



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

12/3/70

Honorable George P. Shultz
Director
Office of Management and Budget
Washington, D. C. 20503

Dear George:

As we discussed last Friday, I am very much concerned over the response of the Congress and industry to our current appropriation request for our airport and airways program. I am enclosing a background memorandum outlining the legislative history as well as our current assessment of the political and policy considerations with respect to the Airport and Airways Development Act of 1970.

Sincerely,

S/ John A. Volpe

Enclosure



Airport and Airways Development Act of 1970 Legislative History and Administration Commitment

In May 1969, President Nixon sent a message to the Congress stating the Nation's airport and airways system required additional capacity and proposed additional taxes to cover the cost of expansion. The message proposed a program for construction of airways facilities and equipment at "about \$250 million annually for the next ten years" and an airport development program "of \$180 million in 1970 and \$220 million in 1971 with continued expansion leading to a total of \$2.5 billion in the next ten years." The attached table shows the key financing provisions of the Administration's bill and compares them to the House and Senate revisions and with the bill as finally enacted.

In the Administration's testimony before the House and Senate on the Bill, there were clear statements that the Administration's commitment was to a 10-year airway program with new facility investment of \$2.5 billion and a 10-year airport grant-in-aid program of \$2.5 billion. The Administration's bill stated it to be the sense of Congress that the annual obligational authority for acquisition, establishment and improvement of our navigational facilities should not be less than \$250 million a year. The Administration's testimony also indicated that the "research and development effort underpinning this investment would be in the order of \$600 million" over ten years.

The user tax increases in the Administration's bill were estimated to more than double the receipts from users. The taxes proposed consisted of a 60% increase on passenger transportation, a 450% increase on general aviation fuel taxes, a new international departure tax of \$3.00 per person, and a new tax on air freight of 5%. The taxes were to be deposited in a "designated account" to be used for expanding the air traffic system and for paying the maintenance and operations cost of the civil use of the system.

House Action: The debate centered on the "designated account" concept and the fairness of the proposed tax structure. There was congressional concern that the funds collected might be used for other purposes than intended by the draft bill and as a result the House changed the "designated account" to a "Trust Fund", - to be supported by the user charges supplemented by general fund appropriations to make up the deficit. The House passed the bill essentially as presented by the Administration by a vote of 377 to 6.

Senate Action: Senate hearings emphasized the need for additional airport funds and for contract authority to make funds available sufficiently in advance to facilitate long range planning for the matching shares by local communities. There was also considerable support in the Senate for grants for airport terminal buildings (supported by the air carriers and airport operators). The Administration was able to prevent this. But the Senate did approve contract authority for airport grants. It also passed language intended to establish priorities for the use of funds in the Trust Fund and set minimum annual funding levels for the airports and airways program. The

priorities intended are airports, airway improvements, R&D and the balance to administration, operation and maintenance, in that order. The Senate bill passed by a vote of 77 to 0.

Conference Committee

The Secretary of Transportation wrote the Conference Chairman on the provisions of the two versions of the bill. The letter opposed the contract authority provision and indicated that priorities for a 10-year period appeared to be unwise. The dollar level of airport development proposed by the Senate was also opposed. The Conference reduced the time period for "obligation authority" to three years from five years, reduced the amount of grant-in-aid over the Senate version but retained the language intended to set priorities.

Current Situation

The request by the Administration for supplemental appropriations in FY 1971 to carry out the provisions of the new law has caused renewed concern by the aviation community and some of the members of Congress, as the requested levels, particularly in airport grant-in-aid, fall below the amounts previously discussed. A press conference on November 23, 1970, jointly sponsored by all the principal aviation trade associations claimed "bad faith" and urged additional funding. Public testimony of industry, local governments, and others on November 27, 1970, before the Senate Appropriation Committee reiterated their concerns. The Senate report has not been issued but is imminent.

Legal Considerations

In answer to the question posed, it appears that the Executive Branch is not required to request a specific amount of funding for capital investment. While the enabling legislation for the airport grant-in-aid program sets a total contract authorization level for a 5 year period, the normal appropriations procedure must be followed, and there is no reason why the Congress cannot authorize and appropriate any amount it so elects. By using "not less than" in referring to amounts authorized, the language may be ambiguous. This view may be subject to challenge on a point of order on the floor of the Congress. It appears that there is precedent for the Congress to make the choice of following the Executive Branch request or making their own determination.

Political and Policy Considerations

While it is technically true to say that the commitment by the Administration is for a \$2.5 billion program over 10 years for the airports program with a similar amount for airways, with no specific commitments for the amount to be spent in any one year, there is no questioning the fact that the strong impression was left in the minds of both the Congress and the public that the program level would be uniform -- that is, \$250 million a year. The current accusation of "bad faith" stems from this fact and is heightened by the efforts of the Administration last year to line up unanimous support within the aviation community for the concept of increasing taxes on that community. Regardless of the case that can be made for the less than full

funding in our 1971 supplemental budget request now before the Congress *due*
~~but~~ to the lateness of appropriation action, we will not be able to
re-establish the confidence of the Congress and the aviation community
unless the President's 1972 Budget reflects the full amounts, i.e. \$250
million for airways facilities and \$280 million for airport construction
grants.

Eno

Center for
Transportation

Analysis of Major Differences in Airways/Airports Act

Original Adm. Proposal

1. Airport Grant in Aid
 - a. Planning
 - 1970 - \$10,000,000
 - 1971-1974 - 40,000,000
 - b. State Agencies
 - 1970 - \$ 5,000,000
 - 1971-1974 - 20,000,000
 - c. Development
 - Air Carrier Airports
 - 1970 - 140,000,000
 - 1971 - 180,000,000
 - General Aviation Arpts.
 - 1970 - 25,000,000
 - 1971 - 25,000,000
 - For the years 1972-74
a total program of
\$805,000,000
 - d. No advance obligation of funds.
2. Records
 - Money to be deposited in designated account.
3. Priorities-not stated
4. Revenues
 - 9¢ gen. avia. fuel tax
 - 8% ticket tax
 - 5% freight tax
 - \$3.00 departure tax

House Version

1. Airport Grant in Aid
 - a. Planning
 - Same as Admin.
 - b. State Agencies
 - Same as Admin.
 - c. Development
 - Air Carrier Arpts.
 - 1970 - 150,000,000
 - 1971 - 180,000,000
 - 1972 - 240,000,000
 - General Aviation Arpts.
 - 1970 - 25,000,000
 - 1971 - 25,000,000
 - 1972 - 25,000,000
 - d. No advance obligation of funds.
2. Records
 - Money to be deposited in Trust Fund
3. Priorities-not stated
4. Revenues
 - 7¢ gen. avia. fuel tax
 - 8% ticket tax
 - 5% freight tax
 - \$3.00 departure tax
 - \$25.00 registration fee
 - 2¢ weight tax (rec. eng.)
 - 3 1/2¢ weight tax (jets)

Senate Version

1. Airport Grant in Aid
 - a. Planning
 - 10 yrs. @ \$15M/year
 - b. State Agencies
 - None
 - c. Development
 - Air Carrier Arpts.
 - 10 yrs. @ \$70,000,000/ year.
 - General Aviation Arpts.
 - 10 yrs. @ \$30,000,000/ year.
 - d. Advance obligation of funds (5 yr. contract authority)
2. Records
 - Same as House
3. Priorities - implied
Airports/Airways-R&D
4. Revenues
 - 6¢ fuel tax
 - 7.5% gross receipts tax
 - 5% waybill tax
 - \$3.00 departure tax
 - 2¢ weight tax (rec.)
 - 3 1/2¢ weight tax (jet)
 - More than 4-place arcft.

Public Law 91-258

1. Airport Grant in Aid
 - a. Planning
 - 5 yrs. @ \$15M/yr.
 - b. State Agencies
 - None
 - c. Development
 - Air Carrier Arpts.
 - 5 yrs. @ \$250,000,000/ year.
 - General Avia. Arp.
 - 5 yrs. @ \$30,000,000/ year.
 - d. Advance obligation of funds (3 yr. contract auth.)
2. Records
 - Same as House
3. Priorities - Same as Senate
4. Revenues
 - 7¢ fuel tax
 - 8% ticket tax
 - 5% waybill tax
 - \$3.00 departure tax
 - \$25.00 registration tax
 - 2¢ weight tax (rec.)
 - 3 1/2¢ weight tax (jet)
 - Arcft. below 2500# exempt.

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