will have the important benefit of placing a much more appropriate share of the costs of providing services on those who actually use the system, rather than on the general taxpayer. Further, at a time when budgetary concerns makes it unrealistic to expect significant tax cuts or massive increases in capital programs, increasing Trust Fund financing of O&M is the best way to control the Trust Fund surplus.

3. Defederalization

We remain unconvinced of the arguments for defederalization of large and medium sized airports and continue to support the program structure proposed in our bill.

4. Airport Access

We believe that the need for legislation in this area is clear, but that it will become even clearer as present trends continue.

Taking all of these issues together, it seems that all of us have a lot of work to do to ensure the enactment of an airport and airway bill that is responsive to today's needs. I assure you that this Administration stands ready to work with this Subcommittee to ensure the enactment of such legislation.

This concludes my statement, Mr. Chairman. At this time my associates and I would be pleased to answer any questions that you and the other members of the Subcommittee may have.