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STATEMENT OF THE HONORABLE FEDERICO PENA
SECRETARY OF TRANSPORTATION
BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON AVIATION
CONCERNING THE FEDERAL AVIATION ADMINISTRATION'S FUTURE
OCTOBER 11, 1995

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to appear today to discuss the steps we must take soon to meet the challenges facing the FAA as it enters the next century. With me is David Hinson, the Federal Aviation Administrator, and Linda Daschle, the Deputy Administrator. We appeared here last February and presented the administration's proposal for FAA changes to this Committee.

When I first took office as Secretary of Transportation, we undertook a comprehensive review of the challenges facing the FAA. Through the fine work of the National Commission to Ensure a Strong Competitive Airline Industry, which was strongly supported by President Clinton, the National Performance Review, and our own efforts at the Department of Transportation, we gained a good perspective of the fundamental underlying problems facing the FAA, as well as the industry and the passengers who rely upon its service.

There has been real and measurable change at the FAA during my administration to address the problems we confronted. I recruited an FAA Administrator, a businessman from the aviation community, who in turn has

brought in new managers. As a result, we have turned around major procurement projects, such as the Advanced Automation System. We have made the agency more fiscally accountable, reducing the work force by 5,000 and paring the annual budget by \$600 million. A new streamlined organizational structure has been adopted, giving the FAA a more businesslike approach to its mission.

However, the challenges to meet the growing needs of the airline industry and aviation in general are still ahead of the agency, not behind. By 2002, we estimate more than 800 million passengers per year will be flying the nation's skies--a 35 percent increase over 1995. The number of commercial operations is expected to increase by 18 percent--to approximately 28 million annually.

However, under the Congressional budget resolution, reductions applied across government during the same time period could reduce the FAA's budget by 15 percent.

It is gratifying to see the level of interest and commitment in Congress to addressing the fundamental issues at the FAA, and we are pleased to participate in a joint effort with this Committee and the Senate's Aviation Subcommittee to bring about the needed changes.

The challenge and responsibility we share is to ensure that the projected growth of aviation--over 300 million more people flying each year in this country within

the next decade—can be handled safely and efficiently. This is important to both the traveling public and to sustained growth in the U.S. economy. We all agree we must address problems in procurement, personnel, and financing.

Procurement: Today, we have a procurement system that makes it extremely difficult to keep pace with new technology. I do not need to repeat for your benefit the extraordinary steps required for every major FAA procurement -- steps not required in the private sector -- that can lead to lengthy delays. This has significantly slowed and complicated the effort to complete the Capital Investment Plan. While H.R. 2276 is comparable to legislation being developed in the Senate to allow the FAA to develop an alternative procurement management system, the Senate measure provides for faster action. I would point out that the Administration's support for procurement reform at the FAA should not be viewed as a precedent for its views on other possible proposals to exempt government organizations from procurement rules.

Personnel: We have an inflexible personnel system unable to match resources with real personnel needs, which makes it far too difficult to staff some facilities, to reward good work, and to deal with poor performance. I have been in the field and visited with the controllers and maintenance workers, hearing of the arbitrary and needlessly complex factors that interfere with efficient placement and advancement of a skilled workforce. In this area, H.R. 2276 also follows the type of approach being considered by the Senate to provide the FAA with the

freedom to design a personnel management system with private-sector-style incentives across the board.

Financing: We have a financing system that simply doesn't allow for long-term planning or timely acquisition. Although the FAA provides a valuable, mandatory service to a major industry in our economy, it cannot undertake the kind of capitalization needed to obtain state-of-the-art technology on an accelerated basis. Of the three problems I have identified -- procurement, personnel, and finances -- ensuring the long-term financial viability of the FAA is a paramount concern. Finding the needed resources to meet projected increases in air traffic over the next seven years, while facing declining budgetary resources under the Congressional Budget Resolution, will be difficult. These budgetary pressures will be with us for the foreseeable future, and, in this time of both diminishing resources and increasing demands, it is crucial that we find an acceptable solution to the FAA's financing needs.

H.R. 2276. -- The Federal Aviation Administration Revitalization Act of 1995

In my view, H.R. 2276 fails to address the fundamental financial issues facing the FAA in an acceptable manner. Indeed, the proposed changes in FAA management and budget treatment could actually undermine the resources needed to ensure aviation safety and, more broadly, overall transportation

safety. Therefore, I would recommend to the President that he veto legislation to make the FAA an independent agency.

I would like to address my concerns in some detail.

Aviation Safety

The independent FAA would be directed by a Federal Aviation Board consisting of three voting members appointed by the President, with the advice and consent of the Senate, and two non-voting members, the Secretaries of Transportation and Defense. The voting members of the board would serve 7-year terms, report directly to the President, and be removable by the President only for "inefficiency, neglect of duty, or malfeasance in office." The President's choices would be restricted to "individuals who are knowledgeable in aviation" but do not "have a pecuniary interest in . . . an aeronautical enterprise" and who are not a member of an organization that substantially influences aviation-related legislation. The board's authority would be restricted to "major policy functions of the Administration," with much of the operational activity left to a Chief Executive Officer.

In addition to the 5-member board, the bill would also create a management advisory committee of 17 members, including four appointments by Congressional leadership and 13 appointments by the Federal Aviation Board to

represent various interested aviation parties. The committee would offer advice and counsel to the FAA on all subjects, including safety matters, and have access to FAA internal documents and personnel.

Assuring the highest levels of aviation safety in the United States has always been a primary responsibility of the federal government, just one of many that fall on the President's shoulders. The universally agreed-on goal is to maximize the ability to take swift, effective, and decisive action whenever needed to assure safety, as in the recent tightening of airport security. Under a single executive, the Federal Aviation Administrator, the FAA's safety record is unequalled across all areas of aviation safety.

The complex, dispersed management structure proposed for the FAA by H.R. 2276 would directly and substantially interfere with the President's ability to assure the highest levels of aviation safety. The proposed 3-voting-member board structure invites indecision and delay. Instead of a single administrator who reports through a cabinet officer, the President could be required to deal regularly with the board, especially the three members who have statutory protections against dismissal, with inevitable vacancies, and even with the possible loss of a quorum to conduct business.

The potential for inefficiency, a slower decisional process, and intra-board politics is real and serious under this arrangement. The legislation would create a

new, full-time entity, equipped with staff and all the other resources of a bureaucracy, yet divided into three spheres of power that would, in all likelihood, soon generate serious tensions over policy matters. We should not compromise in any way the current capability we have to act swiftly on major safety questions, such as the recent need to increase aviation security. Overall, the dispersal of executive branch authority and accountability is highly objectionable because of its potential to degrade safety regulation and substantially diminish executive branch prerogatives to "faithfully execute the laws," thereby raising serious constitutional concerns.

Federal Budget Status

Under H.R. 2276, the independent FAA's budget would be treated uniquely in some respects under title 31 of the U.S. Code and its requirements for a unified budget. Most important, the receipts and expenditures of the Airport and Airway Trust Fund, which finance a large portion of the FAA budget, would not be counted in calculating the annual deficit. Presumably, the goal is to shield the FAA budget from contributing to further deficit reduction but, unfortunately, this can put the remaining safety activities of the Department at risk. At the FAA, this means the half of the Operations budget that comes from the General Fund. "Operations" at the FAA covers a lot of ground -- including the salaries and expenses of safety inspectors and controllers.

The Administration fully supports a unified federal budget based on the principle that the federal budget should present in one place the totality of the federal government's fiscal operations. Therefore, we strongly oppose any attempt to take federal spending "off budget". You are no doubt aware that the Administration strongly opposed an off-budget provision in H.R. 2274, the National Highway System bill, involving the Highway Trust Fund in that case.

Furthermore, if the Trust fund is exempted from budget calculations, the burden of budget reductions would fall more heavily on remaining programs. Moving the Trust Fund programs off-budget would remove about \$7 billion of annual spending from the discretionary caps, placing additional pressure on our other aviation safety accounts and remaining discretionary spending. This could have a devastating impact over the next decade if allowed to occur.

It is possible that the other transportation agencies funded in the DOT Appropriations bill could also absorb some or all of these reductions. In this case, entities such as the Coast Guard, FRA, NTSB, and others would have fewer resources available to them for safety (and non-safety) activities. While we would do our utmost to find alternate activities for reductions, this could seriously derogate transportation safety across the modes.

Diluted Oversight of International, Security and Other Cross-Modal
Transportation Matters.

From a policy perspective, I have serious reservations about removing the FAA's policy and regulatory functions from the Department. Through enactment of laws beginning with the Department of Transportation Act and as recent as the Intermodal Surface Transportation Efficiency Act, Congress and the administration have agreed that a coordinated, comprehensive transportation policy is essential to our mobility and economy. Removing aviation from the equation would result in a disjointed approach to transportation policy and investment that could weaken our economic standing. In our experience, for example, the coordinated actions of FAA "safety certification" staff, both in the field and headquarters, with the "economic operating certificate" activities of my staff, bring better results than when the Civil Aeronautics Board maintained separate jurisdiction over economic certificates. Currently, the FAA also participates fully in Departmental activities involving national security, international relations and negotiation, and economic policy. These functions benefit from inclusion of the FAA, which would be made much more difficult with independent status.

These comments lay out our primary concerns with H.R. 2276. Other aspects of the bill are also troubling, however, including the creation of another free-

standing federal entity at just the time when the government is engaged in the painful process of down-sizing. As we continue to work toward obtaining meaningful reform, we will provide you with more extensive comments on the bill.

Conclusion

In the event there are those who question the need to provide improved procurement, personnel, and budgeting tools to the FAA, they need only look at recent press coverage of the status of our air traffic control system. This year, the American people have heard too many stories of problems with our nation's air traffic control system. The computer glitches, power outages, and aging equipment have all been an unmistakable sign to thousands of delayed passengers and millions of others that, despite the hard work that has been done in the past two years, we need a major overhaul.

I have mentioned that the FAA will be called upon to meet significant increases in the aviation services it provides, despite the potential for dramatic budget cutbacks. Future requirements on the FAA will continue to escalate. We can either meet these requirements head-on by achieving meaningful FAA reform, or we can explain later to the aviation community and the traveling public why the costs of flying have grown, even while passengers and pilots spend more time on the ground waiting for take-off clearance; why it is taking longer to bring new

aircraft and related safety equipment on line, even though the aviation manufacturing community has contributed most strongly to our balance of trade; why aviation safety regulatory actions are not as prompt as they should be, even though everyone may recognize the need for such timely action; why new air traffic control technology and equipment are not being developed and brought on line to meet increased safety and efficiency demands, even though experts may all agree on what's needed and when; and why the government can no longer provide the degree of safety surveillance and oversight needed to assure continued high levels of safety, even though everyone agrees that has been an essential element in creating the world's safest aviation environment.

We must move ahead together rapidly on reform. The FAA needs the freedom to continuously update its technology, to shift personnel more easily to where workers are needed, and to have long-term financing both to provide vital safety and operational services and to bring on new technologies of the future. While we do not think H.R. 2276 provides all these tools, I can assure you of our continued commitment to work with you along each step of the way. I am confident that, working together, we can produce a product that will meet the fundamental elements necessary for effective reform.

That concludes my prepared statement, Mr. Chairman. Administrator Hinson, Deputy Administrator Daschle, and I would be pleased to answer any questions you or other members of the Subcommittee may have.