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THE WRIGHT AMENDMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

NOVEMBER 10, 2005

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ONE HUNDRED NINTH CONGRESS

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THE WRIGHT AMENDMENT

THURSDAY, NOVEMBER 10, 2005

U.S. SENATE,
SUBCOMMITTEE ON AVIATION,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:25 a.m. in room SH–216, Hart Senate Office Building, Hon. Conrad Burns, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Good morning. We'll call the Committee to order. It is the witching hour, maybe a couple of minutes early, and I have some colleagues on the way, but we've got a lot of ground to cover, and we've got votes at 11:30, and we're trying to round up and get everybody out of this town by the middle of next week.

[Laughter.]

Senator BURNS. Well, it's OK to dream a little here, and it's OK to be optimistic. I have a statement that will be submitted by Senator Rockefeller this morning, as he has a conflict. And we'll put that in the record.

[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Mr. Chairman.

When the cities of Dallas and Ft. Worth agreed to build Dallas/Ft. Worth International Airport in the late 1960s, it was agreed that each city would decommission its own passenger-service airports. However, Dallas's Love Field was a busier airport than Fort Worth's and in a more desirable location, and so several entrepreneurs saw opportunities for keeping it open, most notably Southwest Airlines. Prior to the opening of DFW International Airport, Southwest Airlines appealed to the courts to keep Love Field open so that it could continue to operate from there. In 1973, the courts granted Southwest Airlines the right to continue to operate intrastate service within Texas out of Love Field, thus preventing the airport from being closed.

After deregulation of the U.S. airline industry in 1978, Southwest Airlines was able to enter the larger passenger markets and announced plans to start providing service outside of Texas in 1979. In 1979, Congress passed legislation which originally limited traffic from Dallas's Love Field airport to points within Texas, Louisiana, Arkansas, Oklahoma, and New Mexico. In 1997, the law was changed to expand the limits to include the States of Kansas, Mississippi, and Alabama. I would note that this Committee did not approve of the changes to the law, but rather the Appropriations Committee as part of annual spending bills made these changes.

The deregulation of the airline industry has brought fundamental changes to our country. In many ways deregulation has been an unqualified success. Average air fares are lower today than they were 20 years ago. Southwest Airlines is certainly

the industry's shining example of what deregulation hoped to achieve—greater competition and offerings for consumers. However, as Southwest expanded from its Texas base, it understood that certain limitations were set in place to foster the growth of air service from Dallas/Ft. Worth International Airport. The restrictions on operations out of Love Field are similar to the conditions on serving Washington's National Airport and New York's LaGuardia Airport. Every carrier who serves these airports understands the federally mandated restrictions that are associated with each facility.

Over the years, I have heard complaints that each of the rules governing operations at these three airports is unfair and stifles competition. However, I have opposed and Congress has consistently rejected efforts to undermine these restrictions because they fulfill other important national aviation policy goals—making sure America's small communities have access to these three airports.

Although deregulation benefited a great number of people in large urban and suburban regions of our country, it has resulted in the loss of air service to countless small and rural communities. For example, five of seven commercial airports in West Virginia rely on federally subsidized air service as airline after airline has ceased service to them.

The only way that many of these communities have retained access to the national aviation system after deregulation is because deregulation also fostered the creation of a new business model—hub-and-spoke networks. Network carriers provide service to hundreds of small cities in order to feed passengers into hub airports. American Airlines created and then perfected this business model that all major carriers subsequently adopted. This allows a passenger in West Virginia to fly to Dulles, Detroit, Atlanta, or Houston and then onto the rest of the world.

Southwest Airlines followed a different path and arguably a more financially sound one over the years. They chose to serve larger communities but from secondary airports. Although this service strategy is just one part of a number of innovative and forward thinking business decisions, no one can doubt that the selective service patterns of the company play a large part in its success. Over the last decade, the industry has seen a number of companies emulate the business model of Southwest with varying degrees of success. No question exists that Southwest has forced the entire industry to become more efficient.

Unfortunately, this business model means that Southwest or its low-cost emulators will likely never serve communities like Charleston, West Virginia or Bozeman, Montana. I want to commend Southwest and its employees for the tremendous success they have achieved. I do not mean in any way to criticize the company. I do not blame them for making financial decisions in the best interests of their company, but I must support policies that make sure my state's communities continue to have air service and access to critical airports. Many airlines have made significant business decisions and sizable investments based upon the parameters that exist as a result of these rules. Any change could upset the financial health of the industry and impact the service of the national airspace system.

It is for this reason that I cannot support lifting the current restrictions on operations out of Dallas Love Field. I believe that lifting the amendment would decrease service to small communities that currently have access to Dallas/Ft. Worth International Airport. I also oppose the piecemeal dismantling of the restrictions on Love Field through the appropriations process. I will also strenuously oppose any attempts to lift the perimeter rules at Washington National Airport and New York LaGuardia Airport.

In addition, I believe that before this Committee considers any changes to the Wright Amendment we should hear from the Federal Aviation Administration and Transportation Security Administration as to how they would react to a major expansion of Love Fields' infrastructure and passenger load. I am not clear that either agency has the resources to make sure that safety and security can be maintained, especially in light of the significant funding cuts the majority imposed on TSA.

I would also note that as far as I can observe. the crisis in commercial aviation continues unabated. None of the legacy airlines are making any money. The pressures of low fares and high fuel costs continue to prevent a real recovery. Even the financial futures of low-cost carriers such as Southwest are questionable in light of high fuel prices.

Over the last several months, I have met with a number of airline CEOs, union leaders, and others regarding the steps Congress needs to take to help stabilize the commercial airline industry and return it to profitability, I had a number of frank and honest discussions. Unfortunately. there is no easy answer, but there are things Congress can and must do. If we fail to act, small communities across West Virginia, and the country, will be left without air service.

To address a number of immediate financial issues with the industry, I have introduced legislation to help airlines deal with their pension obligations and to extend the FAA's war risk insurance program, and I have opposed the Administration's proposed increase in the aviation security fee. Unfortunately, the pension bill is stalled and this Committee has not acted on the war-risk insurance provision.

Although these actions are important to returning the industry to financial health, they are not enough. Although this Committee has held a number of hearings on aviation issues, we have not begun to explore what policies we should be adopting to make sure that the commercial aviation industry remains financially viable. I am not sure that a discussion over the Wright Amendment is an area where Congress needs to spend a great deal of time.

I believe we need to start developing new thinking about how to approach the problems in the airline industry if it is going to survive and that may mean rethinking the government's role in aviation—I am not suggesting full on re-regulation but something has to change and I hope the Committee spends a great deal of time on the real issues affecting the industry and the aviation system as a whole.

Senator BURNS. First of all, I want to thank the panels for coming this morning. We appreciate those who have come up to join us. Also, we feel like we're caught in a Texas ambush here a little bit. Nonetheless, we're going to take a look at this situation as best we can.

I want everybody to remember that this is a Senate proceeding. The topic, I know, sparks a lot of emotions and we want to get as much information out of this hearing as we possibly can. And, of course, we do have the votes coming up, and we've got a lot of ground to cover.

Congress enacted the Wright Amendment as a part of the International Air Transportation Act of 1979. It was designed to protect the interest of both Dallas/Fort Worth, the DFW Airport, and Southwest Airlines. The amendment contains a general prohibition on interstate commercial aviation to and from Love Field in Dallas, Texas, with a few exceptions.

Over the years, the Wright Amendment has been considered a compromise between all interested parties. Today, following the terrorist attacks of 9/11 and the Delta dehubbing at DFW, we find ourselves revisiting the circumstances and original intent of the Wright Amendment. Over the last year, we have seen a flurry of studies and posturing bringing us to this hearing today.

While I look forward to the testimony from the panels, I would like the record to show that I believe this issue should be looked at in a larger context. The current FAA reauthorization bill is set to expire September of 2007. This issue should be considered in an overall comprehensive forum. This issue, while much of the controversy surrounding the possible repeal of the Wright Amendment is local and regional, it will certainly affect our entire aviation system.

I welcome our colleagues here today: Senator Bond and Inhofe, along with Representatives Johnson, Granger, and Hensarling—I'll get it one of these days; I've only known you for a hundred years. And we're glad that you could join us today.

And, finally, I'd like to also acknowledge the leadership of Senator Hutchison on this issue. We have worked very close to trying to solve this problem. And this seems to be hanging over all of us, and she has worked very, very hard in finding some common ground here and to solve it with fairness to everybody. And I'm glad she was able to join us today.

So, I would ask her if she has a statement and I thank her for coming today.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Thank you, Mr. Chairman.

I want to thank Senator Burns for agreeing to hold this hearing. This is a very complicated issue. It's one that's very difficult to explain to Congress, because it has so many local concerns and, certainly, consequences.

I do think that having this hearing with all sides represented is a positive step, and I do hope that we can put into context the many myriad of issues that are at stake here.

When Dallas/Fort Worth was told by the Federal Government, more than 30 years ago that they would have to have one regional airport, this was done so that the Federal Government would not have to support two major airports, and it was done because Fort Worth was a growing city and area, and a regional airport that was halfway in between was considered to be the best policy. So, in 1968, after years of difficult negotiations, the cities did agree to build DFW Airport.

All the airlines then serving Love Field, and Fort Worth's Greater Southwest Airport, agreed, in writing, to move service to the new DFW Airport. The Fort Worth Airport was closed, but Love Field remained open.

In 1973, Southwest Airlines then stated its desire to operate out of Love Field and won the ability to operate an intrastate airline. The Wright Amendment then came in after a court order and in a compromise—it was passed by Congress—that allowed service to the four contiguous States from Dallas Love Field, in addition to the intrastate service. The Wright Amendment actually opened up Love Field, as opposed to the view around here that it is actually a limitation.

Then, just in the last 3 years, Senator Shelby added, through the appropriations bill, Mississippi, Alabama, and Kansas. This Committee did not assert its jurisdiction. Now the Appropriations Committee is in the process of adding Missouri.

I think it is very important, Mr. Chairman, for this Committee to assert its jurisdiction and to come up with the right answer, but I want to say that I believe the local community leaders in Dallas and Fort Worth should be the ones to come up with the right plan. I think it puts you and this Committee and the Appropriations Committee and everyone involved in a very bad situation to try to dictate from here what is right for the citizens of North Texas, the people who live near Love Field, the people who use Love Field, the passengers who use Love Field, as well as those who use DFW and support DFW. We do need to understand how changing the Wright Amendment would affect neighborhoods, would affect the economy of North Texas, and the smaller cities in Texas. We did not have the ability in this hearing to bring mayors of cities like Abilene and Amarillo into this hearing. That is a very important component of this whole issue, because many of them also are affected by a change in the Wright Amendment.

So, I do think it's an issue that should be decided in Texas. I think that will require leadership on the part of community leaders, as well as the two major businesses involved. Southwest Airlines and American Airlines are two of the biggest employers in our region. It puts all of us in a horribly difficult position to try to do what's right for all the people who work at these two airlines and what's right for all the citizens who live in this huge Metroplex.

So, Mr. Chairman, this is a major first step. I appreciate your doing it. I know that you, too, are in a difficult position. I hope that—I hope that all the people who are festering for a change in the Wright Amendment will listen to what is said in this hearing, regardless of the side you're on. But I hope that those of you who are testifying today will not just leave, walk out, and not know all the things that have been said. And particularly, Senator Bond, who is the Chairman of the Appropriations Committee, I hope you will hear the testimony from all the witnesses today as you move forward with your very key position here.

So, having said that, I will stop and start listening to the witnesses myself. And I thank you, again, Mr. Chairman, for beginning to open up the issue that won't go away.

Thank you.

Senator BURNS. I don't know whether to thank you or not.

[Laughter.]

Senator BURNS. But I thank you for your hard work.

And let me also say that I go back in airlines a little ways. I have a working knowledge of them, because I can remember, when we started writing tickets. We didn't have computers to write tickets then, you had to write them out. On a ticket counter in Kansas City, saying, "Well, now, do you want to go to Dallas, or do you want to go to Amon Carter Field in Fort Worth?" So, we go way back in this airline industry. I guess I'd still be in Kansas City if I'd got what I was shooting for, but I ended up back in Montana.

And I think, today, we want to come up with the right plan from the Wright Amendment. We're going to have to start—when you say "right," you're going to have to spell it out. Does it start with a "W" or an "R" this morning? So, it'll be interesting.

Senator Inhofe, I welcome you to the Committee this morning, and we look forward to your comments. I will tell you that I would keep our statements as short as we possibly can. We've got a lot of territory to cover this morning. Your complete statement will be made part of the record. And we welcome all of the Congressional representation that's at the table this morning.

Senator Inhofe?

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM OKLAHOMA

Senator INHOFE. Thank you, Mr. Chairman. I appreciate your allowing me to go first. I chair the Environment and Public Works Committee, and I'm chairing a committee right now, in the next building, supposedly. So——

Senator BURNS. Would you get that under control up there?

Senator INHOFE. Yes, we'll do that. You control yours, I'll control mine.

[Laughter.]

Senator INHOFE. We have Barbara McNally, who's here today, Mr. Chairman. She's the Airport Director of Lawton Municipal Airport. And I appreciate her being here, because she has a pretty big dog in this fight, too. And, contrary to what a lot of people think, this is not an argument, a debate, over the legacy carrier, American Airlines, and the discount carrier, Southwest. It has a lot to do with the investment in infrastructure.

You know, I chair the Environment and Public Works Committee. We had the highway bill that came out, and one of the major considerations is locating our transportation systems, our highways, and not changing the rules as time goes by. The same thing is true with aviation infrastructure. It's no different at all. Not only is it cost prohibitive for a community to allow an individual business to decide, after the fact, they want to reconfigure the transportation asset, but it affects the economies of the communities outside, as well as the immediate area.

The communities of Dallas and Fort Worth, as a result of the airlines serving Love Field, agreed to en route all Dallas traffic to DFW. I think Senator Hutchison covered that very well, and I won't be redundant about the history of how we got where we are today. But, at the time, I would like to, and try to stay within a timeframe here, talk about—the controversy surrounding Love Field for commercial aviation is not new. Southwest has opposed restrictions in the past, and it's something that will take place in the future. I would comment, though, to my good friends at Southwest—and, by the way, I have to say this, I have the utmost respect for Herb Kelleher. If I were in his position, I'd be doing exactly the thing that he's been doing. They've been able to carve out special deals. In 1971, 1972, 1973, and 1979, when the Wright Amendment came along, they said, "Well, let's make a deal here." When they started out, they were a intrastate airline. They just operated in the State of Texas. Then when they started operating out of the State of Texas, that's when the Wright Amendment came, and that's why we, in our State of Oklahoma, as one of the original five States that was agreed to, they'd have to stop in order to go beyond that boundary, that seemed to be something that was fair, and, quite frankly, it fit Oklahoma's needs very well. And I think American Airlines and other airlines adapted to that.

Now, I've heard the arguments in terms of, "We want competition, we don't want the anti-free-enterprise." I think every Senator in here knows that no one has a better record on free enterprise than I do, and I was ranked Number One in the Senate for that by HUMAN EVENTS just the other day. And I have never thought it was Government's responsibility to favor one business over another. It's totally appropriate for a Government to set parameters around where and how infrastructure is used.

Now, as Southwest has grown, so has the desire to get more nationwide nonstop service. And I can understand that. Unfortunately, this would violate both the word and the spirit of the Wright Amendment in original communities' agreement and, frankly, what Southwest agreed to at that time. If the decision is made to allow nationwide flights into and out of Love Field, businesses, which made decisions on the understanding that DFW was the

commercial aviation hub in that region, will have the rug pulled out from under them.

The key to continued private-sector investment in transportation infrastructure is certainty, to know that if you have a rule, that it's going to be there, and that no one's going to be violating that rule. And if Government changes the playing field, the private-sector investment in public projects will appear most risky and less inviting. And not only is a change in the rules unfair, it sets a terrible precedent that will hinder future private investment.

I've never objected to Southwest's current seven-states service, even though that grew from five to—from four to five to seven. But the legislation introduced by my good friend, one of my best friends, Senator Ensign, from Nevada, proposes opening Love Field to nationwide long-haul flights. And I think that the consumers in rural communities have a lot to do with this. Certainly, my State of Oklahoma would be adversely affected.

And let me just, kind of, tell you, I do have a parochial dog in this fight, and it's a pretty big one. In fact, I have two.

First of all, we have American Airlines, which is our eighth-largest employer in the State. We want to do what we can to be fair with them. We don't want to legislate them out of business.

Second, we have the American Airlines that gives service—we have, currently in Oklahoma, 12 daily flights from my city of Tulsa, in and out of Dallas; nine from Oklahoma City, in and out of Dallas; six from Lawton, in and out of Dallas. And I don't think anyone questions that if something were to happen and the Ensign amendment—or legislation were to become a reality, that we would lose a lot of that. And people will say, "Well, wait a minute, Southwest would come in and pick up the slack." That's not true. We have excellent service with Southwest, but let's keep in mind, we have it because in order to go to Phoenix, Chicago, St. Louis or Kansas City, they have to stop in Oklahoma. And so, it's a no-brainer, we would lose service, and I think we all know that.

I think it's important, if long-haul nationwide flights from Love Field were to become legal, American would be forced to compete with Southwest by offering flights to similar destinations out of Love Field. Why is this? If you look at the traffic that travels to Oklahoma, two-thirds of that traffic lives closer to Love Field than it does DFW. And so, American would be forced to go in there and have two operations after this change were made. So, that's a very difficult thing for us to deal with.

And I would say, also, that I know that there are some people from Texas that are very frustrated by this, but I would like to comment on something that I just found this morning. It was a May of 2005 study that says—and I'll quote from it—it said, "Independent analysis has shown that, in addition to the 220 flights lost by Delta Air Lines' recent departure from DFW, repealing Wright would cost DFW Airport some 204 flights a day, 21 million passengers annually, and slash airport passenger traffic back to levels seen 20 years ago. DFW would not recover for nearly 2 decades."

So, finally, I believe, Mr. Chairman, that DFW has undergone a multibillion dollar facelift over the past several years. If the decision is made to allow increased operations at Love Field, one has to wonder about the billions of dollars already invested in DFW.

Really, that's their problem more than it is our problem, in Oklahoma. Our problem, in Oklahoma, is service that we could lose, and that's something that we don't want to lose.

Let's look, just for a minute, at some of the other places. Denver International Airport went through the same thing. There are—people are saying, "All right, I'd like to have a special deal"—I'm not saying it was Southwest, but some said, "I'd like to have a special deal carved out to me so we could use Stapleton and everybody else go to Denver." Well, they wanted to make sure that didn't happen, and they plowed up their runways, Stapleton. Same thing happened up in Seattle, on Sea-Tac. People wanted to have a special deal to use Boeing—the Boeing Field up there. They were denied that, because of the concept of having to have a regional airport.

So, this is not the only place that this is happening, and I would just say that there have been a lot of special deals that have been carved out for Southwest Airlines, and I know that they've done a good job of negotiating. They've been winners. But we're now to a point where we're going to have to say, you know, expanding this from intrastate and then to five States and then to seven States, now others are wanting to get in—I understand the Senator from Missouri would like to be included in that, also—I think it's time that we make a decision. And, you're right, Senator Hutchison, we need to bring this thing to closure in some way. And I'm thinking that if Senator Ensign's bill would pass, what would open it up all over, and we know the consequences. I know that they would be in Oklahoma. If my bill passes, then that would force Southwest to go and compete with everybody else at DFW. And maybe, just maybe, the status quo is a better deal. It's working out fairly well right now. We might—I'd want the Committee to consider maybe that would be a good alternative.

Again, I appreciate the opportunity to testify in this very significant matter that affects my State of Oklahoma, Mr. Chairman.

[The prepared statement of Senator Inhofe follows:]

PREPARED STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM OKLAHOMA

Thank you, Mr. Chairman, for an opportunity to share with you my views on proposed changes to operations at Love Field in Dallas, Texas.

Before I share my thoughts regarding the Wright Amendment, I would like to point out to the Members of the Committee that Barbara McNally, the Airport Director for the Lawton Municipal Airport in Lawton, Oklahoma, is here this morning. The community of Lawton has a very vested interest in the outcome of our discussions today because Lawton will likely lose commercial air service if Love Field is opened up to long haul traffic.

Contrary to what many believe, the controversy surrounding proposed operational changes at Dallas' Love Field is not about a legacy carrier, American Airlines, versus a discount carrier, Southwest. It is rather about the ability of a community to determine where and how they invest their limited infrastructure dollars.

As the Chairman of the Environment and Public Works Committee, I have a first hand knowledge of how difficult it is to fund and maintain infrastructure. The location of a major highway affects economic decisions in the private and public sector. Businesses make decisions on where to build and maintain facilities based on the location of a highway, likewise, transportation planning choices determine community development. Furthermore, once the road is built, businesses who chose to locate outside the immediate vicinity of a major transportation asset know they likely are increasing the operational costs of their business.

The location of a community's aviation infrastructure is no different. Not only is it cost prohibitive for a community to allow an individual business to decide after

the fact they want to reconfigure a transportation asset, but it effects the economies of communities outside of the immediate area as well. The communities of Dallas and Fort-Worth decided to build Dallas/Fort Worth Airport (DFW). As a result, the airlines serving Love Field agreed to re-route all Dallas commercial air traffic to DFW. This is certainly not unusual. In fact, when the new Denver International Airport (DEN) was built, there was an agreement reached that all flights, both commercial and private into and out of Stapleton Airport would cease and other smaller airports in the surrounding area were limited in their operations. To further protect the investment of the new airport, the runways at Stapleton were destroyed so the decision to close Stapleton could not be revisited. The reason, much as the thinking in Dallas, was the community had made a choice to invest limited infrastructure dollars for a major asset at DEN and all commercial aviation operations in this region needed to use DEN.

Controversy surrounding the use of Love Field for commercial aviation is not new. Southwest has long opposed restrictions at Love Field and special allowances have been made for them. In December of 1968 the DFW Airport Use Agreement was reached in which air carriers agreed to move to the new regional airport. Because Southwest began its intrastate service from Love Field in 1971, it was not part of that agreement and did not feel bound by it. In 1972, the Regional Airport Board and the communities of Dallas and Fort Worth sued Southwest to force them to use DFW. In 1973, the Court granted Southwest the right to remain and offer intrastate air service at Love Field.

All interstate flights into and out of the Dallas/Fort Worth region were being handled by DFW until 1979 when Jim Wright, then the Majority Leader of the U.S. House, carved out a special exception allowing interstate flights from Love Field to a list of what is now seven states, including Oklahoma. This exception, is known as the Wright Amendment.

It has been proposed that the protections for DFW memorialized in the Wright Amendment are no longer necessary. DFW is well established and therefore no longer needs the protection. Furthermore, allowing nationwide flights into and out of Love Field is good for consumers because it will provide greater competition. Finally, it is argued that the Wright Amendment is anti-free enterprise because it is artificially holding down one segment of an industry, namely Southwest. I respectfully disagree.

I believe my credentials as a free enterprise, pro-consumer advocate are well established, so I won't enumerate them, except to say that I do not now nor have I ever in my 40 plus years of public service thought it was the government's responsibility to favor one business over another. I do believe however, that it is the responsibility of government to build infrastructure for public use and as such it is totally appropriate for government to set parameters around where and how that infrastructure is used.

As Southwest has grown so has their desire for nationwide nonstop service in and out of Love Field. Unfortunately, this would violate both the word and spirit of the Wright Amendment and the original communities' agreement, and frankly what Southwest agreed to at the time. If the decision is made to allow nationwide flights into and out of Love Field, businesses which made decisions on the understanding that DFW was the commercial aviation hub in that region will have the rug pulled out from underneath them. The key to continued private sector investment in transportation infrastructure is certainty. If the government changes the playing field, private sector investment in public projects will appear more risky and less inviting. Not only is a change in the rules unfair, it sets a terrible precedent that will hinder future private investment.

I have never objected to Southwest's current seven state service from Love Field. But, legislation introduced by Sen. John Ensign (R–NV) proposes opening Love Field to nationwide, long-haul flights, something that would ultimately not only cost my State, but I believe consumers from rural communities who depend on links to major hubs.

Allow me to illustrate this point by explaining how increased service out of Love Field will effect Oklahoma. Specifically, expansion of service out of Love Field will likely affect jobs and air service between DFW and Oklahoma communities. Some may not realize, but American Airlines is Oklahoma's eighth largest employer. Moreover, our State's economy depends on the worldwide access afforded to us by connections through DFW. Currently, Oklahomans enjoy 12 daily flights between Tulsa and Dallas on American Airlines, as well as nine daily flights between Oklahoma City and Dallas and six daily flights between Lawton and Dallas. However, if Southwest is allowed to fly nationwide from Love Field we can expect a stifling decrease in American Airlines' daily service to Oklahoma communities. Some may believe, "no problem, Southwest will pick up the slack." Unfortunately, this is not

the case. If Love Field is opened up, Southwest would no longer have to stop in Oklahoma and it may not be in Southwest's best economic interest to increase their service to Oklahoma, or for that matter other rural communities that are served by regional carriers feeding into DFW. The Southwest business model is successful as a point to point service and frankly smaller communities lose under that scenario.

Certainly there is nothing sacred about the hub and spoke system and likewise, any carrier who chooses to operate outside of this system is free to do so. But for rural communities, the hub and spoke system that feeds regional carriers into a larger hub is the only reason they have commercial air service. Point to point service makes no economic sense, thus carriers using point to point tend to avoid smaller markets.

The explanation is simple. If long-haul nationwide flights from Love Field were to become legal, American would choose to compete with Southwest by offering flights to similar destinations out of Love Field. It is worth noting that approximately 60 percent of American Airlines' DFW travelers live closer to Love Field than DFW, thus they would have no option but to compete with Southwest. As a consequence of offering new flights from Love Field, American will be forced to free up resources within their system to equip their new service offerings at Love Field. In a matter that is purely economic, those American Airlines' resources could be pulled from less profitable flights to Mid-western cities like Oklahoma City, Tulsa, and Lawton, thereby decreasing the frequency of flights or eliminating them altogether.

While I cannot predict how Southwest might change their service in response to opening up Love Field to long haul flights, we must be honest with ourselves. Currently some Southwest flights from Love Field to Oklahoma City and Tulsa are due to the Wright Amendment. However, if Southwest were allowed to fly direct from Love Field to Kansas City, St. Louis, Las Vegas, Phoenix, or anywhere else in the U.S. without stopping in Oklahoma, do you think they would? If you look down the road and consider these airlines' likely reactions to opening up Love Field to all flights you will see it is the small rural consumers currently linked to DFW for service outside of the region that lose.

Finally, DFW has undergone a multi-billion dollar face lift in the past several years. If the decision is made to allow increased operations out of Love Field, one has to wonder about the billions of dollars already invested at DFW and what the future investment of Love Field will be as it undoubtedly will expand to handle increased traffic. Unlike Chicago or New York where capacity is limited and two airports make sense, capacity at DFW is not an issue. In fact, there are 24 empty gates at DFW that Southwest could occupy and thereby fly to any city they choose. What is being contemplated is undoing decisions made in the past and shifting major infrastructure dollars from one facility to another because at this point in time it appears to be expedient. If that is where we are headed, then I have to wonder who is next. Certainly Seattle community leaders have recently confronted this issue and have chosen to protect their investment at SEA/TAC and not allow close-in Boeing Field to be opened up for Southwest Airlines' benefit.

In closing, I would acknowledge that Oklahoma certainly will be affected regardless of how the Committee decides to respond to requests for operational changes at Love Field. That is why I introduced S. 1425, "The True Competition Act" as a counterpoint to the Ensign legislation. However, I hope the Members of the Committee will look beyond the dueling Wright Amendment bills and consider how resolution of this issue will set a precedent for every community and the decision they have made or will make regarding aviation infrastructure.

Maybe the status quo is the best deal. Do not forget, Southwest has already been given special consideration. First in 1973 when the Court allowed them to continue their intrastate operation out of Love Field and then in 1979 when the Wright Amendment allowed them to operate interstate flights to the five contiguous states of Texas, Louisiana, Arkansas, Oklahoma and New Mexico which was expanded in 1997 to include Alabama, Kansas and Mississippi.

Thank you.

Senator BURNS. Thank you, Senator.

We've been joined by Senator Lott, who chairs Surface Transportation leadership on the Commerce Committee, and Senator Ensign. Do you have a statement?

STATEMENT OF HON. TRENT LOTT,
U.S. SENATOR FROM MISSISSIPPI

Senator LOTT. I'm just looking forward to hearing the witnesses.

Senator BURNS. I'm going to go back and forth, Senator Ensign. Senator Nelson has joined us from Nebraska. And thank you for coming this morning.

Senator BEN NELSON. Thank you, Mr. Chairman. I appreciate the opportunity to be here today. And I, too, am interested in hearing the testimony.

Senator BURNS. Senator Ensign, thank you for coming this morning. And you have the proposed legislation.

STATEMENT OF HON. JOHN ENSIGN,
U.S. SENATOR FROM NEVADA

Senator ENSIGN. Thank you, Senator Burns.

I'll just make a couple of brief comments and ask that my full statement be made part of the record.

We all know the history of the Wright Amendment being on the books for 26 years. It's interesting what Senator Inhofe was just talking about, about the flights in and out of Oklahoma, and being concerned about that. When American Airlines pulled a lot of their flights out of Reno, Nevada, a few years ago, they were doing it because of a business plan. And, while we objected to it, because most of those flights were full, and we tried to make the argument, we didn't legislate what they should, or should not do. And Reno, in that period of time, has increased flights from other areas. What American had done is bought Reno Air, and then discontinued a lot of the service out of there. People locally, understandably, were very upset, but, in the long run, it's worked out just fine. The market is taking care of it.

The United States, we all know, we haven't built new airports. OK. Our big airports are getting busier and busier and busier. The next new airport that is slated to be built is actually slated to be built in southern Nevada. We're not going to close McCarran. We're actually going to open a second airport and let them operate together. One is more of a reliever airport, but it'll continue to grow. Unfortunately, it'll be 2017 before that airport is built.

All of us—the flying public flies and has increased delays because of—the larger airports are getting larger and larger. And we sit on the runways. I was in Atlanta the other day, and there must have been 20 airplanes in front of us. And that's becoming a bigger and bigger problem. And the bigger airports cause more of that.

So, DFW is a world-class airport. I don't think it needs—personally, don't think it needs protection from anybody. But, I want to address that customer that's coming from Texas that maybe wants to go to my State, southern Nevada. It is absolutely ridiculous, when they have to go—say, they want to go to Las Vegas. They go through Albuquerque. And they have to actually buy a ticket—a roundtrip ticket to Albuquerque. They have to get off the plane in Albuquerque, go back out of security, recheck their baggage, and they have to have another ticket from Albuquerque to Las Vegas. And, by the way, if they do that, Southwest Airlines can't even tell them that they can do that. They're not allowed, under the Wright Amendment, to tell them that they can do that.

And this is really a question of the flying public and the convenience of the flying public to make the decisions based on what they want. And I am a free-market person, and I believe in infrastructure. I think that that's important, that the Government builds infrastructure for the public to be able to fly. But, in this case, the Wright Amendment was set up a long time ago, has had its effect. I just believe that the Wright Amendment has outlived its usefulness, and it's time to reflect more of the reality of the marketplace today, just as I believe that the perimeter rules at a few of our eastern airports need to be done away with, as well. I think that we need to have more competition. I think it's healthy for the airlines. I think it's healthy for the flying public. They get better deals at better prices with better service. And that really is the purpose for the repeal of the Wright Amendment that I have put forward.

Thank you, Mr. Chairman.

[The prepared statement of Senator Ensign follows:]

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Mr. Chairman, Senator Rockefeller, thank you very much for holding a hearing today on the Wright Amendment, an issue that affects airline passengers across America. I would also like to thank the participants on today's panels for coming before this Committee and sharing your unique and varied perspectives on this issue.

The question at the heart of the Wright Amendment debate is whether we should allow the free market to dictate the course of competition or whether we should allow an outdated law to impose unnecessary government restrictions on the flying public.

Today, if my constituents in Las Vegas or Reno wanted to fly to Dallas on Southwest Airlines, they would have to purchase two different tickets because of the Wright Amendment—one from Nevada to Albuquerque and one from Albuquerque to Dallas. Then, when they got to Albuquerque, they would have to get off the plane, pick up their bags, check-in again with the second ticket, go through security a second time, and then board the same plane to continue on to Dallas. This makes little sense to me, but the Wright Amendment makes it the law of the land.

The Wright Amendment has been on the books for 26 years. During those years, Dallas/Fort Worth International Airport (DFW) has become the third busiest airport in the world. It has six times as many gates as Dallas Love Field, is ten times busier, and is fourteen times the size of Love Field. Defenders of the Wright Amendment try to put forward the argument that DFW would unduly suffer because of competition from Love Field and should be protected. DFW is a world-class airport and does not need protection from anyone, least of all from Dallas Love Field. While perhaps it made sense in 1979 to try and protect a fledgling DFW, this arcane law has now created an anti-competitive atmosphere in the North Texas region. It is clear that the Wright Amendment is an idea whose time has gone.

When the Wright Amendment was enacted into law in 1979, it effectively gave an air travel monopoly over the North Texas region to the then-new DFW. The Wright Amendment today limits interstate flights to and from Love Field to only seven nearby states, thus propping up DFW as the only long-haul airport for the region. The Wright Amendment is so arbitrary that it allows flights from Love Field to Albuquerque, but not to Kansas City which is over 100 miles closer.

In addition to the perimeter restrictions, Love Field is uniquely burdened with "through-ticketing" restrictions. No other airport in the country is subject to these marketing prohibitions that restrict commercial free speech.

I want to mention that I understand this is a contentious issue with many passionate advocates on both sides. I have spoken with many of today's panel members, as well as with Senator Hutchison, a Member of this Committee and the senior Senator from Texas. The Wright Amendment has a long history in the Dallas/Fort Worth Metroplex and it greatly affects that community, but the Wright Amendment affects nearly *every* American, including my constituents in Nevada. Air travelers across the country pay higher fares and have fewer available flight options because the Wright Amendment artificially restricts market competition. This is not just a Texas issue; it is indeed a national one.

As we hear testimony today from both sides of the issue, it is important to keep in mind that this is not a debate about the respective merits of Southwest Airlines and American Airlines. This is about whether or not it is appropriate for the Federal Government to meddle in the free market. It is the policy of this country that the Federal Government should not create barriers to competition in the airline industry, which is exactly what the Wright Amendment does.

The Airline Deregulation Act of 1978 established that policy and, since the enactment of that landmark legislation, Americans have enjoyed much lower fares and greatly increased service. Deregulation has made the airline industry the most competitive industry in the Nation, and consumers have benefited tremendously.

In an effort to bring the positive forces of deregulation to North Texas, Senator McCain and I introduced the American Right to Fly Act, S. 1424. Senator Sununu is a fellow co-sponsor of this legislation that would remove the punitive restrictions placed on Love Field and I invite my colleagues to join our effort, an effort that is very popular among those most directly affected. A recent poll of Dallas/Forth Worth residents, conducted by Public Opinion Strategies, found that a repeal of the Wright Amendment is favored by a 82 percent to 13 percent margin in the Metroplex. The people of North Texas understand that unfettered competition benefits consumers and they are clamoring for a resolution to this debate. This poll makes it clear that they do not want to continue with the status quo.

Some people will frame the Wright Amendment as a deal that should be upheld, but it is the duty of Congress to revise and change the law when circumstances dictate. No law is so sacrosanct that it must be upheld regardless of the cost to the American people. Times are very different today compared to 1979 and the least we can do is thoroughly and objectively review this law.

The only thing that is going to save our ailing domestic airline industry is healthy competition. Passengers deserve the most choices, the lowest fares, and the freedom to choose the best travel routes without government restrictions. The Wright Amendment's time has past and we should tear down this artificial barrier to competition and consumer choice.

Thank you.

Senator BURNS. Thank you.

And Senator Pryor has joined us this morning. Senator Pryor, do you have a statement, or——

STATEMENT OF HON. MARK PRYOR, U.S. SENATOR FROM ARKANSAS

Senator PRYOR. You know I do, Mr. Chairman. And I think what I'd like to do is just submit it for the record to save time. But, also, I'd like to—I have an airport person from Texarkana, Arkansas. If I could submit their testimony for the record, as well.

Senator BURNS. Without objection, we'll certainly do that.

[The prepared statement of Senator Pryor and Mr. Luebbert follow:]

PREPARED STATEMENT OF HON. MARK PRYOR, U.S. SENATOR FROM ARKANSAS

Thank you, Mr. Chairman, for holding this hearing, and thank you to all the panelists who have taken time to come and share their views and concerns regarding the Wright Amendment.

As you know, Arkansas is a rural state. We have small airports and no hubs in our state. With that said, I am very interested to hear the witnesses' opinions on how a potential repeal of the Wright Amendment will affect small airports and small communities in my state and their transportation options.

I do hear concern from some of my constituents that a repeal could reduce service. In fact, I have a statement from Stephen Luebbert, the Director of the Texarkana Airport elaborating some of these concerns. I would like to ask consent to have this statement included in the record.

Dallas is a very popular destination for Arkansas' businesspersons, sports fans, and travelers. It also is the closest hub airport for much of the state, providing connecting flights throughout the country and internationally. It is in the interest of both Arkansas and Dallas to keep this relationship strong, and I look forward to

learning more from our panelists as to the possible affects that might result from altering the current status quo.

Once again, thank you, Mr. Chairman, for holding this hearing, and thanks to all of the panelists who have shown up to help enlighten us on this issue. I am looking forward to a productive dialogue.

PREPARED STATEMENT OF STEPHEN LUEBBERT, AIRPORT DIRECTOR, TEXARKANA REGIONAL AIRPORT

Mr. Chairman, members of the Committee, as the director of a small airport, I thank you for the opportunity to express my concerns regarding the proposed repeal of the Wright Amendment. Serious and far reaching consequences are involved, not just for our region, but for our air transportation industry and the Nation it serves.

Mr. Chairman, I support the Wright Amendment, as do many other airport directors from the Heartland of America, some of whom are here with me today. Texarkana Regional Airport is one of the smallest commercial airports in the continental United States. It is a border city airport jointly owned by both Texas and Arkansas. Our Twin Cities of Texarkana, Arkansas and Texas have both adopted resolutions opposing repeal. These formal statements of opposition are in response to concerns for the economic impact to the airport and surrounding four-state area. Ours is an area that is struggling to grow; an area where the average family income is only 75 percent of the national average. If the repeal is enacted and the airport loses service, or worse—the airline, it will imperil the very existence of the airport. In a small town such as Texarkana, a commercial airport is a key factor in attracting the new industry and growth we need.

I agree with American Airlines that the Wright Amendment has served the Dallas/Fort Worth area well for years. Many small towns and cities have also benefited. Those who would repeal the amendment contend the issue is about competition. If the proponents of repeal want beneficial competition, the opportunity to compete has always existed at the Dallas/Fort Worth (DFW) Airport where any airline can fly anywhere it chooses without triggering wide-spread economic harm. If the restriction is lifted and Dallas Love is permitted long-haul connections, the ensuing competition will be far from beneficial. In the repeal scenario, many heartland airports and communities will lose service as American realigns its flight schedule to match its competitor's new routing from Dallas Love. The net economic ripple effect will have a profound impact. Apart from the economic damage to small airports and their cities, a precedent will be established when the Wright Amendment, a "perimeter rule" is set aside.

Perimeter rules have been established by Federal, State and local governments to moderate competition when the market's behavior would not serve the public's interest. When co-located commercial airports compete for scarce Federal resources, the effect is to diminish the funds available for safety and infrastructure renewal, to say nothing of the hazard associated with the shared airspace conflicts. For safety and fiscal reasons, the Federal Aviation Administration has guarded against approving competing airport operations if one airport will meet the area's needs. Are we ready to establish a precedent that vacates perimeter rules? These are rules that discipline spending and enforce good public policy. These are the rules which have contributed to the finest airport network in the world. A network that offers virtually every corner of the country access to the U.S. air transportation system.

As you know, when the Wright Amendment was drafted, it was a compromise to permit Dallas Love to remain a commercial airport while minimizing its impact on the newly constructed Dallas/Fort Worth Airport. Over the years, with Wright Amendment protection, DFW grew into a world-class hub. A subsidiary of American Airlines, American Eagle, reached into small-town America to extend global connections to the home front via DFW. American Eagle has been a catalyst for regional growth in the vicinity of Texarkana.

American Eagle was and continues to be willing to serve small and mid-sized communities, areas that other carriers, especially the low-fare airlines would not consider. Whether intended or not, the Wright Amendment has moderated the market balance of air service in the central U.S. With the advent of a low-fare carrier at Dallas Love, the restriction allowed a traditional carrier at DFW to continue serving our growing cities and towns.

Repealing the rule will disturb the market balance that has evolved over the years. In the ensuing realignment, service will be lost; airline competition at smaller airports will diminish. With loss of carrier competition, comes higher fares and reduced airport business. Small airports will quickly find themselves on a slippery slope. Communities will turn to State and Federal agencies for additional assistance

and the Essential Air Service program will experience new demands. Clearly, the Wright Amendment was not intended to establish a market balance between low-fare carriers and traditional carriers. But that "service symmetry" is a fact of life today, and repeal will have costly, unintended and unanticipated consequences. In the military, we referred to this type of maneuver (repeal), as "calling a strike on your own position." Why, when there is so much at stake and so little to be gained by so few, would we want to do this?

In the Twin Cities of Texarkana, American Eagle carries the majority of air passenger traffic. The company's Texarkana service originated in 1929 as American Airways operating Ford Tri-Motor equipment. American Airlines and the Twin Cities have been partners since the beginning of commercial air service in the U.S. The low-fare carriers operate on a business model that precludes service to all but the most lucrative markets. While this model has a very useful role to play in our industry, the model is incompatible with service beyond major population centers. Small airports are "no-fly-zones" for low-fare carriers.

Only the traditional carriers continue to offer growing communities access to vital air service. If the repeal is enacted, I predict the quality, safety and frequency of service to grassroots America will begin to fundamentally change. Unfettered competition can only lead to the atrophy of air service to small towns and mid-sized cities where the profit margin is already very thin. Some form of regulation or expanded government subsidies would be needed to preserve non-hub access to air service. In the competition for more passengers and cargo with lower overhead, the carriers will consolidate in the major population centers. Air traffic congestion and delays will increase beyond the already intolerable levels. Security screening will become an even greater challenge than it is today as more travelers seek to enter the system at major hubs because reliever airports have lost regularly scheduled service.

I ask the Committee to consider not only the near-term, local loss of service that repeal would precipitate, but also consider the long-range and potentially far more serious consequences of the decision—the exodus of reliable air service from all but the major hubs. If the country's most profitable airline, with its very selective approach to the cities it serves, is exempt from operating within the rules, other airlines can be expected to re-think their business strategies. Other existing perimeter rules will be challenged. Imposing new rules will become untenable. And the migration toward airport clusters in the urban centers will be underway.

The Wright Amendment is good government. It was an effective compromise that has had the intended effect. DFW has successfully evolved as envisioned and its airlines link growing communities to the business world.

Finally, this is not about two competing airlines. This is about airports. The two airlines will survive regardless of the decision. But if the decision is to repeal the restriction, DFW Airport and nearly 100 smaller airports and their communities will suffer primary and secondary economic impacts. I implore you to keep focused on the only potential losers in this debate—the airports and their communities. If it were possible to sum up their losses along with the cost to the government to provide limited air service where it will be vacated, I have no doubt the total would far exceed any local benefits to North Texas or other states courting a Dallas-based discount airline. The longer-range effects will be to reduce access to the air transportation system for areas of the country that need it the most while adding to the congestion and delays that all ready plague the airspace near our major hubs. The price of repeal is too high for too many.

Mr. Chairman, Members of the Committee, thank you for allowing me to state my case. I stand ready to work with the Committee and staff in any way to resolve this complex issue.

Senator BURNS. Senator Bond, thank you for coming this morning.

STATEMENT OF HON. CHRISTOPHER S. "KIT" BOND, U.S. SENATOR FROM MISSOURI

Senator BOND. Thank you very much, Mr. Chairman and members of the Subcommittee. We appreciate your willingness to hold a hearing on this Wright Amendment. And, as I see, my good friend, colleague, and partner on the EPW Committee leaving, we've written a highway bill. And I am a great free-enterpriser. It seems to me that free enterprise is not served when people have

to go through Oklahoma City to change planes to go someplace else, not because of the market, not because the free-enterprise system makes it a better deal, but because the Wright Amendment does. So, I take my free-enterprise credentials very seriously, and second to none. And I would say there isn't a lot of free enterprise when Oklahoma City gets all this traffic that is required to come in and change planes to get out of Love Field.

To return to the statement, former House Speaker Jim Wright amended the International Air Transportation Act, as has been said, to limit the geographical area to which airlines based in Love Field are legally permitted to provide air service, and to limit the ability to market beyond those limits, as Senator Ensign has pointed out. The purpose of the law was to protect fledgling Dallas/Fort Worth Airport and its tenant airlines from competition. Obviously, it was done because the Speaker of the House was from that region.

I respectfully suggest that the 26-year-old Wright Amendment has outlived its usefulness and has no place in Federal aviation law in the future. I am unaware of any other law which limits, as this law does, commercial operations out of an airport to a geographic limited area.

I believe the Wright Amendment is outdated, anti-competitive and anti-consumer. At the request of the Commerce Committee Chairman, Senator Stevens, and Subcommittee Chairman Burns, I refrain from taking a major rewrite of the Wright Amendment during the debate on the 2006 transportation appropriations bill, and urge this Committee to review the issue and take appropriate action.

So, we thank the Committee for giving us the opportunity to express concerns that the Wright Amendment has on its ongoing negative impact on commercial air travel.

First, the Wright Amendment's outdated. In the 26 years since the law has passed, commercial air travel has grown exponentially. Technologically, we've moved from paper tickets to travel agents to e-tickets, as the Chairman has pointed out. DFW has grown from a brand-new airport serving Dallas and Fort Worth to the second-busiest airport in the U.S., sixth-busiest in the world. Usually, if we legislate, we try to protect the little guy against a dominant player. In this case, the dominant player, DFW, is being protected from the smaller guy.

Second, the Wright Amendment is anti-competitive, driving up travel costs and resulting in time-consuming and inconvenient travel options. Several months ago, *The Wall Street Journal* published an editorial entitled "Free Love" that stated "On flights in which Southwest competes with DFW carriers out of the Dallas area, Love Field fares, on average, are 15 percent cheaper. A lack of competition caused by the limitations of the Wright Amendment subjects many Americans to higher air prices and fewer choices."

A May 23, 2005, *St. Louis Post-Dispatch* editorial, titled "The Texas Two-Step," highlights the higher fares caused by lack of competition and states that American Airlines charges a lot more to fly to Dallas from St. Louis than to fly to other cities which are a comparable distance away. The editorial goes on to say that you can

fly American to Detroit, Cleveland, Oklahoma City, and Columbus for 43 percent to 82 percent less than you will pay to fly to Dallas.

The fact is not lost on my constituents, especially those who travel to Dallas on business. And, yes, I have a dog in the fight. The Chairman mentioned the dehubbing of Dallas by Delta. St. Louis was dehubbed, as a result of the change in air travel, by American, after 9/11. And our air service has been hit very strongly. Many Missouri businesses, individuals, academic institutions, not-for-profits and other public civic organizations have written, asking us to change the Wright Amendment.

And, Mr. Chairman, obviously there will be some from Missouri in here, I have the Kansas City Convention and Visitors Bureau, Joplin Regional Airport, Platte County Economic Development—but there are also a lot of interesting letters in here from Texas—Lancaster Texas Chamber of Commerce, let's see, Amarillo Chamber of Commerce, Harlingen Chamber of Commerce, Wilmer Chamber of Commerce, Wilmer Texas Chamber of Commerce, South Padre Island Chamber of Commerce, and letters from the San Antonio Spurs and the Houston Rockets.

So, this is a national issue. This is not just what is the interest of some important special interests in the Dallas/Fort Worth area. This has implications for national air traffic, and the commerce that goes with it.

The Wright Amendment is anti-consumer. Roughly 85 percent of the population of the U.S. lives outside the restricted Wright service area. And a person traveling to or from Love Field on a commercial airline can only travel to or from points within Texas and seven other neighboring States. Airlines—as has been pointed out by Senator Ensign—cannot even—based in Love Field—cannot even advertise their flights to consumers beyond the eight-state area dictated by the Wright Amendment. No other airport in the United States is subject to such a draconian rule.

My constituents can only get around it by completing two separate transactions for travel. A Missouri businesswoman traveling from St. Louis to Dallas Field must spend a minimum of 3 hours more traveling time than she would to fly to DFW, because she has to go someplace and change planes, buy another ticket, and get on. Two tickets instead of one. The person has to arrive at the connecting city, deboard, collect the baggage, recheck, and—himself or herself and the baggage, and go through security again. This is inconvenient, it's costly, it's time-consuming.

The final argument for the repeal of the Wright Amendment is that it hurts economic development. George Will pointed out, in a June 5, 2005, column in *The Washington Post,* when St. Louis entered the—when Southwest entered the Fort Lauderdale market, forcing American to cut fares to and from Miami, American's passengers and revenue increased. As the Nation's busiest airport, O'Hare, in Chicago, was not financially devastated when Southwest Airlines started offering flights out of Midwest.

I strongly urge the Committee to re-examine this arcane, this unusual and anti-competitive rule, and to fix legislation to deal with it. Dallas Love Field, in my view, is the only—to my knowledge—is the only airport in America where airlines that serve point A, point B, and point C cannot sell a ticket from point A to point C.

In our competitive free-market society, this does not make any sense.

Mr. Chairman, I ask that I be permitted to submit a full statement for the record. Editorials that I have mentioned, letters from civic organizations in Texas and Missouri, and I believe there are still some more letters coming that are—we have been told are on the way, but, due to the mail service that we have in the Capitol, they've not yet arrived, which will come as a great shock to many of you, but I would ask that these be included in the record for the review of staff and the Committee members.

And I thank the Chair and the members of the Committee for your hospitality.

[The prepared statement of Senator Bond follows:]

PREPARED STATEMENT OF HON. CHRISTOPHER S. "KIT" BOND, U.S. SENATOR FROM MISSOURI

Mr. Chairman, members of the Subcommittee, thank you for your willingness to hold this hearing on the Wright Amendment.

Former House Speaker Jim Wright amended the International Air Transportation Competition Act of 1979 to limit the geographical area to which airlines based at Love Field in Dallas are legally permitted to provide air service. The purpose of the law was to protect the fledgling Dallas-Fort Worth Airport and its tenant airlines from competition.

I respectfully suggest that the 26-year-old Wright Amendment has outlived its usefulness and has no place in Federal aviation law in the future. The Wright Amendment is outdated, anti-competitive and anti-consumer.

At the request of the Commerce Committee Chairman, Senator Stevens, and the Subcommittee Chairman, Senator Burns, I refrained from acting on the Wright Amendment during debate over the FY06 Transportation appropriations bill to give *this* Committee the opportunity to review the issue and propose appropriate action. And so I thank the Chairman, Senator Rockefeller, and the Ranking Member, for giving me the opportunity to express my concerns about the Wright Amendment and its ongoing negative impact on commercial air travel.

There are several arguments for repeal of the Wright Amendment.

First, it is *outdated.* In the 26 years since the law was passed, commercial air travel has grown exponentially. Technologically we have moved from paper tickets issued through travel agents to e-tickets purchased online. DFW has grown from a brand new airport serving Dallas and Fort Worth to the second busiest airport in the U.S. and the sixth busiest in the world. Usually we try to protect the little guy against a dominant player. In this case the dominant player, DFW, is being protected from the smaller guy.

Second, the Wright Amendment is anti-competitive, driving up travel costs and resulting in time-consuming and inconvenient travel options.

Several months ago, the *Wall Street Journal* published an editorial titled *Free Love* that stated, "On flights in which Southwest competes with DFW carriers out of the Dallas area, Love Field fares are on average 15 percent cheaper."

Citing American Airlines' own website, the *Dallas Business Journal* in an August 2005 article pointed out that a round-trip ticket on American from DFW to Philadelphia on short notice costs roughly $1,198, while a round-trip ticket on American from Houston to Philadelphia on short notice costs roughly $369. That is a difference of over $800!

The lack of competition caused by the Wright Amendment subjects most Americans to higher air prices and fewer choices. Airlines that operate from DFW hold a virtual monopoly of flights between Dallas and Lambert/St. Louis International Airport and Kansas City International Airport.

According to a Campbell Hill study, based on data compiled by the U.S. Department of Transportation, the DFW fare for a non-stop flight to St. Louis averages $178. A probable Southwest fare for the same flight would cost only $110. Likewise, the current average DFW fare for a non-stop flight to Kansas City is $191. A probable Southwest Airlines fare for the same flight would be around $108.

A May 23, 2005, *St. Louis Post-Dispatch* editorial titled "The Texas Two Step" also highlights the higher fares caused by the lack of competition resulting from the Wright Amendment. The editorial states that American Airlines charges a lot more

to fly to Dallas from St. Louis than to fly to other cities which are a comparable distance away. The editorial goes on to say that, "You can fly American to Detroit, Cleveland, Oklahoma City and Columbus for 43 to 82 percent less than you will pay to go to Dallas."

This fact is not lost on my constituents, especially those who travel to Dallas on business. Many Missouri businesses, individuals, academic institutions, not for-profits and other public and civic organizations have written asking for changes to the Wright Amendment. Mr. Chairman, I ask that these letters be submitted for the record.

Third, the Wright Amendment is anti-consumer.

Roughly 85 percent of the U.S. population lives outside the restricted eight state Wright Service Area.

Under the Wright Amendment, a person traveling to or from Love Field on a commercial airline can only travel to or from points within Texas and seven other neighboring states: Louisiana, Arkansas, Oklahoma, New Mexico, Alabama, Mississippi and Kansas.

This means air travel from cities like Boston, New York, St. Louis, or Miami—virtually anywhere outside the "Wright Amendment Service Area"—to Love Field can be prohibitively expensive and difficult to schedule.

In addition to restricting the geographic area to which Love Field flights can legally serve, the amendment contains "through ticketing" or marketing restrictions. Airlines based at Love Field cannot even *advertise* their flights to consumers beyond the eight state area dictated by the Wright Amendment.

For example, a Love Field customer who needs to fly to St. Louis and is willing to make a brief stop in Little Rock before continuing cannot buy a ticket due to the Wright Amendment.

No other airport in the United States is subject to such a draconian rule.

My constituents can only get around the Wright Amendment by completing two separate transactions for travel. They must buy one ticket to a destination within the Wright Service Area, such as Little Rock. Then, after their plane lands in Little Rock; they must deplane, collect their baggage, buy another ticket to Dallas Love Field, go through security again, and then board another plane to Dallas.

This can take a Missouri businessman traveling from St. Louis to Dallas Love Field a *minimum* of 3 hours *more* traveling time than it would to fly to DFW airport.

Not surprisingly this convoluted, costly, inconvenient and time consuming option does not appeal to many travelers—especially those traveling on business.

Public opinion is against the Wright Amendment. Opposition is not limited to just Missouri and other states outside the "Service Area." There is also significant opposition *within* the State of Texas including the Dallas Metropolitan area.

A survey conducted last month on the Wright Amendment by Public Opinion Strategies of Alexandria, Virginia indicated that 82 percent of the North Texans who were polled favored repealing the Wright Amendment. In addition to this, roughly 250,000 Texans have signed petitions asking for the repeal of the Wright Amendment.

Dallas Mayor Laura Miller told the *Wall Street Journal*, "Citizens are screaming to lift the Wright Amendment."

More than 20 Texas organizations have passed resolutions or taken positions in support of repeal of the Wright Amendment. Many newspapers in Texas and across the country have written editorials in support of repeal, including the *Dallas Business Journal*, the *Houston Chronicle*, The *Wall Street Journal*, the *Washington Post*, the *Los Angeles Times*, the *St. Louis Post-Dispatch* and the *Kansas City Star*. I ask that these resolutions and editorials be submitted for the record.

Another argument for repeal of the Wright Amendment is that *it hurts economic development*.

Some argue that changing the Wright Amendment would financially devastate DFW Airport, American Airlines and the North Texas economy. This view is countered by the North Dallas Chamber of Commerce Task Force on the Wright Amendment, which describes the amendment as "bad for the City's economy," saying, "its repeal would provide a billion-dollar a year economic boost." The Task Force Report also states that "the law is choking Dallas' growth by keeping the airfares high and hurting the city's convention business and tourism."

The argument that repeal will hurt economic growth ignores the experience of other cities. As George Will points out in a June 5, 2005, column in The Washington Post, "When Southwest entered the Ft. Lauderdale market, forcing American to cut fares to and from Miami, American's passengers and revenue increased."

Roger King of the independent debt research firm Credit Sights observes, "If and when it [Wright repeal] happens, there will be an increase in the Dallas/Ft. Worth economy through higher passenger counts."

The Nation's busiest airport, O'Hare in Chicago was not financially devastated when Southwest Airlines started offering flights out of Midway Airport.

A number of large cities across the country have the market to support more than one airport: Dallas is one of them.

I strongly urge this Committee to re-examine this arcane and anti-competitive rule, and to craft legislation to fix it. Dallas Love Field is the only airport in America where airlines that serve Point A, Point B and Point C cannot sell a ticket from Point A to Point C. And in our competitive free market society, this simply does not make sense.

Senator BURNS. I thank you, Senator Bond. And I would correct your indication of an airport in Chicago from Midwest to Midway.

Senator BOND. Midway.

Senator BURNS. Old Midway Airport.

Senator BOND. Sorry. Thank you. I thank the——

Senator BURNS. That's all——

Senator BOND.—the knowledgeable Chair.

Senator BURNS.—that's all right.

We have with us our guests this morning, and happy to have them: The Honorable Eddie Bernice Johnson, the gentlelady from the 30th District of Texas.

And, Congresswoman, we welcome you here this morning.

STATEMENT OF HON. EDDIE BERNICE JOHNSON, U.S. REPRESENTATIVE FROM TEXAS

Ms. JOHNSON. Thank you very much, Chairman Burns, and to all of the distinguished members of the Committee, including Senator Bond, whom I disagree with most of what he has said.

[Laughter.]

Ms. JOHNSON. But we've done that before, and, at the end, we usually come together.

The subject before us is of great importance to my congressional district, where Love Field is located. And I appreciate today's hearing on the Wright Amendment. It is my hope that the dialog derived from today underscores at least one fundamental notion, that, in the absence of a local consensus, I would hope that Congress would not pre-empt the local authority of the cities of Dallas and Fort Worth.

The Wright Amendment was intended to provide a fair and equitable solution to a local airport dispute. When these airports—when DFW was built, both Meachum and Love Field were supposed to close to commercial traffic. The agreement between the cities of Dallas and Fort Worth had to do with a covenant on the bonds. And the balance between our airports has served North Texas very well. And we hope it will not be disturbed.

I deeply regret that a divisive issue has drained so much energy and expended countless resources over the past decade. The reason I took a strong position is because 9 or 10 years ago this issue came up before, and I serve on the Transportation Committee, and I have—now in my seventh term—been trying to get the cities to work together on a regional transportation plan. They're 27 miles apart. The agreement was, no airport would be within 21 miles of each other. Love Field and DFW are 8 miles apart.

Love Field is in a residential area. The agreement and spirit of cooperation between the two cities embodied the contractual establishment of DFW, and it would be undermined, and do irreparable harm, if we changed it, because of the environment, the safety, the quality of life of the constituents surrounding the airport who vigorously agree—disagree for more traffic.

We have 63 schools and 30,000 students in this residential area. And that was all thought about 32 years ago. And that's when Dallas and Fort Worth came together as the two cities, and the mayors, and all the city council people signed this covenant that they would phaseout Love Field commercial traffic, as well as Meachum, and Redbird Airport, another airport.

When Southwest Airlines—and let me assure you that I have great respect for Southwest Airlines. I use it. I think that Herb Kelleher is one of the most brilliant businesspeople I've ever met. He has brought forth one of the—the most profitable airline in the Nation. But I do not want the destabilization to come to the DFW Airport.

The DFW Airport has been the economic engine for the area. If you look around that airport, you will see that many national and international businesses have been established. And that's because you can go to DFW Airport and fly anywhere in the Nation in a 3-hour period. Using American, you can connect to the world with ease. We are an international trade location. And that's one of the draws to the area.

If this repeal comes, it will destabilize the area. It was an agreement, as a compromise, that both the city leadership, the constituents, the City of Fort Worth, the City of Dallas, all came together to agree on so that Love Field could have commercial traffic. Ninety-seven percent of that traffic is by Love Field—is by Southwest Airlines. And I believe that repealing the Wright Amendment would undermine the 2001 master plan adopted by the city of Dallas. The plan calls for very limited, managed growth. The plan is a direct result of outspoken opposition to airport growth from the communities near the airport.

And I'm going to close, and I'm just sketching over my statement here, which I will leave for the record.

I am not anticompetition, I am not anti-Love-Field fares, nor am I anti-free-enterprise, but I am pro-principle. And it is my belief that the Wright Amendment stands as a principled agreement between two cities to protect the region's primary air-traffic investment. And, for the good of the North Texas region, I respectfully urge my House and Senate colleagues not to pre-empt the local authority of the cities of Dallas and Fort Worth.

We are like twin cities. We have to work together. This issue divides us. And I would ask you to please understand that.

I want to reiterate my appreciation to the Subcommittee for the opportunity to provide testimony, and I ask that my full testimony be submitted for the permanent record.

And I thank you very much.

Senator BURNS. Without objection, your statement will be made part of the record.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF HON. EDDIE BERNICE JOHNSON,
U.S. REPRESENTATIVE FROM TEXAS

Chairman Burns, Ranking Member Rockefeller, members of the Subcommittee, thank you for the opportunity to provide testimony this morning.

The subject before us is one of great importance to my Congressional district where Love Field is located.

While I appreciate today's hearing on the Wright Amendment, it is my hope that the dialogue derived from today underscores at least one fundamental notion: *in the absence of a local consensus, the Congress should not preempt the local authority of the cities of Dallas and Fort Worth on a local issue.*

The Wright Amendment was intended to provide a fair and equitable solution to a local airport dispute. The agreement was agreed to by Southwest Airlines, the City of Dallas, the City of Fort Worth. the DFW Airport Authority, and related constituency groups.

This balance between our two airports has served the North Texas community well and should not be disturbed unless at the behest of local leaders.

I deeply regret that a divisive issue that has drained so much energy and expended countless resources over the past decades has reemerged at a time when the sister cities of Dallas and Fort Worth have enjoyed unprecedented levels of cooperation on a wide array of challenges facing the North Texas region.

Over the past 12 months, much has been said and publicized that frames the Wright Amendment debate between two airlines.

I do not concur. It is my view that this legislation was, and is, the direct result of a community crafted compromise regarding two North Texas airports.

Given the current state of the aviation sector, I feel strongly that should this compromise be subject to a preemptive repeal or modification: (1) the agreement and spirit of cooperation between Dallas and Fort Worth embodied in the contractual establishment of DFW Airport would be undermined; (2) irreparable harm could be brought upon the North Texas economy resulting from an already weakened DFW Airport; and (3) the safety and quality of life for my constituents, who live around Love Field and have entrusted the airport to operate solely as a short-haul airport, would diminish greatly.

Thirty two years ago, North Texas, upon the recommendation of the Civil Aeronautics Board, decided that DFW Airport would be the region's primary air travel investment.

As part of the airports funding arrangement, Dallas and Fort Worth adopted the 1968 Regional Airport Concurrent Bond Ordinance, which, among other things called for the phase out of the cities' respective airports—including Love Field.

A subsequent turn of events allowed Southwest to continue utilizing Love Field for the purpose of intrastate operations as long as the airport remained operational.

Enactment of the Airline Deregulation Act of 1978, prompted concerns from local officials about DFW's future and financial stability.

In response to this, in lieu of closing Love Field, the Wright Amendment was crafted to protect the interests of DFW Airport, and particularly those of Southwest Airlines.

To state that stability at DFW Airport is critical to the overall health and success of the North Texas economy is an understatement. As the airport has grown, the North Texas economy has followed lock and step.

The airport has been a catalyst for job growth, a magnet for luring corporations to the region, and a level playing field for minority and women owned businesses.

According to the Aviation Division of the Texas Department of Transportation, when combined with the multiplier effect, DFW International Airport generates roughly $14.3 billion in economic output, 268,000 jobs, and $6 billion in payroll. This type of economic generation should not be jeopardized.

In the event of Wright Amendment repeal, I have great concern about the possibility of adverse impacts to safety and the quality of life for my constituents that live around Love Field.

Love Field is physically constrained by surrounding residential neighborhoods, schools, churches, and hospitals. Increased air traffic congestion immediately brings into question the margin of error for pilots and air traffic controllers, increased noise pollution, and traffic gridlock in an area that is already constricted.

Further, repealing the Wright Amendment would also undermine the 2001 Master Plan adopted by the City of Dallas. The Plan calls for very limited, managed growth.

This Plan is the direct result of outspoken opposition to airport growth from communities near the airport.

In my view, the prevailing arguments and concerns for this locally generated compromise are just as relevant today as they were 32 years ago.

I have the utmost admiration for Herb Kelleher and Gary Kelly. Under their collective stewardship, Southwest has posted 32 consecutive years of profitable operations and commands roughly 97 percent of the Love Field market.

Over the 30 I have known Herb Kelleher, I have come to view him as an excellent businessman.

He knows I appreciate the positive impact Southwest Airlines has had on my district and Dallas, but this debate is ill-timed.

In closing, I understand that there are segments who may feel that the Wright Amendment has served its time and serves merely as a roadblock to lower fares and free enterprise.

I respectfully disagree, and I want each of these respective segments to know: I am not anti-competition; I am not anti-lower fares; nor am I anti-free enterprise.

I am, however, pro-principle, and it is my belief that the Wright Amendment stands as a principled agreement between two cities to protect the region's primary air travel investment.

For the good of the North Texas region, I respectfully urge my House and Senate colleagues not to preempt the local authority of the cities of Dallas and Fort Worth on a local issue.

This concludes my remarks. I want to reiterate my appreciation to the Subcommittee for the opportunity to provide testimony and ask that my full testimony be submitted for the permanent record of today's proceedings.

Thank you.

Senator BURNS. We have been joined by the former Chairman of the full Committee of the Commerce, Senator McCain.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. Thank you very much, Mr. Chairman. I'll be very brief. Thank you for holding this hearing.

I believe that the Wright Amendment should be repealed, because we should act to encourage competition, and the consumer benefits that result from it. I have held that position for many years. But I hope we won't stop with a repeal of the amendment. I believe we should remove all other artificial barriers to competition in the airline industry, such as the perimeter rule, that keep airfares high, reduce consumer choices, and limit the number of markets that are served.

As you know, Mr. Chairman, the original purpose of the perimeter rule was to promote LaGuardia and Washington National as airports for business travelers flying to and from the East Coast and Midwest cities and to promote traffic to other airports by diverting long-haul flights to Newark and Kennedy Airports and Dulles Airport. We all know that that's changed dramatically.

And I want to say, as I support the repeal of the Wright Amendment, I also strongly support the repeal of the perimeter rule.

I thank the witnesses for being here today, and I know that this is a very emotional and tough issue for our friends from the State of Texas, as well, but I would say to Congresswoman Johnson, it doesn't only affect the State of Texas what flies in and out of Love or Dallas/Fort Worth, but people of Arizona, as well as almost every other state in America.

I thank you, Mr. Chairman, for holding the hearing, and I thank the witnesses today for appearing.

Thank you.

Senator BURNS. I want to thank the Honorable Kay Granger, who is United States Congresswoman, 12th District of Texas. And, the gentlelady, thank you for coming this morning. Sorry, we get a little long-winded on this side, as you well know.

[Laughter.]

Senator BURNS. But thank you for coming this morning. We look forward to your testimony.

STATEMENT OF HON. KAY GRANGER, U.S. REPRESENTATIVE FROM TEXAS

Ms. GRANGER. Thank you, Chairman Burns and Senator Hutchison, Members of the Subcommittee. I thank you for opening for discussion this complex and, we think, a very important issue.

Some of the people who oppose change to the Wright Amendment, they say, "A deal's a deal." That's what we say in Texas. I wasn't around when the deal was made, but I've been involved in enforcing this deal now for about 15 years as mayor of Fort Worth, as a member of the DFW board and now as a Member of Congress.

Senator Hutchison gave the history very well. It's important to remember that the two cities had separate airports, and those airports served the cities well. It was not the cities that decided to change that, it was—I'd call it a shotgun wedding, because it was forced on us, but it took incredible political courage and very good planning to come together and build this regional airport, DFW International Airport. And it's worked. And it's worked very well.

Part of that, of course, was that we'd shut down our separate airports. And the airport that was closest to what is DFW today, that was owned by Fort Worth, Greater Southwest, was shut down and torn down. It does not exist. And they followed that agreement. However, because Southwest, then, was not a party to that, and refused to move, then it started the whole thing up, and the two cities went to the courtroom and began this long battle.

It's important to remember that happened. And Congressman Johnson talked about the covenants, the two cities—the covenants that neither city would do anything to hurt the ultimate development of DFW Airport. And those covenants, the violation of those covenants, has been very important.

When Love Field couldn't close down, because Southwest wouldn't move, and won the lawsuit, then we went back to those covenants and back to the courthouse. The agreement, the compromise, the deal, as we call it, that was arrived, was arrived with the two cities, DFW Airport, and Southwest. It was written into law by Jim Wright. I would argue that it's served us well. I would also argue that it's allowed Southwest to grow and prosper because of that legislation, that protection.

Let's fast-forward, though, now to today. DFW is responsible, directly or indirectly, for 200,000 jobs. It's been extremely important to the economy of North Texas. But everyone in this room knows how airlines and airports have suffered since September 11th. DFW, however, has suffered some other blows. When Delta pulled out of the airport, they pulled their hub out, they emptied 20 gates, lost 239 daily flights. And that was when DFW was going through a major, very expensive expansion. I think another blow to that airport would be a change today in this Wright Amendment.

The second thing I think is most important to remember is that Southwest Airlines is not restricted. It is not restricted, as it claims. Southwest can fly without restrictions, without altering the law in any way, can fly wherever their markets determine they can

fly. No one needs to free Southwest Airlines, because it's free. All it has to do is move to DFW International Airport, fill those empty gates, and fly to new markets.

I would remind you that Southwest, although they've said it doesn't fit their business plan, they compete toe to toe with other legacy airlines at major airports across the country. Philadelphia competes against U.S. Airways; 379 flights, it has. It's increased its flight frequency by 257 percent over the past year. Southwest also flies out of Los Angeles International, with 121 flights, competing against United. It also competes right in my home State of Texas, in Houston, against Continental, where Southwest ranks it as one of its ten top cities, 145 flights.

In the marketplace, you know, it's survival of the fittest. Now going to Denver, that is predicted to add 45 million passengers next year with the addition of Southwest to Denver. It seems that Southwest is selective in saying what meets their model.

I would say that DFW has laid out the red carpet, offering 22 million in incentives for Southwest Airlines to bring its service to that airport and make the whole region stronger, and certainly DFW International Airport. That, to me, is a solution—not changing the law, not changing things, particularly at this very, very sensitive time for DFW.

I urge you, Senators, to maintain what has worked, what continues to work, maintain the integrity of the agreement and the ability of the region to decide its future and its needs.

Thank you for your attention.

Senator BURNS. Thank you very much.

Now we're joined with, and happy to have, Jeb Hensarling, 5th District of Texas. And, Congressman, thank you for coming this morning.

STATEMENT OF HON. JEB HENSARLING, U.S. REPRESENTATIVE FROM TEXAS

Mr. HENSARLING. Thank you, Chairman Burns, Senator Hutchison, members of the Subcommittee. Thank you very much for allowing me to testify. Thank you very much for holding this important hearing.

On May 26, along with my colleague Sam Johnson, the other Johnson from Texas, I used the Right to Fly Act, H.R. 2646. It's a bipartisan bill with over 40 co-sponsors representing 18 different states. I salute Senators Ensign and Senator McCain for introducing similar legislation in this body.

I believe it is right to repeal Wright. I think it is wrong for Congress to protect one airport from the competition of another and hurt consumers in the process.

The harm of the Wright Amendment extends beyond North Texas. It limits economic growth around the Nation, while artificially increasing the price of airline tickets between destinations, making it harder to travel for business, pleasure, or necessity.

Today, as you know, there are over 500 airports in America with commercial air service. With the exception of Reagan National, which sits on Federal property, Congress has only once—only once—placed distance limitations on an airport. That airport, of course, is Love Field, in my hometown of Dallas, Texas.

Congress imposed those restrictions to protect DFW Airport from the competition of Love Field. I believe this is not, and should not be, the role of Congress. Competition is the consumer's best friend. Our Nation has over 200 years of history to prove it and gives us the goods and services we want at the lowest possible cost. Ford sells F–150 pickups for about $30,000. I'm sure they've love to charge us $60,000, but Dodge, Chevy, and Toyota make sure that doesn't happen. Competition works. Freedom works.

There was a time when Congress regulated prices and services in many industries—trucking, long distance, and air travel, to name a few. But, as a result of allowing competition, real prices fell in these industries between 15 and 40 percent over 3 to 5 years. And consumers enjoyed greater choices and technological advances. We need to finish the job of promoting competition in air travel.

Now, every study dealing with the repeal of the Wright Amendment, regardless of the party that commissioned it, will all show that fares will fall if we pass this legislation. Now, the U.S. Department of Transportation, clearly a party fairly unbiased in this debate, found that in 2004 North Texans paid a third more for their long-distance air travel than the national average. That's a third more. That's a lot of money which families could have used to pay for healthcare premiums, fill up a car, or pay a heating bill. With lower airfares, a grandmother in Iowa will be able to visit her grandchild in Dallas twice a year instead of once. A factory worker in Kentucky will pay 2 days of wages instead of 4 to fly to his son's college graduation at the University of Texas at Arlington. A small-business owner from Mesquite, Texas, in my district, can meet face to face with a supplier in California.

I believe no defense of the Wright Amendment is as compelling as Congress's responsibility to support Americans who are working hard to make ends meet.

Now, today you have heard some say that Dallas and Fort Worth had an agreement 25 years ago to close Love Field and that Congress must enforce it. I ask the question, Is this the business of Congress? There have been multiple State and Federal lawsuits attempting to force the closure of Love Field, and none have been successful. Clearly, the courts have not found this binding agreement, and the matter has been appealed all the way to the U.S. Supreme Court. You have also heard today that Southwest Airlines has the right to compete now as long as they do it from DFW. That's like Congress saying to McDonalds, "You can sell your entire menu of hamburgers all around the Nation, except in Topeka, Kansas. There, you're restricted to selling Chicken McNuggets, because Burger King needs to make more money."

Also, current concerns about safety and increased noise, I believe, are unfounded. When the Wright Amendment is repealed, Love Field will continue to be subject to exactly the same FAA regulations that maintain safety and environmental standards at every other commercial airport in this country.

Now, some may say that the timing of a repeal may be bad for particular airlines. But should we wait until some healthy airlines become unhealthy?

And what about the over-half-a-million North Texas small businesses that would benefit immediately from increased travel in the

region? They are the true job engine of the economy. Not a single airline, and not a single airport.

And, Mr. Chairman, I understand that airlines face serious challenges. And I think Congress should address them by promoting energy policies to help reduce the cost of jet fuel, by helping American workers grow their paychecks so that they can afford to fly more often, and by taking action on legacy pension systems. But artificially raising prices on hardworking Americans is not the way to help.

The way to right this wrong and help both consumers and our economy is to repeal the Wright Amendment. Congress passed it. Only Congress can repeal it. I urge this Committee to take swift action and remove the unfair Wright Amendment.

I thank you for this opportunity to testify.

Senator BURNS. Thank you for coming this morning.

And I have no questions for this panel.

Senator Hutchison?

Senator HUTCHISON. No, thanks.

Senator BURNS. Senator Ensign?

Senator ENSIGN. Just one.

Congresswoman Johnson, you had mentioned consensus, and I just wanted to know whether you had seen the survey by Public Opinion Strategies. They're one of the most well-respected polling firms. I don't believe in making law based on polls, but as far as to get the opinion of the people who live in the Dallas/Fort Worth area, they had run a poll recently, and found that repeal of the Wright Amendment is favored by an 82 to 13 margin in the Metroplex area. Now, I don't normally—you know, OK, if polls can be a few points off, even if this one's a few points off, it sounds like that—maybe some of the leaders in the area don't have a consensus, but it sounds like, to me, that's a pretty good consensus. You don't see numbers this high very often on any issue. Sounds like the people who live in the area have a pretty good consensus that they would like to see the repeal of this amendment.

Ms. JOHNSON. I'd be delighted to comment on that. It depends on who you poll. It is clear to me that the people that live around Love Field have not been polled. They are very, very together on not wanting more traffic at Love Field. So, it doesn't impress me that others around the area—it does impress me that the residents living around Love Field have not been polled.

Senator ENSIGN. Thank you, Mr. Chairman.

Senator BURNS. Senator Nelson, do you have any questions?

Senator BEN NELSON. No, I have no question, thank you.

Senator BURNS. Senator Pryor?

Senator PRYOR. No, thank you.

Senator BURNS. We thank you, this morning, for coming. I know you've got a busy day ahead of you. And if you could work real hard over there and get us out of here next week, I'd be most appreciative.

[Laughter.]

Senator BURNS. And thank you for your testimony on this issue.

The next panel is Mr. Gerard Arpey, Chairman and Chief Executive Officer of American Airlines; Herb Kelleher, Chairman of the Board, Southwest Airlines; and Mr. Kevin Cox, Chief Operating Of-

ficer and Senior Executive Vice President, Dallas/Fort Worth International Airport.

We welcome these gentlemen to the table this morning and look forward to their testimony.

Mr. Arpey, we will begin with you.

STATEMENT OF GERARD ARPEY, CHAIRMAN/CEO, AMERICAN AIRLINES

Mr. ARPEY. OK, thank you, Chairman Burns. I want to thank the entire Committee for the opportunity to be here today.

It is no secret that the airline industry, one of our Nation's foremost economic catalysts, is in a state of financial turmoil, and certainly public policy influences our business in more ways than we have time to discuss today—from aviation security to infrastructure to taxation to pension regulations and much more.

So, it is with some regret, but with great conviction, that I appear before you to speak not about any of those topics, but about the manufactured controversy swirling around Love Field and the Wright Amendment.

I don't mean to suggest that the issue is not important. It is critically important. But at American Airlines, we would greatly prefer to limit our competition with Southwest Airlines to the marketplace rather than the halls of Congress.

Southwest could make that happen by simply following the public policy set forth by the Federal Government and the local communities that every other airline follows without acrimony. Southwest can launch service to anywhere it would like, and charge whatever it would like, from Dallas/Fort Worth International Airport, one of the world's largest and leading airports just 12 miles from its headquarters. That opportunity has always been available to them. And, at this moment, there are plenty of gates at DFW ready for their use. But Southwest refuses to consider DFW's level playing field, and that refusal is what has brought us here today.

On one hand, the debate is a costly distraction at the worst possible time. It is eating up time, money, and energy we would much rather devote to running our business. On the other hand, there is a lot at stake, not just for American Airlines, but a number of other constituencies who you will be hearing from today.

So, I am hopeful that today's proceedings will shed light on an issue that, quite frankly, has been mischaracterized by Southwest.

Now, I want to make clear that Herb Kelleher is a man I respect and admire a great deal. He is a charismatic leader, an innovator——

[Mr. Kelleher blows kiss at Mr. Arpey.]

[Laughter.]

Mr. ARPEY.—a fierce competitor, and an exceptional lawyer. Herb has set the standard by which a generation of airline CEOs, including myself, will be measured. And that is an extraordinarily high standard.

But none of that negates the fact that, in my opinion, he and his team are simply wrong on this subject. To explain, I want to step back and reiterate how we got here. The issue we're debating goes back to the 1960s, when the Federal Government ordered the cities of Dallas and Fort Worth to combine resources around a single air-

port if they wanted to continue to receive Federal funding. The leaders of Dallas and Fort Worth concluded, very wisely, that it was in the interest of both cities to cooperate with the Federal Government and combine resources in support of a single regional airport. And the results speak for themselves. Today, DFW Airport is one of the world's premier aviation gateways. It is the undisputed driver of the North Texas economy, and, with the recent completion of a $2.6 billion capital project premised on the basis that the Wright Amendment would remain in place, it is poised to make an even greater contribution in the years to come.

When DFW was built, both Dallas and Fort Worth intended to close all other local airports, including Love Field, to commercial airline service. Every airline serving those cities was told they would have to move their operations to the new airport. And, in 1970, every airline signed an agreement committing to do so. Southwest had not yet begun service when that agreement was signed. Its service started shortly thereafter, at Love Field. And when DFW opened, in 1974, Southwest exploited the fact that they had not signed the 1970 agreement, and they refused to leave. Their refusal led to litigation that enabled them to stay at Love Field, providing intra-Texas service only, while every other airline was forced out, because they had signed those agreements.

When Southwest later sought to fly outside of Texas from Love Field, more legal wrangling ensued, and, finally, in 1979, a compromise was reached. Southwest, and others, supported Federal legislation now famously known as the Wright Amendment that allowed Love Field to remain open, but limited service to markets within Texas and the contiguous states.

Now, at this point, I would like to emphasize two important things, in particular.

First, the Wright Amendment's restrictions do not apply uniquely to Southwest, and they never have. They apply to every airline, including American.

And, second, unlike Southwest, American Airlines played no part in creating the Wright Amendment. At the time the law was enacted, American was a much smaller player at DFW. We had just moved our headquarters to Fort Worth from New York City. To my knowledge, we played no role in the law's creation. But in the years since it took effect, we have based billions of dollars of investment decisions on the presumption that a deal is a deal, and that the compromise reached in 1979 would be honored by everyone.

Now, Southwest tends to depict the Wright Amendment as an albatross around its neck, when, in reality, it was a victory for them and a defeat for the airlines who had been forced out of Love Field, and for the cities that wanted it closed forever.

In the quarter century since the law was passed, while dozens of carriers have fought it out at DFW, Southwest has chosen to restrict its Dallas flying to Love Field. And the question you might ask is why Southwest, after all these years, and after my colleague Herb Kelleher has been quoted publicly as saying, "I pledged we wouldn't seek to overturn it," now wants the law changed. There are two straightforward answers, in my opinion. First, Southwest knows that approximately 60 percent of American's DFW pas-

sengers live closer to Love Field than to DFW. And, second, it has a virtual lock on the lion's share of Love Field's active gates.

In our opinion, Southwest is after one thing: unique competitive advantage. They seek a downtown monopoly that would mean a windfall for them and certain damage to American Airlines of North Texas and many smaller communities around the country.

It is ironic that Southwest's PR campaign seeks to position it as a champion of free and open competition. The best free-market laboratory I know is DFW, where we slug it out with a long list of carriers in dozens of markets every day. In contrast, Southwest wants to have its cake, in my opinion, and eat it, too. It champions the free market, but will not compete at DFW. It wants to lift restrictions on what it can do at Love Field, but opposes changes to the Love Field local master plan that would let airlines like American challenge its dominance there.

One of the other great smokescreens of this debate is that it has something to do with ticket prices. The members of this committee know that airfares have dropped dramatically in recent years. And vigorous and fair competition is what keeps fares low. But, most importantly, it is not about fares, because, at DFW, any carrier, Southwest included, that is willing to compete on a level playing field can offer any service and charge whatever price it wants to.

What this debate is really about is whether it's in anybody's interest, besides Southwest's, to reverse public policy, on which billions of dollars have been invested, and shrink DFW to grow Love Field. I strongly believe the answer is no. No reasonable person could dispute the fact that if Love Field is allowed to expand, that expansion will come at DFW's expense. Given Love's closer proximity to lots of people in Dallas and Love's lower facility costs, American and other airlines will divert a significant number of flights to Love Field, and that will have profound repercussions.

As flights start to thin out, so will the connecting opportunities they create. And as the Members of this Committee know, when a community hosts a large hub airline, it inevitably enjoys more nonstop service to more places, and more international destinations, in particular, than it would otherwise attract. That is because of the critical mass of connecting traffic that a hub creates. The desirability of hosting a large hub, and the obvious efficiency of consolidating activity around one airport explains why cities all over the country have gone to great lengths to ensure that the new airports they build are not undermined by the airports they replace.

In Denver, the runways at the old Stapleton Airport were immediately destroyed upon the opening the city's new airport. And it seems relevant to point out that, just last month, King county, in Seattle, Washington, told Southwest, unequivocally, that it would not be allowed to provide service at the close-in Boeing Field, as it had been lobbying to do.

People are sometimes surprised to learn that, on a per capita basis, cities with one large airport—for example, Denver, Atlanta, Minneapolis—attract more flights per day than cities like Chicago, Washington, D.C., or Houston, with multiple airports. The key point, in my view, is that communities benefit from competition between airlines, not competition between airports.

The leaders of Dallas and Fort Worth recognize this and made the logical decision to consolidate the region's aviation activities around one world-class airport instead of multiple lesser facilities. And were it not for timing and some stubborn lawyering by Southwest, their commonsense vision would have been realized.

Southwest's campaign to repeal the Wright Amendment at the expense of DFW imperils the economic health of the entire region. DFW is the engine that drives our local economy, attracting billions of dollars in economic activity that might otherwise flow elsewhere. The annual economic impact on North Texas's economy is estimated at $14 billion, and nearly 300,000 jobs are supported either directly or indirectly by the airport.

But North Texas is not the only community in jeopardy. The vigor of our DFW hub, the fact that we are able to aggregate and distribute a high volume of air travelers from a central point, makes it economically feasible for us to provide service to many communities that would otherwise be considered too small. With that in mind, with us today are a number of local officials who are eager to speak out on this issue.

I have also submitted, for the record, a recent study conducted at our request by the highly respected Eclat Consulting Group that illustrates how service to dozens of cities would be jeopardized by the repeal of the Wright Amendment.

The bottom line, from American's perspective, is that repealing the Wright Amendment would be both unfair and unwise. It would be unfair to the Greater North Texas community, to DFW Airport, and to all the airlines who have invested billions of dollars assuming that the rules of the game Southwest helped create, and has benefited from for many years, would remain in place. It would also be unfair to many businesses and homeowners who have invested in the neighborhoods surrounding Love Field and are obviously concerned about the noise, traffic, and other environmental impacts that would accompany a major expansion of that airport.

Repealing the Wright Amendment would also be unwise, because it would do real damage to DFW Airport, the heart of our regional economy, as well as American Airlines and the tens of thousands of active and retired employees who depend on us. It would jeopardize both Dallas and Fort Worth's hard-earned status as centers of international commerce and culture. And in an era when global connectivity is the key to prosperity, it would badly degrade the most important link between many small communities and the world at large.

I would, thus, urge the Committee to tell Southwest Airlines that the sound public policy that led to the creation and success of DFW Airport, and on which billions of dollars of investment has been based, will not be undermined for their benefit. They are free to fly about the country from DFW anytime they would like.

Thank you very much.

[The prepared statement of Mr. Arpey follows:]

PREPARED STATEMENT OF GERARD ARPEY, CHAIRMAN/CEO, AMERICAN AIRLINES

Mr. Chairman, I am Gerard Arpey, Chairman and Chief Executive Officer of AMR Corporation, parent company of both American Airlines and American Eagle Airlines. On behalf of our nearly 100,000 employees worldwide, I thank you for the op-

portunity to testify today on the critical importance of maintaining the Federal law commonly referred to as the Wright Amendment.

For the last 26 years, the Wright Amendment has helped ensure a balance in the Dallas/Fort Worth aviation infrastructure. In the late 1960s, the leaders of Dallas and Fort Worth, at the urging of the Civil Aeronautics Board, decided to join together and invest their resources in one world-class airport rather than in two small, competing facilities. The results speak for themselves. DFW has grown into a major international gateway—American and American Eagle alone provide nonstop service to 28 international destinations—and the engine that drives the regional economy, both as an employer and as a magnet for corporate relocations.

Our hub at DFW International Airport is an important part of our operation. When DFW was built, both Dallas and Fort Worth intended to close all the other local airports to commercial airline service, including Love Field. Every airline serving those cities was told they would have to move their operations to the new airport, and in 1970, every airline signed an agreement committing to do so.

At that time, Southwest Airlines had not yet begun operating, so it was not asked to sign the agreement. To the consternation of virtually everyone involved, when the new DFW Airport opened in 1974, Southwest—which had started its Love Field service by that time—refused to move with everyone else. Their refusal led to litigation enabling them to stay at Love Field—providing intra-Texas service only—while American and their other competitors were forced out.

When Southwest later sought to fly outside of Texas from Love Field, more legal wrangling ensued, and ultimately a compromise was reached. Southwest and representatives of the local communities drafted and agreed to Federal legislation—now famously known as the Wright Amendment—allowing Love Field to remain open, but become exclusively a short-haul airport with service limited to markets within Texas and the four contiguous states. The law's provisions are not uniquely applied to Southwest. They apply to every airline. Meanwhile, any airline, including Southwest, remained free to fly anywhere in the country from the DFW Airport.

For the past quarter century, as we—and dozens of other carriers—slugged it out at DFW, Southwest has *chosen* to restrict its Dallas flying to Love Field, where it has been able to exploit its near-monopoly and grow itself into a large and very successful airline.

During that time, DFW International airport has become an engine for economic growth in the North Texas region. The billions of dollars of community, private, and Federal investment at DFW have ensured access to worldwide markets for the region, access to those same markets for small and medium-sized cities across the Nation, and an outstanding facility where 23 airlines compete today.

Today, DFW's role in the North Texas economy is more important than ever. As we have stated publicly many times, airline competition is good, airport competition is bad. If Love Field had been a non-constrained infrastructure for the last 31 years, the massive public and private investment in DFW would have been jeopardized. All airlines would have been torn between offering service at a superior, central airport, DFW, or flying from the older, smaller airport, Love Field, with the sole advantage—though an advantage that can not be underestimated—of a location that is 12 miles closer to approximately 60 percent of the local population. Many of the carriers serving the region would have chosen to offer flights only at Love Field.

The decision to build DFW, and close all the other local airports to commercial service, was made long before American Airlines had such a major presence in Dallas/Fort Worth. In fact, when DFW was opened, American was only the third or fourth largest presence at the airport. The Wright Amendment was in no way created with American Airlines specifically in mind.

Indeed, the battle over the Wright Amendment is less a story of American and Southwest and more a story of the importance of hubs to cities, large and small, connected by the U.S. air transportation system to domestic and international destinations.

In early October, ECLAT Consulting Group, a highly-respected independent aviation firm, released a study assessing the impact of potential repeal of the Wright Amendment on air service in communities throughout Texas and the Nation. The study concluded that repeal would lead to a net loss of 185 daily flights in the DFW market, including the loss of some key international flights.

Although some major cities may receive additional service from Southwest Airlines, a net loss of 185 flights would have a negative economic impact for the North Texas region and a serious reduction in connecting service opportunities for many smaller communities now served by American Airlines and American Eagle through the hub and spoke system. Communities specifically at risk include small towns in Texas, Arkansas, Louisiana, Oklahoma and Missouri.

The hub and spoke system allows airlines to collect and redistribute traffic from cities of all sizes. For those cities that are fortunate enough to be hub cities, like Dallas/Fort Worth, residents enjoy access to significantly more service than could be supported by the economics of their population alone. It is the connecting traffic that makes most international flights economically feasible. The desirability of international flights is one reason so many cities with new hub airports go to great lengths to make sure these facilities are not undermined by the old airports they replace. This is also what attracts large companies to relocate here.

Without the construction of DFW International Airport, the Nation would not have had a North Texas facility that could support a full-fledged airline hub. As a landlocked metropolis with no other port of entry for people and goods, the region could not have grown and prospered as it has for the past 31 years.

Today, DFW stands as the third largest airport in the world in the number of operations, serving 39 nonstop international destinations and 135 nonstop domestic destinations. And DFW connects travelers from across the country to a network of flights. If passengers lose their connection to the network, they will lose opportunities for travel.

If Southwest succeeds in their effort to get the Wright Amendment repealed, American could remain at DFW and match fares to maintain its customer base to the west of DFW. However, almost 60 percent of American's best customers live closer to Love Field—customers who would choose the closer airport and the airlines that operate there. American cannot afford to lose those customers. That is why American and other airlines would seek to start service at Love Field.

If the Wright Amendment restrictions on Love Field are lifted, American and other airlines, to serve the needs of their customers and to lower their facility costs, will shift flights from DFW to Dallas's closer-in airport. That's bad news for DFW and for the North Texas community that enjoys the robust international schedule that the hub makes possible.

A network airline hub requires local passengers from surrounding communities as well as connecting passengers from spoke cities in order to support its vast number of destinations and frequencies. Because American would have to move flights to Love to compete for local passengers, a lot of local traffic would shift away from DFW. With a reduction in flights, connecting opportunities are reduced for passengers flying through DFW. This reduction in connecting passengers, coupled with the shift of local traffic to Love Field will cause a further decrease in frequencies or loss of service altogether for some communities.

DFW Airport has repeatedly offered Southwest Airlines incentives to move to DFW, where they could fly to any destination they choose and charge whatever they like. In fact, there are over 20 gates just waiting to be used, and Southwest could be in place and competing—in dozens of markets—very quickly if it chose to.

However, by refusing to consider DFW, Southwest is trying to have its cake and eat it too. It is lobbying to remove restrictions on its own flying, while opposing any change to the Love Field Master Plan that limits the number of allowed gates and daily flights. With Southwest controlling 21 out of 26 reasonably usable gates—and by setting a 32-gate maximum—such restrictions deny American or any other airline a chance to establish a meaningful presence at that airport. Southwest is well aware of this outcome.

I want to make it very clear that despite our adversarial roles, I am a great admirer of Herb Kelleher and the entire Southwest team. But on this issue they are simply wrong. The fact is, Southwest has always had the opportunity to fly anywhere it wants, charge whatever it wants, and compete—along with everyone else—at DFW, a world class airport just 8 miles, as the crow flies, from its headquarters. That opportunity is still available to them. But rather than take advantage of this community's enormous investment in DFW, they want to change the rules of the game, again, to their advantage.

In fact, to prove to you how much Herb and I agree, I would like to read to you a statement he made in 1990:

> "We think that there is some merit to the position that there is no city in the United States that has two full-fledged hubs competing against one another successfully . . . we too have to agree as a matter of logic and principle that if you allowed Love Field to come up as a full-fledged hub in opposition to DFW Airport that indeed air service to the Metroplex would suffer to some extent because basically a hub-and-spoke system depends for its success upon attracting passengers from a multitude of spokes that will fill up an airplane going to another destination. If you divide that type of operation between two airports, you're likely to lose service to some of the smaller cities."

Herb Kelleher's words are as compelling today as they were the day he made them.

From a Federal viewpoint, it is important to ask why we would choose to spend even more Federal money—scarce tax dollars—to duplicate TSA security services, FAA and air traffic control services, and airport improvement monies at a near-obsolete airport that is simply redundant. DFW International Airport has facilities available for all, the capacity to continue growing for decades, and a location in the region that is accessible for all.

In closing, let me say again: competition between airlines is a perfect reflection of a free market, but competition between airports—public infrastructure—is bad. It reduces the strength of the aviation system in a local region. The only airline pushing for this change in law, Southwest, has consciously chosen to operate at the constrained airport for 31 years in order to partake of its inherent advantages. Southwest could actually compete in any market from North Texas by simply choosing to fly out of DFW. Instead, it seeks an act of Congress to legislate a further advantage at Love Field, rather than compete head-to-head with 23 airlines at DFW.

Thank you for allowing me to testify before you today. We look forward to working with Members of this Committee to ensure that the Wright Amendment remains in place so that all airlines may effectively compete to benefit customers across the country—and the world.

Senator BURNS. Thank you.

And now we have the Chairman of the Board of Southwest Airlines, Mr. Herb Kelleher. Thank you for coming.

STATEMENT OF HERBERT D. KELLEHER, EXECUTIVE CHAIRMAN, SOUTHWEST AIRLINES

Mr. KELLEHER. Thank you, Mr. Chairman and distinguished members of——

Senator BURNS. Pull your microphone over there so——

Mr. KELLEHER. Oh, I'm sorry, I thought it was—yes, I thought my voice was loud enough without the microphone.

Senator BURNS. Well, it is——

Mr. KELLEHER.—Mr. Chairman.

Senator BURNS.—but this fellow right over here is writing down everything that you say, because——

Mr. KELLEHER. OK.

Senator BURNS.—we hang on every word.

Mr. KELLEHER. Well, I'm going to try to confine my remarks to 5 minutes, as we were told that we should. But if I stray a little bit over, I hope you'll forgive me, because I'm sandwiched between Mr. Arpey and Mr. Cox, who are both adversaries on this issue, and, evidently, from Mr. Arpey's presentation, he wasn't told about the 5-minute rule.

[Laughter.]

Mr. KELLEHER. Second, I want to tell you that I have the highest regard for Mr. Arpey and American Airlines and all the people that work at American. And this is not political persiflage that I'm just delivering today because we're sitting here together. He has done a fabulous job at American. He cares for the American Airlines people. And they haven't gone into Chapter 11. They've got $3,900,000,000 in cash in the bank. And that's a tribute to his leadership in the worst of times and, I think, a stellar comparison compared to a lot of other carriers.

I really am appreciative of the opportunity to be with you today.

I started working on the birth of Southwest Airlines 39 years ago, when only about 15 percent of American adults had ever flown

on even a single commercial airline flight. Today, that percentage is around 85 percent. According to DOT, the "Southwest Effect"—and DOT labeled it that—played a crucial role in increasing that 15 percent to 85 percent, so that a lot more Americans had the freedom to fly every year.

Because the CAB of the 1960s did not welcome price competition against its carriers, Southwest applied to fly as an intrastate airline. Southwest's proposal was very simple: charge much lower fares and provide a better quality of air service than the incumbent CAB carriers.

From the reaction, you might have thought that we had proposed to unleash the Four Horsemen of the Apocalypse. The incumbents threatened to withdraw service from every city we proposed to serve. Sound familiar? Contended that low fares would not produce any additional passengers. Sound familiar? Hired every politically connected lawyer and lobbyist in the State of Texas to oppose us. Sound familiar? And took us on a 4-year journey through the courts before we could fly our first flight.

Southwest commenced operations in Texas in 1971. What happened? Not one airline withdrew service from any city that we served. The Four Horsemen of the Apocalypse did not ride, but a huge multitude of additional passengers did, every year.

In 1972, within a year of our commencement of service, Southwest was sued to oust us from Dallas Love Field, a move that would have obliterated Southwest Airlines. This resulted in just 5 more years of litigation—we're now up to 9—including two more trips to the U.S. Supreme Court and the Fifth Circuit Court of Appeals, and three proceedings before the district court, which decided on two Federal-law grounds, two State-law grounds, and the violation of two bondholder covenants, that it was not legally permissible to remove Southwest Airlines from Love Field. That's two Federal, two State, two bond covenants. And the Fifth Circuit Court of Appeals admonished, "This is the eighth time in 3 years that a Federal court has refused to support the eviction of Southwest Airlines from Love Field." The eighth time in 3 years. What next?

In 1978, the Airline Deregulation Act became law. The CAB, the Civil Aeronautics Board, authorized Southwest to provide interstate air service from Love Field. Then fate intervened. The Honorable Jim Wright was the Majority Leader of the House of Representatives and represented DFW Airport. Without notice or hearing, he amended a House bill to ban all interstate air service from Love Field. The Senate, this Senate, refused to concur. A political donnybrook ensued. Senator Barry Goldwater commented, "I think we're acting like a bunch of yo-yo's. Why can't people just fly to the airport they want to fly to?"

Finally, I was informed that the conference committee had agreed on a compromise: nonstop interstate air service could be provided out of Love Field to only the four States contiguous to Texas. Moreover, Southwest could not provide one-stop through ticketing nor market passenger service beyond those States. I protested bitterly until reminded of a self-evident truth that Leader Wright was the Majority Leader, and I was not.

Thus, airline deregulation passed in 1978, and Love Field was re-regulated in 1979, when I was 48 and Jimmy Carter was President of the United States.

In the ensuing 26 years, DFW Airport has gotten so big that I'm surprised it hasn't been implicated in a steroid scandal.

[Laughter.]

Mr. KELLEHER. 18,500 acre DFW now has 166 gates, compared to 32 at 1,300-acre Love Field. DFW is the world's third-busiest airport. The world's largest air carrier, American Airlines, with about 850 daily DFW flights, almost eight times more than Southwest at Love Field, controls 84 percent—yes, 84 percent—of the passenger traffic at DFW Airport and does not exactly welcome interlopers with warm milk and graham crackers when they come there.

Due to its dominance, American charges high fares at DFW. Its generally available one-way coach fare to St. Louis and Kansas City—generally available—is $599. Southwest's generally available coach fare would be $129 to St. Louis and Kansas City. And, since 1979, the DFW side of the Metroplex has grown enormously, while the Love Field side has lagged behind it.

According to a study, by Campbell Hill, which we commissioned and—this is really interesting—a separate study by DFW Airport, which it attempted to suppress, failure to repeal the Wright Amendment by this Congress will cause approximately 3.7 million passengers per year not to fly and cost the American economy $4.2 billion each and every year. That's DFW's consultant, that's Southwest Airlines' consultant. Normally when you have an issue and opposing experts testify, they differ. In this case, they agree. This is what the Wright Amendment is costing America. And I ask you, What governmental policy could conceivably support such a result?

I firmly believe that the Wright Amendment must be repealed, and repealed now, but a number of very well-intentioned public officials, organizations, and private citizens have solicited a compromise designed to phase out the Amendment over a period of time. As I have previously stated—and I've stated this publicly—if the political leadership comes forward to advance any reasonable compromise proposal, Southwest Airlines will participate in that process in good faith. That is my public pledge to this Committee.

Mr. Chairman, distinguished members of the Committee, thank you for the opportunity to appear on behalf of competition. Thank you for the opportunity to appear on behalf of free enterprise. Thank you for the opportunity to appear on behalf of consumer choice. Thank you for the opportunity to appear on behalf of lower airfares for millions of Americans each year. And thank you for the opportunity to appear on behalf of the American public's freedom—freedom to fly.

Thank you.

[The prepared statement of Mr. Kelleher follows:]

PREPARED STATEMENT OF HERBERT D. KELLEHER, EXECUTIVE CHAIRMAN, SOUTHWEST AIRLINES

The History of the Wright Amendment

The history of the Wright Amendment is the history of Southwest Airlines. It is also a history of anti-competitive legal harassment by an airport and the airlines that serve it.

Southwest was incorporated on March 15, 1967. On November 27, 1967, Southwest filed an application with the Texas Aeronautics Commission (TAC) to operate as a Texas intrastate carrier. Southwest elected to operate as an intrastate carrier because the U.S. Civil Aeronautics Board (CAB) of that day did not welcome new competition in the airline industry. The CAB mandated fare levels and did not permit price competition. Prior to the Airline Deregulation Act in 1978, there was no competition on the basis of price in the U.S. A consequence of that Federal policy was that there were no new entrants—if a new airline could not compete against giant entrenched competitors on price, it was impossible to establish a toehold in a market.

Southwest did not fly for 51 months. Once the TAC unanimously approved Southwest's intrastate application on February 20, 1968, three airlines (Braniff, Trans Texas, and Continental), seeking to preserve their monopoly routes, filed a lawsuit and obtained a restraining order against the TAC, prohibiting it from issuing the necessary certificate under state law. That litigation lasted until May 13, 1970, when a unanimous Texas Supreme Court ordered that Southwest could take to the skies. Seeking every chance to bleed Southwest to death by litigation (Southwest having no revenues at the time), the airlines took their pleas to the United States Supreme Court, which denied the appeal on December 7, 1970. Southwest Airlines thus became perhaps the only company in America that went all the way to the U.S. Supreme Court to obtain a business license over the opposition of its competitors.

Southwest began preparations for the start of service in earnest, with a planned startup of June 18, 1971. Our airline adversaries were undeterred. They filed complaints with the CAB and just days before service was to begin, they sneaked back into a state court and obtained another injunction stopping Southwest's flights. In an extraordinary session convened on June 17, 1971, the Texas Supreme Court *again* gave Southwest clearance for takeoff. Service began the very next day with three airplanes flying to three cities.

The now proven model of point-to-point, frequent, low-fare service to close-in convenient airports was born. By then, the litigation (as was intended) had depleted all of Southwest's financial capital, but not its will to survive.

Southwest announced that it would not move to the new DFW Airport when it would open in 1974. Southwest was not a party to the local agreement to build DFW. Other airlines serving the North Texas market voluntarily signed contracts to fly exclusively from the new airport. Southwest did not. Love Field was better suited to Southwest's customer needs than DFW. Moving to DFW would have destroyed Southwest. Southwest again was dragged involuntarily into court—federal court this time—by DFW and the Cities of Dallas and Fort Worth. The purpose of that litigation was to crush Southwest by evicting it from Love Field in Dallas, a foundation of Southwest's low cost, low fare niche. In a definitive opinion, the Federal district court held that the local agreements to build DFW did not and legally could not prevent Southwest Airlines from serving Love Field. *City of Dallas* v. *Southwest Airlines Co.*, 371 F. Supp. 1015 (N.D. Tex. 1973). The DFW Parties were not prepared to accept defeat and appealed. On May 31, 1974, the Fifth Circuit affirmed the lower court's decision, upholding Southwest's unfettered right to serve Love Field. *City of Dallas* v. *Southwest Airlines Co.*, 494 F.2d 773 (5th Cir. 1974). Still refusing to concede, the DFW parties petitioned the Fifth Circuit for rehearing. They lost that one on June 24, 1974. They appealed further to the U.S. Supreme Court. They lost again. 419 U.S. 1079 (1974). They petitioned the Supreme Court for rehearing. Again, that was a loser. 420 U.S. 913 (1975).

In a pique of discontent, the DFW Parties then prevailed upon the Dallas City Council, after a massive lobbying effort, to pass an ordinance making it a *crime* for Southwest to use Love Field. The Federal judiciary made short work out of that one, enjoining Dallas from enforcing the ordinance.

Desperately searching for a court that would side with them, the DFW Parties, including American and the other airlines serving DFW, started litigation anew in a state court (having gone scoreless in the Federal system), seeking to relitigate their bogus claims all over again. A Federal court found that this attempt to relitigate questions already decided was, in effect, an abuse of process and took the dramatic action of *enjoining* the state court—*or any other court*—from proceeding further. *Southwest Airlines Co.* v. *Texas International Airlines, Inc.*, 396 F. Supp. 678 (N.D. Tex. 1975). The DFW Parties, per usual, appealed to the Fifth Circuit. The Fifth Circuit, in an opinion remarkable for its clarity and conclusiveness, brought an end to the DFW Parties legal harassment of Southwest by declaring that the courts were now off limits to anyone seeking to evict Southwest Airlines from Love Field. *Southwest Airlines Co.* v. *Texas International Airlines, Inc.*, 546 F.2d 84 (5th

Cir. 1977). The DFW Parties petitioned for rehearing. They lost. They appealed to the U.S. Supreme Court. They lost that, too. 434 U.S. 832 (1977).

The Significance of the Airline Deregulation Act

Then something dramatic happened outside a courtroom. The U.S. Congress deregulated the airline industry in 1978. The Congress, observing the gigantic growth in passenger traffic in California and Texas, where intrastate price competition was allowed, took the government out of the business of choosing which airports airlines would serve and at what price.

To drive the point home that free markets, not governments, were to determine where and how and at what price airlines would provide domestic air service, the Congress expressly prohibited State and local governments from regulating the "rates, routes, and services" of commercial airlines. Section 105 of the Deregulation Act.

With respect to Southwest Airlines, the court-mandated stoppage of the concerted and coordinated legal campaign by the DFW Parties in 1977, coupled with the passage of the Deregulation Act in 1978, meant two very important things: (1) the courts said that no one (not even mighty DFW and its large airlines) could kick Southwest out of Love Field; and (2) the Congress said that Southwest could fly anywhere in the U.S. from Love Field.

The DFW Parties did not just go away mad. They decided to get even. When Southwest announced its intention to fly between Dallas and New Orleans pursuant to its rights under the Deregulation Act, the DFW Parties, including American Airlines, went to Washington to try to coerce the CAB into denying Southwest the right to fly in interstate commerce out of Love Field. Again, they relied on the local agreement that produced DFW Airport. Maintaining their perfect record, the DFW Parties lost before a CAB Administrative Law Judge, who ruled against DFW and American on every single point in an exhaustive analysis on June 28, 1979. CAB Docket 34582. That decision was upheld in its entirety by the full CAB on September 28, 1979.

During this eleven-year period of nonstop litigation, some other interesting things occurred. Most noteworthy was the indictment of two airline competitors by a Federal criminal grand jury for their role in the conspiracy to bankrupt Southwest. They both plead *nolo contendre.*

Unending Judicial Defeats Lead to a Political Powerplay

After losing every round, before every agency and every court that could listen to their anti-competitive and anti-consumer arguments, Southwest's sworn enemies, led by DFW Airport and the airlines that dominated it, decided upon a new ploy. If Southwest could not be run out of business legally, they would just have to change the law. They sneaked back into Washington and obtained the support of House Majority Leader Jim Wright from Ft. Worth. If Leader Wright had not been from Fort Worth, or being from Fort Worth, had not been the House Leader, the Wright Amendment would never have come to pass. Leader Wright attached an amendment to an unrelated bill, without notice, without hearings, and without opportunity for public comment or informed debate. (The DFW Parties finally discovered a way to win.) That amendment would have banned any airline from engaging in interstate air commerce from Love Field. Wisely, the U.S. Senate refused to go along. That obstructed passage of the bill to which Leader Wright had attached his language. Pressure built for passage of the larger bill, which dealt with international aviation. Ultimately Leader Wright himself made changes that the Senate accepted. That became the law we are here to discuss today, the Federal law that limits service from Love Field to Texas and a few nearby states. The admitted legislative purpose was to protect DFW Airport and the airlines serving it from competition. Everyone ignored the ironic conflict between the Wright Amendment on one hand, and years of consistent court or agency decisions and the Airline Deregulation Act (passed just one year earlier), on the other hand. Thus, Love Field became, and remains, the only airport in America route-restricted by an Act of Congress for the sole purpose of protecting competitors (one airport and several airlines) from the rigors of the marketplace.

The Wright Amendment Was Designed to Punish Southwest

Defenders of the Wright Amendment claim that it was a "compromise" that even "benefited" Southwest. The "benefit" to Southwest is that, although the Amendment was intended to punish Southwest and cause it severe economic injury, Southwest's employees managed to make the carrier a success despite it—much to the DFW Parties' chagrin. The proof of the DFW Parties anti-competitive intent may be found not only in the well-known geographical restrictions which limit where a plane can be flown, but in the more obscure "marketing and through ticketing" restrictions

that are less well-understood. These restrictions are a blatant restraint on commercial free speech and force Southwest, unintentionally, to deceive and confuse passengers. They are without precedent in commercial aviation, including during the regulated era. Under the Wright Amendment, Southwest cannot "offer or provide any through service . . ." and cannot "offer for sale transportation to or from . . . any point which is outside" the so-called Wright Amendment states. This means that even if a customer is willing to make a stop *within* the permitted states and continue his or her journey on the same plane, or *even a different plane*, Southwest may not offer or market such service. An example: Southwest flies from Dallas to Little Rock and from Little Rock to Baltimore-Washington International (BWI). But Southwest cannot sell a single through-ticket to a customer going from Dallas to BWI, who is willing to make a connection to another plane in Little Rock. Another example: Southwest has a plane that goes from Dallas to Albuquerque where it sits for 25 minutes before continuing on to Las Vegas. But Southwest cannot sell a ticket to someone going from Dallas to Las Vegas with a stop in Albuquerque. That someone has to get off the airplane in Albuquerque.

In contrast, Members of Congress are familiar with the perimeter rule that limits the distance of nonstop flights from Reagan National. But, a Member may purchase a ticket to destinations beyond the nonstop perimeter and take a one-stop flight on the same airplane to these destinations. Interestingly, the perimeter rule at Reagan National originally was much more restricted. It was expanded as the result of aggressive lobbying by DFW and American Airlines (with an assist from Leader Wright) to permit American to fly to DFW from Reagan National. The DFW Parties views on airport restrictions are quite selective.

The marketing and through ticketing restrictions are, in and of themselves, an unreasonable restraint of trade and were totally unnecessary to protect DFW in its alleged "infancy." They were put in not just to protect DFW or the DFW air carriers, but to make it economically impossible for Southwest to survive at Love Field. The fact that Southwest Airlines managed to survive in spite of the restrictions does not validate them. Southwest fought against the Wright Amendment in all its forms, including the final version. No "compromise" would have ever been accepted voluntarily which included such goofy and onerous burdens on flight operations and customer service. The Wright Amendment came to pass because the DFW Parties and Leader Jim Wright had the power to pass it and Southwest was powerless to stop it.

Effects of the Wright Amendment

The Wright Amendment, by design, restricts competition. This restraint of trade has the unavoidable consequence of higher airfares and its corollary, reduced demand (fewer passengers). The Wright Amendment consumer penalty has been quantified. In a study commissioned by Southwest and conducted by the Campbell-Hill Aviation Group, the benefits of repealing the Wright Amendment include:

- 3.7 million more passengers would travel, increasing passengers at *both* Love Field and DFW.
- Consumers would save nearly $700 million annually compared to the higher airfares extracted from consumers by American Airlines at DFW as a result of its market power and the absence of competition.
- The total negative economic impact of the Wright Amendment on the entire United States exceeds $4 billion each and every year.

These numbers were entirely corroborated by a study commissioned by DFW International Airport. Initially, that part of the DFW study was suppressed by DFW. Only after a newspaper made a freedom of information demand did the truth surface.

People Understand and Hate the Wright Amendment

As a result of the seismic shift in travel habits brought about by deregulation, today's consumers have an expectation of air service options at affordable prices. Before deregulation, only the wealthy flew on commercial airlines. Today, air travel is accessible to virtually all Americans. Like their fellow citizens across the country, Texans have become savvy air travel consumers. They hate the Wright Amendment. One reason is that because of the Wright Amendment, American Airlines has 49 nonstop total monopoly markets from DFW on which American carries 6.5 million annual passengers. American's average fares, according to the Campbell-Hill study, are sharply higher in those markets than in competitive markets. For example, based on 2004 full year data, American's average (not its highest) roundtrip fare between DFW and Omaha (a distance of 583 miles) was $464. American's average fare between DFW and Albuquerque (a distance of 569 miles) was just $220, or less than

half of its average fare to Omaha. Why? The answer is plain and simple. Southwest can and does fly between Dallas Love Field and Albuquerque, New Mexico. Southwest cannot fly from Dallas Love Field to Omaha. Similar examples abound.

A just released scientific poll done by Public Opinion Strategies of Arlington, Virginia, found that North Texans favored repeal of the Wright Amendment by the astounding margin of 82 percent to 13 percent. When asked whether they supported the closure of Love Field, as DFW and American seek, North Texans were even more opinionated, opposing such a move by a margin of 84 percent to 10 percent, with 70 percent STRONGLY opposing the closure of Love Field. Southwest had nothing to do with that poll.

The poll numbers are lopsided because the facts are lopsided. Consumers are sensitive to the fact that they pay more and have fewer options for air travel due to the Wright Amendment. They don't like it. They also know that DFW is the only protected airport in the country and that they can fly from any other airport assured that the fares are competitive. Consumers rightfully resent being held hostage by protectionist rules that benefit a special interest but are not in the public interest.

Few people outside Texas or Washington, D.C. know what the Wright Amendment is. As they learn, resentment toward it grows. Attached is Exhibit "A," which is a list of the newspapers and other community organizations supporting repeal of the Wright Amendment.

Why Change the Wright Amendment Now?

Southwest seeks to repeal the 26-year old law. Circumstances have changed dramatically since 1979.

- DFW is the second biggest airport in the world in terms of land area and the third busiest in terms of flight operations. It is no longer an infant in need of pampering.
- Love Field cannot be a significant threat to DFW. A Love Field Master Plan was established in 2001, and approved by the FAA, which caps flights through limiting the airport to 32 gates—one-fifth the size of DFW.
- Consumers across America are upset by the high cost of travel to and from the Dallas/Ft. Worth region and recognize that competition will cause prices to drop.
- Passenger traffic at Love Field, limited by the Wright Amendment to short flights, declined after 9/11 by approximately 24 percent, as the automobile reemerged as a serious competitor to the airplane. Accordingly, flights have been curtailed. Southwest has only 110 daily departures from Love Field, down from a pre-9/11 peak of 145—likewise a 24 percent reduction.

Why not serve DFW?

After much thought, Southwest has decided service at DFW is way too risky.

- Operating at DFW would split our service between two airports in the same market and break up our low cost efficient business model.
- The out-of-pocket cost per passenger of serving DFW is substantially higher than the cost of serving Love Field.
- The indirect cost of serving DFW, a complex facility designed for hub operations, would be enormous. Operational inefficiencies would preclude a low cost operation, even if airport rates and charges were reasonable. As attractive as DFW may be for a large international hub operation, DFW, with its very long taxiing times, simply does not work for a low cost point-to-point carrier like Southwest. (Apparently, based on its singular lack of success in filling gates left vacant by Delta, DFW does not work for *any* airline—low cost, point-to-point, or otherwise—because of its crushing dominance by American Airlines, which now has 84 percent of the market.)
- Love Field has idle capacity and the ability to generate a better return on investment than DFW for Southwest.
- Southwest has avoided forbidding fortress hubs like DFW, preferring smaller, less congested airports when available. This strategy has helped make Southwest America's only consistently profitable and totally job secure airline.
- Southwest Airlines has been headquartered in Dallas for 34 years, employing more than 5,500 Dallasites, and has become the city's fifth largest taxpayer. Moving to DFW would take Southwest out of Dallas, both as a corporate citizen and as a taxpayer, causing serious economic harm to our hometown.

Conclusion

Southwest has not asked for bankruptcy protection, relief from pension obligations, subsidies, or Federal loan guarantees. We have not asked our employees for wage cuts or slashed their benefits. We have never had an involuntary furlough. We have shared profits with our employees for 32 consecutive years. We have proven time and again that if competition flourishes, prices decline while consumers and communities profit. Southwest is a creature of the free market and of deregulation—the national policy with respect to commercial aviation. All we ask now is for the U.S. Congress to restore to Southwest and its customers what it gave the rest of the flying public in 1978—a competitive free airline market—but which it improvidently allowed to be taken away in 1979. The DFW Parties, insisting on special protection for themselves, lost again and again during more than a decade of litigation harassment. But, they succeeded in getting a legislative reversal of that unbroken string of judicial and administrative defeats through the exercise of raw political power. That exercise of power produces an annual economic penalty on this Nation of over $4 billion and wrongly punishes Southwest Airlines for being the success that deregulation envisioned.

Wright is Wrong. It is time to repeal it. If not now, when?

EXHIBIT A—SUPPORT FOR REPEAL OF THE WRIGHT AMENDMENT

Newspaper Editorials

Albuquerque Journal (New Mexico)
Amarillo Globe-News (Texas)
The Arizona Daily Star (Tucson)
The Colony Courier-Leader (Texas)
The Daily Campus (Southern Methodist University—Dallas)
Dallas Business Journal
The Dallas Morning News
D Magazine (Dallas, Texas)
East Valley (Phoenix) Tribune
The Houston Chronicle (Texas)
Inside Tucson Business (Arizona)
Las Vegas Sun
Los Angeles Times
Midland Reporter-Telegraph (Texas)
Omaha World-Herald (Nebraska)
Orlando Sentinel (Florida)
Pittsburgh Post-Gazette
St. Louis Post-Dispatch
St. Petersburg Times (Florida)
San Antonio Express-News (Texas)
Santa Maria Times (Santa Barbara County—California)
Tampa Tribune
Texas Monthly
The Union-Leader (Manchester, NH)
Valley Morning Star (Harlingen, Texas)
Wall Street Journal
Washington Post (George Will)

Community Resolutions/Business Organization Support

Alvarado, Texas Chamber of Commerce
Air Travelers Association
Al Biernat's Restaurant (Dallas, Texas)
Amarillo, Texas Chamber of Commerce
American Hotel and Lodging Association
American Society of Travel Agents
Any Event Incorporated (Corporate Meeting/event Company—Austin, Texas)
Bay Area Houston Economic Partnership (Texas)
Best Park (Love Field Parking Garage—Dallas, Texas)
Bugatti Ristorante (Dallas, Texas)
California Hotel and Lodging Association
Central City Association of Los Angeles
City of Manchester, New Hampshire
Dallas Northeast Chamber (Texas)
Deer Park Chamber of Commerce (Houston, Texas)
DeSoto, Texas Chamber of Commerce
Dunston's Steak House (Dallas, Texas)

Edinburg Roadrunners (Professional Baseball Team)
El Paso Texas Diablos (Professional Baseball Team)
Expotex, LLC (Event Management Planning—Austin, Texas)
Flying Saucer Restaurant (Dallas, Texas)
Fox Sports Net
Freedomworks (Citizens for a Sound Economy)
Galveston, Texas Chamber of Commerce
Gaylord Hotels
Governor of Tennessee—the Honorable Phil Bredesen
Greater Dallas Planning Council
Greater Los Angeles African American Chamber of Commerce
Greater San Antonio Chamber of Commerce (Texas)
Harlingen, Texas Area Chamber of Commerce
Harlingen City Commission (Texas)
Harlingen Hispanic Chamber of Commerce (Texas)
Harlingen, Texas Airport Board
Heart of Los Angeles Youth (Inner City Youth Organization)
Hispanic Contractors Association De Tejas
Hopkins County (Texas)
Houston Intown Chamber of Commerce (Texas)
Houston Rockets (NBA Team)
Lancaster Chamber of Commerce (Texas)
Lee County Port Authority (Florida)
Love Field Antique Mall (Dallas, Texas)
Los Angeles County Economic Development Corporation
Mexican-American Opportunity Foundation
Midland Rock Hounds (Professional Baseball)
Nashville Convention and Visitors Bureau
National Hispanic Media Coalition
National Taxpayers Union
Nevada State Legislature
North Dallas Chamber of Commerce
Nosotros (Latino Actor Organization—Hollywood, CA)
Palm Beach International Airport
Philadelphia Aviation Director, Charles Isdell
Pittsburgh International Airport Board
Raleigh-Durham International Airport (North Carolina)
Rockwall Chamber (Texas)
Ronald McDonald House Charities of Lubbock, Texas
Ronald McDonald House Charities of the Rio Grande Valley , Texas
Royse City, Texas Chamber of Commerce
Round Rock Express (Professional Baseball)
Salt Lake City Chamber of Commerce Resolution (Utah)
San Antonio Convention and Visitors Commission (Texas)
San Antonio Hispanic Chamber of Commerce (Texas)
San Antonio Hotel and Lodging Association (Texas)
San Antonio Spurs (NBA)
San Diego County Hispanic Chamber of Commerce
San Francisco Hispanic Chamber of Commerce
South Florida Hispanic Chamber of Commerce
South Padre Island Chamber of Commerce (Texas)
Tampa International Airport
Texas Public Policy Foundation
U.S. Hispanic Contractors Association
Utah Air Travel Commission
Valley Industry and Commerce Association (Los Angeles)
Westchester/LAX—Marina Del Rey Chamber of Commerce (Los Angeles)
Wilmer, Texas Chamber of Commerce

Senator BURNS. Thank you.

We now have Mr. Kevin Cox, Chief Operating Officer and Senior Executive Vice President of the Dallas/Fort Worth International Airport.

Mr. Cox?

STATEMENT OF KEVIN COX, CHIEF OPERATING OFFICER/ SENIOR EXECUTIVE VICE PRESIDENT, DALLAS/FORT WORTH INTERNATIONAL AIRPORT

Mr. COX. Thank you, Mr. Chairman and members of the Committee. On behalf of Dallas/Fort Worth International Airport Board, I want to thank you for the opportunity to testify.

This debate should not turn upon what is convenient for one carrier. This debate cannot be reduced to sound bites or simplistic arguments. This is a real, very serious public-policy issue.

And despite the testimony to the contrary, this debate really has nothing to do with the freedom to fly or about a law that is being portrayed as anti-competitive. The fact is that there is a competitive, level playing field today, called Dallas/Fort Worth International Airport, where six low-cost carriers compete side by side with legacy carriers and continue to provide wonderful flight options to the traveling public.

Instead, this debate is about a single carrier that refuses to compete with every other carrier at DFW and blames a piece of legislation for its refusal to initiate service. In short, Southwest Airlines wants to compete, but only on its terms. Today, Southwest has an unprecedented 97 percent seat share of commercial air traffic into and out of Love Field. There is not another major airport in the United States more dominated by a single carrier than Dallas Love Field. In essence, Southwest Airlines is asking Congress to grant it a competitive advantage at the expense of all of the other airlines that played by the rules and invested for the last 31 years in DFW Airport.

Good public policy never has, nor never should be, predicated upon what is convenient for one carrier or its shareholders. Instead, I respectfully submit that this debate should discuss the merits of honoring a compromise that was agreed to by all.

A member of our board, Fort Worth Mayor Mike Moncrief respectfully asks this Committee to remember that it was the Federal Government which directed Fort Worth and Dallas, in the mid-1960s, to close their airports and choose a single airport. As a result, Fort Worth has closed its airport, while Love Field remains open today. In the words of the Mayor, "We believe in a handshake, and a deal is a deal."

The Wright Amendment came in response to efforts to undue the original agreement, not for any other reason. Despite the rhetoric to the contrary, Southwest Airlines actually lobbied for the passage of the Wright Amendment. It has attempted to use it as a foil to prevent carriers from entering Love Field, has chided the Department of Transportation to fulfill the congressional intent, has sent letters urging the city of Dallas, the city of Fort Worth, and the Airport Board to honor this compromise, and, in one filing with the Federal Government, even suggested that Congress should kick out anyone who wants to alter this agreement.

The debate should also focus on the smaller States and the cities that would likely lose service if the Wright Amendment is repealed and the hub is divided, on the impacts of the local community of reopening a facility that was supposed to be closed to all commercial traffic, and on the 268,000 men and women who have their

livelihoods that depend upon an airport that was built for everyone to compete fairly and effectively.

Recognizing that Southwest Airlines—and people want Southwest to fly—and that DFW has 21 vacant and available gates, DFW has placed an unprecedented offer on the table, valued at $22 million: free rent for a year. We stand ready to negotiate with Mr. Kelleher, Mr. Ricks, or Mr. Kelly, to make that offer even better if they will simply sit down with us. The fact is that Southwest can leave its short-haul traffic at Love Field and initiate long-haul traffic at DFW. This is precisely what Continental Airlines does today in the DFW marketplace.

But you don't have to believe me. You can believe an expert, in 1990, who raised his hand and swore to tell the truth in a deposition, and was asked a question of whether or not he believed the Wright Amendment needed to be repealed. And he unequivocally answered no. And when asked why, he stated the following, and I will quote, "Well, we think that there is some merit to the position, but there is no city in the United States that has two full-fledged hubs competing against one another successfully. We, too, have to agree, as a matter of logic and principle, that if you allowed Love Field to come up to a full-fledged hub in opposition to DFW Airport, that, indeed, air service to the Metroplex would suffer to some extent, because, basically, a hub-and-spoke system depends, for its success, upon attracting passengers from a multitude of spokes that will fill up an airplane going to another destination. If you divide an operation between airports, you're likely to lose service to some of the smaller cities."

Sound familiar? That was Mr.——

Mr. KELLEHER. It sure does.

Mr. COX.—Kelleher's quote.

Mr. KELLEHER. I've got it here, Mr. Chairman. And——

Mr. COX. That is a quote——

Mr. KELLEHER.—some of my——

Mr. COX.—from Mr. Kelleher.

Mr. KELLEHER.—opponents are taking considerably more time than I am. I would like to bring that deposition before the Committee, if I might, when Mr. Cox is finished.

Senator BURNS. Finish up.

Mr. COX. May I finish, sir? Thank you.

The expert was none other than Mr. Kelleher.

In closing, sir, on behalf of DFW Airport and the leaders who had the vision and the tenacity to design and build this great facility, and on the men and women who have the honor and privilege of operating this engine today, I want to respectfully urge you to rebuff any efforts to repeal the Wright Amendment. There is simply too much at stake.

I would ask that my full statement be submitted.

[The prepared statement of Mr. Cox follows:]

PREPARED STATEMENT OF KEVIN COX, CHIEF OPERATING OFFICER/SENIOR EXECUTIVE VICE PRESIDENT, DALLAS/FORT WORTH INTERNATIONAL AIRPORT

On behalf of the Dallas/Fort Worth International Airport Board, I want to thank you for the opportunity to testify today on the recent efforts associated with repealing Section 29 of the International Air Transportation Competition Act of 1979, now

more commonly known as the "Love Field Amendment" or the "Wright Amendment."

Over the last year, this issue has garnered a significant amount of local media coverage. Southwest Airlines' campaign has taken the form of television ads, billboards, and busses proclaiming "Wright is Wrong," and has also included Southwest Airlines' flight attendants clad in vintage hot pants soliciting signatures on a petition. As compelling as this media blitz may be to some, there are very serious public policy issues at stake, with very serious and real consequences hanging in the balance. This debate cannot and should not be reduced to sound bites, slogans, or simplistic arguments.

Despite the rhetoric to the contrary, this debate really has nothing to do with "the freedom to fly about the country" or about a law that is being portrayed as "anti-competitive." The fact is that a competitive, level playing field exists today in North Texas where low fare carriers compete side-by-side with legacy carriers—it is called DFW International Airport. At its essence, this is about a single carrier that refuses to compete with every other carrier at DFW Airport and wrongfully blames a piece of legislation on its refusal to provide service. In short, Southwest Airlines wants to compete on its terms and only on its terms and is asking Congress to intervene on its behalf. Good public policy has never and should never be predicated upon what is good for one company or its shareholders.

I respectfully submit that this debate should, instead, discuss the merits of honoring a compromise that was agreed to by all interested parties. The debate should be focused upon the public policy decision supported by the Federal Government which was acted and relied upon by the local authorities. The debate should assess the impacts of re-opening a facility that was destined to be closed to all commercial air traffic. The debate should consider the 268,500 men and women whose livelihoods depend upon an airport that was designed and built to permit all carriers to compete on a level playing field. This debate should assess the harmful effects to the residents and businesses around Love Field that have relied upon this delicately crafted compromise. And finally, this debate should recognize the severe and unnecessary consequences to the entire North Texas economy if this agreement is broken.

I respectfully urge this Committee not to fall prey to the pithy sound bites, simplistic arguments, or cute slogans. Instead of asking whether Congress should repeal the Wright Amendment, I respectfully submit that there are more appropriate questions that should be considered. Why, for example, does the Wright Amendment need to be repealed at all? Is the Wright Amendment what is really holding service back or is it a decision on the part of one company that chooses not to compete? Why has Southwest Airlines abandoned its 25-year stance of "passionate neutrality" at this particular time? And what are the true motives behind this repeal effort? I respectfully submit to you that it is, at minimum, suspect when the only profitable airline in the industry, the airline with one of the largest cash reserves, and the airline that carries more domestic passengers than any other carrier feels it necessary to ask Congress to intervene on its behalf so that it can "compete" in its own hometown, at an airport that it monopolizes.

Historical Rivalry for Commercial Air Service

To understand the genesis, complexities, and nuances of the Wright Amendment, it requires an understanding of how and why Dallas/Fort Worth International Airport was created. For many years, the cities of Dallas and Fort Worth were engaged in an intense and counterproductive rivalry for the business of commercial aviation and commercial air carriers. While the City of Dallas was enlarging and improving Love Field, the City of Fort Worth constructed Greater Southwest International Airport (GSIA). Love Field and GSIA were a mere twelve miles apart. As recounted in 1973 by Chief Justice William M. Taylor of the U.S. District Court for the Northern District of Texas, "serving two airports which were so close together resulted in unnecessary expense to the carriers as well as the taxpayers and inadequate and incomplete air service to both cities."

Recognizing this inefficiency, the Federal Government's Civil Aeronautics Board (CAB) instituted in August 1962, an investigation known as the Dallas/Fort Worth, Texas Regional Airport Investigation—docket number 13959. This investigation focused on the sole issue of whether the Certificate of Public Convenience and Necessity of interstate airlines under the CAB's jurisdiction should be amended so as to designate a specific airport as a single point through which all interstate air carrier service to Dallas and Fort Worth must be provided. After numerous hearings, the CAB in 1964 entered an interim order giving the two cities a period of 180 days in which to arrive at a voluntary agreement to designate the single airport through which the CAB regulated carriers would service the Dallas/Fort Worth area. In this order, the CAB went on to indicate that if the parties were unable to agree on a

single airport to serve the area, then the CAB would have no choice but to make the determination for the two cities.

DFW Airport's Founding Documents

Given this impending designation, the Cities of Dallas and Fort Worth agreed to set aside their differences and united to design, finance, and construct a new regional airport. This airport was to be located mid-way between the Cities of Dallas and Fort Worth. After years of work, the City of Dallas and the City of Fort Worth finally entered into a Contract and Agreement on April 15, 1968, defining the power and duties of the Dallas/Fort Worth Regional Airport Board, creating the joint airport fund of the cities, and providing for the construction and operation of the Dallas/Fort Worth Regional Airport.

On November 2, 1968, the City of Dallas and the City of Fort Worth adopted by agreement the 1968 Regional Airport Concurrent Bond Ordinance. This bond ordinance served then, as it does today, as the vehicle upon which all revenue bonds are issued. Section 9.5(A) of the bond ordinance provides, in pertinent part, that the Cities of Dallas and Fort Worth "hereby covenant and agree that from and after the effective date of this Ordinance, shall take such steps as may be necessary, appropriate and legally permissible . . . to provide for the orderly, efficient and effective phase-out at Love Field, Red Bird, GSIA and Meacham Field, of any and all Certificated Air Carrier Services, and to transfer such activity to the Regional Airport effective upon the beginning of operations at the Regional Airport."

Section 9.5(B) goes on to provide, in pertinent part, that the Owner Cities further agree that they will "promote the optimum development of the lands and Facilities comprising the Regional Airport . . ." and ". . . neither the Cities nor the Board will undertake with regard to the Regional Airport, Love Field, GSIA, Meacham Field or Red Bird, any action, implement any policy, or enter into any agreement or contract which by its or their nature would be competitive with or in opposition to the optimum development of the Regional Airport." Finally, section 9.5(B) provides that ". . . none of the airports of the Cities shall be put to or developed for any use which by the nature thereof the optimum use and development of the Regional Airport, including its air and land space, at the earliest practicable date will be impaired, diminished, reduced or destroyed."

With the creation of the Regional Airport Board and a long-term funding mechanism in place, the Dallas/Fort Worth Regional Airport Board entered into a Use Agreement on January 1, 1974, with those commercial air carriers serving the Dallas/Fort Worth region. Every carrier serving the North Texas region executed the Use Agreement except for Southwest Airlines, which was at the time an intrastate carrier only, regulated by the Texas Aeronautics Commission. In addition to defining the duties and obligations of both the Airport Board and the signatory airlines in the operation of the airport, the signatory airlines agreed under the Use Agreement that they would "conduct [their] Certificated Air Carrier Services serving the Dallas/Fort Worth area to, from, and at the [DFW] Airport, to the extent required by the terms of the 1968 Regional Airport Concurrent Bond Ordinance." In layman's terms, the signatory carriers were contractually prohibited, at the time, from operating out of any other airport in North Texas, except DFW Airport.

Southwest Wins Right to Remain at Love Field for Purely "Intrastate" Service

Consistent with both the Bond Covenants and the Use Agreement, the City of Dallas and the City of Fort Worth proceeded to provide for the phase-out of all Certificated Air Carrier Services at their respective designated airports. Despite these efforts, including a series of lawsuits, Southwest Airlines eventually won the right to operate intrastate service out of Love Field because, the Court concluded, that purely "intrastate service" did not fall within the definition of "Certificated Air Carrier Services" under the Use Agreement and the Bond Ordinance.

In keeping with this ruling, only intrastate service was permitted into and out of Dallas Love Field from 1973 to 1978. Then in 1978, the U.S. Congress changed the regulatory scheme of civil aviation when it enacted the Airline Deregulation Act. Prior to the complete elimination of these regulatory controls, and over the objections of the City of Dallas, the City of Fort Worth, the Dallas Chamber of Commerce, the Fort Worth Chamber of Commerce, the North Texas Commission, and DFW Airport, Southwest Airlines sought and received a certificate of authority from the Civil Aeronautics Board to provide nonstop "interstate" service effective September 1979 from Dallas Love Field to New Orleans. This authority came as a part of Southwest Airlines' Automatic Market Entry Investigation (CAB order 79–9–192), wherein the CAB concluded that it had no discretion to deny Southwest Airlines' request.

Congressional Compromise is Reached

Recognizing that such a route would undermine the 1968 Agreement and the 1968 bond covenants, the Cities of Dallas and Fort Worth determined that the public interest in aviation safety was best served by requiring all regularly scheduled interstate commercial flights, except air taxi flights, to serve the Dallas/Fort Worth Regional Airport. This is embodied in the Dallas City Council resolution dated November 7, 1979, wherein the City of Dallas expressed "its support for Federal Legislation which would make it clear that the City of Dallas and the Dallas/Fort Worth Regional Airport Board have authority to provide that all regularly scheduled commercial flights in interstate commerce shall be conducted into and from Dallas/Fort Worth Regional Airport, unless otherwise authorized by the City and the Board." Similarly, the City of Fort Worth expressed strong support for Federal legislation "which encourages the provision of regularly scheduled interstate air service through the Dallas/Fort Worth Airport to the exclusion of other airports in the region," in a resolution adopted November 1, 1979.

In light of Southwest's intent to begin operation of interstate service from Love Field and in light of the City of Dallas and the City of Fort Worth's request for Federal legislation that would clarify where all interstate commercial flights to and from the North Texas area should be conducted, the U.S. House of Representatives passed legislation which would have prohibited a common carrier from operating any regularly scheduled interstate commercial passenger flights into or from any other airport within a 20 mile radius from Dallas/Fort Worth Regional Airport. Thus, the effect was to make DFW Airport the only permissible airport for interstate traffic in the DFW area as originally contemplated by the Federal Government and as intended by the City of Dallas and the City of Fort Worth when they originally agreed to build, construct and operate DFW to the exclusion of all other airports. This provision was part of the House version of the International Air Transportation Act of 1979. The Senate, however, passed no comparable provision in its companion bill of the International Air Transportation Act of 1979.

Consequently, a compromise was reached in the form of a conference substitute which specifically prohibited Love Field from being used for interstate air transportation of passengers unless it met one of three exceptions. The first exception permitted turn-around service between Love Field and points within the contiguous states of Louisiana, Arkansas, Oklahoma, New Mexico and Texas provided that the air carrier did not permit through servicing or ticketing and did not offer transportation service outside these states. The second exception permitted charter air transportation provided that these charters did not exceed 10 flights per month. Finally, the third exception permitted air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

The Senate agreed to this Conference Report on January 31, 1980; while the House agreed to the Conference Report on February 4, 1980. Subsequently, the International Air Transportation Act of 1979, and more particularly, Section 29 (more commonly known as the "Love Field Amendment" and/or "Wright Amendment") was enacted into law on February 15, 1980.

Southwest Airlines was a Willing Participant in the Compromise

As embodied in the Conference Report, Section 29 "provides a fair and equitable settlement for a dispute that has raged in the Dallas/Fort Worth area for many years. It has been agreed to by the representatives of Southwest Airlines, the City of Dallas, the City of Fort Worth, DFW Airport authority, and related constituent groups." Thus, the Wright Amendment was and is a delicately crafted compromise designed to settle a historical dispute in this region. More importantly, it was designed to accomplish the goal initially outlined by the Federal Government to avoid a duplication of expenses, and resolve inadequate and incomplete air service to both cities.

In an apparent attempt to rewrite history in hopes of building support for repealing the Wright Amendment, Southwest Airlines has recently attempted to distance itself from the compromise that it actually helped create. It might be of interest to this Subcommittee to learn that Southwest Airlines actually lobbied for the passage of the Wright Amendment. This is evidenced in a letter drafted and delivered to both House and Senate conferees on December 11, 1979, by the lead lobbyist for Southwest Airlines at the time, Mr. J.D. Williams. In the letter, Mr. Williams indicates that he "enclosed . . . a copy of language which Southwest Airlines supports as a compromise on the Love Field interstate service controversy." He goes on in the letter to indicate that Southwest Airlines is "pleased that the parties to this long-standing controversy have been able to reach this compromise, which we believe to be the only viable one." Finally, he urges the conferees for their "support" of this compromise.

Immediately after the passage of this compromise, Mr. Herb Kelleher, was quoted in the Fort Worth Star-Telegram on December 13, 1979, fully acknowledging and accepting "the compromise as the 'final resolution' in their seven year fight over use of Dallas' Love Field." In that same article, he was quoted as saying that he is "personally pleased with the idea that this will finally bring peace to the Dallas-Fort Worth area." Southwest Airlines' Herb Kelleher went on in the article to acknowledge that his company's growth would be restricted at Love Field unless it chose to move some of its operations to DFW:

> "Kelleher disputed Wright's contention that Southwest will have to pull up its Love Field stakes and move to DFW Airport if it hopes to grow. However, he conceded, growth of Southwest's Dallas operations will be severely restricted if the airline doesn't eventually make that move."

Thus, immediately following passage of the Wright Amendment, Mr. Kelleher fully understood that the compromise to which he agreed would ultimately require him to run a split operation at Love Field and at DFW International Airport.

In its own media release, dated December 17, 1979, Southwest Airlines admitted that the Wright Amendment is a compromise that prevents Love Field from ever competing with DFW Airport:

> "Herb D. Kelleher, Chairman of the Board, said, 'Although the compromise amendment very substantially curtails the amount of interstate air service Southwest can provide from Love Field and also effectively prevents Love from ever becoming an interline or connecting complex competitive with DFW Airport, we are nonetheless happy that peace has been achieved after nearly ten years of controversy. Southwest Airlines can now proceed with its long-term route planning and concentrate fully on the profitable management and expansion of the airline. Hopefully, the time-consuming and expensive legal battles of the last decade are behind us.'"

A year later, when confronted with the threat of Texas International flying interstate traffic out of Love Field, Southwest urged Dallas, Fort Worth, and DFW officials to honor the compromise. In a memorandum from Mr. Kelleher dated August 4, 1980, to the members of the Dallas and Fort Worth City Councils and the members of the DFW Regional Airport Board he stated that, "We have abided by the 'Love Field Compromise' in good faith and we feel confident that each of you will want to do the same."

In fact, Southwest actually attempted to use the Wright Amendment to keep its competitors out of Love Field when it filed a response to Texas International's proposed service out of Love Field on August 23, 1980. In that filing, Southwest Airlines chastised the Civil Aeronautics Board:

> "The Love Field Legislation was intended to settle once and for all the 'dispute that has raged in the Dallas/Fort Worth area for many years. Now, TI [Texas International] seeks to reopen that fight and upset the delicate balance which has brought peace for the first time in over a decade. Congressional intent to the contrary is clear. Southwest does not object to TI using Love for intrastate flights (which apparently is all it wants to do) so long as the law is obeyed and TI's certificate properly reflects what it may and may not do. There is simply no reason for the [Civil Aeronautics] Board to raise again the spectre of full scale commercial use of Love Field which has exacerbated this situation for so long, and which Congress has been to such pains to exorcise."

Similarly, in 1985, Southwest Airlines urged the Department of Transportation to limit Love Field to short-haul service as originally envisioned in the Wright Amendment when it filed Comments of Southwest Airlines in Response to Order 85–7–65, dated August 23, 1985. In that filing, attorneys for Southwest argued that there were severe local concerns that must be considered:

> "The Department should respect the will of Congress and recognize the Amendment for what it is—a congressional declaration that in this one instance, competition should be limited to carriers which emphasize short-haul, turnaround service and which restrict their size by refraining from interlining anywhere on their systems. Congress endorsed this Love Field compromise in recognition of severe local concerns, and in the interest of peace."

In fact, Southwest's own attorneys in that same filing stated that "the conferees obviously thought they were enacting into law the agreement and understanding reached between Southwest and the Texas civic parties."

In another docket filed by Southwest Airlines in its Reply Comments in the Love Field Amendment Proceedings (Docket 43307) filed by Herbert D. Kelleher and Paul

Y. Seligson on August 30, 1985, Southwest argued that Congress should rebuff any efforts by any carrier, including Continental Airlines, to change the Wright Amendment. Specifically, Southwest argued that "should Continental now address its pleas to Congress, where they properly belong, the legislators would doubtless be tempted to reply in the words of Lewis Carroll: 'I have said it three times, and that is enough. Be off, or I'll kick you downstairs.'"

As late as 1989, Mr. Kelleher acknowledged that he had pledged not to overturn the Wright Amendment when he stated in an interview with Financial World, on March 21, 1989, that "operationally, it's [the Wright Amendment] extremely difficult, but I pledged we wouldn't seek to overturn it." In fact, in an interview with the Fort Worth Star-Telegram on April 30, 1992, Mr. Kelleher conceded that any changes to the Wright Amendment should involve all parties:

> "'Obviously, if you look at it from a technical legal standpoint, it takes the U.S. Congress to change the Wright Amendment. Since we are neutral on the subject, we are neither happy or disappointed,' Kelleher said. 'I've made statements many times that we'd be willing to abide by what's agreeable to the parties.'"

Obviously, there is more than ample evidence that Southwest Airlines supported passage of the Wright Amendment, attempted to use it to prevent carriers from entering Love Field, lobbied the Department of Transportation to fulfill its intent, urged all parties to honor the agreement, and suggested Congress should kick out anyone who seeks to alter the agreement. As John Adams once wrote, "[f]acts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passion, they cannot alter the state of the facts and evidence." Unfortunately, despite the 25 years of neutrality on the issue and Mr. Kelleher's public pledge to support the compromise, the current management team now seeks to ignore the facts, and Mr. Kelleher's pledge.

Southwest Airlines Has Flourished in its Safe-Harbor at Love Field

Southwest Airlines has recently argued that it has labored under this compromise. Again, the evidence belies this argument. The reality is that Southwest Airlines was able to operate at Love Field in a protected and safe-harbor environment insulated from the other airlines which had signed DFW's Use Agreement that, at the time, contractually prohibited them from returning to Love Field.

Today, Southwest Airlines garners an unprecedented 97 percent seat share of commercial air traffic into and out of Love Field. There is no other major airport in the United States dominated more by a single carrier than Dallas Love Field. To put that in perspective, prior to Delta's recent elimination of its hub at Dallas/Fort Worth International Airport, American Airlines' largest seat share was 73 percent. After Delta's recent elimination of its hub, American Airlines garners approximately 83 percent seat share, a full 10 percentage points less than what Southwest currently maintains at Love Field.

More importantly, Southwest's virtual monopoly at Love Field has permitted it to garner the highest yield of any airport that Southwest Airlines has served over the last five years. This was documented in a recent report authored by Professor Bijan Vasigh of Embry-Riddle Aeronautical University. In Professor Vasigh's report, which was published on October 18, 2005, he analyzed the airports with the highest yields for Southwest Airlines from 1999 to 2004. Eight of the top ten markets are within a narrow stage length band. Of these eight, Southwest Airlines' highest yield was achieved at Love Field with a 21.02 cent average yield per passenger mile. This yield was 3 cents higher than the next closest airport from which it operates. Factoring out Dallas Love Field, the median for the remaining seven airports over that same time period was 16.47 cents per passenger mile, or 4.6 cents below the yield achieved at Love Field. Thus, Southwest Airlines commands a 28 percent premium out of Love Field. In short, it is hard to fathom how Southwest has labored under the Wright Amendment when it maintains such a dominance at Love Field and can demand the highest yield per passenger mile of any market in which it serves.

Wright Amendment Permits Southwest Airlines to Fly Anywhere in the United States

A little known fact is that Southwest Airlines has the right to fly today out of Love Field under the Wright Amendment to any destination across the United States. As I described earlier, the Wright Amendment permits any aircraft with 56 seats or less to fly anywhere in the United States that Southwest Airlines, or any other carrier, desires. Now Southwest Airlines will undoubtedly respond that it doesn't own any jet that has 56 seats. The fact of the matter is that it could, like every other carrier, make a business decision to buy regional jets that have 56 seats,

or form an alliance with another regional carrier or affiliate that possesses regional jets.

Instead of flying within the law, Southwest Airlines has needlessly plunged the North Texas community into a very divisive debate. The fact that Southwest Airlines chooses not to buy 56-seat regional jets or to form an alliance with an affiliate company is a decision that Southwest has a right to make; however, one company's business decision should not dictate a change in good, sound public policy which has served this community well for the last 25 years and has been relied upon by so many.

Current Financial Challenge Facing DFW Airport

In 1997, after waiting for a final interpretation by the courts over the Shelby Amendment and assessing the implications it would have on service levels at DFW Airport, the Airport embarked upon an extensive capital development plan designed to improve and expand Dallas/Fort Worth International Airport. This $2.7 billion Capital Development Plan was supported and authorized by the airlines, the DFW Airport Board, the City of Dallas, and the City of Fort Worth. After a series of unprecedented and unpredictable challenges including the terrorist attacks of September 11th, SARS, and the overall financial instability of the airline industry, this eight-year Capital Development Program came to a successful end.

The program culminated with the opening of the new Skylink airport train, which opened to the public on May 21, 2005, and now connects all of the airport's terminals by rail. Shortly thereafter, International Terminal D was opened to the fanfare of the traveling public on July 23, 2005. These two projects, combined with other airfield and roadway improvements, increased the Dallas/Fort Worth International Airport Board's debt from $676 million to $3.8 billion, nearly a six-fold increase.

The airport judiciously pursued this long-term investment, completing the project on time and under budget in the face of these unprecedented challenges. Fortunately, DFW Airport was able to maintain a competitive cost structure well in line with other peer airports across the country. Although this increase in the airport's debt load was anticipated, no one expected or could have predicted that on the heels of this investment, Delta Air Lines would abandon its hub at DFW, jet fuel prices would hit an all time high, and Southwest Airlines would call for repeal of the Wright Amendment.

Delta Air Lines' Decision to Eliminate Its Hub

In February of this year, Delta Air Lines eliminated its hub at Dallas/Fort Worth International Airport as part of a larger restructuring of the airline. At the time, Delta Air Lines was DFW Airport's second largest carrier, with 566 flights to and from 72 non-stop destinations. By the end of February, Delta Air Lines had eliminated 522 of these flights and reduced its service to just three destinations—Salt Lake City, Cincinnati, and Atlanta. With the elimination of its hub, Delta Air Lines' gate requirement fell from 28 gates it used to operate in Terminal E to just four. Three of these 28 gates have subsequently been re-leased to AirTran Airways; unfortunately, as of today, DFW Airport still has 21 gates that remain unleased in Terminal E.

Obviously, Delta Air Lines' decision to eliminate its hub had a significant impact on the North Texas economy. In a study performed by Bernard L. Weinstein, Ph.D., and Terry L. Clower, Ph.D., from the University of North Texas, it is estimated that more than 7,000 jobs were lost in the Dallas/Fort Worth area, $344 million in lost salaries and wages, and more than $782 million in total losses to the North Texas economy on an annualized basis. By any measurement, this was a serious blow to DFW Airport and the North Texas economy.

It bears noting that only after DFW Airport completed the financing of its Capital Development Program and only after Delta Air Lines eliminated its hub, did Southwest Airlines choose to abandon its 25-year stance of "passionate neutrality" on the Wright Amendment and plunge this community into this caustic and divisive debate.

The Traveling Public Wants Southwest Airlines at DFW Airport

In the face of Delta Air Lines' elimination of its hub, DFW Airport has been aggressively targeting both new carriers and existing carriers to backfill the service lost as a result of Delta's decision. In fact, virtually every low-cost airline has been approached by DFW Airport, with Southwest Airlines on the top of that list.

It should be no surprise that the traveling public wants Southwest Airlines at DFW International Airport. In a formal survey conducted by the International Ford Group between July 2 and July 5, 2005, more than 2,700 travelers were sampled. They were asked a simple question: Do you want Southwest Airlines to begin service at DFW International Airport? The response to that simple question was nothing

short of overwhelming. Of the more than 2,700 travelers sampled, 62 percent wanted Southwest Airlines to initiate service from DFW International Airport. When you factor out those who expressed no opinion on the issue, the results are even more compelling. Eighty-five percent of those who had an opinion on the issue wanted Southwest Airlines to initiate service at Dallas/Fort Worth International Airport.

Recognizing that travelers want Southwest Airlines to begin service from DFW Airport, and recognizing that DFW Airport had 21 vacant and available gates, DFW Airport placed an unprecedented offer on the table in an attempt to attract Southwest Airlines to DFW. The offer itself is valued at more than $22 million and includes one year of free rent, the acquisition of ground service equipment, capital funding for facility improvements, and cooperative marketing funds.

Unfortunately, Southwest Airlines has repeatedly rebuffed DFW's offer despite the fact that it both publicly and privately admitted that it can operate at DFW Airport. Since these early admissions, Southwest has attempted to concoct new and varied excuses as to why it refuses to operate from DFW Airport. The most recent claims include that DFW is too congested, that Southwest Airlines cannot run split operations between two airports, and that DFW is too expensive.

Again, the claims are baseless. Today, Southwest Airlines flies out of seven of the country's busiest airports, all more congested than DFW Airport. Based upon the U.S. Bureau of Transportation statistics, Baltimore/Washington, Chicago Midway, Philadelphia, Las Vegas, Los Angeles, Phoenix, and Detroit all had a higher percentage of flight delays in the first quarter of 2005 than DFW Airport. Similarly, Southwest Airlines serves other metropolitan areas out of multiple airports including southern Florida, where Southwest Airlines serves both West Palm Beach and Ft. Lauderdale airports, and in the Los Angeles basin, where Southwest Airlines serves four airports, including Burbank, Los Angeles, Ontario, and Santa Ana. It should also be noted that until this effort to repeal the Wright Amendment was announced, Southwest also served both Houston George Bush Intercontinental and Houston Hobby.

In terms of cost, Southwest Airlines flies today out of eight airports that are more expensive on a net cost per enplaned passenger basis than DFW Airport. Based upon the data compiled by Leigh Fischer and Associates from airport sources, airports with a higher net cost per enplaned passenger than DFW Airport's current cost of $8.30 include Ontario at $12.05, Portland at $11.74, Seattle-Tacoma at $11.41, Pittsburgh at $11.02, New Orleans at $9.18, Philadelphia at $9.09, Albuquerque at $8.36, and Austin at $8.31. The most compelling example, however, lies in Southwest Airlines' recent announcement that it will initiate service into Denver International Airport. Today, Denver International Airport has a net cost per enplaned passenger of $13.05, which is 57 percent more than DFW Airport's net cost per enplaned passenger. Obviously, if Southwest can operate from one of the most expensive airports in the country, it can easily do so at DFW.

The simple and undeniable fact is that Southwest can and should leave its short-haul traffic at Love Field and initiate long-haul traffic at DFW Airport exactly as Mr. Kelleher predicted his company would need to do in 1979 when the Wright Amendment was passed. This "split operation" is precisely what Continental Airlines does today. Continental Airlines operates short-haul flights from Love Field to Houston while also operating long-haul flights from DFW Airport to Cleveland and Newark.

Despite the rhetoric to the contrary, it is not a piece of legislation that is holding back Southwest Airlines' service, but a conscious decision on the part of Southwest Airlines' management team. Every other carrier serving North Texas, including five other low cost carriers, soon to be six when Spirit Airlines initiates service on January 10th, operates from DFW Airport. Not one of these six low cost carriers has seen the need nor the wisdom in asking Congress to intervene on their behalf. Instead, they simply have chosen to compete.

Impacts of Repeal on Love Field

In the frenzy to paint this issue as one of "competition" and "low fares," few have taken the time to focus upon the consequences of repealing the Wright Amendment. The impacts will be significant and are supported by sound data and credible experts. The first and most obvious to be impacted are the homeowners and business owners around Love Field.

In attempting to sidestep the impacts associated with reopening Love Field, Southwest Airlines readily cites the Love Field Master Plan and the company's willingness to abide by that Plan. What Southwest Airlines fails to acknowledge is that the Master Plan assumed that there would be no further changes to the Wright Amendment. The Love Field Master Plan also contemplated that any growth at Love Field would occur on regional jet aircraft not on mainline jet aircraft. It was

precisely these two assumptions that led all parties, especially the residents around Love Field, to reach an agreement to support the Master Plan.

To quantify this impact, two independent studies from two separate and well respected aviation consulting firms conducted an analysis on repealing the Wright Amendment. The first study, performed by Simat, Helliesen & Eichner, Inc. (SH&E), concluded that, even assuming the Love Field Master Plan was enforceable and viable in the face of a repeal of the Wright Amendment, an additional 312 aircraft operations would occur daily at Love Field. SH&E then took their analysis one step further and assumed that if the Love Field Master Plan is ultimately deemed no longer viable, then Love Field could see an increase of as many as 484 flights a day. In a separate study, the Eclat Consulting firm came to a similar conclusion and estimated that Dallas Love Field could experience 251 additional daily flights if the Wright Amendment were repealed.

Equally disturbing is the size of the jets that will be flown and the impact these jets will have on passenger traffic and the noise around Love Field. The Love Field Master Plan assumed and modeled a mere one percent increase in mainline jets. However, the repeal of the Wright Amendment will result in significant growth in large aircraft departures as Southwest Airlines, American Airlines, and other carriers respond to the change in the law. Based upon 2005 operational levels, SH&E projects that large jets operating from Love Field will grow 133 percent if the Wright Amendment is repealed, assuming the 32-gate limit in the Master Plan holds. Without such a gate limit, SH&E predicts that large jets will grow an astonishing 208 percent.

With this explosion in service at Love Field, passengers are projected to increase by as many as 16 million passengers on an annualized basis, growing from 6.6 million to upwards of 22 million, representing a staggering 234 percent growth in terms of passengers. In contrast, the Master Plan that was agreed to by both Southwest Airlines and the neighborhoods only contemplated passenger growth at 14 percent between 2005 and 2020 because it assumed growth on regional jets and because it assumed the Wright Amendment would remain undisturbed.

Obviously, such an impact would put a strain on existing facilities and roadway infrastructure. Residents and businesses around Love Field will also experience a substantial increase in both noise and emissions. A simple thing such as a change in fleet mix can have a dramatic impact on noise levels in and around Love Field. As an example, American Airlines will likely fly McDonnell Douglas (MD) 80s out of Love Field. From a noise perspective, an MD 80 departure is, on average, 10 decibels louder than the average noise of an Embraer regional jet on departure which was modeled under the Love Field Master Plan. To put that in perspective, a 10 decibel increase in noise is perceived by the human ear as being twice as loud.

Another way to assess the potential impact is to compare the noise footprints of these jets. Based upon two independent analyses, one done by NASA Langley Research Center in September 2003 and the other by Wiley Acoustics done in August 2005, a departure of a Boeing 737–300 has an 80 decibel single event noise contour which covers approximately 5.5 to 5.8 square miles. In contrast, an MD 80 has an 80 decibels single event noise contour which covers 17 square miles. In layman's terms, the size of the area that will experience a single event noise contour of 80 decibels, when American Airlines is forced to compete at Love Field and deploys their MD 80s, is three times larger than the current footprint experienced today when Southwest departs a Boeing 737 jet.

Fortunately, DFW Airport's large land mass of more than 18,000 acres serves, in part, as a buffer, protecting the surrounding homeowners and business owners from both the environmental and operational impacts associated with operating an airport. With only 1,300 acres, Love Field simply does not have a buffer. It also does not have the roadway infrastructure to handle the expected tripling of traffic which is projected. Reopening Love Field will undoubtedly have a negative impact on noise, emissions, and the quality of life for those who live and work in and around Love Field. Unfortunately, this is not what the residents bargained for when they agreed to the Love Field Master Plan.

Impacts of Repeal on DFW Airport

The SH&E study also focused upon the impact to DFW Airport if the Wright Amendment were repealed. Given the projected growth at Love Field, SH&E concluded that DFW will lose a substantial amount of traffic. In fact, SH&E predicts that DFW could lose as many as 408 daily flights, or 20 percent of DFW's current operations, and as many as 21 million passengers annually, representing a 35 percent decline from current levels. With this substantial loss, DFW Airport passenger levels will decrease to levels seen 20 years ago, and it will take another 19 years for traffic just to recover to current levels. In short, repealing the Wright Amend-

ment will amount to a 39 year penalty for DFW International Airport, the traveling community and businesses that have come to rely on DFW's economic vitality, and the airlines which moved to DFW in reliance upon the closure of Love Field. Equally, if not more important, will be the untold impact on the lives of the 268,500 men and women who have their jobs tied to DFW Airport.

The Eclat study also predicts that many cities are at risk of losing some or all of its air service as DFW's hub is drained of passengers. The Eclat study attempted to categorize the cities by risk. In terms of those "most at risk," there are 15 cities that would likely lose some or all of their air service. Cities such as Waco, Texas; Fayetteville, Arkansas; and Springfield, Missouri all topped the list of those most likely to lose service. There were an additional 50 cities identified as at "moderate risk." These cities spanned all parts of the country and included cities such as Dayton, Ohio; Birmingham, Alabama; Orange County, California; and Louisville, Kentucky. The Eclat study also identified 15 international cities that are likely to lose flights as a result of less connecting traffic and the ultimate degradation of DFW Airport's hub. Cities identified as candidates to lose service include Lima, Peru; Santiago, Chile; Sao Paulo, Brazil; and London, England, just to name a few.

Having just added $2.7 billion in new debt, while facing the prospect of losing 21 million passengers, 408 daily flights, and a significant number of domestic and international destinations, DFW Airport would be under severe financial stress at a time when it is least equipped to handle it. As an example, if the Wright Amendment is repealed, it is conservatively estimated that 35 gates would sit empty and unused. To put that in perspective, San Antonio International Airport has 28 gates in total, Austin-Bergstrom International Airport has 25 gates, Mineta San José International Airport has 32 gates, and Indianapolis International Airport has 35 gates. DFW would have vacant and idle the rough equivalent of the total number of gates at each of these airports.

Repealing the Wright Amendment will also have a dramatic impact upon DFW's cost structure. DFW's net cost per enplaned passenger in Fiscal Year 2006 is projected at $8.30. If efforts to repeal the Wright Amendment are successful, DFW Airport's cost is projected to increase 54 percent to $12.81, assuming that the Love Field Master Plan remains intact. If the plan is deemed unenforceable, and Love Field traffic could grow uninhibited, it is estimated that DFW's net cost per enplaned passenger would increase almost 100 percent to $16.47. Without question, this would have a dramatic impact upon DFW Airport's cost structure and its ability to attract new air service, creating a potentially irreversible downward spiral.

If these predictions were not in and of themselves sufficient reason to abandon any efforts to repeal the Wright Amendment, then I would respectfully suggest that Congress heed the warnings of another expert—Mr. Herb Kelleher. Mr. Kelleher testified under oath in a deposition in a lawsuit styled *Zamutt* v. *Skinner,* U.S. District Court of California, October 8, 1990. In that deposition, Mr. Kelleher was asked whether or not Southwest supported repeal of the Wright Amendment. He answered, "No, we do not." When asked why, he responded as follows:

> "Well, we think that there is some merit to the position that there is no city in the United States that has two full-fledged hubs competing against one another successfully. There are cities that have a main airport and satellite airports which live well in a complementary relationship, harmonious relationship; and we too have to agree as a matter of logic and principle that if you allowed Love Field to come up as a full-fledged hub in opposition to DFW Airport that indeed air service to the Metroplex would suffer to some extent because basically a hub-and-spoke system depends for its success upon attracting passengers from a multitude of spokes that will fill up an airplane going to another destination. If you divide that type of operation between two airports, you're likely to lose service to some of the smaller cities."

Mr. Kelleher's statement was accurate when he responded under oath in 1990 and remains accurate today. It should serve as a warning to any and all who want to repeal the Wright Amendment that there will be serious consequences.

Potential Impacts of Repeal on Fares

Recently, Southwest Airlines commissioned The Campbell-Hill Aviation Group, Inc. (Campbell-Hill) in an effort to support its proposition that repeal of the Wright Amendment will result in lower airfares. In fact, Southwest Airlines has hinged its entire argument for repeal around wanting to bring low fares to North Texas travelers. A close analysis of this report reveals that it is based upon a series of flawed assumptions.

Recently, a professor from the Embry-Riddle Aeronautical University, Bijan Vasigh, undertook an analysis of the Campbell-Hill report. His findings were quite

telling. Professor Vasigh concluded in his analysis that the Campbell-Hill "report works under the assumption that there are currently no low cost carriers at Dallas-Fort Worth International Airport." As you will learn in a moment, this is a blatantly false assumption. Professor Vasigh goes on to point out that the Campbell-Hill study "relies upon pricing and market stimulation assumptions that are more than a decade old in an industry where prices change by the thousands every day." Finally, Professor Vasigh points out that the Campbell-Hill study "gives no credit to the fact that airfares were restructured earlier this year in all DFW domestic markets, reducing the average fare paid by DFW passengers." In short, Professor Vasigh concludes that Southwest's fortress strategy in repealing the Wright Amendment is not about a more competitive market and lower prices, but rather it is about the concentration of its monopoly power at Dallas Love Field.

In support of this conclusion, we would respectfully offer the following indisputable facts. The fares at DFW have been dramatically falling as carriers adapt to the changing marketplace. As an example, American Airlines fares at DFW have fallen 32 percent since year ending First Quarter 2001. In contrast, Southwest Airlines fares at Love Field have fallen over that same time period by three percent. DFW's average domestic one-way fare declined from $218 in the First Quarter 2001 to $157 in the First Quarter 2005. In fact, just in the last year, from First Quarter 2004 through First Quarter 2005, DFW's average fare has declined 11.4 percent, well ahead of the national average of six percent.

Today, at DFW Airport, approximately 25 percent of all one-way fares are less than $100. This is directly attributable to American Airlines restructuring its fares in the last year and the impact of the five low cost carriers that have chosen to offer service from DFW Airport. Despite Campbell-Hill's incorrect assumption to the contrary, AirTran Airways, ATA, US Airways, Frontier, and Sun Country Airlines all compete head-to-head against American Airlines at DFW Airport, with Spirit Airlines initiating service in January.

It should not go unnoticed that Southwest Airlines' decision to announce the end of its "passionate neutrality" on the Wright Amendment occurred just as the low cost carriers' seat share at DFW was on the rise. When looking at low fare carrier seats at both DFW Airport and Love Field, low cost carriers at DFW had grown from 15 percent of the North Texas marketplace (where Southwest dominated having 85 percent of the low cost seats in the marketplace) to 25 percent in November 2004. This had the effect of reducing Southwest's low cost seat share dominance by a full ten percentage points in the DFW marketplace.

We are firmly convinced that, at least in part, Southwest's efforts to repeal the Wright Amendment are in direct response to the fact that low cost carriers were growing at DFW Airport and providing competitive low cost service to 14 markets across the United States. It should also be noted that these same low cost carriers have one-stop connections to almost 150 markets in the United States. To put that in perspective, of DFW's total origin and destination passenger traffic, more than 80 percent of DFW's passengers can reach their destination on a low cost carrier from DFW Airport. Today, more than one out of eight local passengers flying into and out of DFW Airport fly on low cost carriers.

The fact is that DFW already has low cost carrier service in six of the 15 markets modeled and proffered by Southwest Airlines' Campbell-Hill study. As accurately concluded by Professor Vasigh in his report:

> "Economic theory does not discriminate between traditional and low cost carriers in regard to being a monopoly. But the facts are that American Airlines has ample competition at DFW to discipline the marketplace, while Southwest has virtually none at DAL."

In short, we would respectfully suggest that Southwest's efforts to repeal the Wright Amendment have very little to do with providing low fare service to the traveling public, and everything to do with continuing to dominate the market from its fortress position at Dallas Love Field. Unfortunately Southwest Airlines' efforts have resulted in 'chilling' the competitive marketplace in North Texas by waging this needless debate over the Wright Amendment.

Competition Among Airlines is Great

No one can legitimately question the fact that it was good public policy back in 1965 when the Federal Government urged the City of Dallas and the City of Fort Worth to unite and build what by any measurement has become the economic engine connecting Dallas and Fort Worth residents to destinations around the globe. Today, based upon a Texas Department of Transportation (TxDOT) study, DFW Airport is directly and indirectly responsible for the employment of 268,500 men and women. In terms of economic impact, TxDOT estimates that the airport contributes

$14.3 billion to the economy on an annualized basis, with a payroll of $6 billion. The economic engine generates activity and opportunities for a diverse set of businesses and business owners. Based upon DFW Airport's latest statistics, minority- and women-owned businesses generate $154 million in annual economic activity, and support 2,200 jobs with a payroll of $56 million from activities on DFW International Airport.

What was good public policy in 1965 remains good public policy today. It is the public policy of building a large airport where every carrier can compete effectively and fairly on the same level playing field. In fact, this public policy has been implemented across the country and has become the standard across the United States when municipalities are considering building a new airport.

In virtually every case where a new airport has been built in recent history, the older, existing airport in the community has been either closed completely or has been permanently limited to general aviation. Examples include Alexandria, Louisiana; Cleveland, Ohio; Detroit, Michigan; Fort Myers, Florida; Kansas City, Missouri; Killeen, Texas; Minneapolis/St. Paul, Minnesota; Northwest Arkansas; and Seattle-Tacoma, Washington, just to name a few.

The two most recent examples, however, are the most compelling. On the day that the new Denver International Airport was open for service, Stapleton, the older inner-city airport, was closed permanently to all operations. Today, the Stapleton area serves as a shining example of redevelopment that is to be envied across the country.

The last major airport to be built was in Austin, Texas. In that case, Robert Mueller Municipal Airport, an older inner-city airport, was also closed completely. At the time, many of the airlines that served Robert Mueller Municipal Airport refused to move to the new airport until there was a contractual commitment on the part of the City of Austin that Robert Mueller Municipal Airport would never again be opened for commercial air service. Southwest Airlines was one of those airlines that benefited from the closure of Robert Mueller Municipal Airport. It, like the other airlines, did not want the older inner-city airport to be reopened at a lower cost structure when all the other airlines had moved and were committed to the financial viability of Austin's new airport.

In a twist of irony, Southwest Airlines is now urging to completely reopen Love Field, an older, inner-city airport that was to be closed permanently. Southwest Airlines, today, the largest and most profitable airline in the industry, is asking Congress to intervene to further exploit its monopolistic position at Love Field. The Wright Amendment indeed allowed, at least in part, Southwest Airlines to grow and prosper into the company that it is today. Now, it is asking Congress to grant it a competitive advantage at the expense of all the other airlines which have relied upon and invested in Dallas/Fort Worth International Airport over the last 31 years.

Today, Southwest Airlines serves 61 markets. Southwest Airlines competes head-to-head and side-by-side at the same airport with American Airlines in 55 of these 61 markets, or 90 percent of the markets served by Southwest Airlines. There is simply no question that Southwest Airlines can compete in its hometown at DFW Airport. Instead, it is asking for Congress to intervene and give it a competitive advantage which it simply does not need nor does it deserve.

Neither a business model, shareholder profits, nor the decision of a single management team should abrogate good public policy relied upon by so many over the last 25 years. On behalf of DFW International Airport, the leaders who had the vision and tenacity to design and build this great facility, and the men and women who have the privilege and honor of operating this economic engine today, I respectfully urge you to rebuff any efforts to repeal the Wright Amendment. There is simply too much at stake.

Senator BURNS. I have about three questions, and then I'm going to——

Senator MCCAIN. Mr. Chairman, could we—since—usually witnesses don't quote each other's statements, perhaps we might give Mr. Kelleher a chance to——

Senator BURNS. Yes, sir.

Senator MCCAIN.—respond to what was obviously a very critical——

Mr. KELLEHER. I would like to respond to——

Senator MCCAIN.—if that would be all right.

Senator BURNS. That would be fine.

Mr. KELLEHER.—what Mr. Cox said, if I might. I have the original copy of my deposition, which was taken in 1990, in a suit by the State of Kansas to try to dissolve the Wright Amendment because it was so injurious to the economy of Kansas. And so, this was taken by a lawyer, representing Kansas, trying to do away with the Wright Amendment.

And I'd like to, the first part—Mr. Cox said I lobbied for passage of the Wright Amendment. He was not there. This is just part of the persiflage that DFW Airport puts out. I lobbied for it, I wrote it.

Jim Wright's proposal was to compromise litigation. I had won the litigation. I had won the litigation in the courts. I had won before the Civil Aeronautics Board. There was no recourse left.

Senator MCCAIN. Mr. Kelleher, do you want to respond——

Mr. KELLEHER. In the proposed——

Senator MCCAIN.—to Mr. Cox?

Senator BURNS. Yes, let's do that.

Mr. KELLEHER. Oh, excuse me. I'm sorry. Yes. What I was referring to is that part of this deposition is, "So, did Southwest accept that compromise at that time?" Answer—my answer—"I guess the same way the Germans accepted the end of the first World War."

[Laughter.]

Mr. KELLEHER. Which means with a gun at their head. Now, the question was, "Well, we think that there is some merit to the position." This is what Mr. Cox just quoted to you. I'm sure that he just inadvertently omitted part of my testimony. I'm sure it was just an oversight. I understand that. It happens to a lot of people many times when they testify. So, I forgive him.

"Well, we think that there is some merit to the position that there is no city in the United States that has two full-fledged hubs competing against one another successfully." Right? That's what Mr. Cox quoted.

Next sentence, that he omitted, "There are cities that have a main airport and satellite airports which live well in a complementary relationship, in a harmonious relationship." And that is the relationship between 85-percent-controlled, 166-gate DFW Airport and 32-gate Love Field. That's the same as the relationship between Ohare Airport and Midway, in Chicago, which has been good for Ohare, the same as the relationship between Intercontinental Airport, in Houston, and Hobby, which has been good for Houston.

That is my full testimony on that occasion, Mr. Chairman.

Senator BURNS. Thank you.

Now, I'm going to ask about three questions, and then I'm going to let somebody else ask questions, because I'm not a lawyer.

Senator HUTCHISON. Mr. Chairman?

Senator BURNS. And—yes?

Senator HUTCHISON. Before you finish, I would like to put in the record the full answer to the question, which I was just supplied, for the deposition, because there is even a further part of that, and I think we should just have the record clear all the way.

Senator BURNS. OK.

Mr. KELLEHER. I'd be delighted, Senator. Thank you.

Senator BURNS. Without objection.

Senator HUTCHISON. OK. And, Mr. Kelleher, you tell me if I'm reading wrong.

After the part that you read, it goes on to say, "And we, too, have to agree, as a matter of logic and principle, that if you allowed Love Field to come up as a full-fledged hub in opposition to DFW Airport, that, indeed, air service to the Metroplex would suffer to some extent, because, basically, a hub-and-spoke system depends, for its success, upon attracting passengers from a multitude of spokes that will fill up an airplane going to another destination. If you divide that type of operation between two airports, you're likely to lose service to some of the smaller industries."

Mr. KELLEHER. That is——

Senator HUTCHISON. That would be the full——

Mr. KELLEHER.—that is correct, Senator. And, at that time, Love Field had twice as many gates as it has today, and DFW had a lot less gates than it has today. It's now 166-to-32 insofar as gates are concerned. And what I said then is true, that if you have two full-fledged hubs come up against one another, that will happen. We're not talking about a full-fledged hub coming up against DFW Airport. We're not even a hub-and-spoke carrier.

Senator HUTCHISON. Would you——

Mr. KELLEHER. They only have 32 gates.

Senator HUTCHISON. Thirty-two gates available.

Mr. KELLEHER. Available at Love Field, correct.

Senator HUTCHISON. As—of which how many are used?

Mr. KELLEHER. Fourteen, as of the present time.

Senator HUTCHISON. So, you're talking about the potential doubling of where Love Field would be right now in numbers of gates available. And I guess where we would have a—maybe a disagreement is whether that could be a full-fledged hub airport if you double what we have there now?

Mr. KELLEHER. Well, I don't think we can disagree on that, Senator, if we look at other areas in the country where this actually takes place. And what I'm referring to is, when issues of this sort come up, I normally try to go out, like with a scientific perspective, and say, well, "Everybody's asking about all this, and contending all these things," and I understand where that comes from. So, I did a little look at Houston. Houston is smaller than the Metroplex of Dallas and Fort Worth, Number One. And, from 1979, when the Wright Amendment passed, over my objection, through 2004, Southwest being completely unconstrained at Hobby Airport in Houston, having more departures from Hobby Airport in Houston than it has from Love Field in Dallas, during that time, Continental, the most successful of the legacy carriers, which has its hub at Intercontinental Airport, really suffered from that competition from Southwest Airlines. And I'll tell you how much Continental suffered. Poor old Continental having its hub at Intercontinental, having us serving Hobby, more flights than at Love Field.

During that time, Continental's Intercontinental Airport departures only increased 179 percent, and the number of passengers carried at Intercontinental grew by 228 percent. So, if you have more flights at lower fares from Love Field, you will have more passengers at lower fares at DFW Airport, serving the whole

Metroplex and producing additional flights for DFW, too. That's the way it works.

Mr. ARPEY. Senator, may I make a point on the subject of the number of gates at Love Field? Why would we—if this is a——

Senator BURNS. Pull your mike up. Pull your——

Mr. ARPEY. I'm sorry.

Senator BURNS.—mike up.

Mr. ARPEY. If this is a discussion and debate about the free market, why do we have limits on the number of gates at Love Field? Why would we restrict Love Field to 32 gates? And, in fact, if you look at the history of the Love Field master plan, the Master Plan Advisory Committee says that, "After being at the center of a controversy for many years, a consensus has been developed to guide the future of Dallas Love Field. The proposed Love Field master plan was forged by a broad-based group of local residents, neighborhood and business leaders, general aviation tenants, airline representatives, and others interested in the future of Love Field. The Wright-Shelby Amendment is assumed to remain intact." That's signed by Southwest Airlines.

Mr. KELLEHER. May I respond to that?

Senator BURNS. Wait a minute——

Mr. ARPEY. Southwest Airlines——

Senator BURNS.—I want to ask my question before I have to go vote.

[Laughter.]

Senator BURNS. I've got some more questions here——

Mr. KELLEHER. Mr. Chairman?

Senator BURNS.—and mine are fairly pointed, and then you can argue with the Senator from Texas.

[Laughter.]

Senator BURNS. But I just want to clear out a couple of things that I think is important to this Committee and whenever you start talking about policy.

Mr. Arpey, under the Eclats study, it assumes American will split its operation between Love and DFW if the Wright Amendment is repealed.

Mr. ARPEY. Yes, sir.

Senator BURNS. It doesn't seem to make business sense to split a hub operation like yours at DFW. If the Wright Amendment were repealed, do you really anticipate moving significant flights to Love Field?

Mr. ARPEY. Yes, sir. Not to be punitive, but because, as I indicated in my testimony, approximately 60 percent of our local customers live closer to Love Field than DFW Airport. So, unless we want to cede the geography and the drive time and territory to Southwest, of course we will split our operation. That will not produce a good result for our company, but a worse result would be produced if we sat there and did nothing.

Senator BURNS. Well, now, you didn't do the same thing at Chicago at Chicago O'Hare and Midway.

Mr. ARPEY. We operate at Midway.

Senator BURNS. OK. That's fine.

[Laughter.]

Senator BURNS.—is the Wright Amendment——

Mr. ARPEY. And, by the way, Chicago O'Hare is slot controlled, so there are capacity limits on——

Senator BURNS. Yes.

Mr. ARPEY.—what we can do——

Senator BURNS. That is true. That is true.

Mr. Kelleher, if the Wright Amendment were repealed and other carriers wished to serve Love Field, would Southwest be supportive of reworking the Love Field master plan to allow competition there?

Mr. KELLEHER. Well, you can—excuse me, Mr. Chairman——

Senator BURNS. Yes.

Mr. KELLEHER.—I'm not—and I'm not going to deliver you a thumb sandwich when I say this, but obviously there is substantial room for competition at Love Field as of the present time, in terms of the numbers of available gates. Second, the reason those gates aren't utilized is because of the Wright Amendment, because the Wright Amendment would not permit them to be utilized, because you can't develop enough traffic to utilize them.

And it's kind of funny that people would say, "This is a local issue, but, hey, wait a second, we came to Washington to get the Wright Amendment passed." I guess that's why we're up here in Washington today.

Senator BURNS. No, I meant——

Mr. KELLEHER. But——

Senator BURNS. OK, go ahead.

Mr. KELLEHER.—Mr. Chairman, my point is that anybody can come to Love Field that wants to who observes the Wright Amendment.

Senator BURNS. Well, but would you support the——

Mr. KELLEHER. There are——

Senator BURNS.—master plan——

Mr. KELLEHER.—there are nine additional unused gates—nine gates available at Love Field. Three, American has. They left them after they killed Legend at Love Field. And there are six gates that are totally vacant. So, they have nine gates. That is a substantial proportion of the gates that are available for competition.

And we don't support changing the master plan. May I tell you how the master plan came to be, Mr. Chairman?

Senator BURNS. Well, I don't care how it came to be. It is.

Mr. KELLEHER. Well, it is, yes.

Senator BURNS. Yes.

Mr. KELLEHER. Yes.

Senator BURNS. I guess the simple question would be, Would you support that master plan as written now?

Mr. KELLEHER. Yes, I would support the master——

Senator BURNS. OK.

Mr. KELLEHER.—plan, as written——

Senator BURNS. That's——

Mr. KELLEHER.—now.

Senator BURNS.—that's fine. Now——

Mr. KELLEHER. Certainly.

Senator BURNS.—Mr. Cox——

Mr. COX. Yes?

Mr. KELLEHER. Yes.

Senator BURNS. And then I'm going to move on. If Love Field was closed down, could DFW absorb all of Southwest's flights and infrastructure needs?

Mr. COX. In a heartbeat, sir.

Senator BURNS. The Senator from Texas.

Senator HUTCHISON. I want to talk about two things that I think are important. Number One is the service that's now given to smaller cities by both American and Southwest. I very much worry that if we allow more long-haul service out of Love Field, that much of the service to many communities in Texas and other States could be lost. For instance, I've got the Southwest—this is just Southwest, not counting what American does—but Southwest has 31 flights a day between Love Field and Houston, 19 to San Antonio, 14 to Harlingen, 14 to Austin, and 12 to Albuquerque. And that's a great service.

I am very concerned that if there are long-haul options that smaller-city service is going to be denigrated. And I'd like to have both Mr. Arpey and Mr. Kelleher respond to: What kind of service—either problems or enhancements, if that would be your case—would you see to smaller places that even some of which are now subsidized by the Federal Government?

Mr. ARPEY. Senator, I think I would, again, echo back to Herb's testimony, in the context in which it was given. I think Herb acknowledged that if you break apart a hub operation, and split it between two airports, you begin to undermine the efficacy of the hub. And that impacts your ability to add service, to grow service. And while we would not be inclined to do that under normal circumstances, because the local market is so important to the efficacy of our current hub at DFW, if Love Field did come open, fully open, we can't sit there and cede all of the New York traffic, California traffic, Florida traffic, local traffic to an airline that has shorter drive time to that airport, because people are going to go to that airport. And when we make those decisions to split our operation, inevitably service to smaller communities are going to be in the crossfire, because we're going to be looking for airplanes to go in and build our service at Love Field.

Senator HUTCHISON. Well, in a sense, you're in the same situation—I happen to have Southwest's schedule, but you, also, do quite a bit of service to smaller markets. And so, the question would be, for you, as well, Do you eliminate those, in favor of going to Love Field and going to New York and Los——

Mr. ARPEY. Yes, I think——

Senator HUTCHISON.—Angeles and——

Mr. ARPEY.—that will be part of the result if the Wright Amendment is repealed. Because what we'll do, quite frankly, is, we'll look to see where Southwest operates from Love Field and what local markets they attack in the DFW area. And we will try to respond from Love Field. I think the simpler answer to this question is to just have Southwest come and compete from DFW like everybody else. And, although we don't provide any warm milk or graham crackers for them, Kevin Cox has given them a lot of graham crackers and warm milk, much to my chagrin.

[Laughter.]

Senator HUTCHISON. Mr. Kelleher, you——

Mr. KELLEHER. I think that was to Gerard's chagrin, because he wanted those 22 gates himself——

[Laughter.]

Mr. KELLEHER.—and Kevin wouldn't give them to him.

But as far as small-city service is concerned, I want to reassure you, Senator, completely, because I've looked at the record, again, of what's happened in Chicago, where you have O'Hare Airport and Midway Airport. Right? Same thing. One big, one small. And here's what happened in the period 2000 through 2005. During that period, we were expanding at Midway Airport, where American, I think, has two departures a day, maybe three. We were expanding at that airport. And we have a lot more flights there than we do at Love Field. We have about 192, as of today.

Now, how did that affect small-city service? Isn't that a good question? Here's the satellite airport expanding. Southwest Airlines is doing the expansion. That's what we're talking about, I think. And how did it affect small-city service out of O'Hare? Now, this is how it affected it. During those 5 years, American Airlines at O'Hare, its regional jet commuter service, went from 31 to 60 markets. That's almost a 100 percent increase. Its departures with its regional jets went from 164 to 239, which is a 52 percent increase. And its seats increased by 4,700, which is 57 percent. So, local service was not adversely affected. It was substantially increased. So, that takes care of what happens in a situation where you have a main airport and a satellite airport competing against one another.

Second, what would happen with respect to Southwest Airlines? Well, you're right, we do serve some very small cities, that is absolutely correct—76, 109, 115, 118, 200—I mean, 125th in size in the country. And we would be happy to continue serving those cities and provide them with even more service subsequent to the repeal of the Wright Amendment.

Why, Senator? Because, first of all, they'll be able to get lower fares flying to a lot more destinations. That means more passengers. That means more flights, as a consequence of that. And that's been the case since Southwest Airlines started, in 1971. And the interesting thing to me about Mr. Cox is that he's an airport guy, but he knows that if you have lower fares out of Love Field, if you have lower fares out of DFW, which is the case today within the Wright Amendment, and you'll get more passengers at your airport, more parking concessions than you would otherwise.

Senator HUTCHISON. Well, my time is up. Are we going to have a second round?

Senator BURNS. Yes, we can have as many rounds as you want——

Senator HUTCHISON. Thank you.

Senator BURNS.—Senator.

Senator HUTCHISON. I'll let others go.

Senator BURNS. Senator Nelson?

STATEMENT OF HON. E. BENJAMIN NELSON, U.S. SENATOR FROM NEBRASKA

Senator BEN NELSON. Thank you, Mr. Chairman. And thank you, to the witnesses today, to this panel. It's obvious that not only is

the knowledge range high, but the passions run rather deep, as well. So, I think that makes it a fairly challenging issue for all of us to try to sort through.

Generally, benefits and burdens go together, and it's always a question of: If somebody gets the benefit, does somebody else get a burden? And if you're going to have increased flights and reduced rates as a result of the competition, let's say, that it might generate, by repealing the Wright Amendment, will there be reduced service and increased rates in other locations? Obviously, New York, Chicago, St. Louis, the major destinations, will benefit. And I know it's the intent to be able to serve the smaller communities, as well. But my question, once I think about it nationally—I have to focus locally, as well—does Omaha benefit? So, does Nebraska and Western Iowa benefit from any kind of repeal or modification of the Wright Amendment? And I guess I'd ask that of all of you, because I'm not just interested in putting Mr. Kelleher on the spot. I am interested——

Mr. KELLEHER. No, I'm not on the spot at all, Senator.

Senator BEN NELSON. Well, I don't want to put you on the spot, either. I——

Mr. KELLEHER. No, I'm——

Senator BEN NELSON.—wanted to be——

Mr. KELLEHER.—glad you asked that question, because certainly if the Wright Amendment were repealed, Omaha would get a lot lower fares into out of Texas, and there would be a lot more people flying to Omaha, and from Omaha to Texas. And there's no question about that. I mean, that is the whole history of the airline industry since Southwest Airlines entered it and reformed it in 1971. So, it would be a big plus for Omaha.

Senator BEN NELSON. Mr. Cox was shaking his head no——

[Laughter.]

Senator BEN NELSON.—when you were answering, so perhaps he has another perspective.

Mr. COX. Yes. Our perspective is one that has been articulated many times. And we've talked about Houston as a good example. Let's talk about Houston. Houston has two airports that compete against each other, basically on the same population base, as opposed to DFW Airport, built with the large major facility, allows everybody to compete on the same level playing field. Today, we have more destinations out of DFW Airport, 40 percent more passengers out of DFW Airport, than both Houston airports combined.

The fact of the matter is, as you begin to divide the hub and derogate the hub, the carriers will make those big decisions between flying into the large-haul markets or the short-haul markets that tend to be the smaller cities. And the fact of the matter is, those small cities will lose. And when you build, as every major airport in every community in the last 50 years has made the decision, a large facility where everybody can compete effectively and fairly, everybody wins.

Senator BEN NELSON. Mr. Arpey?

Mr. ARPEY. Senator, I would not disagree at all with Herb's point about airline competition and its effect on ticket prices. And he certainly has led the way. And, as I said in my remarks, competition between airlines is good for consumers, it's good for communities,

and, in our industry, unfortunately, not so good for airlines, because this is an industry prone to destructive competition because of its nature.

So, I think the question for the House is, what is the guiding public-policy principle recognizing that airline competition is a good thing? And all we're advocating is that when you have public policy laid down that focuses resources on one airport and on which billions of dollars have been invested, you shouldn't casually undermine that public policy when the most successful airline in the United States can simply come and operate at that airport like everyone else.

And to underscore Kevin's point, the cities that do concentrate their airline activity do generate more flights per capita than cities that split their operation. And that is why, as has been indicated today, Denver dug up the runways when they built the new airport. And, recently, Herb has announced they're going to fly into DIA. And I suspect if Stapleton was still open, they wouldn't be flying into DIA, they'd be trying to go into Stapleton.

So, I think sound public policy suggests when communities come together and when we take Federal money to build airports, we should use that money wisely, particularly at a time when the government is struggling for resources. Why should we be supporting two airports, two TSA infrastructures, two FAA infrastructures, when you can consolidate it at one airport and let everyone compete on a level playing field.

Senator BEN NELSON. My time is expired. Thank you, Mr. Chairman. Thank you.

Senator BURNS. Senator Ensign.

Senator ENSIGN. Thank you, Mr. Chairman.

I'm really glad we're having this discussion. It's bringing out—and Senator Hutchison has encouraged me to listen to all sides, which I have done very carefully, and look forward to the rest of the hearing.

The interchange that we have just had, just now, I think that it is important to look at history, what has happened, and at the facts, so that we don't just have conjecture on what's going to happen in the future. Because, obviously, if we have similar situations, I think that that can portend what is going to happen in the future. I think there can be a direct relationship there.

So, the question I have is Chicago/Midway, San Francisco/Oakland. Obviously, we've mentioned the Houston/Intercontinental and Houston/Hobby. We have Miami competing against Fort Lauderdale. In every one of those situations, we have big airports/little airports. You can even go to LAX and—well, there's several regional airports——

Senator BURNS. Orange County.

Senator ENSIGN. Well, there's Orange County, there's Burbank——

Senator BURNS. Right.

Senator ENSIGN.—I mean, there's several down there that are smaller airports. In your study, American Airlines study, you assume that the master plan at Love Field is going to be changed. Where my piece of legislation says that it is not. We do not change the master plan. That's something locally decided. We do not

change the master plan. So, your study assumes something that is different from what the legislation and the repeal of the Wright Amendment is—or at least from my perspective, and Senator McCain's perspective—is foreseen.

I guess the question would be—and all three of you, I'd appreciate it if you'd keep your answer as brief as possible—is, why can't DFW compete, like San Francisco competes with Oakland and Miami with Fort Lauderdale and Chicago O'Hare with Midway? And in that, Mr. Arpey, you said that you do operate—in answer to Senator Burns' question—you do operate out of Midway, but you did not move your hub——

Mr. ARPEY. Right.

Senator ENSIGN.—to Midway. In other words, you're not going to——

Mr. ARPEY. Yes, sir.

Senator ENSIGN.—you can't move your hub to Love Field. You may operate out of there——

Mr. ARPEY. Yes.

Senator ENSIGN.—and you may go to certain cities and things like that, but you're not going to move your hub there. And so, I think it was a little disingenuous to suggest that that would happen.

Mr. ARPEY. Well, Senator, with all due respect, I don't think I suggested we would move our hub from DFW to Love Field. I said we will take some number—some percentage of our operation and go to Love Field and try to compete with Southwest, not——

Senator ENSIGN. Right.

Mr. ARPEY.—not move the hub——

Senator ENSIGN. You're still going to have your hub operation at Dallas——

Mr. ARPEY. Well, but the point we're making is that our hub would be diminished. And the reason that we presume that the master plan at Love Field would go away is because of your free-market orientation. I don't know how, on the one hand, we would be arguing about opening up this airport, but, on the other hand, saying it needs to be restricted. It——

Senator ENSIGN. Well——

Mr. ARPEY.—seems to conflict——

Senator ENSIGN.—every local community has master plans. Oakland——

Mr. ARPEY. Right, and——

Senator ENSIGN.—didn't open up—they have certain restrictions. United has a hub——

Mr. ARPEY. Right.

Senator ENSIGN.—at San Francisco.

Mr. ARPEY. And the cities of Dallas——

Senator ENSIGN. But they don't have a restriction on where——

Mr. ARPEY. Right.

Senator ENSIGN.—they can fly.

Mr. ARPEY. And the cities of Dallas and Fort Worth came together and said, "We're going to close our regional airports and build DFW Airport, and all airlines will operate there. And the only reason that's not happening today is because of——

Senator ENSIGN. But it isn't——

Mr. ARPEY.—Herb's tenacious——

Senator ENSIGN.—happening. That's——

Mr. ARPEY.—lawyering.

Senator ENSIGN.—past history. We're talking about current——

Mr. ARPEY. It is not past——

Senator ENSIGN.—what works——

Mr. ARPEY.—history. It's current——

Senator ENSIGN.—and what doesn't.

Mr. ARPEY.—history.

Senator ENSIGN. No. Southwest Airlines won that argument in the court.

Mr. ARPEY. Right.

Senator ENSIGN. The bottom line is, is that real situations today, why—when you're—to make your arguments about what this legislation—the effect that this legislation would have——

Mr. ARPEY. Yes, sir.

Senator ENSIGN. OK. We have examples out there that are arguing exactly the opposite of what you and Mr. Cox are arguing today.

Mr. ARPEY. I don't think so. I think Mr. Cox just got through explaining to you that because of the concentration of resources at Dallas/Fort Worth, DFW Airport has overtaken IAH, in terms of per capita departures. Because it makes sense, from a public-policy standpoint, to concentrate resources. So, all—the only point I'm making is, not that DFW Airport's going to disappear overnight or we're going to move our hub to Love Field; it's just going to impact us negatively. It's going to diminish our DFW hub, and we're going to move our operation over there, part of it, after having invested billions and billions of dollars in infrastructure on one set of assumptions. I——

Senator ENSIGN. Mr. Kelleher?

Mr. KELLEHER. Yes. First of all, you're completely correct, Senator, as I discussed earlier, in various situations in other cities, the main airport and the satellite airport flourish. In—they're complementary to one another. Certainly, Dallas would be no different from what has happened there.

Second, I've heard Gerard say, on a number of occasions, that, you know, a lot of their most frequent flyers live close to Love Field, and that would give the impression, perhaps by implication, that DFW Airport was located somewhere in Antarctica. In actuality, DFW Airport is 12 miles away from Love Field. All the growth, since it opened, has been to the west side of the Metroplex. And if you're in University Park, as an example, and if you want to go to Love Field, it might take you 10 or 12 minutes, and it might take you another 15 to get to DFW Airport.

Now, what do you have at DFW Airport once you get there? Well, Mr. Arpey said, last week, that, through its code shares American serves 600 cities and 135 countries. Southwest won't be able to do that out of Love Field. American serves the globe. Southwest can't do that out of Love Field. American has first-class service. Southwest does not. That won't change.

My point is that DFW is exceedingly competitive with Love Field. American is obviously tremendously competitive. So, its proximity to Love Field is an advantage for DFW, because it can compete

very much against Love Field, as far as geographic convenience is concerned.

Finally, I'd like to say one thing, if I might, and that is—may I, Senator?

Senator BURNS. Yes.

Mr. KELLEHER.—about public policy, the comments that have been made with respect to public policy. Yes, this was one heck of a public policy established by the U.S. Congress. Jim Wright—and I'm not knocking Jim, don't misunderstand me—but he was the Majority Leader of the House of Representatives. And do you think the Wright Amendment would have ever passed if that were not the case? Do you think Congress would have deregulated the airline industry in 1978, and then said, "Oh, gee, there's one part of it that we'd like to re-regulate, Love Field?" So, it wasn't a matter of public policy, it was a matter of political power that brought the Wright Amendment to pass.

Senator ENSIGN. Mr. Chairman, I don't know if Mr. Cox—obviously, my time is expired, but, you know, when the Shelby Amendment—it was the same thing—when the Shelby Amendment was brought up a few years ago, DFW testified, at the time, that it would become a second-tier airport. And it's pretty interesting that DFW definitely has not become a second-tier hub. So, I don't know if you want to give Mr. Cox a chance—or we can do it on a second round.

Senator BURNS. Senator—I'm sorry?

Mr. COX. Could I quickly respond?

Senator BURNS. You bet.

Mr. COX. Sir, there are really three basic differences. The first is, as just described, there are not two other airports as close together as DFW and Love Field, 8 miles apart. So, when you're talking about New York and Los Angeles and San Francisco, without question those airports are significantly farther apart.

The second is, DFW has a population base of about, oh, four and a half million people. Los Angeles, a much larger population base. Chicago, twice that population base. So, they can support those kind of complementary airports.

The last, and probably one of the most important distinctions, in most of those airports where you have multiple airport authorities, you have the ability to cross-subsidize. So, if something is lost at Chicago Midway, but is gained at Chicago O'Hare, a dollar lost is a dollar gained. At DFW Airport, because it was supposed to be one airport, we have one airport board that manages that asset. If a dollar is lost at DFW Airport to Love Field, it is lost. Under the Federal rules, we cannot cross-subsidize.

So, there are very significant distinctions between the three—for three reasons, between those airports that are always brought up as, "They exist, and why can't DFW coexist with Love Field?"

Senator BURNS. Senator Pryor?

I want to get through this first panel, you know, with questioning. We've got an 11:30 vote that's two votes, and then—and I want to notify the Committee, I have never missed a meal, and, by gosh, I don't plan——

[Laughter.]

Senator BURNS.—plan to.

Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

Mr. Arpey, let me ask you a question, just a point of clarification. As I understand, one of your arguments is the convenience factor of having Love Field in near proximity, I guess, to quasi-downtown Dallas. And I guess, in some ways, that's a little bit like the National Airport/Dulles Airport situation here. I think what you're saying is that there are factors on why people choose one airline over another. One is certainly price, but another is the convenience of getting to the airport. Another is connections, and another may be a frequent-flyer program or something like that. But is the Love Field/DFW concern that you have—at least in part, is it this convenience factor, kind of like National/Dulles? People here tend to favor National, just because it's so much closer.

Mr. ARPEY. Yes, Senator. And I agree with most of what Herb said on this subject, that by the—as we say, by the crow flies, it's, you know, 10 miles, 12 miles, but if you actually make the drive from the areas surrounding downtown Dallas and Love Field to DFW Airport, it is considerably farther than driving to Love Field, so people aren't going to want to make that drive. And that is why the communities came together 30 years ago to close those airports, so that DFW could be successful. Because everyone recognized nobody's going to drive all the way out to—DFW, 30 years ago, was out in the prairie, and no one was going to drive there if the local airports remained open. And Herb's right that the growth has been substantial in a westerly direction since DFW Airport has been built, but, on the other hand, if you look—if you look at our traffic, the concentration of our passengers is still close to 60 percent closer drive time to Love Field.

Senator PRYOR. Let me ask this, also. Is another concern that you have with repealing the Wright Amendment the abruptness of the change? In other words, if we were to say we're going to repeal the Wright Amendment in 5 years, would that give you guys adequate time to do your planning and make your adjustments? Or does the fundamental problem still remain?

Mr. ARPEY. No, I think that doing it over 5 years doesn't make any sense, because we've made billions of dollars of investment on the presumption that the Wright Amendment would remain in place forever. Now, perhaps that was a naive assumption, but, you know, I said in my testimony that Southwest's position on this subject had been neutral for many years, Herb had pledged publicly he would not seek to overturn it, and, on the basis of the agreements between Dallas and Fort Worth, we made billion-dollar bets that DFW would be the airport for long-haul service. And so, no, having it repealed over time is—does not comfort me one bit.

Senator PRYOR. OK. I believe American services four airports in Arkansas. You serve, of course, Little Rock and Fayetteville or XNA. Those are our two largest airports, which, by airport standards, are kind of mid-sized, maybe, nationally. But, we also have Fort Smith and Texarkana. Give me your read, or your impression of what would happen to the service in our airports in Arkansas if the Wright Amendment were repealed. Fort Smith and Texarkana, I think everyone would agree are small-market airports. Little Rock and Fayetteville are larger airports. But what is your

read—if we lift the Wright Amendment, what does that mean to your ability to serve passengers in Arkansas?

Mr. ARPEY. Well, Senator, I really have tried not to use scare tactics as it relates to small cities. I've tried to——

Senator PRYOR. Yes, I'm not asking you to scare us, just tell us——

Mr. ARPEY. No, but we——

Senator PRYOR.—your——

Mr. ARPEY.—we have talked about the fact that——

Senator PRYOR.—read.

Mr. ARPEY.—if you diminish the efficacy of our hub at DFW, that has implications for smaller communities, because the size—the bigger and more robust you can make the hub, the more spokes you can add, because that means, for many of these small cities, you have more opportunities to sell service. So, we've made the point, and it's confirmed in the Eclat study, that if we—if we're compelled to split our operation at DFW, I think that does put some small cities at jeopardy. But, we don't—I don't—in sitting here today, it's not clear what we're talking about at Love Field——

Senator PRYOR. Right.

Mr. ARPEY.—because, on the one hand, we're saying we want a free market, and we—in the spirit of a free market, we want to open up Love Field; on the other hand, we want to have a master plan that restricts access. So, I don't understand, really, where we're going here. But——

Senator PRYOR. Mr. Kelleher——

Mr. KELLEHER. Could I answer——

Senator PRYOR.—let——

Mr. KELLEHER.—where we're going?

Senator PRYOR. Yes, let me also ask you a question. I just have a few seconds remaining.

Mr. KELLEHER. Yes, sir.

Senator PRYOR. This Thanksgiving, my family will travel back to Arkansas for Thanksgiving break on Southwest. There's one direct flight from the D.C. area, from this area, to Little Rock, and that is on Southwest, through BWI. And I have that same concern about Southwest. If this change is made, would we maybe lose that direct flight to Little Rock because we might fly to Dallas more in a hub-and-spoke type approach and lose—I believe that flight goes to Little Rock and then to Las Vegas, that direct flight. But, anyway, would we lose that ability, and would we end up going to Dallas or some other type hub-and-spoke? So, I'd love to hear your——

Mr. KELLEHER. Well, first of all, you wouldn't lose that flight. It would be reinforced. You would have a lot more passenger traffic flowing across it at lower fares from Dallas Love Field to Little Rock and on to BWI. Second, you don't have to worry about the small cities being abandoned, because they're the most profitable cities that the legacy carriers serve. They don't have a lot of competition, so they charge very high fares, and they get a lot of long-haul passengers they can take around the world. So, they have a lot of investment in the smaller cities, which is where they get their profit, rather than in the major cities.

But, beyond that, I just wanted to say that I've given two examples, and I could give you a lot more, of cities that have a major airport and a satellite airport. And small-community service hasn't suffered. It's increased. Hub service at the main airport hasn't suffered. It's increased.

And I guess one of the things I'd like to ask is, What is so special and different about Love Field and DFW, except the fact that Jim Wright was the Majority Leader and represented DFW Airport at the time the airline industry was deregulated? That's my basic question.

Senator PRYOR. Thank you, Mr. Chairman.

Senator BURNS. Senator McCain?

Senator MCCAIN. Thank you, Mr. Chairman. I know we have a vote on, and I'll try to be brief.

You know, we have had an example of this same argument, and it involved the perimeter rule. And when those of us who live outside of the perimeter rule tried to have it lifted, because it's an artificial barrier, an arbitrary—again, thanks to then-Speaker of the House, who I also happen to admire very much—that it stopped at the—no one could fly further west than the western end of the runway at Dallas/Fort Worth Field. So, anybody who wanted to go on to Phoenix, Arizona, or Los Angeles or San Diego then had to stop and change airplanes.

Now, when I attempted, not only for my citizens, but everyone who lived west of Dallas/Fort Worth, argued this, they came back with the same arguments you're hearing now. No one will go to Dulles if you have a direct flight from Reagan to LAX. No one wants to make the drive. And so, therefore, it will dry up Dulles Airport and BWI; that there will be a breakdown and an economic impact on Dallas/Fort Worth—on and on and on. The fact is, all three airports are doing fine. People drive to Dulles all the time. People drive to BWI all the time. And Reagan is full, as well. Only—well, we haven't been able to repeal it completely, some people are able, on occasion, to fly directly, and not have to stop at the beautiful Dallas/Fort Worth Airport on their way west. And the same arguments were used against lifting the perimeter rule as are being made now. It's all about free markets and competition. And I believe strongly that artificial restraints of competition that are imposed by congressional decree are never a good idea.

Mr. Arpey, you say that—you describe Southwest as exploiting a near monopoly at Love Field. That was according to your statement. Has this resulted in higher ticket prices for consumers at Love Field?

Mr. ARPEY. No.

Senator MCCAIN. Would you consider controlling 84 percent of all flights of an airport a near monopoly, as well, as you control at Dallas/Fort Worth Airport?

Mr. ARPEY. Well, the difference is the—between Love Field and DFW—is the opportunity and the availability of gates and real estate for anyone to come in and compete at DFW Airport. That same opportunity to the same degree doesn't exist at Love Field.

Senator MCCAIN. I guess I have—you know, it's not a huge part of the issue, but how—why should there be any restrictions on

Southwest's ability to sell through tickets, Mr. Arpey? How do you rationalize that one?

Mr. ARPEY. Because the airports were supposed to be closed in their entirety.

Senator MCCAIN. So, therefore——

Mr. ARPEY. There was a——

Senator MCCAIN.—we will punish them when they are open——

Mr. ARPEY. Not punishing them.

Senator MCCAIN.—by not even allow them to—of course it's punishment when you can't purchase——

Mr. ARPEY. Well——

Senator MCCAIN.—a sell-through ticket.

Mr. ARPEY. Well, Senator.

Senator MCCAIN. Of course it's punishment.

Mr. ARPEY. Senator——

Senator MCCAIN. Every other airport in America, you can.

Mr. ARPEY. Senator, with all due respect, the airport was supposed to be closed. The compromise that Southwest agreed to allowed them to stay at Love Field with restrictions, or else the airport would be closed and they would be competing at DFW along with everybody else.

Senator MCCAIN. Well, I know that Americans need to fly as cheaply as possible as they can. They are not able to do it without competition. Study after study has shown the obvious, that the more competition there is, the lower the fares.

Mr. Kelleher, I'd be glad to hear you speak. And, Mr. Chairman, I'll then finish up.

Go ahead, Mr. Kelleher.

Mr. KELLEHER. Yes, sir. Well, I just wanted to say, Senator, that, obviously, the through-ticketing and marketing restrictions are unprecedented. You never had that at—you never had that in Washington, at Reagan National Airport. You don't have it at any other airport in America that I'm aware of.

Senator MCCAIN. You might describe for the record what——

Mr. KELLEHER. But maybe——

Senator MCCAIN.—sell-through—what is a sell-through ticket restriction.

Mr. KELLEHER. Well, here's—let me give you an example from Chairman Jerry Lewis from Southern California, because I used to fly American frequently with Congressman Lewis when he was on his way home.

Mr. ARPEY. Thank you, Herb.

Mr. KELLEHER. It's a pleasure. I'm a big customer of Gerard's——

Senator MCCAIN. Please go ahead.

Mr. KELLEHER. But here—let me give you an example, because it is—it is difficult for people to comprehend. I'm trying to put it in terms of an individual's experience.

Senator MCCAIN. Quickly, please.

Mr. KELLEHER. Yes. Congressman Lewis and I fly the same plane. He——

Senator MCCAIN. I'm not concerned with Congressman Lewis. I'm concerned about——

Mr. KELLEHER. Yes.

Senator MCCAIN.—the procedure you——

Mr. KELLEHER. But he flies——

Senator MCCAIN.—have to go through.

Mr. KELLEHER.—he flies to DFW. The plane stops there. It goes on to Orange County. Right? Under the Wright Amendment, Congressman Lewis would have had to get off the plane at DFW Airport, not go on the same plane to Orange County, and wait for a next connection, maybe 2, 3, 4 hours. That's what that means with respect to through-ticketing.

Senator MCCAIN. And that's the case at Love Field today.

Mr. KELLEHER. And that is the case at Love Field.

Senator MCCAIN. Well, I'm sure that we will continue to discuss and debate this issue, Mr. Chairman. I thank you for having this hearing. And I thank the witnesses. And, Mr. Cox, I don't know how much you paid the person to go back 15 years to find a statement by Mr. Kelleher's, but if I had to stand by every statement that I made 15 years ago, I think I'd be in more trouble with my constituents than I am.

[Laughter.]

Senator HUTCHISON. Or 15 days.

[Laughter.]

Senator BURNS. I know 17 years, you made some outrageous statement in——

[Laughter.]

Senator BURNS.—Great Falls, Montana. I've got to dig those up.

[Laughter.]

Senator BURNS. Has the vote started? Anybody know?

Senator HUTCHISON. Yes.

Senator BURNS. I'll tell you what we're going to do. We're going to go vote. We've got another vote in back of that, so we won't be back until—don't plan on anything before 12 noon. And then we're going to try to finish up, because we've all got things to do this afternoon. Then we'll try to finish. Do you have any more questions for this panel, or is it the next panel?

Senator HUTCHISON. I'll wait. I did, but I'll wait.

Senator BURNS. Well, can we get——

Senator HUTCHISON. Oh, no, we——

Senator BURNS.—can you—can we—can you get——

Senator HUTCHISON. Sure.

Senator BURNS.—your questions out of the way now?

Senator HUTCHISON. Mr. Cox——

Mr. COX. Yes, ma'am.

Senator HUTCHISON.—if the landing fees that pay for DFW Airport were not adequate for debt service, what would happen at DFW?

Mr. COX. If they were not adequate to cover, we'd have to raise the prices, and it becomes a spiraling impact that we estimate our costs could go upwards 100 percent, and it becomes very difficult for us to continue to attract air carriers. We have bond issues out. We have 35-year bonds that are dependent upon us generating enough revenue upon which to pay our debt.

Senator HUTCHISON. Thank you.

Senator BURNS. Is that all you have——

Senator HUTCHISON. Yes, sir.

Senator BURNS.—for this panel?

Senator HUTCHISON. For this panel. It's fine.

Senator BURNS. We'll start with the third panel when we come back from the vote. I would ask the witnesses at this table now—I know there's more questions that could be posed to you. I have a few more. We'll do that in writing. And if you could respond in writing to both the individual Senator and to the Committee, I'd certainly appreciate that.

Mr. ARPEY. Yes, sir.

Mr. KELLEHER. Thank you, Mr. Chairman. I'd——

Senator BURNS. OK.

Mr. KELLEHER.—be glad to do so.

Senator BURNS. OK, we'll go vote, and then we'll be back with the third panel, I would imagine around 12 noon, soon as we get through the two votes.

Thank you very much.

Mr. KELLEHER. Thank you, sir.

Senator BURNS. We stand in recess.

[Recess.]

Senator BURNS. OK, the rest of them will get here when they get here.

I thank you. I want to thank everybody for their patience today in working our way through this. I think it's an issue—let me say up front that it's an issue that is not as simple as it appears on the surface. And so, there'll be a little bit of thinking going on before any judgment is made or any bill is passed.

And while we are ending up here, those of you who have friends serving in the United States Marine Corps, that have served, happy birthday to you. This is November the 10th, the Marine Corps birthday and Semper Fi. I picked up a quote that was—a quote that was by—I will tell you who it was after I get through it. And this lady said that, "The marines have the cleanest bodies and the filthiest minds."

[Laughter.]

Senator BURNS. "They have the highest morale, but the lowest morals" of any group of animals that she'd ever met——

[Laughter.]

Senator BURNS.—across the world. Eleanor Roosevelt. And then she said, "God bless the Marine Corps." And that was Eleanor Roosevelt, 1945.

So, today, we congratulate our Marine friends, and Semper Fi.

Today, we'll finish up this last panel. And it's very important. The testimony that they give—I know a while ago we had the principals involved, but we're very, very happy to have the folks at the table today, because we wanted a pretty broad spectrum on the mindset of how and what this means to Texas.

We have Sam Coats, who is former Chairman of the North Dallas Chamber of Commerce; Lori Palmer, of Love Field Citizens Action Committee; Brian Campbell, who is Chairman of Campbell-Hill Aviation Group; and Bill Swelbar, who is Managing Partner of Eclat Consulting. And we appreciate all of you being here today.

And, Mr. Coats, we will just start with you. Thank you for coming.

STATEMENT OF DAVID SAMUEL COATS, FORMER CHAIRMAN, NORTH DALLAS CHAMBER OF COMMERCE

Mr. COATS. Thank you, Mr. Chairman.

My name is Sam Coats, and, like Senator Hutchison, I'm former Chairman of the North Dallas Chamber of Commerce. I appreciate the opportunity to be here.

The Chamber asked me to come today because I've spent most of my career in the airline industry, both pre-deregulation, during deregulation, and subsequent to deregulation. I fought Southwest Airlines and Herb Kelleher all during the 1970s. Maybe because he was so successful in beating up on me, he hired me in the early 1980s.

[Laughter.]

Mr. COATS. I left him to go be with a competitor, as president of a competitor, and he ended up buying that competitor. And, once again, he allowed me to resign.

I was then with Braniff. I've been with Continental, as a Senior Vice President. And I ran an Australian domestic airline in the early 1990s. The folks in Dallas say I can preach this thing around or flat, because I've been on all sides of the issue.

The thing that the Chamber is interested in is the consumer. And we have taken the policy of this Nation to heart, and that has been a policy, since 1978, of free competition and airline deregulation. And, with all due respect to Southwest Airlines, to American Airlines, and to DFW, this issue has been improperly framed as a debate against—with Southwest on one side and DFW and American on the other side.

American is the largest airline in the world, and one of the best. Its annual report, which is over a hundred pages long, gave this issue two sentences in 2004, and that's the 10K that they filed with the SEC.

Southwest is the most profitable airline in history, has the longest record of profitability in history.

DFW, as has been said, is the second-largest airport and one of the greatest and busiest airports in the world.

Mr. Chairman, this issue is not the tipping point for any of these parties. This is a consumer issue, not a Southwest Airlines issue, not a DFW issue, and not an American Airlines issue.

American Airlines has three gates at DFW that they could use today if they chose to do so. They've been in and out—or, Love Field, they've been in and out of Love Field on several occasions. The last, as it was mentioned, is when Legend was there, and they helped Legend become another set of bones in the history of start-up airlines.

Southwest looked very carefully last year at moving to DFW. They chose not to do so, after a lot of study and deliberation.

We respect both of those decisions. These guys run their businesses very well. They are astute businesspeople. They would kill you in a heartbeat if they had the chance, as competitors. And that's why they're both very successful airlines.

DFW, it's almost laughable to think that they know better than the people who've run Southwest Airlines for 30 years, plus, that they know better what airports Southwest should serve. And it is somewhat disingenuous for American Airlines to invite Southwest

to come into its fortress hub, that even Delta couldn't compete successfully in, and retreated from, after it had invested hundreds of millions of dollars. I think I heard Herb Kelleher describe that as being like the fly who had been invited to dinner by the world's largest spider. It just doesn't hurt to have that happen.

We have found—and we, at the Chamber, believe that S. 1424 should be enacted. It is going to grow the pie in the Dallas/Fort Worth area. This is the only vestige of regulation that is left. There is no other city in America with multiple airports that imposes the restrictions on one of the airports that causes it to be treated like a redheaded stepchild, while the other one is treated like——

Senator BURNS. You're getting a little personal now.

[Laughter.]

Mr. COATS. Yes, sir, I'm sorry.

[Laughter.]

Mr. COATS. I should have changed that, Mr. Chairman.

[Laughter.]

Mr. COATS. My wife always tells me I get in trouble.

Senator BURNS. No, that's fine.

[Laughter.]

Mr. COATS. We believe that when this archaic law is repealed—and it will be—it will give Dallas the opportunity to manage this asset as it should. Dallas owns 70 percent, approximately, of DFW, and 100 percent of Love Field. I know the Congress would like to duck this issue completely. And we would like the Congress to duck it. But the constraint is not one that the city placed on Love Field, it's one that the Congress placed on Love Field, and only the Congress can remove that constraint.

So, we're asking that S. 1424 be enacted. And we have also offered up that compromise that Herb Kelleher alluded to this morning. We would suggest that over the next 2 to 5 years, the ticketing—the through-ticketing, through-baggage, through-marketing be immediately repealed, and that then, in the 2 to 5 year period, the rest of the Wright Amendment be repealed, so that everybody can adjust, nobody has to declare defeat, and nobody gets to declare victory.

Thank you, Mr. Chairman, for your time.

[The prepared statement of Mr. Coats follows:]

PREPARED STATEMENT OF DAVID SAMUEL COATS, FORMER CHAIRMAN, NORTH DALLAS CHAMBER OF COMMERCE

Mr. Chairman and Members:

My name is Sam Coats. I am here today on behalf of the North Dallas Chamber of Commerce, where, like my long time friend, Senator Hutchison, I am a former Chairman. Thank you for this opportunity. The Chamber asked me to appear today because I have spent much of my career in the airline industry and have been on both sides of the Wright Amendment debate. I started my career as General Counsel of Texas International Airlines and fought Southwest throughout much of the 1970s. I was then a Senior Officer at Braniff and later served two years as a Vice President at Southwest. I left Southwest to become President of Muse Air. Southwest bought Muse in 1985. I have also served as CEO of an Australian domestic airline, and was a Senior Vice President at Continental Airlines during its dramatic financial turnaround. As some of my friends have said, when it comes to the Wright Amendment, "I can preach it round or flat."

I entered the airline industry prior to deregulation. I saw the adjustments and difficulties that many carriers experienced in its aftermath. I have also witnessed the enormous benefits to the American people and to our economy that deregulation

and open airline competition have brought about. The artificial restraints of the Wright Amendment are totally inconsistent with the policy of economic deregulation and open airline competition.

You have heard the testimony of Southwest Airlines, American Airlines, and the DFW Airport. With all due respect to those parties, we believe that it is wrong to articulate the debate about repeal of the Wright Amendment in terms of a fight between Southwest Airlines on one side and American Airlines and DFW on the other. American is the world's largest airline and one of the best. Southwest has the longest record of consistent profitability of any airline in history. DFW is the Nation's third busiest airport and one of the largest and busiest airports in the world. It is a great airport. Its fortunes do not depend on the continued existence of the Wright Amendment. If it were that fragile it could not have sold and retired and again sold billions of dollars in airport bonds to finance its growth during the past 30 years. Repeal of the Wright Amendment will not be the tipping point for DFW, Southwest, or American Airlines. In American's own hundred-plus page 2004 Annual Report and Form 10K filed earlier this year, the issue of the Wright Amendment got just two sentences of discussion. American and Southwest are both very well run companies. They are fierce competitors. They make good business decisions based on careful analysis. They can take care of themselves and they have the resources to do so.

American has moved into and out of Love Field on several occasions, the last being when they took on Legend Airlines and helped it become another set of bones in the graveyard of failed startup airlines. At present, American has three unused gates at Love Field that it ceased using after Legend went bankrupt. It can resume using those gates anytime it elects to do so. That they remain vacant indicates that American believes it is better to deploy its resources in the Dallas/Fort Worth region at DFW. We at the North Dallas Chamber understand and respect that decision.

In a similar vein, Southwest recently looked at moving a portion of its operations to DFW. After much study and analysis, it chose not to do so. We respect that decision as well. Southwest has done a pretty good job of running its business for more than 30 years.

It is clearly disingenuous for American to continue to invite Southwest to move its operations from Love Field to DFW. Southwest has made an enormous investment in its headquarters and infrastructure at Love Field during the past 30-plus years. We believe Mr. Kelleher described it well when he said that he felt like the fly who was constantly being invited to dinner by the world's largest spider. Likewise, it is laughable and absurd for officials at DFW to insist that they know better than Southwest's own management what airport choices it should make.

Repeal of the Wright Amendment is a consumer issue, not an American or Southwest issue. The North Dallas Chamber of Commerce believes that its repeal will remove the final major government imposed, anticompetitive barrier to airline competition that no other city or airport in the United States has to tolerate. It will allow any airline that chooses to do so to serve Love Field as it would any other airport. It will bring lower fares and greater choices to consumers traveling to or from both Love Field and DFW. Those benefits will stimulate economic growth throughout the Dallas/Fort Worth Metroplex. They will also extend to consumers in Arizona, Oregon, Florida, California, Nevada, and every other state going forward.

The City of Dallas owns almost 70 percent of the DFW Airport and controls seven of eleven board seats. It owns 100 percent of Love Field. Dallas, not the Congress should determine the highest and best uses for Love Field. The Love Field Master Plan is in place. It is the product of much work and contributions from many diverse constituencies. It places practical limits on growth and respects the airport's neighbors. We believe it should be followed, unburdened by the artificial restraints of the Wright Amendment. We know of no other case where a city with two precious airport assets like DFW and Love Field has been required by Congressional mandate to treat one like a prince and the other like a red-headed step child.

The North Dallas Chamber of Commerce strongly supports the goals of S. 1424. We believe that repeal of the Wright Amendment will end the uncertainty that has surrounded both DFW and Love Field for years. It will also allow the City of Dallas to better manage Love Field in accordance with the Love Field Master Plan. Most importantly, it will bring about lower fares, new competition and traffic growth at both DFW and Love Field. It advances the policy of airline deregulation. While the Chamber would welcome immediate repeal of this archaic and anticompetitive law, we have also suggested a compromise solution. To that end we propose that the Wright Amendment be phased out in stages during the next two-to-five years. This would achieve our ultimate goal and also insure that there was an orderly adaptation to the effects of the repeal.

If Congress were to choose this approach, we believe the first step should be the immediate removal of the marketing, through ticketing, and checked baggage restrictions that the Wright Amendment presently imposes on any airline serving Love Field. These provisions harm millions of air travelers each year and serve no purpose other than to artificially constrain competition.

Thank you for your time and your courtesy. I will be happy to answer any questions you may have.

Senator BURNS. Thank you. And thank you for your statement.

Now we have Ms. Lori Palmer, Love Field Citizens Action Committee. And thank you for coming today and offering your testimony.

STATEMENT OF LORI PALMER,
LOVE FIELD CITIZENS ACTION COMMITTEE

Ms. PALMER. Chairman Burns, thank you very much for, first of all, having this hearing, and we certainly appreciate the opportunity to be here.

My name is Lori Palmer, and I am here on behalf of the Love Field Citizens Action Committee. And we are a coalition of neighborhoods and individuals who live in the communities that are affected by the operations at Dallas Love Field.

We're a grassroots organization. We're homeowners and other dwellers, some businesses, as well. And I think, on that note, just for the record, I am proud to be able to say that I am here, and five other members of our organization's Board of Directors are here, and we are here because homeowners have raised the money to send us here.

I might also say that we have been in this fight for a long, long time. We have about 25 years of experience. We were actually established in 1980. And, on a somewhat light note, I met Mr. Kelleher in 1981. I met Sam, here, somewhere in that time period. And I am absolutely convinced——

Mr. COATS. 1982.

Ms. PALMER.—that, after 25 years of knowing these gentlemen, we are all going to end up in the same nursing home together.

[Laughter.]

Ms. PALMER. The Love Field Citizens Action Committee has a mission, and it's a really very important and critical one, and one that I think you can assume that a grassroots coalition of people would have around an airport. And that is to reduce noise, to reduce air pollution, to reduce traffic congestion and safety risks from this airport.

And we've worked on a lot of fronts. I'm not going to describe them all to you. I'm not here to do that today. But there are two that are in particularly—are important to us. One is the Noise Abatement Program at Dallas Love Field, which was established in the early 1980s and is still alive and well. Voluntary. Because it is not possible, through Federal regulation, to restrict noise. I wasn't quite sure how Congressman Hensarling had come to that conclusion, because, clearly, if there were, we would have tried to get them in place.

We have been very instrumental in the master plan. And, a lot today was said about the master plan. And I am, in part, here to set the record straight, because there were some comments that

were made that were curious to me, and I think we just want to make sure that the facts come out.

Let me also say that I was the founding president of this organization. I served on the Dallas City Council for 8 years. The airport was in my district. And most of the neighborhoods affected by the airport were in my district. So, I'm delighted to be here to give some history.

I want to make sure everybody understands this airport. It's small. It's 130 acres. It has no clear zones, in the event of an emergency on takeoff or landing. The neighborhoods, the park, a veterinary clinic, schools come right up to the perimeter of the airport. Now, in our statement, which we have submitted for the record, we have very good graphics that show this. There's DFW, designed to be a regional national/international airport, with extensive clear zones around it as buffers and also as safety margins. Dallas Love Field has none.

The neighborhoods are from the north, the west, the east, and the south. And, like any neighborhoods, they are full of single-family homes, apartments, parks, schools, churches, recreation centers, libraries, and small retail businesses. We're right there.

We are about 100,000 people who live in the noise-impact area. And we are meaningful, in terms of the value of our property and our investment. In the year 2000—and it would have grown since then—let me describe that to you a little bit more specifically. It was estimated then that the market value of residential properties—I'm not talking about business properties now, I'm talking about residential properties—in the impact area was $5.3 billion in the year 2000. The taxable value was $3.9 billion. And the annual tax contribution was $95.6 million.

And I want to give you a little bit of a citizen's view on the 1968 bond ordinance in the opening of DFW Airport. What we've heard from, so far—and it was a fascinating emotional presentation by Mr. Kelleher; normally neighborhood activists are considered emotional, but that was one of the more emotional presentations I had ever seen—the citizens have, equally, a strong memory about what happened.

In 1968, there was an agreement, and there was a deal. Noise levels in the late 1960s had become onerous at Love Field. Fifty-five gates sending planes in and out every day. People were contemplating leaving the area, moving out, buying a home somewhere else, outside of Dallas. Others were hesitant to move into the neighborhoods. When that 1968 bond ordinance was passed, Mr. Chairman, people thought, "There's hope on the way." They kept their houses, and they bought houses. We were told that there would be no air carriers at Love Field.

In 1974, it is true, all the certificated air carriers moved out to DFW, but one did not—Southwest Airlines—and we were very unhappy about that. But from the beginning, traveling to Austin or Houston, not much noise, not much problem. However, that changed. As Southwest grew its intrastate service in the 1960s, noise became a problem again, and we were not happy about that. That had not been what we had been told would happen.

Then, when Southwest Airlines chose to go to New Orleans and interstate service, that was a whole new ball game. And when the

Wright Amendment was finally enacted into law in 1980, we were astonished. We felt betrayed, and we were angry.

Now, the Wright Amendment, interestingly, over time became a critically important component of our Noise Abatement Program, because it limits service to short-haul markets. It worked. It still does work.

In addition to that, it did niche Love Field to be a short-haul service airport. These airports are 8 miles apart. When I heard the discussion this morning comparing our two airports, 8 miles apart, with airports in other major metropolitan areas across the Nation, I was astonished at the fact that no one understands what that means. Intersecting airspace. Some real challenges for the air controllers. We have other small airports in the region. It's a very difficult airspace to manage. Eight miles apart.

Now, let's talk about the master plan. The master plan was commissioned by the city of Dallas in order to come up with a future scenario that would work for Love Field. After 3 decades of public conflict—3 decades of public conflict—stakeholders joined together, about 30 of them—all the airlines, the key businesses, the North Dallas Chamber of Commerce, the neighborhoods—and, for quite a period of time, under the guidance of DMJM, the consultant commissioned by the city of Dallas, we built a plan.

Now, the assumptions of that plan, the forecasts of that plan, the conclusions of that plan, and the recommendations of that plan were all based on the Wright Amendment staying in place.

So, for example, 32 gates was determined to be a rational maximum of gates at the airport. There would be growth to other destinations—regional jets. Regional jets could take people from Dallas Love Field to any destination they wanted to, in this country or somewhere else.

Now, who signed off on this plan? Everybody signed off on this plan. In fact, there is a letter. It's an important letter. It's a consensus letter. It went to the City Council of Dallas. And, but for this letter, the city of Dallas would never have adopted this master plan. The letter is signed by some 30 people. And, in the letter, it says, "It's assumed that the Wright Amendment will stay in place, and we support this plan." And Bob Montgomery, Corporate Vice President of Southwest Airlines, is the first signature on the letter.

Senator BURNS. Do you want to round up here pretty quick?

Ms. PALMER. Yes, sir.

Senator BURNS. We're going to lose those other two down there.

Ms. PALMER. Yes, sir.

This is not about low fares. Two years after the master plan was approved, Southwest Airlines declared its assault on the Wright Amendment. We were astonished. We were betrayed. And we were very sad about that. There is no longer a consensus. The master plan, without the Wright Amendment, would become a hollow and irrelevant document. The 32-gate limit, which gave some protection, in theory and in reality, would be blown apart.

Southwest Airlines controls 21 of the 32 gates. Another 6 of those gates, Mr. Chairman, are in a terminal on the other side of the airport. Now, that leaves five gates remaining for other airlines. No wonder Southwest Airlines would support the Wright—support the repeal of the Wright Amendment and keeping the 32 gates. They

have a strong monopoly at this airport. One hundred percent of the market share, maybe 95 or 96 percent of the market share. There are advantages to staying at this airport, and they know it. There's no PFC. The landing fees are the second-lowest of all the airports that Southwest flies into. The rate structure for landing fees is two decades old. Last year, Moody's and Standard & Poor's downgraded Love Field Airport, because, among many other things, its pricing practices caused it to operate at a deficit and draw money from the capital construction fund to pay for maintenance and operations at the airport.

So, Southwest Airlines has a really good deal at Love Field. Controls the gates. Doesn't have to pay much money.

Now, if this were, in fact, about low fares, Southwest Airlines could benefit more people, with low fares, out of DFW. But that is not the case here, sir.

In summary, their whole—regardless of the "Set Love Free" mantra—is to expand/strengthen their monopoly at Love Field, and, in doing so, discourage, or even prevent, their own low-cost competitors from either growing or moving into DFW Airport.

So, in summary, let me say that the Wright Amendment needs to stay in place, as is. It is not useless. It is very useful. It creates a balance—Senator Hutchison is very aware of this—it creates a balance between the operations of Love Field and its impact on the neighborhoods. It creates a balance between a short-haul facility in Dallas and a long-haul facility, eight miles away, at DFW. It is, in fact, a relevant, useful tool. It's fair. It is balanced. And, you know, Southwest Airlines has two options. It can fly regional jets anywhere that it wants out of Love Field. It can go to DFW. But, instead, what it really wants to do is ask you all to legislate its business plan.

Thank you for the opportunity to speak.

[The prepared statement of Ms. Palmer follows:]

PREPARED STATEMENT OF LORI PALMER, LOVE FIELD CITIZENS ACTION COMMITTEE

On behalf of the Love Field Citizens Action Committee, I want to express my appreciation for the opportunity to testify today before the Senate Aviation Subcommittee on current efforts to repeal the "Wright Amendment" at Dallas Love Field in Dallas, Texas.

Love Field Citizens Action Committee has 25 Years of Experience With Dallas Love Field

The Love Field Citizens Action Committee (LFCAC) is a coalition of residents and neighborhoods in the Love Field impact area. The organization was established in 1980 to address the airport's adverse environmental impact on the large and densely populated community that surrounds the facility to the north, south, east and west. LFCAC's mission is *to enhance the quality of life in Love Field area neighborhoods by reducing negative noise and air pollution, traffic congestion, and safety risks posed by aircraft operations at Dallas Love Field.*

Over the last two and a half decades, LFCAC has been actively involved in many Love Field issues. Its first major accomplishment was the adoption of Dallas Love Field's first noise control program, approved by the Dallas City Council in 1981, when citizens filled the Council chambers to demonstrate their strong dissatisfaction with increasing airport noise. During the subsequent 24 years, the citizens' organization has worked on many fronts to try to create a balance between the interests of the airport and interests of the densely populated community surrounding it.

During these two and a half decades, the Love Field Citizens Action Committee (LFCAC) has developed a solid understanding of Love Field's operations and their impact on the environment. It has participated in 23 years worth of Noise Abatement Advisory Committee meetings at Dallas Love Field, researched and rec-

ommended municipal ordinances to address noise impact, visited with elected officials at the local and national levels, testified before the U.S. House of Representatives Subcommittee on Aviation (1991), submitted legal briefs to State and Federal courts and promoted a series of voluntary noise abatement procedures at the inner city airport including one of the earliest and most comprehensive noise monitoring systems in the country. Most recently, the LFCAC actively participated in the development of the Love Field Master Plan, approved unanimously by the Dallas City Council in April 2002 and by the Federal Aviation Administration.

Dallas Love Field Operations Impact Large Area in Population and Value

According to the Love Field Master Plan, the Noise Impact Area of the Dallas Love is 25.4 square miles. The estimated population was 89,307 in the year 2000—a population figure that has, undoubtedly, grown in the five years since then. What do we know about the value of residential properties within the 55 DNL or greater Love Field Noise Impact Area? Again, according to the Love Field Master plan, in the year 2000, the estimated market value of the residential properties was $5.3 billion. The taxable value of all residential properties was approximately $3.9 billion and the total annual property tax contributions from those residential properties was $95.6 million. Undoubtedly, these values have increased as well since the year 2000.

Dallas Love Field is an inner-city airport located on only 1,300 acres. Densely populated residential communities with single-family homes, apartments, schools, parks, recreation centers, libraries and retail businesses surround it on all sides. Planes that take off and land at Dallas Love Field must fly over neighborhoods that are homes to thousands of residents. The airport is locked in on all sides by single-family homes, churches, parks, schools, apartments, and retail businesses. There are no "clear zones" in the event of an emergency on take off or landing.

As an example, near Love Field, less than a mile off the end of Runway 13R, there is a school named T.J. Rusk Middle School. Each school day, its 690 students and 45 teachers attend class while over 100 Southwest flights take off or land overhead, so far without incident. Across the street from T.J. Rusk is a day school and 200 yards away is Maple Lawn Elementary School with 829 students and 50 teachers. These children and teachers occupy classrooms just below what pilots call *short final*, which means less than one minute from landing at an altitude of 300 feet. Going the other way, on takeoff, these children and their teachers are directly below the planes as the landing gear is retracting. There are four ways to take off or land at Love Field. All of them impact neighborhoods.

History of the Wright Amendment—A Community Perspective

In 1968, Dallas and Fort Worth adopted the 1968 Regional Airport Concurrent Bond Ordinance that called for the eventual phase-out of certificated air carrier services at Love Field. Homeowners and others began to anticipate the eventual change at the airport, looking forward to a future time when all air carriers would move to the new regional airport. As a result of the bond ordinance's adoption by the two cities, many residents made the decision to stay in their homes rather than move away. Other residents made the decision to move into the neighborhoods and buy homes. They too believed that all air carrier operations would move to DFW Regional Airport. They felt secure about the future.

When the new DFW Airport opened in early 1974, all air carriers but one moved to the new airport. Southwest Airlines had managed to stay at the inner city airport due to its intrastate status with flights to Houston and Austin. Although residents expressed concern that the intent of consolidating all air carrier operations at DFW Airport had not yet occurred, the issue of noise was not serious because the number of daily takeoffs and landings was small during the first few years as SWA flew its intrastate routes.

Gradually, however, the number of SWA's daily operations increased, as did their noise impact on Dallas neighborhoods surrounding Love Field. Not only did the number of operations and noise increase, so did the level of alarm on the part of residents who had been told that air carrier traffic at the airport would become a thing of the past. Residents' concern grew stronger in 1979 when SWA started interstate service to New Orleans. Residents felt angry and betrayed.

When the Wright Amendment was enacted into law in early 1980, permitting interstate traffic to the four states adjacent to Texas, it translated into additional take-offs and landings over homes, schools, churches, parks, and nearby businesses. In a matter of months, homeowners from 14 major neighborhoods around Love Field coalesced and established the Love Field Citizens Action Committee.

Wright Amendment Becomes Critical Component in Love Field's Noise Abatement Program and Love Field Master Plan

In subsequent years, the Wright Amendment came to be recognized as a key assumption and component in Love Field's Noise Abatement Program by creating the foundation for balancing the needs of the airport with the needs of the surrounding community. It also created the foundation for balancing the role of Dallas Love Field in providing short-haul service with that of DFW International Airport in providing long-haul service.

In the year 2000, the Dallas City Council commissioned the Love Field Master Plan. DMJM Aviation, a nationally and internationally recognized aviation consultant, conducted the study.

The development of the Love Field Master Plan was based squarely on the assumption that the Wright Amendment would remain in effect. As stated on page 1 of the Executive Summary of the Airport Impact Analysis/Master Plan, "the study was undertaken by the city to determine the highest practical use of Love Field within Federal guidelines, while maintaining balance with the environmental and socio-economic impacts that might result from increased use of the airport."

Also stated on page 1 of the document, "the technical approach to the study centered around a demand analysis which established the market demand profile and growth potential of Love Field given the restrictions imposed by the Wright/Shelby Amendment which were assumed to remain in effect."

Love Field residents played a key role in the master planning process due in large part to the fundamental operating assumption that the Wright Amendment would remain in place. Although the Master Plan forecasted aviation growth at Love Field, it would be within the parameters of the Wright Amendment, occurring mostly in smaller and quieter regional jets over an extended period of time resulting in minimal impact on the noise contours.

Members of the Love Field Master Plan Advisory Committee included Southwest Airlines, American Airlines, Continental, Delta, general aviation, the Love Field Citizens Action Committee, neighborhoods, and Love Field area businesses. New Legend Airlines also participated for a short period of time before it went out of existence due to a bad business plan.

At the completion of the study, all the parties signed a Consensus Statement. Language in the statement included the phrase, "The Wright/Shelby Amendment is assumed to remain intact." The first signature on the Statement was SWA's representative, a corporate vice president.

Very much because of this agreement among the diverse parties, the Dallas City Council unanimously approved the Master Plan in April 2002 after what can only be described as a tremendous community effort to reach a historic agreement on the future of this center city airport. The Master Plan was heralded as a resolution to more than two decades of public conflict regarding Love Field, its impact on neighborhoods, and its role in the North Texas transportation system.

SWAs Betrays the Master Plan and the Community

Then, on November 12, 2004, the Chief Executive Officer of Southwest Airlines announced a corporate assault on the Wright Amendment, dropped like a bombshell, at a public breakfast meeting. In so doing, SWA broke apart the carefully constructed Master Plan consensus and destroyed the spirit of good will and trust that had shaped the plan for Love Field's future.

In its subsequent public relations strategy, SWA would have its target audience believe many things. For example, it would have one believe that it had never wanted the Wright Amendment and that it had actually strongly opposed it. In fact, the airline was delighted to have the Wright Amendment in place, making it possible for SWA to expand its service to four additional states under its protection.

SWA would also have its target audience believe that the Wright Amendment prevents the airline from flying to other states directly from Love Field. In truth, SWA can fly out of Love Field today to any destination it wants in aircraft of 56 seats or less.

In addition, SWA would have its target audience believe that the removal of the Wright Amendment would have no greater negative affect on the neighborhoods around Love Field than what is provided for in the Master Plan's future forecasts. In fact, if the Wright Amendment were removed, a change in the future fleet mix of the airport would predictably occur to service new long haul markets. Future increases in daily operations would not be in regional jets—as forecasted in the Master Plan—but rather in larger and louder planes including MD80s and other aircraft. This, in turn, would result in increased noise and ground traffic, well beyond that which was projected by the Master Plan. In reality, long haul flights require significantly more fuel than current Wright Amendment destination flights. Planes

would be closer to the end of the runways before liftoff and lower over neighborhoods for longer periods of time at full thrust before reaching the 1,000 feet of altitude, required for a pilot to cut the power back to reduce noise. Long haul service of Love Field would mean longer flights, more fuel, heavier planes, longer take-offs, airplanes lower over the neighborhoods and louder noise. In other words, Longer, Lower, Louder.

In addition, SWA would have its target audience believe that the Master Plan, as written, would still protect the neighborhoods. In fact, however, the Master Plan would not protect the neighborhoods in a post-Wright Amendment Love Field because no studies were done on that assumption. There would be no way to guarantee the maximum of 32 gates provided for in the Master Plan, which was a significant basis for the historic consensus. In truth, any future City Council in the future could decide to commission a new master planning study to accommodate the certain increase in demand from other airlines for additional gates at Love Field from which to serve long-haul destinations. Nor could the Master Plan enable mandatory noise restrictions, now prohibited by a 1990 Federal law. Consequently, any size plane could fly in and out of Love Field to any distant location as many times a day as desired at any time of the day and night.

The Love Field Master Plan would very likely be the first casualty if the Wright Amendment were eliminated along with its 32-gate maximum. SWA already controls 21 of these gates; 14 on the West Concourse and 7 on the North Concourse where the airline currently has its training facility. Backing out the 6 gates located at the former Legend Terminal off of Lemmon Avenue on the other side of the airfield, there would remain only 5 gates in the Main Terminal for other airlines that might also want to serve long haul markets out of Love Field. Other airlines seeking to serve Love Field would inevitably sue the City of Dallas to eliminate the gate limitation portions of the Master Plan. It is unlikely that the City of Dallas could legally sustain the Master Plan without the Wright Amendment in place.

SWA's Monopoly at Love Field

To give perspective to the current debate, it is helpful to examine the comfortable position that Southwest Airlines enjoys at Dallas Love Field beginning with the fact that it has established a strong monopoly with a market share as high as 100 percent and currently between 95–96 percent in 2005.

There are financial benefits as well at Love Field. For example, Southwest Airlines currently flies into 60 airports. Fifty-five of those airports have a Passenger Facility Charge (PFC) ranging from $3.00 to $4.50. Only five of those airports do not have a PFC. One of them is Dallas Love Field.

In addition, each of the 60 airports that SWA flies into has a landing fee, ranging from $0.29 to $4.47 per 1,000 pounds of landing weight. Dallas Love Field is near the bottom of the list with the second lowest landing fee at only $0.35, based on the same rate structure that has been in place for two decades. This landing fee is extremely low by industry standards.

Recently, the financial health and management practices of Dallas Love Field have received attention. In February 2004, Moody's downgraded Love Field's bond rating to Baa2. The airport was only one of two airports that were downgraded that year, putting Dallas' airport near the bottom of the list of airports in the United States.

The report stated, "In Moody's opinion, the airline payments based on the rates and charges ordinance have not been adjusted to cover the increased cost on a per unit basis as a result of the steep declines in enplaned passengers. In fact, airline payments have actually decreased over this volatile time, which has put additional pressure on non-airline revenues and have caused the City to use cash balances in reserve for future capital expenditures. The use of these cash balances to make up the difference in operating revenues is a key factor in the rating downgrade."

Per Moody's report, Dallas Love Field had to supplement by $8.9 million and $5.1 million, respectively, from excess bond proceeds and its restricted capital funds in order to meet their bond covenants for FY 2002 and FY 2003. In addition, Moody's reported that the airport planned to continue to draw down on its capital funds to supplement operations through FY 2008. Based on reviews of the airport's FY 2005 and FY 2006 budgets, Love Field has continued to plan for deficits. It is currently anticipated that the airport's restricted cash account will be reduced from $84.3 million in FY 2002 to $28.5 million in FY 2009. This is significant deterioration given that annual revenues are only approximately $30 million per year.

Seven months later, Standard and Poor's also downgraded Dallas Love Field in September 2004, stating that it lowered its underlying rating issued for Dallas Love Field from A- to BBB as a result of the airport's continued weak financial performance, generating debt service coverage on a cash flow basis of less than 1x in Fiscal

Years 2002 and 2003 with debt service coverage on a cash flow basis not forecasted to be above 1x until 2009.

The report noted the airport does not need to generate sufficient revenues to meet its obligations because it can rely on other fund balances practice of paying. The report further noted its concern with declining unrestricted cash balances. According to the report, overall for Fiscal Year 2003, the unrestricted cash position was equivalent to 171 days' cash on hand.

Four months later on January 14, 2005, the Office of the City Auditor of the City of Dallas issued a report entitled "Aviation Lease and Rental Agreements." In this report, the auditors stated the following findings:

> "The reasonableness of Love Field rates, as established by the Aviation Department, is questionable . . . . Aviation management's reluctance to adjust rental rates demonstrates that it has not fully assessed the circumstances that could make the airport(s) self-sustaining. Rates have remained the same despite rising costs for utilities and significant increases in security costs resulting from the September 11, 2001 tragedy."

The report noted the operating loss in recent years and reminded management that cash earmarked for capital projects is a restricted asset and is not available for airport operations and maintenance. The auditor reiterated that the management should strive to make the airport self-sustaining. The audit concluded that the airport should "strive to make the Airport self-sustaining by developing rates and fees based on market conditions and based on its financial position and obligations."

LFCAC finds it hard to understand why airport management would plan to operate at a deficit, degrade its capital fund balance that will be required in the future, and incur a bond downgrade when airport management could easily raise landing fees and/or terminal rents to mitigate the situation. Pre-September 2001, Love Field was one of the highest rated airports in the United States (A1 Moody's/A S&P) with credit strengths that included low costs of operations and very strong liquidity (cash on hand). During the years since September 2001, there has been a dramatic downturn in the financial performance of the airport with insufficient revenues to pay operation and maintenance expenses and debt service. This has resulted in the airport using cash in the construction account to meet debt service requirements instead of increasing other fees sufficiently such as airline rates and charges. In other words, the airport's construction fund is subsidizing the operations of Southwest Airlines at Love Field.

Although the use of surplus revenues to pay debt service is allowed under the bond ordinance, this is not a common practice of commercial service airports in the United States. To that point, the current Baa2/Moody's and BBB/S&P rating of Love Field are some of the lowest in the U.S. and are definitely lower than any major city airport especially given the City of Dallas' AA ratings (the County of Dallas is rated AAA).

In summary, given SWA's dominant position at Love Field, it becomes reasonable to question whether SWA has exerted any influence or control over these pricing decisions. It is also reasonable to wonder if this may help explain why the airline steadfastly refuses to move to DFW International Airport, even when offered significant financial incentives.

Public Policy Debate Launched for Whose Benefit?

The current debate is a major public policy issue with many complex elements and potential negative impacts on the regional aviation system of North Texas, the future of DFW and the passengers and businesses that it now serves, the economy of North Texas, the tax base of Dallas, and the lives of tens of thousands of people who reside in the large noise impact area of Dallas Love Field.

It is not about low fares; rather it is about one airline that has built a monopoly at Dallas Love Field as a result of the Wright Amendment and which now wants to get rid of it in order to further expand its monopoly and, thereby, discourage its low-fare competitors from serving or expanding service at DFW.

It is about one airline that wishes the elimination of a law in order to serve its singular corporate interest. It is about one airline that betrayed the community in which its corporate home exists, destroyed the community consensus that had, at last, been achieved after more than two decades of conflict, and set upon a campaign to unravel the very foundation and successful relationship between two airports that are only 8 miles apart—each of which has an important role as a long-haul facility and as a short-haul facility in serving North Texas.

As noted by Norm Scroggins in his testimony before the U.S. House of Representatives Aviation Subcommittee in 1991, the airports share the most complex air space in the United States. (Norm Scroggins had 37 years in air traffic control and

served as the Manager of all air traffic control towers in North Texas for six years before his retirement.)

It is about one airline that says it wants competition and yet, by its actions, is doing everything possible to expand a monopoly and prevent competition—both at Love Field and at DFW.

Summary: The Wright Amendment Provides Necessary Balance

The Wright Amendment is the best approach to balancing a number of environmental and aviation related factors in Dallas and in the Dallas/Fort Worth region. It balances the operations of an inner city airport with the environmental impact of those operations on the surrounding community. It balances the role and niche of an inner city airport that provides short-haul service and that of a regional airport that provides long-haul service by creating an air transportation system that is both efficient and effective.

A repeal or weakening of the Amendment would destroy the balance between Love Field operations and the quality of life of our neighborhoods. It would bring more noise, air pollution, and traffic congestion than had been anticipated in the Love Field Master Plan. It would bring renewed public conflict that would jeopardize the economic viability of much of Dallas' vibrant center city that is impacted by Love Field operations. It would destabilize the North Texas air transportation system.

The Wright Amendment is not about preventing low fares—for, in fact, low fares can benefit a much larger North Texas flying public at DFW International Airport if SWA were to establish service there. Instead, the Wright Amendment is about balance, fairness, good sense, and sane public policy; it should be left as is.

Senator BURNS. You bet. Thank you.

We've got Dr. Brian Campbell, with The Campbell-Hill Aviation Group. Thank you, Doctor, for coming today.

STATEMENT OF DR. BRIAN M. CAMPBELL, CHAIRMAN, CAMPBELL-HILL AVIATION GROUP, INC.

Dr. CAMPBELL. Thank you, Mr. Chairman and Members of the Committee.

On June 7th of this year, Campbell-Hill released a study that measured the economic benefits that would accrue from repeal of the Wright Amendment. We analyzed new routes from Love Field to 15 cities beyond the current Wright Amendment perimeter. These cities include Baltimore, the Boston area, the Chicago area, Las Vegas, Los Angeles, Orlando, Philadelphia, Phoenix, Reno, St. Louis, San Diego, the San Francisco Bay area, Seattle, and Tampa.

The benefits we found are: 3.7 million additional annual passengers to and from North Texas, almost $700 million in annual fare savings to the passengers, $1.7 billion in annual economic benefits to the North Texas economy, and $1.8 billion in annual benefits for the communities of the 15 newly connected cities. All together, the economic benefits to consumers and economies around the country totals over $4 billion a year. Put another way, the cost of keeping the Wright Amendment in place is over $4 billion annually in just these 15 markets. This equates to $500,000 an hour just to keep the Wright Amendment in place.

Many of these findings were confirmed by SH&E, an aviation consulting firm, which DFW hired to study some of the same issues last spring. SH&E found: repealing of the Wright Amendment would lead to 3.6 million additional annual passengers to and from the Dallas area. They were 1.4 percent below my estimate. They found that total market savings will be $715 million per year, or 3.8 percent above my estimate. And they found that there will only

be a trivial 1.6 percent decline in American's load factor, with no decrease in flights at DFW.

Together, these results underscore how costly the Wright Amendment is to families, businesses, and the economy, not just in North Texas, but to dozens of cities and States around the country, where people are paying excessive airfares and not traveling at all or as often as they would like to.

The results of our study and the SH&E study are not surprising, because the Wright Amendment protects American Airlines from competition in North Texas. Today, American accounts for 85 percent of the flights and seats at DFW. Because of the Wright Amendment, it enjoys a monopoly on nonstop service to over 63 domestic cities from DFW that are protected by the Wright Amendment. Not surprisingly, the fares American charges at DFW are significantly higher in markets when there is no Southwest Love Field competition, but American's fares are much lower on the routes inside the Wright Amendment perimeter, where it competes with Southwest Airlines at Love Field.

American has now hired Eclat to counter these findings. However, the Eclat report suffers from numerous fundamental flaws that undermine its conclusions. The key assumptions that drive their numbers are completely inconsistent with American's competitive behavior.

First, Eclat assumes American will transfer 45 daily roundtrips to Love Field to compete, flight for flight, with Southwest. The study contains no analysis to support this assumption. It is contrary to American's own behavior. And I didn't hear anything like that verified by Mr. Arpey this morning.

For example, in Chicago, where O'Hare and Midway Airports are only 15 miles apart, American has not found it necessary to split its O'Hare hub to compete with Southwest's large operation at Midway Airport, which will soon be 204 departures per day.

Second, Eclat erroneously assumed that American would not lower its prices and compete with Southwest on fares, either at Love Field or DFW. This is completely contrary to American's DFW pricing strategy in the 12 markets served by Southwest at Love Field today, and it's completely counter to American's behavior at O'Hare, where it has lowered its fares significantly to compete with Southwest's services at Midway.

The result of these, and equally unsupported or irrational assumptions, allows Eclat to fabricate an endless cascade of flight cancellations through American's DFW schedule, designed solely to scare the public. When these erroneous assumptions are exposed, all of Eclat's dire predictions collapse.

One of the Eclat's scare tactics is to show large losses of American's DFW services to small communities. The analysis is simply not credible.

Let's take an example. Eclat lists ten DFW markets to points in Texas where Southwest does not operate from Love Field. Eclat asserts that these ten will lose 16 of their 51 daily departures to DFW, or 31 percent of them. This is silly. All ten of these markets are American monopolies with high average fares, over $100 per one-way passenger for short-haul trips. And American's traffic increased in those markets by 19 percent in the last year. It is illogi-

cal now to claim that American would reduce service in these markets, where it already imposed monopoly—imposes monopoly pricing and its traffic is growing.

Eclat's predictions are completely contrary to American's competitive behavior in Chicago, as well. During the past 5 years, American nearly doubled the number of O'Hare nonstop markets it serves with regional or commuter aircraft from 31 to 60 city pairs, and it increased total departures and seat capacity by more than 50 percent over the same period. American's significant increase in Chicago service with small aircraft occurred at the very same time that Southwest dramatically expanded its low-fare service at Midway.

Eclat's assumption that American will eliminate scores of DFW flights in small or regional markets is contrary to the factual evidence of American's own behavior, and it belies sound economic logic.

And let me just say that if American Airlines' hub at O'Hare Airport has ever suffered either the international, the long-haul, or the commuter markets while Southwest has been building very steadily and very significantly at Midway, that would be the centerpoint of their case today. They would be here telling you, "Don't let the same thing happen in Dallas." But it hasn't happened in Chicago. And it hasn't happened in Miami/Fort Lauderdale. And it hasn't happened anywhere else.

In summary, Eclat's conclusions are contrary to the longstanding national policy of deregulation that consumers and economies are best served by competition among airlines, rather than protectionism.

Our study and the SH&E study show that not acting to remove the protectionism of the Wright Amendment will impose an enormous ongoing cost to consumers, businesses, and communities throughout the country.

And I would make one final point, and that is that since Delta Air Lines dismantled its hub at DFW at the beginning of this year. American Airlines has increased the size and the scope of its flight operations by 70 or more departures per day. We are talking about, here, Southwest Airlines starting 45 departures per day at Love Field. American's windfall from the Dallas—from the Delta withdrawal at Dallas/Fort Worth—that windfall is much greater than any harm that they could come up with for new services, beyond the current perimeter—the Wright Amendment perimeter at Dallas Love Field.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Campbell follows:]

PREPARED STATEMENT OF DR. BRIAN M. CAMPBELL, CHAIRMAN, CAMPBELL-HILL AVIATION GROUP, INC.

In 1978 Congress deregulated the domestic airline industry. Then, in 1979 with the passage of the Wright Amendment, it re-regulated a small piece of the business—that dealing with service to Dallas Love Field.

Because of the Wright Amendment, American enjoys a protected position today at Dallas/Ft. Worth. American accounts for 85 percent of the flights and seats at DFW (Exhibit 1). It enjoys a monopoly on non-stop service over 63 protected domestic routes between DFW and cities beyond the Wright Amendment Perimeter (Exhibit 2). The fares American charges at DFW are significantly higher in markets when there is no Love Field competition; American's fares are much lower on the

12 routes where it competes with Southwest's flights at Love Field (Exhibit 3). In fact, American's domestic fares outside of Dallas are significantly lower than those in comparable DFW markets that do not have Southwest competition (Exhibit 4).

American prices its Chicago O'Hare Airport services to compete with Southwest, at Chicago's Midway Airport in the 36 markets served by both carriers from Chicago. Yet, American has chosen not to fly head-to-head with Southwest at Midway. Nevertheless, Southwest's new market entry with low fares at Midway has caused the O'Hare carriers to respond by lowering their fares. Traffic at both airports increased, and dramatically so at Midway (See specific market examples in Exhibits 5 through 10).

So, Southwest's price competition has worked well to discipline, and in fact, lead its competitors and expanded markets dramatically, while not adversely affecting American's O'Hare Airport hub. In fact, American has expanded O'Hare routes and flights. In my experience American has always been aggressive in matching competitors' price and service offerings, and I believe American will respond to Southwest's prices in these 15 new Dallas Love Field routes.

Our firm has prepared a study to measure the consumer benefits and economic impacts that will accrue from new Southwest flights at Love Field if the Wright Amendment is repealed. With Southwest's concurrence we selected 15 new Love Field routes beyond the current Wright Amendment Perimeter. And, we assumed initial frequencies of three round trips per day in each market. At its typical fares, which are well below prevailing prices at DFW, Southwest's new 45 round trips per day at Love Field will generate:

(1) 3.7 million additional passengers each year to/from North Texas (Exhibits 11 and 12),

(2) $688 million in annual fare savings to North Texas travelers (Exhibits 11, 13 and 14),

(3) $1.7 billion in annual economic benefits to North Texas (Exhibit 15), and

(4) $1.8 billion in annual economic impact for the economies of the 15 newly connected cities (Exhibit 16).

Last spring DFW Airport hired Simat, Helliesen & Eichner, Inc. (SH&E) to estimate the impacts of repealing the Wright Amendment. Among SH&E findings were the following:

(1) there will be 3.6 million additional annual Dallas origin/destination passengers (1.4 percent below my estimate),

(2) total market fare savings will be $715 million per year (3.8 percent more than my estimate), and

(3) the initial impact on American's DFW operation would be a trivial decline in load factor of 1.6 percentage points—from 78.9 percent to 77.3 percent—with no decrease in flights.

DFW Airport's consultants (SH&E) included market stimulation analysis that is very similar to ours.

American has now hired Eclat to counter the results of the SH&E study for DFW, and to rebut our findings.

The Eclat report suffers from many fundamental infirmities. It is based on a few critical assumptions that drive their mechanical number crunching. The key assumptions, for which there is no substantiating evidence, and which are completely counter to American's competitive behavior, are as follows:

(1) First, Eclat assumes that American will transfer 45 daily round trips to Love Field to compete flight-for-flight with Southwest. Eclat does not say whether American told them to assume this or whether this would, in fact, be American's competitive response. Eclats only reference for this assumption is a vague nonspecific comment made by Mr. Arpey to the press last February—9 months ago!

(2) Second, Eclat assumed that American would not deviate from its current DFW fares—either for its new Love Field services, or for the remaining flights at DFW. Eclat simply assumed that American will not lower its price and compete with Southwest on fares. This is completely contrary to American's DFW pricing strategy in markets served by Southwest at Love Field today; and it is completely counter to American's consistent behavior at O'Hare where it has lowered its fares significantly to compete with Southwest's services at Midway Airport.

The result of these major assumptions, along with others that are equally unsupported or irrational, causes Eclat to create a cascading effect through American's flight schedule. Essentially it is saying that without any fare response (reduction) its model shows that American will simply cancel 140 daily round trip flights at DFW, because by shifting 45 round trips to Love Field it will suffer the loss of connecting passengers. There is no price/fare element, and no profit and loss element (or analysis) in Eclat's model. It is fabricated entirely from a series of irrational assumptions designed to scare the public. When these assumptions are exposed and proven to be untrue, all of Eclat's forecast of dire consequences will collapse.

One significant Eclat tactic is to show large losses of American's DFW service to small communities. This analysis is simply not credible. It all results from their set of irrational assumptions.

For example, on page 45 of its report Eclat lists ten DFW markets to points in Texas where Southwest does not operate from Love Field. Eclat asserts that these ten will lose 16 of their 51 daily departures to DFW. This is absurd! All ten are American monopoly markets with high average fares (over $100 per one-way passenger), and American's traffic increased by 19.1 percent from the second quarter of 2004 to the second quarter of 2005. American will not weaken itself in these markets simply because Southwest has begun new service at Love Field to points beyond Texas and the region.

American's competitive behavior in Chicago is completely contrary to Eclat's model assumptions and results. During the past five years [1] American has increased the number of O'Hare non-stop markets served with commuter/regional aircraft—from 31 to 60 city-pairs. Correspondingly, its total departures and seat capacity with aircraft under 75 seats increased by more than 50 percent (Exhibit 17). American's significant increase in Chicago service to small communities occurred at the very same time (November 2000 to November 2005) that Southwest expanded its low fare Midway Airport service. Southwest added 20 new routes and increased its total departures and seat capacity by 70 percent over the past five years (Exhibit 18). Eclat's assumption that American will eliminate scores of DFW flights in small or regional markets is strikingly contrary to the factual evidence of American's behavior and it belies sound economic logic.

If American does not compete with Southwest on price, then total market stimulation, total fare savings, and total economic benefits will initially be less than what I and DFW's consultant have projected. Both of our studies assumed competitive pricing response by American. Nevertheless, if American chooses to go against all of its history, and to not be price competitive, then it will lose some passengers, but the total Dallas market will still be much larger, and Southwest will have the opportunity to add a lot more flights to those 15 markets. So, in time, the overall North Texas market impacts would grow to the levels projected in our study.

So why would American not defend its position and compete on fares in the 15 new Southwest routes? This is a mystery and it's a major flaw in Eclat's logic.

Eclat made a lot of other self-serving errors.

(1) It moved arbitrarily 31 percent of American's flights in the 15 markets to Love Field, but assumed that 35 percent to 65 percent of the passengers would shift. This makes no sense, especially when it assumes further that American's fares will remain static for its purported Love Field service.

(2) It assumed many other carriers would move flights from DFW to Love with no factual basis for the assumption. Actually, AirTran recently announced its complete withdrawal from the DFW—Los Angeles market.

(3) Eclat assumed that in any market where American suffered a 5 percent or more decline in load factor, it would reduce frequencies, and this is irrational and unsupported in history.

(4) It assumed any load factor below 85 percent in multi-frequency markets would trigger a reduction in flights. This too makes no sense.

(5) In its so-called stimulation analysis Eclat selectively included some markets, and excluded others.

(6) Eclat focused certain analyses on low-fare carriers as a group, and not just Southwest's actions and the market's response. No other airline operates Southwest's business model.

(7) There is no recognition of what American gained at DFW when Delta dismantled its hub early this year. In fact, American has 70 more daily departures today than it did a year ago; and this is 56 percent more than the 45 departures

[1] November 2000 to November 2005.

> Eclat assumes American would have to shift to Love Field to compete with Southwest. American's windfall from the demise of Delta's hub is greater than any competitive harm it might suffer from repeal of the Wright Amendment. One Wall Street firm estimated the value to American of Delta's withdrawal at $600 million per year in revenue.

In brief, Eclat's conclusions are pre-ordained by its unsubstantiated assumptions, especially the assumption that American will not lower its fares to compete with the new Southwest services. Since deregulation in 1978 it has not been the U.S. Government's policy to protect carriers that do not want to compete on fares. This is a major Achilles heel in the Eclat study.

I wish to point out that the Eclat study is silent with respect to consumer benefits (or fare savings), or economic impacts to North Texas and the 15 cities that will benefit from new low fare service at Love Field.

Finally, the extent to which Eclat purported to characterize what Southwest might do after repeal of the Wright Amendment reveals two things:

> (1) Eclat lacks an understanding of how the Wright Amendment works in practice; and
>
> (2) Eclat lacks any understanding of Southwest Airlines' business model.

Eclat states that Southwest has reduced service in some of the existing Wright Amendment markets. But, it misses the point! After 9/11 air travel in short haul markets suffered generally, and in some cases by large degrees. Due to heightened fears of flying after 9/11, coupled with new time-consuming and personally undesirable airport security procedures, a lot of short haul passengers avoided flying. Yet short haul markets are the only markets available to Southwest within the current Wright Amendment prohibition.[2]

By repeal of the Wright Amendment Southwest's low fares would stimulate travel from existing Wright Amendment markets to new markets, allowing Southwest to grow these short haul markets again.

In its report Eclat predicts that Southwest's service to some cities will decline because it could "fly over" those cities after repeal. By definition, all traffic between Love Field and the alleged "fly over" cities is local, because no connecting or one-stop passengers are permitted under the silly and unjust restrictions on through ticketing and marketing. Upon repeal, Southwest could sell connections and single-plane through service with just one check-in by the passenger. That would strengthen the service between Love Field and the "fly over" cities. The dramatic improvement in service and reduction in fares to Love Field will bring about even more traffic stimulation as a result of repealing the Wright Amendment.

The Exhibits referenced in this prepared statement have been retained in Committee files.

Senator BURNS. You bet. And thank you.

We have Mr. Bill Swelbar, managing partner, Eclat Consulting. You get to answer.

Mr. SWELBAR. Terrific.

STATEMENT OF WILLIAM S. SWELBAR, PRESIDENT/MANAGING PARTNER, ECLAT CONSULTING, INC.

Mr. SWELBAR. Good afternoon, Chairman Burns, Senator Hutchison, other Members of the Committee.

My name is William Swelbar. I am President and Managing Partner of Eclat Consulting. And, based on Mr. Kelleher's testimony and my good friend Dr. Campbell's testimony, I am not the consultant that worked for DFW Airport.

I am appearing today as the principal author of a study performed for American Airlines entitled, "Repealing the Wright Amendment—Risks Facing Small Communities in the Dallas Metroplex."

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[2] In fact, 9 of Southwest's 12 routes from Love Field are less than 350 miles. To many, this is hardly worth the airport "hassle factor."

While this issue would appear to be a Dallas/Fort Worth issue only, it is not. It may appear to be a Southwest and American issue only. It is not. It may appear to be an issue only for those eight states currently named in the Wright and Shelby legislation. It is not. It may appear to be a simple issue. It is not.

The analysis that is the core of our work done for American could be applied at virtually any carrier—air-carrier hub operation in the U.S. Eight Members of this Subcommittee are from states that have large hub-and-spoke airport operations. Twelve Members of this Committee rely on hubs and spokes for their access to the U.S. air transportation system. And, in our estimation, at least 12 Members of this Committee represent states that would be negatively impacted by repeal.

I would like to summarize three basic findings of our study.

First, smaller communities must rely on hubs for effective air service. Only network airlines like American, which have invested billions of dollars in aircraft and airport infrastructure, can effectively serve smaller communities. Airlines that we refer to in our study, LMOs, or large-market oriented, carriers like Southwest do not, and cannot, serve small communities.

The second point I would like to emphasize is that hub operations are fragile. That is why industry and market changes have resulted in the closure of many smaller hubs at Raleigh, at Nashville, and, most recently, at Pittsburgh. Hubs rely on an elaborate web of interdependencies among large and small cities they serve. As individual flights to and from a hub are impacted, so, too, are many other flights. It is a cascading effect, and that—and Mr. Arpey referred to that this morning. Hubs cannot survive on the basis of connecting passengers alone, and many of the calculations that are being tossed around today are including connecting passengers. And we can get to that, if necessary.

This is a critical point for DFW. If local Dallas/Fort Worth passengers shift to Love Field, the DFW hub must, and will, be impacted. And it will be impacted to a much greater extent—several times greater, actually—than the number of passengers who decide to use Love Field instead. The mechanics of airline networks are complicated, but suffice it to say it takes very little time to degrade a hub.

Third, the so-called "Southwest Effect" is yesterday's benefit still being claimed today. Ten years ago, it was true that new service by Southwest resulted in an increase in a large number of new passengers flying. "New," being the operative word. Now, however, almost every large community in the country already has service from one or more of the LMOs. When Southwest or another LMO enters a market today, the result is, predominantly, to change a traveler's driving pattern. The travelers were going to fly anyway. They are not net new passengers to the system. But now they drive to a different airport than the one they previously used.

In industry terms, the primary result of repealing the Wright Amendment would be to divert traffic to Love Field, not to stimulate, or increase, new demand to the region. We are confident of this finding, and it is documented in our study.

As the *Fort Worth Star-Telegram* said on Sunday, November 6, "It's not that simple," as you opened as we came back this after-

noon. It is a complicated issue that has Dallas/Fort Worth routes and, in our estimation, far-reaching tentacles. There are many other tangential issues relating to this debate that are addressed in our study.

For a student of the industry, the effort to repeal the Wright Amendment appears to be an effort to change the economic framework of the industry to benefit one carrier at the expense of, not only Dallas/Fort Worth, but also the cities that rely on DFW today.

Before any action is taken on this important issue, please rely less on sound bites, about the enormous economic benefits that will be derived from repeal, and more about an analysis of the importance of a network industry to the—network carriers to the U.S. air transportation system.

I thank you for the opportunity and ask that the study, as well as my testimony, be entered into the record.

Senator BURNS. Without objection, it sure will be, and we thank you for coming today.

[The prepared statement of Mr. Swelbar follows:]

PREPARED STATEMENT OF WILLIAM S. SWELBAR, PRESIDENT/MANAGING PARTNER, ECLAT CONSULTING, INC.

Introduction

Good Morning Chairman Burns, Senator Rockefeller, and other members of the Subcommittee. My name is William Swelbar. I am President and Managing Partner of Eclat Consulting, Inc., a firm that specializes in assessing economic, financial and regulatory issues and their impact on commercial air transportation companies and the industry. I am appearing today as the principal author of a study performed on behalf of American Airlines entitled: "Repealing the Wright Amendment—Risks Facing Small Communities and the Dallas Metroplex."

While this issue would appear to be only a Dallas/Ft. Worth issue; it is not. It may appear to be a Southwest and American issue only; it is not. It may appear to be an issue only for those eight states currently named in each the Wright and Shelby legislation; it is not. This is an issue that touches 95 cities in 29 states and the District of Columbia and Puerto Rico.

Eight Members of this Subcommittee are from states that have large hub and spoke airport operations and twelve Members of this Subcommittee represent states that are dependent on hub and spoke systems for access to the U.S. air transportation system. The analysis that is the core of our work done for American could be applied at virtually any air carrier hub and spoke operation. Depending on the scope and scale of that operation, the results of lost service to communities dependent on that operation would be similar.

Background

First, the study we performed distinguishes between the two major sectors of the U.S. airline industry. The network carriers are the traditional hub and spoke oriented carriers and include: American, Continental, Delta, Northwest and United. The Large Market-Oriented carriers (LMOs) are: Southwest, jetBlue, AirTran, Frontier, ATA and Spirit.

It is most important to distinguish between these two carrier types because the network carriers have invested billions of dollars to serve cities of all sizes, while the LMOs have not. The ten smallest cities served by Southwest have an average population of 728,000 people versus an average of 103,000 people for the 10 smallest communities in the American network.

Hub and spoke systems keep the overwhelming majority of markets connected to the air transportation system. The networks of the LMOs do not, nor do they show any proclivity toward serving small cities in the future.

Fundamental Premise of the Eclat Study for American

In its campaign to repeal the Wright Amendment, Southwest has released an economic study suggesting that it would initiate service to 15 new markets—all large U.S. domestic markets—from Dallas Love Field Airport (DAL). The listing of suggested new markets to be served was corroborated by Gary Kelly, Southwest's CEO.

Gerard Arpey, CEO of American, has made it clear in his public statements that if Southwest were to initiate service to these 15 points at Love Field, American would have no choice but to move service from Dallas/Fort Worth International (DFW) to match the new competition. Herein lies the core assumption in the following analysis.

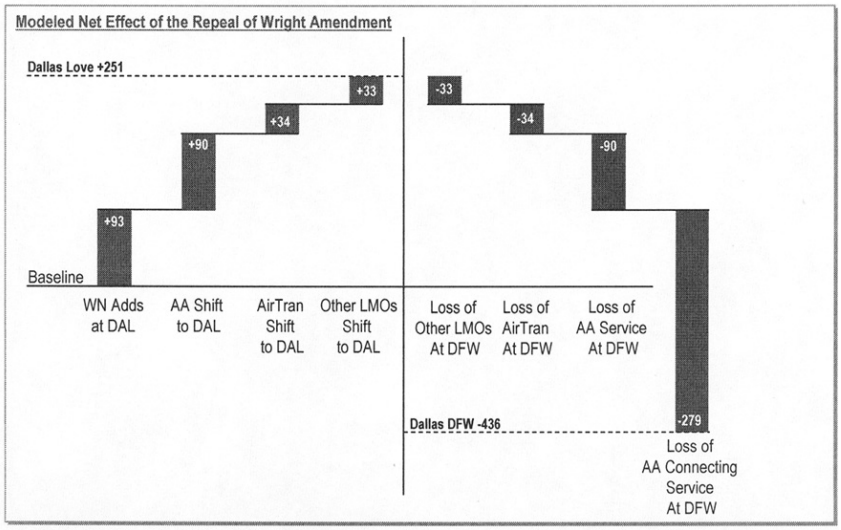
It is a logical competitive response that American feels compelled to protect its competitive position in the Dallas Metroplex market from new competition. In fact, any carrier would move to protect its home market and it happens every day in this hypercompetitive industry. The movement of 90 flights to/from DFW results in a loss of 279 other American flights because the hub and spoke system creates the interdependency on each local domestic, connecting domestic, local international and connecting international passenger.

Our analysis concludes that American would lose up to 36 percent of its traffic base at DFW, while the airport itself would see 27 percent of its passenger traffic leave based on American's competitive response at DAL. And while Love Field will see significantly higher passenger traffic, the Metroplex in total will see a decline in passenger activity.

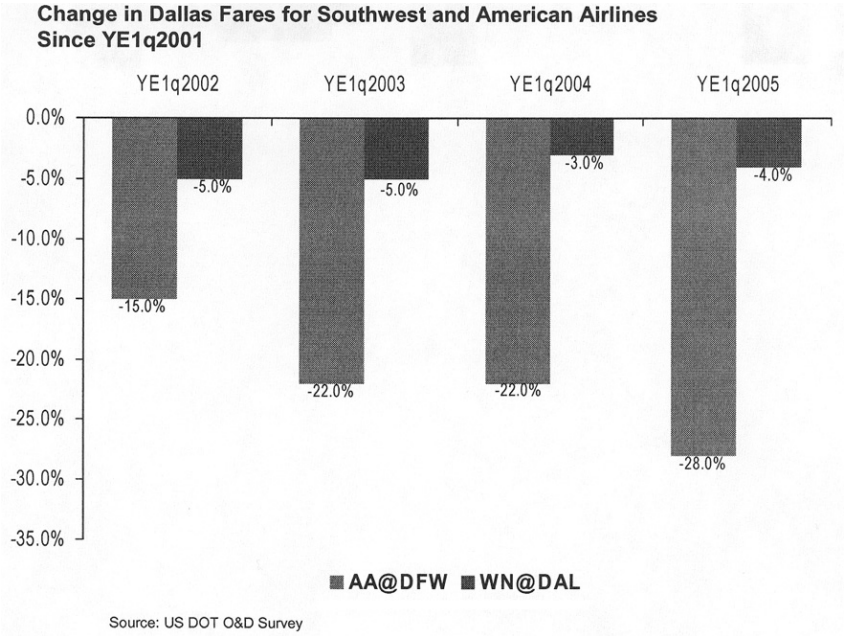
	Daily	Percent of AA DFW	Percent of Total DFW
Departures Shifted from DFW to DAL (3x daily to 15 cities)	90	5.3	4.5
Seats Shifted from DFW to DAL (3x daily to 15 cities)	13,680		
Model Estimated Departures Lost Due to Loss of Connectivity	279	16.5	14.0
Model Estimated Seats Lost Due to Loss of Connectivity	30,909		
Total Departures Lost at DFW	369	21.9	18.5
Total Seats Lost to DFW	44,589		
Total Onboard Passengers Lost at DFW	41,689	35.9	27.0

In all, 95 markets connecting to DFW are negatively impacted by the reduction in the breadth of the American hub complex there. Depending on the degree of new services added by Southwest, there are 21 cities in 16 states where we believe American will face a decision to keep some service or simply exit the market because it would not be able to support sufficient frequencies that allow it to maintain meaningful presence. They are Longview and McAllen, TX; Texarkana, AR; Birmingham, AL; Vail/Eagle, CO; Louisville, KY; Reno, NV; Norfolk, VA; Ft. Myers, Jacksonville, Pensacola and West Palm Beach, FL; Greenville/Spartanburg, SC; Oakland, CA; Greensboro, NC; Dayton, OH; Providence, RI; Chicago-MDW and Peoria, IL; and Ft. Wayne, IN.

Fare Stimulation

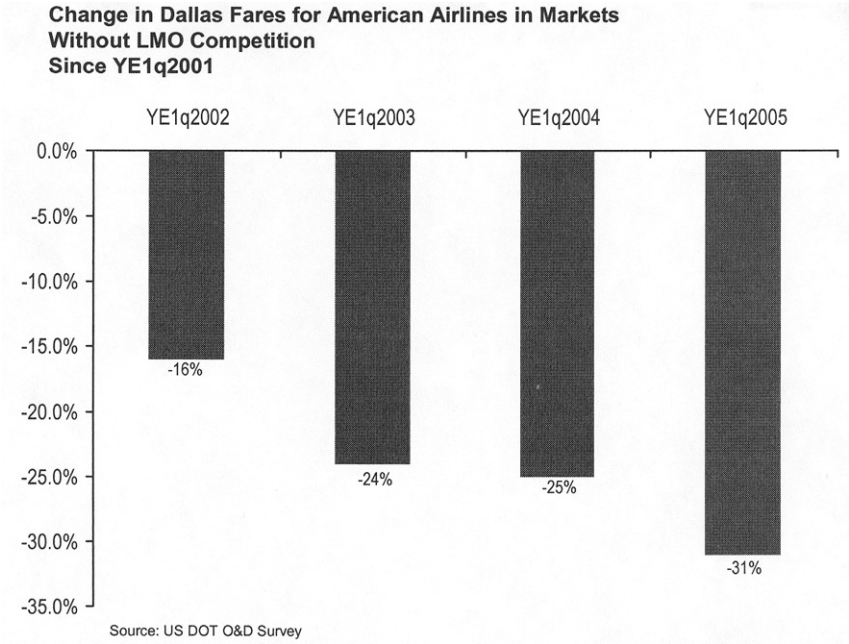


Much of the advantage that Southwest has cited over its history has been the delivery of low fares to a market. But that began to change in 2001 as industry fares began to decline rapidly even before the events of September 11. Since the first quarter of 2001, American's fares have decreased 28 percent at DFW, while average fares at Love Field by Southwest have decreased 4 percent. This is true in nearly every hub city for nearly every network carrier. The fare gap between the network carriers and the LMOs has closed significantly and therefore the economics of low fares are simply not what they were even 5 years ago, let alone 10 or 15 years ago. In other words, in today's pricing environment for the U.S. airline industry, the revered "Southwest Effect" is ancient history.



A misunderstood fact is that it is not just competition with the LMOs that are driving fares down. American's fares in Dallas markets without LMO competition are down 31 percent since the first quarter of 2001. Small communities have benefited significantly by the growth of network carrier hubs in terms of both service and price competition. The use of regional jet aircraft have made hubs accessible that were not envisioned even 10 years ago. No one would have thought in 1995 that Green Bay, Wisconsin would have nonstop jet service to Dallas/Ft Worth.

Stimulation Is Really Mostly Diversion in Today's Environment



Another misunderstood fact in the industry is the claim by the LMO sector that they cause significant stimulation of new demand. Yes, some new demand is created but it is nowhere near the levels we saw in the 1980s and 1990s. Today's "LMO Effect" is less about generating new demand and more about diverting existing demand from an airport within the same, or nearby, metropolitan area. It makes great headlines for one airport, but when you look at the sum total of demand at all of the airports in a single metropolitan area, a very different story presents itself.

This study is not intended to refute on a point-by-point basis the study conducted for Southwest. However, that study's claim that the Dallas market will benefit from stimulation of new demand in the area of 60 percent is simply not true. We estimate that, based on LMO activity in other large metro areas, new Southwest service could *perhaps* produce passenger stimulation of 15 percent.

We say "perhaps" because Southwest already carries passengers to Love Field from multiple airports within the Wright Amendment states. Because this is already happening today, those passengers cannot be counted as new demand to the Metroplex. Therefore, the real stimulation or new demand is somewhere in the 5–10 percent area—a far cry from the 60 percent claim. If the Wright Amendment were to be repealed, we doubt that Southwest would continue to offer the same level of service it does today at cities like Albuquerque, Houston Hobby, Austin, New Orleans, El Paso, San Antonio, Little Rock, Oklahoma City and Tulsa. Those cities would no longer serve as connecting points for passengers traveling to Dallas and would instead be "overflown" by Southwest.

Bottom Line Findings

In all, 95 markets connecting to DFW are negatively impacted by the reduction in the breadth of the American hub complex there. Depending on the degree of new services added by Southwest, there are 21 cities in 16 states where we believe American will face a decision to keep some service or simply exit the market because it would not be able to support sufficient frequencies that allow it to maintain meaningful presence. They are: Longview and McAllen, TX; Texarkana, AR; Birmingham, AL; Vail/Eagle, CO; Louisville, KY; Reno, NV; Norfolk, VA; Ft. Myers, Jacksonville, Pensacola and West Palm Beach, FL; Greenville/Spartanburg, SC; Oakland, CA; Greensboro, NC; Dayton, OH; Providence, RI; Chicago-MDW and Peoria, IL; and Ft. Wayne, IN.

Closing Remarks

Much is misunderstood about this industry. To the uninformed, the Large-Market Oriented carriers are the savior of the U.S. air transportation system and will ultimately inherit the earth, while the Legacy, Network hub and spoke carriers are the bloated, inefficient sector. In fact, the network carriers, like American, have invested billions of dollars in the right types of aircraft and network architecture to best serve cities like Lawton, OK and Springfield, MO, and not just cities like Los Angeles, CA and Orlando, FL.

The LMOs, including Southwest, are not and will probably never be interested in serving Green Bay, WI or Peoria, IL. What they do is to set up shop at airports in large cities and look for consumers willing to drive to take their flights. They continue to rely on their original marketing claims of low fares and the creation of new demand. Those claims, however, are becoming a part of history. They ignore the fact that airfares have dropped dramatically for everyone since 2000. They portray a David and Goliath world that no longer exists, unless one considers Southwest to be the new Goliath.

Some of today's low fares are the result of LMO competition. Equally important, however—and much more important for small cities—is the hyper-competition between network carriers as they vie for each incremental passenger, who can make the difference between a profitable flight or not. Without hubs, there would be significantly fewer spokes—that is the plain and simple truth. Just ask folks in Reading, PA or Utica, NY,—small markets that have already been disenfranchised from the U.S. air transportation system.

For a student of the industry, the effort to repeal the Wright Amendment appears to be an effort to change the economic framework of the industry to benefit one carrier at the expense of not only Dallas, but also the cities that rely on DFW today. The LMO(s) that would benefit from such a change simply do not have the right sized aircraft today to profitably serve city pairs like Birmingham, AL to Dallas multiple times a day, and those cities will continue to experience a decline in short-haul service.

So before any action on this important issue is taken, please rely less on sound bites about the enormous economic benefits that will be derived from the repeal of the Wright Amendment and rely more on analysis of a network industry where interdependencies exist at each and every corner. This is just one example of the fragility of network architecture and there will probably be other ramifications for other carriers and hubs as well.

I thank you for the opportunity to present my views, and request that my testimony and a copy of the study entitled "Repealing the Wright Amendment—Risks Facing Small Communities and the Dallas Metroplex" be entered into the record.*

Senator BURNS. Senator Hutchison, do you have questions for this group? I've got a couple, and I'll follow you.

Senator HUTCHISON. Thank you, Mr. Chairman.

I would just like to ask Mrs. Palmer——

First of all, let me say, Mr. Chairman, that I do hope that the neighborhoods—and I'm very pleased that you allowed the neighborhoods to come and be a part of this hearing—and I hope that they are listened to, because they are the forgotten ones, as we are talking about policies and what Congress has done and what has happened through all these years. And the people who live around Love Field were under the expectation from the beginning that Love Field would be first closed, then left open, but on a limited basis. And I think we have to take into account the effect.

So, I want to ask Ms. Palmer, Why do you think the master plan will be blown apart if the Wright Amendment changes the playing field?

Ms. PALMER. That's an excellent question, and a very important one to this debate.

The master plan projected increases in operations at the airport, under the Wright Amendment, to be in, primarily, regional jets.

*The information referred to has been retained in Committee files.

The noise forecasts followed a regional-jet fleet-mix growth and also the traffic congestion forecasts.

This is what will happen if this airport is opened up to become a national airport. Regional jets will not be the instrument of growth. They will be larger planes. Now, larger planes today are quieter than larger planes yesterday, but larger planes are still noisier than regional jets.

In order to implement certain noise-abatement procedures, Senator, a plane has to be about a thousand feet above the ground leaving Love Field. A large plane has to go a lot further over the neighborhoods to reach a 1,000-feet altitude in order to change course. So, there are a lot of noise impacts that are, frankly, no-brainers at all in looking at the scenario for the future if the Wright Amendment were lifted. There are other impacts, as well, but that is, for us, one of the most critical and defined impacts.

Senator BURNS. May I ask——

Senator HUTCHISON. The——

Senator BURNS.—a follow-up to that?

Senator HUTCHISON. Yes.

Senator BURNS. Since you're—sort of like the status quo, would you support the idea of shutting Love Field completely down?

Ms. PALMER. No, sir, we would not. And I'll tell you why. It has never been our intent to shut down Love Field. We are advocates of a good, efficient, effective air-transportation system, and we believe that the Wright Amendment helps the airport be, and do, that. We have worked 25 years to help that airport be a good neighbor, and we certainly would not want it to be closed down.

Senator HUTCHISON. Following along that line, it has been mentioned here, in several different configurations, that perimeter rules have only been mandated on one airport by Congress. And, of course, that is National Airport. And nothing has been mentioned about the place where perimeter rules were put in part of a regional plan. And that is in New York, where you do have short-haul airport—short haul—LaGuardia versus different uses for Newark and John F. Kennedy.

I would like to ask the two experts, or anyone who would like—not that you're not an expert, Sam——

[Laughter.]

Senator HUTCHISON.—but anyone who would like to answer—if, in fact, the LaGuardia New York model is one that works for the consumer. And it has been upheld in the courts, because it was a local plan for the region, I assume in an attempt to give the best service for the different types of flying public; meaning, the closer-in airport from the shorter perimeter, where you could have pretty easy access, versus the longer-haul one where you have more of an international port of entry and the airport is made for that port of entry, which would be John F. Kennedy, and then the longer-haul airport, which is Newark—does that work well for the traveling public, which is something that we all want to accommodate? We do want to have the best service for the flying public. We want to take into account the neighborhoods, and we want the economies of our area to prosper.

So, back to my question. Is the New York model something that does work for the flying public, but then maybe could be something

done that would also accommodate the needs of the North Texas region, where the airports are located, and the economy and the neighborhoods, all together?

Dr. Campbell?

Dr. CAMPBELL. Thank you very much, Senator Hutchison.

I believe, in the case of New York, LaGuardia has been limited more by technical considerations than by economic regulation. The airport today operates, I know, at least as far, nonstop, as Denver. And it has not had the same kind of perimeter-rule treatment as Washington National. And I might say, as an aside, that Washington National perimeter used to be 750 miles; today it's 1,250. And American was one of the primary agitators to get that extended, because they felt the need for it.

But LaGuardia—every airport that is desirable to the customer is desirable whether you're going to Los Angeles or whether you're going only to Philadelphia or Cincinnati. Those passengers would prefer to go to the close-in airport if they are going to the central business district, in particular—or Manhattan, in the case of New York. So, the market doesn't divide itself neatly in that respect. What you would find is that making people go to John F. Kennedy, which might be an extra 40 minutes away, is maybe more acceptable to a person who's making a 5- or a 7-hour flight than someone who's making a 2-hour flight, so that you don't lose as much—there isn't as much erosion of demand for air travel, because they will incur that longer access time.

But that's a suboptimum solution. That doesn't really give you what—that doesn't reflect what the market wants. And that's what we're talking about here, I think, in this proceeding, is opening up perfectly good facilities to competition where you can technically operate, and there aren't any limitations on the technical capability of Love Field to handle flights as far as Seattle and Boston. So anything else is really an interference with the marketplace.

And, really, with all due respect, the whole issue is fairly simple to me at the policy and philosophical level. It's a question of, are you for competition? Are you for consumerism? Do you believe in economic development through better efficiency and lower prices to the public? Or are you for protectionism, for keeping a well-proven, dynamic, and capable airline from competing head to head in the same markets with the largest carrier in America? It's just, Are you for it, or are you against it, on a pure competitive——

Senator HUTCHISON. Mr. Swelbar?

Mr. SWELBAR. I see the New York market as a little bit different. I'm not sure that the New York model is a perfect model in any way. And that is, we have constrained capacity at each, LaGuardia and JFK. We're certainly using fairly small airplanes in that available capacity. So, is it really being used as a—the available capacity being used as efficiently as it could? I think what it is, that the inefficient use of LaGuardia and JFK could arguably be said to be most helpful to Continental growing its Newark operation, and now with Newark being much more preferable to many of those working and living in downtown Manhattan.

So, I mean, I think as we, discuss each of these metro areas with multiple airports, you know, there are nuances, just like there are nuances in Chicago and other metro areas.

Senator HUTCHISON. Anyone else?

[No response.]

Senator HUTCHISON. Thank you, Mr. Chairman.

Senator BURNS. Well, I've got two questions, and then I'm going to wrap it up.

Sam Coats, we've heard a lot of comparison to Houston as to the Dallas market, with Hobby and International. OK? What's the difference in the two markets?

Mr. COATS. Well, the DFW market is a larger market. But the difference is that one's constrained and one's not. I was a Senior Vice President at Continental during the 1993, 1994, 1995 timeframe, when we turned it around. And Southwest was over at Hobby. We had some operations at Hobby. But the thing that you find in the airline industry is, our responsibility as managers is to allocate our resources to earn the greatest return for our shareholders. If it's in American's interest to take those resources to Love Field, you can bet they'll be there in a New York minute. And if it's not, they won't. And it's my belief that they will lower fares at DFW, instead, where they have billions of dollars invested, that the pie will grow for everybody, just as it did in Houston, and that the consumer will be better off.

As the gentleman, Mr. Campbell—Dr. Campbell—said a minute ago, the policy of this Nation is very clear, Senator. It's one of deregulation and free competition. Now, do we believe in it, or do we not? And I think the answer, from the consumer's point of view, should be very clear, as well, that you ought to do away with the Wright Amendment.

Senator BURNS. Is there a compromise here?

Mr. COATS. Yes, sir. And that's what the Chamber has recommended. And that's that you immediately do away with through-marketing, through-baggage, through-plane restrictions. Yesterday, I came to Little Rock from Dallas Love Field. I had to get off the plane. I didn't check a bag, so I was able to get another ticket and get on another plane into Baltimore. I'll have to do the same thing going home, unless I miss my flight, and I'll catch a nonstop on American to DFW. That should be done away with immediately. That is anti-consumer and it doesn't pass the smell test. It is something that has no rational justification that anybody I have talked to can sustain.

Senator HUTCHISON. Just for the record, I did want to point out one thing that's different between the Houston situation and the Dallas/Fort Worth situation, and that is—back to the reason that, really, the big airport was forced on the area—and that is that you've got two major cities in the region with DFW. And Houston is one metropolitan area. There are a lot of surrounding areas, but it's one major city. We have two major cities, in Dallas and Fort Worth, in which one of those cities and the surrounding metropolitan area, it would be severely inconvenienced if Love Field became a major hub that would take away from DFW's service.

Senator BURNS. Yes, sir?

Mr. COATS. Senator Hutchison——

Senator BURNS. This is the last remark, because I'm going to go to lunch.

Mr. COATS. I don't blame you at all, sir.

Love Field is physically constrained, Senator.

Senator BURNS. Well, it has no—now, when——

Mr. COATS. Yes.

Senator BURNS.—when I looked at Love Field, they have no way to—what's their longest runway there?

Mr. COATS. Their—I think it's—I'm not sure. The folks from Southwest would know, but I don't know.

Senator BURNS. What is it? 6,000 feet? A little over 7,000? Yes, OK.

Mr. COATS. But there are two runways. There's no way to expand either one of those. As Ms. Palmer said, they're limited on both sides. The Love Field master plan says that there is a capability of maybe 250 flights a day, then you get into unacceptable ground delays. The airport is, and will continue to be, primarily general aviation, and the 32-gate limitation is still in effect.

I think it's up to the city to manage that asset. It's a precious asset. But it can't do so unless Congress gives it the authority to do so.

Senator BURNS. OK. We want to thank the panels today. This has been a pretty spirited hearing.

[Laughter.]

Senator BURNS. Well attended. Happy birthday.

[Whereupon, at 1:07 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. JOHN E. SUNUNU,
U.S. SENATOR FROM NEW HAMPSHIRE

Mr. Chairman, I would like to thank you for holding this hearing this morning to discuss what I believe to be an outdated and anti-competitive measure of law—the so-called Wright Amendment. I would also like to thank today's witnesses for their testimony.

Our economy is market-driven and based on free and fair competition. When Congress deregulated the airline industry in 1978, it was done so to benefit the flying public; to give them choices and the ability to have markets—and not outside forces—direct airfares and cities served. One year later, a restrictive covenant was placed on one airport in particular that had the net effect of reversing airline deregulation.

As my colleagues know, the Wright Amendment restricts travel into and out of Dallas Love Field for commercial flights with more than 56 seats. This 26 year old law originally prohibited travel beyond Texas's four neighboring states, but was amended in 1997 to allow flights from Love Field to Alabama, Kansas and Mississippi. No other state may currently receive service from Love Field.

Mr. Chairman, for the citizens of New Hampshire and Northern New England who choose to fly Southwest Airlines, the Wright Amendment restricts their ability to fly to Dallas Love Field from Manchester Airport in my State of New Hampshire.

Most would consider a federally-mandated "service area" anti-competitive in and of itself, but the Wright Amendment also contains marketing restrictions that prohibit Southwest from offering or advertising the availability of connecting flights between Love Field and any airport beyond the scope of the Wright Amendment.

Because of these "through ticketing" restrictions, a customer traveling from Love Field cannot purchase a ticket from Southwest for travel beyond any point within the Wright Amendment states, even if that customer is willing to make a stop first within one of the Wright Amendment states. To get to their final destination, a customer would have to buy two tickets for two separate flights, and only if they were aware they could do so; a ticket agent could not inform them of that option by law.

Mr. Chairman, it is inconceivable that after more than a quarter century of a deregulated airline industry, there is still one airport that is "locked up" for the majority of the flying public purely for reasons of stifling competition. It can be only seen as a means to punish those airlines that would serve Love Field, and by extension, the citizens of my state and all others who wish to fly into this airport. We need to dismantle this grossly anti-competitive law, and it is my hope that Congress will quickly pass Senator Ensign's bill, S. 1424, to do just that. Thank you, Mr. Chairman.

Mr. Chairman, I would like unanimous consent to enter into the Record an op-ed to the *New Hampshire Union Leader* written by Mr. Kevin Dillon, Airport Director of Manchester Airport regarding the Wright Amendment.

The New Hampshire Union Leader (Manchester NH), November 10, 2005

GRANITE STATERS SHOULD BE FREE TO FLY TO DALLAS

by Kevin Dillon

This morning at 10 the U.S. Senate Commerce, Science, and Transportation Committee's Subcommittee on Aviation will conduct a hearing in Washington, D.C., to discuss the future of the Wright Amendment, an antiquated, restrictive and unnecessary anti-free trade law enacted by the Federal Government in 1979 that prohibits Southwest Airlines from providing flights beyond the four states surrounding Texas from its corporate headquarters at Love Field (DAL) in Dallas, Texas.

Many Southwest Airlines cities across the country are uniting in support of eliminating the Wright Amendment with the hopes of increasing convenient one-stop

service opportunities for their air travelers and possibly the addition of new nonstop service to Dallas in the future. Manchester has joined the fight.

Wright is wrong, and here's why.

The Wright Amendment has served its purpose. When Dallas and Fort Worth, Texas, began planning to build a massive new airport, Dallas/Ft. Worth International Airport (DFW), there was great concern that airlines would be reluctant to leave the far more convenient Dallas Love Field (DAL) and move further away from the city to DFW. American Airlines finally agreed to move its operations to DFW in exchange for a Federal law that prevented any airline from flying out of Dallas Love Field to anywhere outside the states bordering Texas.

Twenty-six years later, DFW has become the fourth busiest airport in the country, serving more than 56 million passengers a year. Employing the "secondary airport philosophy" that has made them (and Manchester Airport) so successful, Southwest doesn't operate out of DFW, but chooses to operate out of DAL to keep its costs (and costs to passengers) low.

The Wright Amendment restricts "free trade," is anti-competition and affects air service at Manchester Airport. Southwest Airlines is Manchester Airport's largest air carrier, offering 30 daily departures and providing service to more than 1.6 million passengers each year.

Unfortunately, Southwest is not permitted to offer non-stop, or even convenient one-stop, service to Dallas from Manchester Airport because of this antiquated, restrictive and unnecessary law. The airline isn't even allowed to advertise the availability of flights from DAL to destinations outside the scope of the Federal law. Historically, Dallas is a very popular destination for New Hampshire air travelers and among our top destinations.

The aviation industry has changed dramatically in the past quarter century. Low cost airlines now carry over 30 percent of all commercial passengers in the United States. Bankruptcies, consolidations and mergers among the Nation's airlines are increasing as they all fight for survival. It's time to level the playing field among all airlines and repeal this antiquated anti-competition, anti-free trade law. It's the "RIGHT" thing to do.

PREPARED STATEMENT OF HON. JOE I. LIEBERMAN,
U.S. SENATOR FROM CONNECTICUT

Thank you Chairman Burns and Ranking Member Rockefeller for accepting my testimony this morning in support of repeal of the Wright Amendment. I would also like to thank Senator Ensign for his leadership and I am proud to be a co-sponsor of this bill.

The Wright Amendment, which Congress passed in 1979, limits commercial air travel to and from Dallas' Love Field to destinations in just seven states—Alabama, Arkansas, Kansas, Louisiana, Mississippi, New Mexico and Oklahoma. Passage of the Amendment involved the balance of various local concerns and was done against the backdrop of the Airline Deregulation Act, which Congress enacted just a year before in 1978.

Much has happened over the past 25 years, and the airline industry, for the most part, has embraced deregulation. We have seen many new carriers enter the market, some successfully and some not so successfully, and we have seen many mergers, including the recent one between America West and US Airways.

The emergence of new carriers is the result of healthy competition, which in the end, benefits consumers. Since the Airline Deregulation Act was passed in 1978, fares have decreased, according to inflation adjusted models, and carriers have added hundreds of new routes. And today, more Americans are flying than ever before.

One of the success stories of airline deregulation has been Southwest Airlines, whose impact on competition and lower fares has created what is known in the industry as the "Southwest Effect," which is when competition from a low-fare carrier drives down ticket prices, increases demand for air travel and, in turn, creates jobs in and around the affected areas.

I have seen the "Southwest Effect" first hand in Hartford. The airline initiated operations at Bradley Field in October 1998 with service to four cities—Baltimore, Chicago, Nashville, and Orlando—with 12 daily flights. Today, Southwest serves 7 cities—with the additions of Tampa Bay, Philadelphia and Las Vegas over the last several years—and has 25 daily departures. The result has been terrific for Connecticut consumers. Since Southwest Airlines started service, the average one-way ticket price has decreased by 23 percent and the overall number of passengers has increased by 20 percent. In addition, the increase in passengers has created jobs in

and around the Hartford area. In fact, one study by the Connecticut Center for Economic Analysis concluded that 2.23 jobs are created for every 1,000 new passengers who use the airport.

I recognize that there were unique circumstances involving a host of local concerns surrounding the passage of the Wright Amendment in 1979. And I understand that some of those concerns may even still exist today. However, after more than 25 years of witnessing and experiencing the benefits of competition in the airline industry, I believe it is time for Congress to look at the empirical evidence before us—that competition benefits consumers—and repeal this artificial barrier to competition.

What I have seen happen in Hartford and what is happening in Dallas on the routes that Southwest can serve from Love Field under the Wright Amendment should be allowed to take place based on market needs.

Chairman Burns and Ranking Member Rockefeller—thank you again for accepting my statement and I look forward to working with you and your Committee to move this legislation forward.

PREPARED STATEMENT OF HON. JOE BARTON, U.S. REPRESENTATIVE FROM TEXAS

The debate over changing current laws regarding Love Field in Dallas, Texas is not a new debate. What is being seen is a false appeal to consumer emotion with pithy phrases such as "Wright is Wrong" and "Set Love Free." It would be easy to simply accept this three-word argument as the sum-all explanation for a complex, local issue, but consumers and the Dallas/Fort Worth economy deserve more from their elected officials.

Senators, I urge you to begin your analysis of this debate by agreeing with me what our motivation should be: providing dependable, competitive airline prices for commuters to and from the Dallas/Fort Worth area. I disagree that the repeal of the Wright Amendment is the most effective way to accomplish this goal.

Both the Dallas/Fort Worth area and Southwest Airlines owe a large portion of their corporate success to the enactment of the Wright Amendment. The city limits and suburbs of Dallas and Fort Worth were growing closer together in the time before DFW Airport. The need was realized to combine their resources for a joint project that would bring bigger business and success to the region. Through Joint Bond Ordinances, the cities agreed to "provide for orderly, efficient, and effective phase out at Love Field, Red Bird, GSIA and Meacham Field," multiple airports that scattered the efforts of centralized transportation. These bonds specifically called for the transfer of all "Certificated Air Carrier Services" to move to the new regional airport, DFW International. Court rulings allowed Southwest Airlines to fly intrastate in Texas as they were not a Certificated Carrier. Love Field consequently remained open to flights.

From 1973 to 1978, Southwest Airlines was content with this arrangement, using it to grow the size of its company. However, in 1979, Southwest called for the ability to fly interstate outside of the State of Texas. Both the City of Dallas and the City of Fort Worth, along with DFW International, disagreed with the need for this change. A compromise was reached at the Federal level with the Wright Amendment.

Contrary to current propaganda, Love Field and Southwest Airlines are not victims of a plot to restrain their growth and flight services. In fact, the Wright Amendment is largely responsible for giving Southwest the traction to gain and grow their company's success. Southwest was able to use this agreement to carve out a niche market in short-haul flights. The Department of Transportation was urged by Southwest attorneys Paul Seligson and Robert Kneisley in 1985 to respect the "Congressional declaration that in this one instance, competition should be limited to carriers which emphasize short-haul, turnaround service and which restrict their size by refraining from interlining anyone on their systems." For the past 26 years, Southwest has fought to protect this amendment and even used it to keep other interests out of Love Field. Now as they look to slant the situation in their favor, they frame the compromise as a strain on their business model, a violation of the free market, and the cause for higher ticket prices in the region.

I am strongly supportive of maintaining a free-market economy in the industries of our country. Competition helps consumers through a decrease in prices and an increase in customer service and quality of work. Our focus to this end must be providing for competing airlines, not competing airports.

This is why the best course of action is for Southwest Airlines to join other airlines on a level playing field at DFW International Airport. They should recognize the boundaries of the compromise that they have, to this point, agreed with and

commence with interstate flights from DFW. Five low-cost carriers, such as AirTran and ATA, already carry flights out of DFW and compete directly with larger companies on major routes. This airline-to-airline competition from the same location has helped to drive fares lower. DFW Airport has welcomed Southwest Airlines with incredible incentive packages and empty gates would allow them to start flights immediately.

The local economy of Dallas and Fort Worth has grown as a result of the Wright Amendment and a strong, federally-supported DFW Airport. Decisions have been made in the Dallas/Fort Worth area directly related to the binding and irrevocable terms of this agreement. The investments on businesses and improvements in the area would not have been made without the understanding that DFW had been dubbed the primary airport in the area. DFW Airport is more than just another local business. It is an economic engine that generates more than $14 billion in annual economic activity for North Texas. It supports more than 200,000 full-time jobs and serves as a key component in international business and tourism for the entire area. The decision for repeal of the Wright Amendment cannot be made on the basis of interests outside of the Dallas/Fort Worth area. Too many local residents and business owners count on its existence to continue to provide their stable economy.

Repeal of this legislation will cause a decrease or removal of flights from smaller markets that benefit from the hub system of DFW Airport. Currently, 19.3 million local domestic origin and destination passengers travel out of DFW. Additionally, DFW Airport provides travel for 32.1 million connecting domestic travelers. This hub-and-spoke system of providing incoming passengers with connection to another leg of their flight will be greatly threatened by a repeal of the Wright Amendment. A study by Simat, Helliesen & Eichner, Inc., an international air transport consultant, showed that fewer passengers to support flights will cause some markets to be dropped entirely, specifically naming possible closures as Greenville/Spartanburg, Savannah, Mobile, Green Bay, Madison and others.

Continued encouragement of low-cost carrier competition at DFW will allow a growing international hub to provide for both local and connecting passengers. Southwest should agree to unrestricted competition and a level playing field by establishing flights from DFW Airport. We should all be in favor of keeping the Dallas/Fort Worth International Airport strong, as this venue will provide the most flights for consumers. The local compromise should remain intact.

Thank you for allowing me to testify on this important matter.

PREPARED STATEMENT OF HON. KENNY MARCHANT,
U.S. REPRESENTATIVE FROM TEXAS

Mr. Chairman, members of the Subcommittee and guests, thank you for the opportunity to testify today on this most important subject. I represent the 24th District in Texas, which is where Dallas/Fort Worth International Airport (DFW) is located. DFW Airport is the economic pipeline of the North Texas Region; it generates more than 268,000 jobs. Any change in the Wright Amendment would directly affect my constituents in a profound way. As you all know, the Wright Amendment is a very contentious issue in North Texas, and one which I hope I can shed a little light on today. I cannot do this through any quick sound bites or catchy slogans. To explain my position fully, one must take a historical perspective and go back to the beginning of it all. I am talking about when the concept of DFW Airport was first being planned. Those on the side of Love Field and Southwest say they feel a compromise is needed. Hopefully at the end of my testimony, I will successfully explain why the Wright Amendment is the compromise, and no additional changes to the law should be made.

In the early 1960s, the cities of Dallas and Fort Worth had the foresight to recognize that centralizing the fragmented air service between the two burgeoning cities into one regional airport would bring unprecedented growth and prosperity to the area. In addition, it was recognized that the only way this new airport would thrive was if all airlines involved agreed to discontinue service out of Meachem Field in Ft. Worth and Love Field in Dallas and move their operations to the new DFW Airport. Every airline at both airports agreed to do this except one, Southwest Airlines. Southwest's refusal to move to the new centralized airport led to a long series of expensive lawsuits. Because of language in the bond ordinance created to finance construction of the airport, Southwest claimed it was not required to move from Love Field to DFW Airport because, unlike all the other airlines serving the two cities at the time, it was only an *intra*state carrier. Throughout this protracted legal battle, Southwest continued to offer intrastate service from Love Field.

Following the deregulation of the airline industry by Congress in 1978, Southwest applied to offer interstate service from Love Field to New Orleans. This, unlike the earlier instance, was a clear violation of the bond ordinance. In order to head off another round of legal battles, Congressman Jim Wright stepped in to present a compromise in 1979. This compromise, also known as the Wright Amendment, was intended to once and for all put an end to the legal battles between Southwest Airlines, the City of Dallas, the City of Fort Worth and the DFW Airport Board. The law allowed Love Field to stay open only so long as service would be limited to intrastate service within Texas and interstate service to the contiguous states. All parties signed off on it and it was codified into Federal law.

For over a quarter century, this issue was laid to rest. All parties involved were satisfied and everyone benefited. The only change in the law was in 1998 when three additional states were added to the Wright Amendment by the "Shelby Amendment." Now Southwest has decided that enough time has passed for people to forget the original reason for this law, and to declare the Wright Amendment to be "anti-competitive."

It is clear that the fight over the Wright Amendment is going to continue as long as Southwest remains at Love Field. The answer to this problem is simple and requires no change in Federal law: Southwest should move its operations from Love Field to DFW Airport. Due to the departure of Delta last winter, there are 24 open gates at DFW. Southwest could avoid a bitter fight over the Wright Amendment and take these gates at any time. In addition, to help cover the cost of moving their operations, DFW Airport has offered one year in free rent and additional financial incentives to any air carrier valued in excess of $22 million to take those gates. Unfortunately, Southwest has repeatedly declined this offer.

I would also like to point out the irony in the choice consciously made by Southwest to remain in an airport with limited operations and then complain about it. They have had innumerable chances to do what is right and move their operations to DFW Airport, but instead have chosen the route of legal action. There has been no better time to change this pattern of behavior than now. I plead with Southwest to take the financial incentives package from DFW Airport and move their operations there.

As you can see, the compromise Southwest is requesting has already been made, and it is called the Wright Amendment. Thousands upon thousands of jobs in the region generated by DFW Airport hang in the balance. Any modification to this law could have a disastrous effect on the regional economy as a whole. It is time for Southwest to make the move to DFW Airport. They will be welcomed with open arms.

Thank you for your time.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN E. SUNUNU TO HERBERT D. KELLEHER

Question. There has been some disagreement over whether or not Southwest "agreed" to the terms of the Wright Amendment back in 1979.

Mr. Kelleher, could you provide some background and extrapolate on what the terms of this agreement were at the time? Were there true "negotiations" over the language of the amendment to which you were a party?

Answer. Defenders of the Wright Amendment claim that it was a "compromise" that even "benefited" Southwest. The "benefit" to Southwest is that, although the Amendment was intended to punish Southwest and cause it severe economic injury, Southwest's employees managed to make the carrier a success despite the Wright Amendment.

The proof of the DFW Parties anti-competitive intent may be found not only in the well-known geographical restrictions which limit where a plane can be flown, but in the more obscure "marketing and through ticketing" restrictions that are less well-understood. These restrictions are a blatant restraint on commercial free speech and force Southwest, unintentionally, to deceive and confuse passengers. They are without precedent in commercial aviation, including during the regulated era.

Under the Wright Amendment, Southwest cannot "offer or provide any through service . . ." and cannot "offer for sale transportation to or from . . . any point which is outside" the so-called Wright Amendment states. This means that even if a customer is willing to make a stop *within* the permitted states and continue his or her journey on the same plane, or *even a different plane*, Southwest may not offer or market such service.

An example: Southwest flies from Dallas to Little Rock and from Little Rock to Baltimore-Washington International (BWI). But Southwest cannot sell a single through-ticket to a customer going from Dallas to BWI who is willing to make a connection to another plane in Little Rock.

Another example: Southwest has a plane that goes from Dallas to Albuquerque, where it sits for 25 minutes before continuing on to Las Vegas. But Southwest cannot sell a ticket to someone going from Dallas to Las Vegas with a stop in Albuquerque. That someone has to get off the airplane in Albuquerque.

In contrast, Members of Congress are familiar with the perimeter rule that limits the distance of nonstop flights from Reagan National. But a Member may purchase a ticket to destinations beyond the nonstop perimeter and take a one-stop flight on the same airplane to these destinations. (Interestingly, the perimeter rule at Reagan National originally was much more restricted. It was expanded as the result of aggressive lobbying by DFW and American Airlines—with an assist from Leader Wright—to permit American Airlines to fly to DFW from Reagan National. Apparently, the DFW Parties' views on airport restrictions are quite selective.)

The marketing and through ticketing restrictions of the Wright Amendment are, in and of themselves, an unreasonable restraint of trade and were totally unnecessary to protect DFW in its alleged "infancy." They were put in not just to protect DFW or the DFW air carriers, but to make it economically impossible for Southwest to survive at Love Field. The fact that Southwest Airlines managed to survive in spite of the restrictions does not validate them. Southwest fought against the Wright Amendment in all its forms, including the final version. No "compromise" would have ever been accepted voluntarily which included such goofy and onerous burdens on flight operations and Customer Service. The Wright Amendment came to be because the DFW Parties and Leader Jim Wright had the power to pass it and Southwest was powerless to stop it.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO HERBERT D. KELLEHER

Question. Very recently, Southwest Airlines proposed to move from SEA/TAC to close-in Boeing Field and, quite frankly, created an uproar in the community because of the significant investment that has been made over the years into SEA/TAC. Seattle's community leaders, in the end, chose to protect their investment at SEA/TAC and not allow Boeing Field to be opened up for one company's benefit. Isn't what you are asking the Congress to do here the exact same thing that you were told "no" to by Seattle? Aren't you really asking Congress to undo decisions made in the past regarding investment in DFW Airport and in effect shift major infrastructure dollars away from an international hub airport to an inferior but close-in airport because at this point in time, after years of "passionate neutrality" on the subject, it appears to be in your company's interest?

Answer. You and I view Southwest's recent Boeing Field proposal in starkly different terms. Southwest Airlines proposed to invest $130 million of its own financial resources to improve King County International Airport (commonly referred to as Boeing Field). Under our proposal, King County would have ultimately taken ownership of the facility we proposed to construct—again, at our expense. We proposed to give King County a $130 million airport and, by doing so, preserve low fares and competition for the people of the Puget Sound Region. As a result of estimated direct expenditures, taxes paid, and the preservation of low fares, we projected that there would have been a $1.6 billion total economic gain to the region.

Keep in mind, too, that Southwest Airlines has the largest all-jet fleet in the world, flying only Boeing 737s. We know how important the Boeing Company is to the economy and people of Washington State. We are among Boeing's most loyal and, I dare say, most important customers.

Would it have been in the interests of Southwest to move its Seattle operations to Boeing Field, as we proposed to do? Of course . . . that's why we advanced the proposal. Southwest Airlines cannot afford to operate its successful business model and preserve low fares for consumers at very high-cost airports such as Sea-Tac. That is why we looked for alternatives that would preserve our commitment and investment in the Seattle market. After more than five years of articulated concerns regarding blatant airport mismanagement and increasing costs at Sea-Tac, Southwest looked to Boeing Field as a viable alternative.

We offered our proposal to several community and business leaders, including the King County Executive. The response was overwhelmingly favorable and Southwest was encouraged to proceed with the proposal. After word leaked out, an enormously expensive lobbying and negative attack campaign was mounted by self-serving spe-

cial interests which stood to benefit by restraining competition. Southwest chose not to respond to the attacks.

Again, the proposal was very good, from an economic standpoint, for the Puget Sound Region. But if, for whatever reason, it was not wanted, we had no interest in proceeding. Frankly, we have too many other options to waste time and money responding to such misguided and selfish attacks. The negative political campaign ultimately caused the King County Executive, up for reelection, to withdraw his public support. Without his support, it was pointless to proceed and Southwest abided by the decision.

With respect to the Wright Amendment, we are asking Congress to strike down an irrational and indefensible law which it adopted 26 years ago as the culmination of more than a decade of anti-competitive legal harassment of Southwest Airlines. To be sure, it would be in Southwest's interest if Congress were to repeal the law. Likewise, it is in the interest of the countless consumers nationwide who are held hostage by high airfares resulting from a lack of competition in the Dallas market. Like the opposition to Boeing Field, the forces seeking to preserve the status quo on the Wright Amendment do so because it lines their pockets at the expense of consumers. In effect, the Wright Amendment, like the high cost of operating at Sea-Tac, is a hidden and shameful tax on consumers.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN E. SUNUNU TO KEVIN COX

Question 1. Mr. Cox, with or without a Wright Amendment, what benefit do you see in Love Field remaining open for scheduled passenger service? For DFW? For the Dallas metropolitan area?

Answer. At the outset, I think it is important to understand that the Federal Government back in the early 1960's urged the cities of Dallas and Fort Worth to come together to focus on the creation of one regional airport. The fact is that for many years, the cities of Dallas and Fort Worth were engaged in an intense and counterproductive rivalry for the business of commercial aviation and commercial air carriers. While the City of Dallas was enlarging and improving Love Field, the City of Fort Worth constructed Greater Southwest International Airport (GSIA). As recounted in 1973 by Chief Justice William M. Taylor of the U.S. District Court for the Northern District of Texas, "serving two airports which were so close together resulted in unnecessary expense to the carriers as well as the taxpayers and inadequate and incomplete air service to both cities."

Recognizing this inefficiency, the Federal Government's Civil Aeronautics Board (CAB) instituted in August 1962, an investigation known as the Dallas/Fort Worth, Texas Regional Airport Investigation—docket number 13959. This investigation focused on the sole issue of whether the Certificate of Public Convenience and Necessity of interstate airlines under the CAB's jurisdiction should be amended so as to designate a specific airport as a single point through which all interstate air carrier service to Dallas and Fort Worth must be provided. After numerous hearings, the CAB in 1964 entered an interim order giving the two cities a period of 180 days in which to arrive at a voluntary agreement to designate the single airport through which the CAB regulated carriers would service the Dallas/Fort Worth area. In this order, the CAB went on to indicate that if the parties were unable to agree on a single airport to serve the area, then the CAB would have no choice but to make the determination for the two cities.

Given this impending designation, the cities of Dallas and Fort Worth agreed to set aside their differences and united to design, finance, and construct a new regional airport. This airport was to be located mid-way between the cities of Dallas and Fort Worth. On November 2. 1968, the City of Dallas and the City of Fort Worth adopted by agreement the 1968 Regional Airport Concurrent Bond Ordinance. This bond ordinance served then, as it does today, as the vehicle upon which all revenue bonds are issued. Section 9.5(A) of the bond ordinance provides, in pertinent part, that the cities of Dallas and Fort Worth "hereby covenant and agree that from and after the effective date of this Ordinance, shall take such steps as may be necessary, appropriate and legally permissible . . . to provide for the orderly, efficient and effective phase-out at Love Field, Red Bird, GSIA and Meacham Field, of any and all Certificated Air Carrier Services, and to transfer such activity to the Regional Airport effective upon the beginning of operations at the Regional Airport."

With that as a backdrop, I think it is fair to say that the only reason Love Field remains open today is because of a political compromise known as the Wright Amendment. As stated in the legislative history, all parties agreed to this compromise. DFW is on record supporting this compromise which allows Love Field to

serve as a short haul airport. If however, this compromise is going to be undermined or actually repealed as Southwest Airlines has requested, then I believe it behooves everyone to reassess the need, purpose and benefit of Love Field given the original agreement, the outstanding bond covenants, and the capacity that exists at DFW International Airport. The fact is that DFW Airport has more than sufficient space to accommodate any and all long haul traffic that Southwest Airlines or any other airlines desires to initiate now and in the reasonable future.

Question 2. Enplanement data for DFW shows a growth rate of more than 12.3 percent from 2003 to 2004 while Love Field had a change of 5.3 percent. In terms of boardings, DEW ranked fourth in 2004 and Love Field ranked 56th. Origin and Destination (O&D) data shows that Dallas/Fort Worth International was the 8th largest "destination of choice" in the United States last year. According to this data, it would appear that Dallas/Fort Worth International is a tremendous force in the marketplace. Does DFW feel that these numbers will "slip" if the Wright Amendment is repealed?

Answer. Absolutely, they will more than slip—there will be a substantial impact if Love Field is completely reopened. An SH&E study recently focused upon the impact to DFW Airport if the Wright Amendment were repealed. Given the projected growth at Love Field, SH&E concluded that DFW will lose a substantial amount of traffic. In fact, SH&E predicts that DFW could lose as many as 408 daily flights, or 20 percent of DFW's current operations, and as many as 21 million passengers annually, representing a 35 percent decline from current levels. With this substantial loss, DFW Airport passenger levels will decrease to levels seen 20 years ago, and it will take another 19 years for traffic just to recover to current levels.

In short, repealing the Wright Amendment will amount to a 39 year penalty for DFW International Airport, the traveling community and businesses that have come to rely on DFW's economic vitality, and the airlines which moved to DFW in reliance upon the closure of Love Field. Equally, if not more important, will be the untold impact on the lives of the 268,500 men and women who have their jobs tied to DFW Airport.

Having just added $2.7 billion in new debt, while facing the prospect of losing 21 million passengers, 408 daily flights. and a significant number of domestic and international destinations, DFW Airport would be under financial stress at a time when it is least equipped to handle it. As an example. if the Wright Amendment is repealed, it is conservatively estimated that 35 gates would sit empty and unused. To put that in perspective, Indianapolis International Airport has 35 gates in total, Mineta San José International Airport has 32 gates, San Antonio International Airport has 28 gates, and Austin-Bergstrom International Airport has 25 gates. DFW would have vacant and idle the rough equivalent of the total number of gates at each of these airports.

The fact is that it has already begun to occur. When Congress recently extended the Wright Amendment to permit service from Love Field to Missouri, American announced that it had no choice but to compete with Southwest Airlines at Love Field. Recently, American Airlines announced that it will add 16 daily departures to four cities from Dallas Love Field. Starting in March, American will initiate service from Love Field to St. Louis, Kansas City, Austin, and San Antonio.

As a result of its entry into Love Field, American Airlines also announced that it would eliminate certain service at DFW. In particular, American Airlines will eliminate North Texas service to five domestic cities: Long Beach, Calif; Providence, R.I.; Green Bay, Wis.; Toledo, Ohio; and Rochester, Minn. American Airlines will also eliminate North Texas service to a vital Latin American market, Lima, Peru. Additionally, American Airlines will also reduce service levels to key Texas cities including Austin, San Antonio, College Station and Tyler, as well as fewer flights to St. Louis, Kansas City and Cincinnati. In total, American Airlines will cut or eliminate service to 13 destinations and in doing so will eliminate a total of 31 flights from DFW.

Obviously, this reduction in service hurts residents and businesses in those affected cities and hurts our citizens, local businesses and concessionaires right here in North Texas. As flights are lost, there is a similar ripple effect among pilots, flight attendants, fuelers and others among the 268,000 men and women whose jobs are tied to DFW.

In short, this should serve as a solemn and ominous warning for those who would seek to re-open Love Field to additional long haul service—there are very real and serious economic consequences for all of North Texas.

The sad fact is that Southwest Airlines could have avoided the negative impact on our community, neighborhoods and economy by simply choosing to offer long-haul flights from DFW while keeping its current service at Dallas Love Field. DFW will continue to urge Southwest Airlines to accept our standing offer of free terminal

rent and $22 million in incentives to begin flights here—the gates are ready and waiting. We at DFW want to strengthen the North Texas economy for all of our citizens, not see it degraded for the financial benefit of one company.

Question 3. It has been stated that DFW is ready to offer Southwest Airlines what would amount to a $22 million benefit if the airline was to move to DFW Are there similar "benefits" that DFW offers or has offered to other airlines to entice them to either move to or stay at DFW?

Answer. In the face of Delta Air Lines' elimination of its hub, DFW Airport has been aggressively targeting both new carriers and existing carriers to backfill the service lost as a result of Delta's decision. In fact, virtually every low-cost airline has been approached by DFW Airport, with Southwest Airlines on the top of that list. The same offer has been offered to many other carriers that might be interested in backfilling the gates left vacant by Delta Air Lines. Unfortunately, no carrier has accepted our offer due in large part to the uncertainty of whether Love Field will be re-opened for long-haul service. The fact is that no carrier, at least at this point, is willing to commit to a major expansion at DFW Airport and accept our offer as long as there is a chance that Love Field may be re-opened.

OFFICE OF THE MAYOR
Laredo, TX, July 25, 2005

Hon. KAY BAILEY HUTCHISON,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Senator Hutchison:

For months, there have been discussions in North Texas about the repeal of the Wright Amendment. Newspaper articles appear weekly on this topic and the ability of Southwest Airlines to do business in other states restricted under the Wright Amendment.

These articles concentrate on the effects a repeal of the Wright Amendment will have on the Dallas metropolitan area. What has not been discussed is the economic impact the repeal of the Wright Amendment may have on communities with regional airports that have American Airlines flying to/from DFW Airport.

The City of Laredo requests that you oppose any legislation that seeks to repeal the Wright Amendment. At present time, there are five American Airline flights departing daily to DFW airport with continued travel to destinations throughout the United States. If American Airlines moved planes into Love Field to be competitive with Southwest Airlines, it could harm air service to many regional airports that work with American Airlines. Smaller regional airports, like Laredo, could see American Airlines forced to have fewer flights and smaller, slower and less secure aircrafts serving our city.

American Airlines has been a terrific partner with the City of Laredo and our community wishes to continue this successful relationship. DFW needs to continue to be a strong hub airport. This will ensure that regional airports, such as Laredo's, continue to meet the travel needs of its citizens. We ask that the debates include the economic impact any change to the Wright Amendment may have on all of Texas not just on Love Field. Thank you for your continued leadership on behalf of the citizens of Laredo.

Sincerely,

ELIZABETH G. FLORES,
Mayor, City of Laredo.

ANHEUSER A. BUSCH
St. Louis, MO, November 4, 2005

Hon. CHRISTOPHER S. BOND,
United States Senate,
Washington, DC.

Dear Senator Bond:

I am aware that a hearing has been scheduled on November 10 before the Senate Commerce, Science, and Transportation Subcommittee on Aviation pertaining to the Wright Amendment and certain restrictions on commercial airline flights operating out of Love Field in Dallas. The purpose of this letter is to support the creation of an additional exception to the Amendment that would allow direct flights between Missouri and Love Field.

While I understand that there are many viewpoints concerning the rationale and effect of the Wright Amendment in general, I write today to express Anheuser-Busch's specific desire for the ability to fly direct between Missouri and Love Field. While Anheuser-Busch has its headquarters, a brewery and many employees in St. Louis, it also has many facilities, personnel and business interests in Texas. Flexibility and competitive pricing in travel between St. Louis and Dallas is therefore very important to the company. The addition of an exception for Missouri within the Wright Amendment would accomplish this goal.

As a major St. Louis corporation, Anheuser-Busch also recognizes the potential economic impact of additional flights and passengers traveling between Dallas and Missouri airports. Increased passenger traffic and the associated local travel spending would certainly benefit the St. Louis region. Missouri residents would also benefit from additional choices and competitive rates in traveling to and from Dallas.

In short, I would be most appreciative of any assistance you could offer in adding Missouri to the list of states exempt from the restrictions of the Wright Amendment. Thank you for all of your efforts in the Senate on behalf of Missouri, and please contact me should you have any questions or concerns.

Sincerely,

AUGUST A. BUSCH III,
Chairman of the Board.

MISSOURI BOTANICAL GARDEN
St. Louis, MO, November 10, 2005

Hon. CHRISTOPHER S. BOND,
United States Senate,
Washington, DC.

Dear Senator Bond:

The Missouri Botanical Garden applauds and supports your effort to repeal the Wright Amendment and "through ticketing" restrictions. The Wright Amendment has caused an unfair monopoly on travel which adversely affects the costs and time it takes for visitors to come to St. Louis.

The St. Louis area has a number of attractions and world-class cultural institutions including the Missouri Botanical Garden that are visited by tourists each year. It is important for visitors to be able to come to St. Louis on a cost-competitive basis and with timely air service. At the same time, we want to be supportive of our corporate community and their diverse travel needs. This is key to our ability to attract business development in our region. Therefore, on behalf of the Garden and metropolitan St. Louis, we ask that all who want to visit have every opportunity to do so. Thus, we support your efforts to repeal the Wright Amendment.

Sincerely,

PETER H. RAVEN,
Director.

U.S. Hispanic Contractors
Austin TX, July 24, 2006

Hon. KAY BAILEY HUTCHISON,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

RE: REPEAL OF WRIGHT AMENDMENT

Dear Senator Hutchison:

I am writing to you as Chairman of the U.S. Hispanic Contractors Association ("USHCA"), a national, non-profit trade association based in Austin, Texas. The USHCA is dedicated to providing the support necessary for the advancement, economic growth and full participation of Hispanic owned businesses in all areas of contracting and procurement contracts. Our organization represents the fastest growing ethnic group in one of the fastest growing fields in the country.

The USHCA fully supports the American Right to Fly Act (S. 1424), introduced in the Senate by Senator John Ensign, which calls for the complete repeal of the Wright Amendment, Section 29 of the International Air Transportation Competition Act of 1979, Public Law No. 96–192, 94 Stat. 35 (1980). As you are aware, the Wright Amendment was originally enacted in order to protect Dallas/Fort Worth Airport ("DFW Airport") from competition from Love Field (and to airline carriers who fly into DFW Airport from competition from Southwest Airlines). The Wright

Amendment prohibits interstate service from Love Field except for flights to the states of Louisiana, New Mexico, Oklahoma, Arkansas, Alabama, Kansas, and Mississippi. The repeal of the Wright Amendment, as advocated in the American Right to Fly Act, would completely free Love Field from these restrictions.

The USHCA endorses the repeal of the Wright Amendment and the opening of Love Field to all types of interstate flights. Such a move would benefit the members of USHCA who frequently fly for jobs and are looking for cheaper alternatives. As a Texas-based organization, the USHCA believes that the repeal of the Wright Amendment will dramatically lower fares in the State, which results in a corresponding benefit to our members.

The statistics clearly support such a removal. Although DFW Airport may have needed economic protection at the time the Wright Amendment was enacted, such protection is no longer necessary. DFW Airport is now the third largest airport in the world. The average one-way business fare to and from North Texas is 48 percent above the national average. American Airlines has a monopoly in 49 Wright Amendment protected domestic markets that serve over 6.5 million one-way passengers each year. If DFW Airport is forced to compete with Dallas Love Field, fares would fall and more people could afford to travel. The Department of Transportation even named this phenomenon "The Southwest Effect," because it occurs so consistently and dramatically when Southwest begins to compete in new markets.

This country has consistently subscribed to the belief that competition in the marketplace is to be encouraged as beneficial to consumers. Entire bodies of law are dedicated to promoting competition and punishing those who restrain such competition. The Wright Amendment interferes with this competition, costing consumers nationwide over $4 billion annually. It is time the Congress allowed this spirit of competition to thrive in the airline industry by removing this 26-year-old law that restricts competition and has long outlived its utility.

Please support the American Right to Fly Act (S. 1424).

Very truly yours,

FRANK FUENTES AND JAVIER ARIAS,
Chairmen.

PREPARED STATEMENT OF NORM ARCHIBALD, MAYOR, CITY OF ABILENE

The members of the Abilene City Council and I recently gave our unanimous backing to a resolution that supports keeping in place the Wright Amendment and limiting Dallas Love Field Airport to its existing short-haul flying. We did this because we believe that any attempt to change the Wright Amendment may adversely affect air operations at Abilene Regional Airport through reduced Federal Airport Improvement Program funding opportunities and reduced enplanements. Without the Wright Amendment, I see a strong possibility that flights between Abilene and Dallas/Fort Worth could be reduced. This would have a negative impact on Abilene's growing economy.

Good passenger air service is important to the people of Abilene. American Eagle has consistently provided air service for Abilene for many years, as other air carriers have come and gone. American Eagle, American Airlines' regional carrier, currently operates seven daily flights from Abilene to DFW. In addition, Eagle Aviation Services (EASI), a wholly owned subsidiary of American Eagle, employs about 378 people at its aircraft maintenance and records storage facility located at Abilene Regional Airport. American's operations in Abilene help contribute to the economic success of our city and our region.

PREPARED STATEMENT OF M. LAMAR MUSE, FOUNDING PRESIDENT/CEO, SOUTHWEST AIRLINES (1970–1978)

I am the person most responsible for Southwest Airlines' decision to fight being forced to move Southwest's operation from Love Field in Dallas, Texas to DPW Airport at the time of DFW's opening in February 1974. Had I not opposed the move to DFW, Southwest's short-haul intrastate operation to Houston and San Antonio would have withered on the vine and there would be no such low-cost, low-fare airline today. Of course, if Southwest had died early on as a result of a move to DFW, deregulation of the airline industry in November 1978 would probably have never occurred and we would not be discussing repealing or changing the Wright Amendment today because it would have never been signed into law in 1979.

Had I still been CEO of Southwest at the time of the passage of the Wright Amendment, I firmly believe that I could and would have staved off its passage as

a bill to protect poor little old DFW with all of its healthy Legacy and foreign International carriers. And, if not the total bill, certainly the clearly anticompetitive and protectionist provisions barring through-ticketing and baggage transfer of passengers to points beyond the neighboring states.

That is water under the bridge, however. The fact is that we have the Wright Amendment, it is the subject of bitter controversy between all the parties, and a compromise is long overdue. Since it will always be politically impossible to accomplish total repeal, frankly, the compromise I propose will be better for *all* parties.

I believe the best and clearest way to explain my proposal is to ask each of you to suppose for a few minutes that you are (1) a resident of Midland, Texas and (2) that you represent Midland and all other Texas cities served by Southwest. Senators representing other neighboring states, pick a city.

Currently, Midland has six round trips per day between Love Field and Midland-Odessa Airport. One proceeds beyond MAF to El Paso and one overnights in Midland. The other four make a 25-minute turn and return to Love Field and points beyond that can be legally served. Now first presume total repeal of the Wright Amendment. What would happen to Midland's service? Since Southwest has publicly stated that it would abide by the Love Field Master Plan (LFMP), which would limit annual flight operations and total passengers boarded at Love Field, Southwest would very soon have to start cutting back on short haul flights to the Midland's of their system (ELP, MAF, LLB, AMA, ABQ, OKC. TUL, LIT, MSY, HOU) so as to be able to operate supposedly more profitable long-haul, nonstop flights to the 43 beyond airports currently restricted.

With total repeal, every Legacy carrier (other than AMR) plus LCC's would move either a portion or all of their flights from DFW to Love Field, resulting in intense competition at Love Field for the limited number of gates and flights that would be allowed to be operated from the airport under the LFMP. With total repeal, everybody, including Southwest, would lose money. But, more importantly, the citizens of Texas in AUS, ELP, MAF, LBB, etc. would lose service to Dallas. So, please protect Southwest from itself, by not even considering total repeal at this time and protect the citizens of the State of Texas and Dallas from having to face cutbacks in intrastate service at Love Field so that Southwest can pursue money losing service in long-haul markets from Love Field.

Now, the alternative. First lift the through-ticketing and baggage transfer restrictions that should never have been part of the Act in the first place and let us see what happens. First, instead of cutting flights to Midland, Southwest would probably have to increase service to at least ten flights per day with at least eight of those flights proceeding nonstop beyond Midland to one or more of the 17 airports served by Southwest in the western part of the United States. Further, Midland would have two-stop service to points served north, northeast and southeast from Love Field. So, Midland and all of the other cities like Midland listed above will have at least a 100 percent improvement in service and more like a 200 percent to 300 percent improvement. And, of course, North Texas citizens will have nonstop service to all Texas and neighboring state service points plus potential single plane, one-stop service to every other point on Southwest's system. In all probability, there would be not one single DFW carrier who would be so stupid as to move any of their DFW service to Love Field for the sole purpose of competing with one-stop flights offered by Southwest. If they did, they would not stay very long.

That is not all though. Lifting the through-ticketing restriction also permits an unrestricted flow of Southwest flight equipment and flight crews to and from its headquarters city, thus permitting huge improvements in both productivity and employee morale as a result of permitting most flight crews to reside and be based out of their headquarters city rather than bases now scattered all over the country.

The icing on the cake would be for the State of Tennessee to be included in the Wright Amendment as a neighboring state for good reason. The only city Southwest has between Dallas and airports it serves in the east and northeast is Little Rock, Arkansas. With Tennessee included, many flights could be operated from Dallas Love Field to northeast destinations via not only Nashville, but also it would encourage Southwest to begin service to both Memphis and Knoxville from Love Field.

Who wins, and who loses? Everybody wins or can win if they take proper steps; conversely nobody loses. Southwest is of course the big winner, even more so than if they were successful in getting total repeal for which they will argue. The city governments of both Dallas and Ft Worth win, as well as all of the citizens they represent. DFW International Airport wins in that none of their present service will go to Love Field and, AMR can win if they will price their product in such a manner as to not gouge the public as they have been able to do in the past strictly because of the presence of the Wright Amendment.

An additional wrinkle that could be considered would be to provide for the total repeal of the Wright Amendment in five years from the date of passage of the current proposed changes, provided that by that time the Texas legislature would have created the North Texas Airport Authority which would own, control and operate each and every potential passenger carrying airport in the area, including DFW, Love Field, Meachem, Alliance and Dallas Executive.

I sincerely appreciate the opportunity to discuss and propose a win-win compromise for your consideration. In closing, let me make it perfectly clear that I represent me, myself and I only. I am not representing any air carrier, any city hall, any citizen group, or any political party.

Thank you for your time and attention.

PREPARED STATEMENT OF CAPTAIN JOSEPH "IKE" EICHELKRAUT, PRESIDENT, SOUTHWEST AIRLINES PILOTS' ASSOCIATION

On behalf of our 4,742 members of the Southwest Airlines Pilots' Association, I present this testimony to support a full repeal of the Wright Amendment. In 1990 when I came on board with Southwest Airlines following a dozen years of military flying, I was one of only 900 pilots employed by the company. Today, our pilot numbers have quintupled as we quickly approach 5,000. During these past 15 years as well as prior to my hiring, our company has remained profitable and grown dramatically, unlike many of our competitors. Because of the Wright Amendment in place, affecting our hometown airport, Love Field in Dallas, the only reasonable alternative for Southwest Airlines to expand its business was to choose markets connecting other Texas cities to cities across our nation. Today, SWA flies coast to coast, upper Midwest to the coasts and up and down the coasts. We regularly add service and new cities, as evidenced by our recent announcement of Denver in January 2006. However, the city which Southwest Airlines has served the longest is strangely missing from this success story.

The evidence of this anomaly most obvious to our pilots is the geographical and numerical expansion of our crew domiciles. Our pilot bases or domiciles increased from only three in 1990 (Dallas, Houston and Phoenix) to 7 today (the previous three plus Oakland, Chicago, Baltimore and Orlando). However, every one of our seven domiciles has grown and done so dramatically except for one, the Dallas pilot base. With fewer than 400 pilots today, the Dallas pilot crew base, even though it is collocated with our company's headquarters and origins, is by far our smallest domicile; a mere 40 percent of the size of our two largest crew bases, Phoenix and Chicago. The lack of growth here in the Dallas pilot base at Love Field is a testament to the choking effects of the Wright Amendment on traffic growth overall in the north Texas area. However, let's not mistake this for a local or even state issue. The limited growth and options affects all Americans, not solely Texans, traveling to and from the Dallas area for business or personal reasons. In my experience, any time service or competition is limited, even artificially as it is by the Wright Amendment, the customer suffers through higher prices and inconvenience.

Inconvenience is not only experienced by the consumer, but by the airline whose business model is based upon high-frequency point-to-point service and high aircraft utilization rates. Airlines generate revenue by carrying passengers and cargo from one point to another. I know this appears overly basic, but I use it to illustrate a point. Many have opined that Southwest Airlines ought to move its operations over to DFW. Although this suggestion may sound simple it is not. Aside from reserving a very large moving van and scheduling a convenient weekend to make the move, what happens after we make the 8 mile relocation is important to the basic premise of simplicity in our business model of producing revenue. Unfortunately for DFW, simplicity is not an inherent trait of the airport. For instance, the average taxi time per aircraft at DFW is approximately 28 minutes. For Southwest Airlines at Love Field and elsewhere, our average taxi time is much less. In fact, our system wide average time devoted not only to taxiing but to loading and deplaning passengers is about 25 minutes per stop. The fact that aircraft spend a relatively inordinate amount of time taxiing on airport property at DFW is not a mere inconvenience to the traveling public. It would be a clear departure from a tenet of our business model, high utilization rate of our aircraft in order to maximize revenue inflows. The added taxi time at DFW would force us to burn extra jet fuel, compensate crews more for the extra time, but produce less revenue by eliminating, on average, one flight per aircraft per day operating from that airport. The decrease in aircraft utilization rate alone is a minimum of 12 percent. The mere size and complexity of DFW airport creates an adverse drag on our business model and therefore *simply* moving would not be *smartly* moving. Southwest has avoided other less efficient airports

throughout the country for this exact reason, such as in Chicago, Boston, Miami, San Francisco, Houston and New York. At Southwest Airlines, efficiency and simplicity is a trademark of its revenue model and hence, integral to our profitability formula.

Today, we're looking to Congress to free the leg irons that the Wright Amendment put on Love Field and the traveling public almost three decades ago. It is a perfect irony that the bill that then House Speaker Jim Wright (D–TX—Ft. Worth) used as a vehicle for his amendment was the landmark airline deregulation bill. Today, we are simply asking Congress to complete a critical piece of deregulation that unfairly impacts Southwest Airlines with one of the most anti-competitive pieces of legislation ever to have been passed by either chamber. Despite this effort to keep Southwest Airlines marginalized as a "Texas-only" carrier, the company has expanded to become the fastest-growing and arguably best-loved carrier in the Nation. How did we do it? Competition. That's all we are asking Congress for; A chance to compete in the Dallas market—just as we have done in countless other markets. To do this we cannot be tied to someone else's playbook. By removing the anticompetitive restrictions placed on Southwest at Dallas Love Field, the traveling public will have the same cost-saving choices that travelers in Chicago, Philadelphia, Washington and Boston have come to know. Wright is wrong, Mr. Chairman, we ask you to set Love free.

ADDITIONAL QUOTES FOR THE RECORD

"The repeal of the Wright Amendment would have reaching effects on air service from Gregg County due to the fact that American would have to reduce flights so they could be more competitive with Southwest at Love Field. Gregg County has only one airline serving our area at East Texas Regional Airport. If we were to lose it or if the service was reduced, it would have major negative effect on our region, economic development, quality of life and many other areas."

BILL STOUDT,
Gregg County Judge.

"The loss of air service to East Texas Regional Airport would be devastating to the Gregg County area. The growth and economic development of the area is largely dependent upon vital transportation, and air service is a big part of that transportation picture. We need to seriously consider the effect that the repeal of this amendment would have on the smaller communities of East Texas."

VIRGINIA HALL,
Airport Director,
East Texas Regional Airport.

"The six flights from DFW to Easterwood airport have a significant effect on the economic well being of Texas A&M University and the Brazos Valley. To reduce the number of flights leaving DFW would negatively impact the status that DFW enjoys as a first class major airline hub. We are proud and thankful that we have service to an airport with the facilities that DFW offers our passengers and want to be able to continue this relationship in the future."

JOHN HAPP,
Mayor Pro Tem,
City of Bryan/College Station, Texas.

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