



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

June 19, 1989

The Honorable John D. Waihee, III
Governor, State of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Waihee:

I wish to take this opportunity to provide you with my position on the recent legislation passed by the Hawaii Legislature that would require the diversion of certain off-airport, duty-free revenues for purposes not related to the capital or operating needs of Honolulu International Airport or other air transportation facilities in Hawaii. The Honorable Daniel K. Inouye, United States Senator, personally contacted me about this legislation and requested that I carefully consider whether the United States Government could support this effort to supplement your State's general transportation funds. Unfortunately, after careful and full analysis of this matter, I have concluded that the bill, if enacted and implemented, would place the State in violation of its Federal grant obligations under Section 511(a)(12) of the Airport and Airway Improvement Act of 1982, as amended (1982 Act).

The rationale behind my conclusion is that the payments in question received by Hawaii must be considered to be revenues that are "generated by the airport" as those words are used in Section 511(a)(12), and therefore must be used in a manner that directly and substantially relates to air transportation, i.e.:

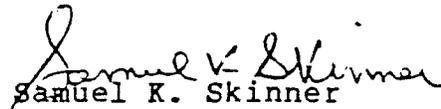
"for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner of the airport and directly and substantially related to the actual air transportation of passengers or property." (Emphasis added.)

The potential availability of airport-generated revenues to meet highway or other non-air transportation needs of state or local governments was specifically addressed in the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Act). The 1987 Act amended the 1982 Act by adding the words underlined above. If airport-generated revenues are indeed involved, the 1987 Act clearly requires that they be expended by an airport owner/operator in a manner that directly and substantially relates to air transportation in order for an airport owner/operator to satisfy its grant obligations.

I have sincerely appreciated the involvement of Senator Inouye and your State's Washington representatives in explaining the purpose and effect of the proposed bill in discussions with me and my legal staff. These talks have made us very much aware of the importance of finding a way to address Hawaii's infrastructure needs, and therefore it is with reluctance that I am constrained to oppose the proposal.

My staff will remain available for any further discussions that you may deem helpful.

Sincerely,


Samuel R. Skinner