

STATEMENT OF JEFFREY N. SHANE, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF TRANSPORTATION, BEFORE THE UNITED STATES SENATE, COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, APRIL 30, 1992, REGARDING LEGISLATION TO ENSURE FAIR TREATMENT OF AIRLINE EMPLOYEES IN CONNECTION WITH AIRLINE ROUTE TRANSFERS

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before your Committee today to discuss the Department of Transportation's views on S. 1565. The bill would amend Section 401(h) of the Federal Aviation Act to add a paragraph on "employee considerations" applicable to international route transfers filed with the Department for approval on or after July 26, 1991. Specifically, if a certificate transfer is approved, the bill would require the air carrier to which the route authority is being transferred to hire the number of employees from the air carrier transferring the certificate, in order of seniority, that are needed to "appropriately operate" the certificate authority being transferred. The bill would also require the Department to determine that number.

The Department now has the authority to impose labor protective provisions -- or LPP's -- on a case-by-case basis in route transfer situations. As a matter of policy the Department, like its predecessor, the Civil Aeronautics Board, has determined that it is in the public interest to take such action only where necessary to prevent labor strife that could disrupt the national air transportation system or, due to special circumstances, to promote fair wages and equitable working conditions. This

approach reflects our conviction that labor-management issues are best resolved by the parties themselves. Equally important, it is consistent with the goals of deregulation and the efficient development of a market-oriented industry.

By contrast, Mr. Chairman, the proposed legislation would regulate a significant area of labor-management relations and impose substantial costs on airlines and their employees. These costs include the financial costs of implementing the required labor protection and the adverse impact that implementation is likely to have on the carrier's workforce and relations with that workforce.

We see no justification for such burdens. The airline labor market is working well, and there is no evidence that government intervention is needed to avoid disruptions to the national air transportation system. Moreover, labor protection is not imposed on other non-regulated, competitive industries. We see no reason to single out the air transportation industry for special treatment.

Mr. Chairman, before discussing our position in greater detail, I would like to emphasize that we appreciate and have respect for the enormous contribution that airline workforce has made to the success of deregulation and the development of the best aviation system in the world. Through the hard work of some of the most skilled and dedicated professionals in U.S. industry, consumers

have received the expanded service and fare savings which are the hallmark of deregulation, and our airlines have expanded their positions as world leaders in this critical economic sector.

A substantial portion of the airline industry workforce -- pilots, flight attendants and machinists -- are responsible every day for the safety and security of their customers in ways that have few parallels elsewhere in American business. I underscore this point to ensure that the Administration's opposition to mandatory LPP's is not taken to reflect any diminution in the high regard we have for these critical employees.

As to the benefits of deregulation, more frequent and conveniently-timed service is available at communities of all sizes throughout the nation. And there is more competition as well. Today, over 40 percent of all markets have three or more competitors, compared with less than 20 percent in 1979. In fact, almost one out of every five markets today has four or more competitors. There were virtually no such markets in 1979. Despite a reduction in the number of airlines serving the U.S. that has occurred since 1984, a much greater number of markets had three or more competitors for the year ended September 30, 1991 (the latest year for which data are available) than in 1984.

Deregulation produced, and continues to produce, enormous consumer benefits. Air fares, for example, continue to be a bargain for

most travellers. After 1981, following an increase in air fares caused by an enormous increase in jet fuel cost, average fares, adjusted for inflation, declined by 26 percent through 1988, and have continued down since. By the third quarter of 1991, the real fare decline reached 30 percent, and average fare levels are lower today than at any time in history. The decline in consumer complaints filed is another indicator of how competition is improving the quality of air service in the U.S. During 1991, airlines experienced their lowest level of consumer complaints in the 20 years since 1970, when the federal government started collecting such data. I am not speaking of a percentage decline, but rather a decline in the absolute volume of complaints despite the tremendous growth in passenger traffic that has occurred. Also, the number of flights completed on time during 1991 was the best annual figure for the airlines since the Department began publishing that data in 1987.

In short, deregulation created a vast spectrum of new opportunities for airlines and consumers. It also created jobs -- tens of thousands of jobs -- for American workers. In fact, about 150,000 new full time workers were added to the airline industry's payrolls between 1978 (the last full year of a regulated airline industry) and 1991. During that period, total employment in the industry, including part-time jobs, increased by more than 200,000.

It is also significant to note that the airline industry continued to be a strong source of employment during the period when it was restructuring itself through mergers, acquisitions, and other forms of reorganization. Thus, full-time employment in the industry increased by almost 75,000 -- and total employment by nearly 90,000 -- between 1987 and 1991. These figures indicate that airline services continued to expand during that period, and the growth created new jobs. Even with the job losses associated with carriers that ceased operations and the general economic slowdown of the past few years, net airline employment remains substantially above pre-deregulation levels.

The Department has approved a substantial number of route transfers. It is a fact that none of these transactions resulted in labor difficulties affecting the national air transportation system. This important consideration demonstrates that labor and management have been able to resolve issues brought about by these transactions without government intervention.

The Department appreciates that some former Pan American employees who lost their jobs as a result of the airline's termination of all service remain unemployed. We deeply regret this situation. However, it should be noted that a large number of former Pan American employees have obtained new jobs with other airlines. Delta Airlines, for example, has hired more than 7800 former Pan

American employees following the Department's approval of the transfer of route authority from Pan American to Delta. United Airlines has hired almost 4000 former Pan American employees over the last six years. These 12,000 new opportunities were created without the burden of mandatory hiring requirements or other forms of government intervention. We also understand that United plans to offer employment to at least 1000 additional former Pan American employees in connection with its purchase of Pan American's Latin America route authority.

We are encouraged by the willingness of both Delta and United to hire former Pan Am employees and this development provides further evidence that labor issues are best resolved by the parties themselves. I'm sorry I can't say more about the United situation; the Pan American-United route transfer case is before us for decision and related labor matters are at issue.

Against this background, the Administration strongly believes that there is no need for the proposed legislation. Moreover, the Department is equally convinced that S. 1565, if enacted into law, would have an adverse impact on airlines and their employees and would set an undesirable precedent affecting other industries.

First, the bill discriminates against the airlines. No other competitive industry sector is forced to accept LPP's or to hire employees as a condition for approval of asset transfers or sales.

Second, the bill discriminates against employees of financially strong, efficient carriers. It would deny them job opportunities in those situations where their airline must reduce employment or displace existing employees in order to comply with the proposed legislation.

We see no reason to single out the airline industry or their employees for such discriminatory treatment.

Third, the mandatory hiring requirements of the proposed legislation would undermine the ability of labor and management to bargain collectively to resolve issues associated with route transfers. As I just stated, the Administration strongly believes that this is the best way to resolve these issues.

Fourth, the proposed legislation could also significantly raise the cost of assets being acquired because employee hiring costs would have to be included in the total price of the asset. This situation could kill transactions essential to the survival of the seller airline and the jobs of the remaining employees. In these circumstances, the Department would have to reassign the routes involved through competitive carrier selection proceedings, in which there would be no connection whatsoever between the former operator and the new operator.

Fifth, by significantly raising the cost of route transfers, the proposed legislation would also reduce the estate value of an airline, reduce the options available to the selling carrier and creditors, and reduce the ability of airlines to raise capital by borrowing against their assets.

Sixth, the proposed legislation would also lead to time consuming processing delays pending DOT action, arbitration, and then court appeals. Efficient asset transactions and rapid government action would be virtually impossible. Ultimately, the employees would be harmed rather than helped by the proposed legislation.

This concludes my prepared statement, Mr. Chairman. I would be happy to answer any questions you or other members of the Committee might have.