

Testimonies on the Topic of
Elimination of the Pa. Sales and Use Tax on Aviation
Before the
Pennsylvania Senate Transportation Committee
Hon. Roger A. Madigan, Chairman

Jay Beratan, P.E. pages 2-4
President, Aviation Council of Pennsylvania

Robert Rockmaker, A.A.E. 5-12
Executive Director, Aviation Council of Pennsylvania

Kelly J. Fredericks, P.E., A.A.E. 13-16
Executive Director, Erie Municipal Airport Authority
and Vice Chair, PA Aviation Advisory Committee

Lawrence J. Krauter 17-24
Deputy Executive Director,
Lehigh Northampton Airport Authority

Richard Witt 25-28
President and Owner, Leading Edge Aviation Inc.

NOTE: To print an individual testimony, select “print” as usual, then type in the page range from the choices below. To print the entire 28 pages, simply print “all.”

October 3, 2007
State Capitol Building
Harrisburg, Pennsylvania

Testimony of

Jay Beratan, P.E.

President

Aviation Council of Pennsylvania

On the Topic of

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Before the

Pennsylvania Senate Transportation Committee

Hon. Roger A. Madigan, Chairman

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State Capitol Building

Harrisburg, Pennsylvania

Good Morning Chairman Madigan and members of the Senate Transportation Committee. It is an honor to speak with you this morning as President of the Aviation Council of Pennsylvania.

My full time position is Senior Vice President and Chief Administrative Officer for DMJM Aviation, a subsidiary of Aecom Technology Corporation with over 30,000 employees.

DMJM Aviation has a long history of completing planning, design, program, and construction management assignments at airports throughout the world.

As the president of the Aviation Council, which is a volunteer position, I, along with our other officers and board of directors, help set policy which will assist in attaining our association's goals and mission objectives.

The Council's mission statement is "to represent the Pennsylvania aviation community in matters involving government and private sector interests; to improve aviation in partnership with the Commonwealth and the federal government; and to increase public awareness of aviation in the Commonwealth."

The Council is comprised of members with diverse aviation interests including airports, aviation service firms, corporate aircraft and charter operators, firms providing goods and services to the aviation industry, and individual aircraft owners and operators.

The Council has seven (7) purpose elements which are as follows:

1. Promote aviation economic development
2. Enhance public awareness of aviation
3. Maintain strong governmental relations
4. Work toward improving aviation safety
5. Develop and advance state-wide aviation education
6. Provide membership services and programs
7. Assist member businesses and individuals with technical assistance and information.

The Council is one of the oldest state aviation associations in the United States. Founded in 1971, the Council has grown with a membership that exceeds 200 plus members and is continuing to grow.

And now, let me set the stage for why we are here.

Today, we come before you to discuss what we at the Aviation Council of Pennsylvania see as a wonderful opportunity to position the Commonwealth of Pennsylvania into a very positive business posture with respect to the aviation and aerospace industries.

We are seeking your support to eliminate Pennsylvania aviation sales taxes on specific categories. The Aviation Council of Pennsylvania has determined that the present Pennsylvania aviation sales taxes on aircraft sales, parts, maintenance, and repairs are providing a great detriment to both the retainage and growth of the aviation and aerospace industry in our great Commonwealth.

Our Council's Executive Director, Robert Rockmaker, will now walk you through this project for clarity and definition. I appreciate your time today and look forward on behalf of our members and the entire aviation and aerospace community to seeing our great Commonwealth become a leader in this business category.

Thank you.

Jay Beratan, P.E.

President, Aviation Council of Pennsylvania

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Good Morning Chairman Madigan and members of the Senate Transportation Committee. It is a pleasure to come before you and discuss what could be one of the most positively impactful business decisions ever undertaken in this great Commonwealth.

As the executive director of the Aviation Council, I oversee the daily functions of the association's business which our president has already outlined for you in his testimony.

Prior to this position with the Council, I was the deputy director of the Allentown/Bethlehem/Easton Airport, now Lehigh Valley International. I am a flight instructor with a variety of ratings and I have been involved with management of FBOs.

The term FBO stands for 'fixed-base operator.' FBOs are service firms that provide a wide array of services to based and transient aircraft which operate at our system of 131 public-use airports in Pennsylvania.

This project to eliminate Pennsylvania sales taxes on aircraft sales, parts, maintenance, and repairs started over three years ago during an Aviation Council, FBO Committee meeting at the Lehigh Valley International Airport.

It was during the Council's FBO Committee meeting where I first shared my deep concern for the future of general aviation and aerospace in Pennsylvania.

In attendance at this meeting was a wide selection of business owners and/or managers, all of whom were involved in the aviation aircraft service sector.

I pointed out that the Pennsylvania general aviation industry was almost at a zero base due to the 6% Pennsylvania sales tax which had to be charged for all sales and services. Many of the states in the Northeast had eliminated their state aviation sales taxes.

Chairman Madigan and members of the Transportation Committee, did we see a light bulb go off during the meeting! I vividly recall asking the group to call out names of aviation firms in Pennsylvania which could supply services such as aircraft painting, reciprocating and turbine engine services, repairs on turbo-prop

and jet aircraft, and interior and modification shops. Most of the firms that were in Pennsylvania have now left for states which are competitive.

The group looked at me like I had fallen off my rocker. There was a moment of mumbling and then silence ensued. I clearly stated that we had a serious issue in Pennsylvania. Something was having a direct, negative impact on the aviation industry's ability to sustain and/or grow the aviation and aerospace industry in Pennsylvania.

Concurrently, the aviation landscape was barren when it came to looking down a list of firms in Pennsylvania that could provide the services previously mentioned.

Not only was work drying up, new aviation service firms were not knocking on the doors of Pennsylvania's airports looking to locate or relocate into Pennsylvania.

Even the Commonwealth's aircraft are flown to service centers in other states because there are no service centers capable of performing the required maintenance on the aircraft.

As many of you know, the Piper J-3 Cub aircraft was born in Bradford, Pennsylvania, under the name of Taylor Craft. It was 1937 when William T. Piper relocated the firm to Lock Haven and renamed it Piper Aircraft Corporation. Our great state was home to practically the birth of aviation right after that special State of North Carolina where Orville and Wilbur made their first flight.

Today, as we look across Pennsylvania, there is a huge void when it comes to aviation and aerospace. Make no mistake, the industry we are focused on today is a huge and expanding market on all continents. Unfortunately, current Pennsylvania tax policy is driving aviation business to other states.

Think about Pennsylvania's geographical location. We are in an ideal location based on population and aircraft owners and operators. We need to capitalize on our aviation assets.

Aviation Council of Pennsylvania Actions

The Aviation Council Board of Directors decided to begin sales tax elimination discussions with groups internal and external to the Council.

Larry Krauter, who was President of the Council and Deputy Director at Lehigh Valley International Airport when this tax hurdle was first identified, was very clear with his observations on the matter: The Pennsylvania aviation state sales tax is a roadblock to current and future business opportunities.

Lehigh Valley International had lost a major based aircraft operator who had relocated their Boeing 737 business jet to the airport. This aircraft generated over 12 good paying jobs between pilots, cabin attendants, and maintenance staff. The airport lost revenue as did the Commonwealth of Pennsylvania.

Why did the aircraft leave Pennsylvania?

Because the aircraft owner had purchased the aircraft in a state which did not charge sales tax on aircraft purchases. Several years later, the Pennsylvania Department of Revenue made contact with the aircraft owner requesting proof that sales tax had been paid. The aircraft owner elected to start the engines and relocate to an aviation friendly state. The alternative was to have a check payable to the PA Department of Revenue for over \$3 million.

Ironically, this same aircraft owner may have been considering a further relocation of some or all of their business to Pennsylvania.

I hope this picture is becoming clear for the Committee.

ITT Case Study

One of the last assignments I had prior to leaving my position at ABE Airport was the negotiation of the relocation of the entire ITT Corporate Aviation operation from New York City's La Guardia Airport to ABE Airport.

I will not go into the details of the business deal. I will say that even back at that time, I perceived the theory that the aircraft comes first, and down the runway you might see an entire business or division follow the aircraft into Pennsylvania.

I was told by ITT's lead attorney assigned to the negotiations at the time that there was a reasonable opportunity that ITT would be looking to Pennsylvania for more than just a base for their aviation fleet. ITT was open to possible future business units moving to Pennsylvania.

Ladies and gentlemen, we are embracing much more than simply good-paying aviation jobs with the elimination of Pennsylvania aviation sales taxes. We are landing right in the middle of a huge economic development opportunity which could have a positive, long term impact on many airports and communities in Pennsylvania.

The Conklin and de Decker Study

The Aviation Council of Pennsylvania retained the services of the premiere aviation sales tax specialist in the United States. Nel Sanders Stubbs from Conklin and de Decker prepared a study on surrounding states and their respective treatments of sales tax on aviation.

As we suspected, the study was quite clear. Pennsylvania was at a huge disadvantage. Ms. Stubbs spoke at our 2006 PA Aviation Conference and delivered a very strong and clear message.

She told us that she constantly advises aircraft owners and operators to steer clear of Pennsylvania. On a weekly basis, Ms. Stubbs is retained by a variety of small, medium, and large businesses to address their aircraft tax implications from both a purchase and cost to maintain and operate status.

Ms. Stubbs went on to advise that Pennsylvania was not a friendly state when it comes to aviation. The 6% sales tax is a major road block that will continue to plague the Pennsylvania aviation and aerospace industry until a correction is adopted.

Impact on Pennsylvania's Airports

Ladies and gentlemen, when you return to your respective communities, take the pulse of your airport. If your local airport has a good economic beat, be thankful. Many airports in the Commonwealth are working very hard to keep their budgets intact and viable.

Ask your local airport manager how many times over the past several years were they contacted by new business prospects interested in basing a new firm on the airport.

Concurrently, ask them how many existing firms have come forward to talk about expansion on the airport. I am sure you know the answer to this question.

Financially healthy airports require a variety of revenue streams in order to make the airport viable with respect to econometrics. Our airports in Pennsylvania are poised and positioned to seek new development. There is plenty of airfield-accessible land. However, the airports are at a huge disadvantage because many of the firms that show interest in Pennsylvania are not willing to be placed at an automatic 6% penalty before they even open their doors.

The New VLJs and PLJs

The aviation industry is experiencing the birth of a new category of aircraft. 'Very light jets' and 'personal light jets' are now being delivered to customers across the United States.

This new category of aircraft will continue to enhance the transportation requirements for both the private and government sectors for years to come.

Pennsylvania has been in the final running for VLJ/PLJ service centers for both Eclipse and Embraer Aviation. We have lost these business opportunities to New York and Connecticut respectively. Both of these states do not have sales tax on parts, maintenance, and repairs. Each of these facilities would have employed between 35-100 employees to start, with future expansion opportunities.

As I speak to you today, I can share that there is another major firm eyeing Pennsylvania for their VLJ service center. The firm, HondaJet, is part of one of the largest and finest global transportation companies in the world.

Can you imagine landing this firm in Pennsylvania? Once they touch down and like what they see, it is only a matter of time until they consider our Commonwealth for other business investments.

For the record, the jobs at these firms pay far above the average retail or distribution center wage rates. These are family-sustaining wages.

A Unique Balance

A firm is offered a package of incentives to relocate to Pennsylvania from another state. (Please follow me on this.) The relocation incentive package from Pennsylvania includes:

- \$2 million in infrastructure grants for roads and utilities,
- \$500 thousand in employee training,
- \$500 thousand in state income tax incentives.

On the other side of the balance sheet, the relocating business determines that their two aircraft will generate a Pennsylvania sales tax bill of over \$6 million. This is because the business did not pay sales tax in the state that they have the aircraft based.

You can do the math and see that the business will be behind by \$3 million if they make the move to Pennsylvania. Believe me when I say that these businesses look at everything.

Make no mistake that the chairman, president, or owner of a business speaks quite frequently with the director of aviation or chief pilot. Many business decisions are made during flight, just like on a golf course.

The Pennsylvania Aviation Advisory Committee, in a report dated March 22, 2007, found that Pennsylvania sales and use tax revenue attributable

to aircraft, aircraft engine and parts manufacturing, and overhauls dropped from \$1.9 million in 2000-01 to only \$500,000 in 2005-06, a decrease of roughly 74%.

Accordingly, the total estimated Pennsylvania sales tax revenue collected in 2006 was \$800,000. This is a major drop in collections which again indicates that the Pennsylvania aviation service business is on a major decline.

The Fels Institute of Government Study

A recent study conducted for PennDOT by the Fels Institute of Government at the University of Pennsylvania indicated that Pennsylvania was at a severe disadvantage due to the present policy on aviation sales taxes.

The study cited how the State of Massachusetts has seen a 65% increase in aviation business since they eliminated aviation sales taxes.

Total based aircraft went up 40% and multi-engine jet aircraft increased 50% in Massachusetts. The Massachusetts state legislature viewed the elimination of the state aviation sales tax as a means to help stabilize and grow the aviation and aerospace industry.

Concurrently, the airports in Massachusetts saw an increase of 17% in revenue collections which is critical to keeping an airport viable.

We have several other speakers today who will continue to demonstrate the importance of eliminating the Pennsylvania aviation sales taxes. On behalf of the Aviation Council of Pennsylvania, thank you for your attention and support on this project which will yield dividends for Pennsylvania, our airports, and our communities for years to come.

Robert Rockmaker, A.A.E.

Executive Director, Aviation Council of Pennsylvania

October 3, 2007

Testimony of

Kelly J. Fredericks, P.E., A.A.E.

Executive Director, Erie Municipal Airport Authority

and

Vice Chair, Pennsylvania Aviation Advisory Committee

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Good morning Mr. Chairman and members of the Senate Transportation Committee. On behalf of the Erie Municipal Airport Authority, as well as the Pennsylvania Aviation Advisory Committee, I want to thank the Senate Transportation Committee for the opportunity to provide testimony regarding the very critical issue of how Pennsylvania's sales tax on aircraft sales and maintenance is impacting the Commonwealth's aviation industry.

There tends to be a lot of confusion and lack of understanding when it comes to a number of critical aviation issues and certainly that is the case as it relates to Pennsylvania's sales tax and its very detrimental impact on the Commonwealth's ability to participate to its maximum extent in the growing aviation industry.

Far too often you will hear that airports and the aviation industry are a drain on the taxpayer and don't pay their fair share. As you know this could not be farther from the truth, as essentially aviation pays for aviation through a series of taxes and fees placed on only those using the system or service. However, it is all citizens who benefit greatly from aviation. As you know, in the Commonwealth's most recent comprehensive report describing the economic impact of aviation in Pennsylvania, its public-use airports create nearly 300,000 jobs, generate in excess of \$5.6 billion in payroll, and produce in excess of \$12.6 billion in economic activity. In addition to the significant economic benefits that aviation provides, Pennsylvania's airports add to the quality of life for its residents. Simply stated, Pennsylvania's citizens depend on aviation and need an efficient airport system.

However, with the current state aviation sales tax, Pennsylvania is at a competitive disadvantage with many other states and losing a significant amount of aviation-related business and jobs. In a recent conversation with Mr. Bill Patterson, owner of North Coast Air, a fixed-base operator at Erie International Airport, as well as an air charter service, he stated emphatically that many aircraft owners fly their aircraft to aviation service firms in states where there is no aviation sales tax thus placing Pennsylvania aviation jobs at risk. Other competing

states are recognizing that loss of jobs and tax revenue far outweighs the benefit of collecting the sales tax on aviation business. To that end:

Four states (Alaska, Montana, New Hampshire, and Oregon) do not have state sales/use tax.

Two states (Massachusetts and Rhode Island) do not impose sales and use tax on aircraft.

Two states (Connecticut and Delaware) do not impose their sales and use tax on aircraft that weigh more than 6,000 pounds and do not impose their gross receipts tax on aircraft that weigh more than 12,500 pounds.

A number of states such as Arizona, Florida, Kansas, Nebraska, Tennessee, and Texas have enacted what are known as 'fly away exemptions' (meaning that delivery can occur in the state, the state's sales tax will not apply if the aircraft is purchased by a non-resident of that state and is removed within a certain period of time).

While all of the above states have not attempted to quantify the overall revenue benefit to their state, each has concluded that the exemption has generated increased aviation activity, more jobs created, and more revenue for businesses in the state.

In looking at this important issue, we must also look at Pennsylvania's future aviation sector job growth opportunities. Noted aviation expert Mike Boyd has consistently stated that with the introduction of the Boeing 787 aircraft will come the single most important transformational change experienced by the aviation industry since the advent of the commercial jet passenger aircraft. The significance of this is that the 787 will be the first aircraft in history to be made up of over 50% of composite (plastic parts). Due to the enormous cost savings through fuel efficiency as well as a number of other economic

efficiencies, Mr. Boyd predicts that this will be the wave of the future with all aircraft transitioning from make up of less metal and more composites. The reason I raise this issue as part of the sales tax discussion is because Mr. Boyd has also stated that with Pennsylvania's strong plastics industry capabilities, it can be well-positioned for these new economic opportunities. Furthermore, he states that Pennsylvania, along with Ohio and Michigan, are very strong global investment targets.

However, again with the sales tax issue, Pennsylvania will be at a competitive disadvantage in pursuing these opportunities. By comparison, the State of Colorado is seeking to end aircraft sales tax and Governor Bill Ritter has recently stated that "aviation is one of the fastest-growing segments of our economy, but because of a 2.9 percent sales tax companies are building manufacturing facilities and creating jobs in other states that don't impose sales tax on aircraft."

In closing, I fully recognize that any recommendation to provide exemption from Pennsylvania's sales and use tax for aircraft sales and maintenance activities will raise issues regarding the need to compensate for potential loss of this revenue to the Commonwealth. However, strong consideration should be given to additional tax revenue generation that may be realized through the collection of additional income and corporate taxes flowing to the state's coffers due to a sustaining and expanding aviation job base in Pennsylvania.

My sincere thanks for the opportunity to provide testimony today and I stand ready to assist the Transportation Committee in any way possible on this important matter.

Kelly J. Fredericks, P.E., A.A.E.

Executive Director, Erie Municipal Airport Authority
and Vice Chair, PA Aviation Advisory Committee

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Testimony of

Lawrence J. Krauter

Deputy Executive Director

Lehigh Northampton Airport Authority

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Good morning Chairman Madigan and members of the Senate Transportation Committee, my name is Larry Krauter, Deputy Executive Director of the Lehigh Northampton Airport Authority and Past President of the Aviation Council of Pennsylvania. I appreciate the opportunity to discuss with you today our view that the most important legislative priority of the aviation industry in this Commonwealth is the elimination of the sales and use tax. In short, we are asking for your help to eliminate this regressive tax in order retain companies that are being enticed to relocate Out of state; to achieve competitive parity with neighboring states that have a distinct advantage in attracting aviation-related businesses as a result of a more favorable tax treatment of the industry and to continue to make our airports increasingly financially self-sufficient to reduce or eliminate operating subsidies by their sponsoring governments.

The Lehigh Valley Airport System consists of Lehigh Valley International Airport (LVIA), which is a scheduled commercial service airport as well as Queen City Airport, located in the City of Allentown and Braden Airpark located near the City of Easton which are general aviation reliever airports to LVIA.

The Airport Authority is financially self-sufficient and does not use local tax revenues from our County sponsors. We are constantly investing in upgrades to our facilities to meet the needs of our customers and to respond to federal standards for safety and security. We are well positioned to handle increased aviation business at any one of our three airports.

I am able to offer some unique perspectives on this matter as not only does the Airport Authority manage three different categories of airports, we also have owned and operated the FBO at two of these airports since 1990 and 1996, respectively.

While a will provide you with some examples of how we lost actual business and potential opportunities over the years, due to the sales and use tax, I also want to look ahead with you to the tremendous opportunities that await aviation if we can get this right by eliminating the sales and use tax.

Let's talk about opportunities in the eastern part of the state for a moment. U.S. DOT Secretary Mary Peters recently stated that the annual cost of airline delays has reached \$9 billion. Demand for air travel has surpassed 2001 levels and continues to rise. Consistently, the worst of the breakdowns occur in the New York region, accounting for 75% of airline delays. Clearly no one will disagree that there is a problem with airspace and airport capacity in the New York area. General aviation and corporate aviation are also being negatively impacted by these structural problems. The growing costs of ground stop delays; aerial holding delays and diversions for refueling in combination with the high real estate and other operating costs already prevalent for those businesses based at airports in the New York region are driving these companies to focus on airports outside of the New York/New Jersey area as alternatives. It is no longer tenable for these companies to pay premium rates in exchange for deteriorating efficiencies. Furthermore, this problem has created significant interest in airports outside of the New York/New Jersey area for those companies seeking to penetrate the market to serve their aviation customers without basing at a New York/New Jersey airport. The first of these two dynamics has resulted in relocations to LVIA from Morristown, NJ in the form of a major fractional/charter company that leases over 100,000 square feet of hangar, office and shop space as well as a flight department of a major pharmaceutical company headquartered in New Jersey. These companies regularly travel into New York airports to serve clients, but they base their aircraft and support functions at LVIA. We are currently in discussions with a major New York City-based company to move their flight department to LVIA under the same pretext.

The second dynamic has seen LVIA regularly 'shopped' by companies seeking to establish sales and service centers in the Northeast, without having to deal with the associated problems I have previously described. Within the past 12 months, we have been asked to make proposals to Embraer, HondaJet and American Eurocopter for regional sales and service centers. Eclipse has also

prospected in Pennsylvania for a similar facility. Some of these initiatives are being driven by the Very Light Jet industry race to the marketplace and we should be doing everything we can to attract this business to Pennsylvania. For example, it is forecast that as many as 7,600 VLJs will be flying U.S. skies by 2025. There are viable products coming to the market by:

Adam Aircraft (AdamJet 700)	\$2.25M
Cessna Citation Mustang	\$2.6M
Diamond Aircraft (D-Jet)	\$1.3M
Embraer Phenom 100	\$2.75M
HondaJet	\$3.65M
PiperJet	\$2.2M

It is likely that very few, if any, of these aircraft will be purchased in Pennsylvania as long as the sales and use tax exists. They will most likely be purchased in Maryland, Massachusetts and New Hampshire, which do not impose a sales tax on aircraft. That being said, what chances do you think that Pennsylvania airports have of attracting sales and service centers for these aircraft? I can tell you that Embraer already passed and is building a facility right now in Connecticut. What sales representative wants to tell a potential customer that they will need to pay the Department of Revenue \$220,000 when they purchase their HondaJet and base it in Pennsylvania?

In our most recent discussions (yesterday) with a major helicopter manufacturer, they indicated that the State of Maryland is pursuing them to locate their proposed Northeast sales and service center there. The fact that they can operate their facility in Maryland without a sales and use tax liability is going to be among the top considerations in their decision. My prediction is that while LVIA offers distinct advantages for this helicopter company, they will go the route of Embraer and end up placing their facility in a neighboring state. The same prediction is sadly also valid in the case of HondaJet, which intends to make a decision this year.

Another problem that the sales and use tax creates for airports making proposals for these sales and service centers is that we have to consider offering our facilities and other consumables such as aviation fuel at below market rates to make up for the impact of the tax if we really want to compete with our neighboring states. Also, as part of minimum standards, most airports charge a percentage-of-gross receipts fee to aeronautical businesses that can range up to 3 percent annually. This fee is being attacked by prospective aviation businesses in light of the state sales and use tax. As a result, the tax is causing downward pressure on the margins of Pennsylvania airports and aviation businesses trying to compete with companies that are not burdened with the same tax in their home state. This is counterintuitive to good business procedure and does not help airports meet their objectives of becoming more financially self-sufficient so they do not need to depend on support from their sponsoring government. Almost every publicly-owned airport regardless of size is under increasing pressure to become self-sufficient from an operating fund standpoint as their sponsoring governments need to respond to other critical and fundamental needs of the community.

I am speaking from experience. As I had mentioned earlier, the Airport Authority's wholly-owned subsidiary FBO business, Lehigh Valley Aviation Services, has just made a large investment to open a Robinson Helicopter Sales and Service Center at Queen City Airport. This commitment required sending our staff of A&P Mechanics to Torrance, California to complete required factory training as well as acquiring significant inventory, manuals and tooling. Robinson Helicopters manufactured 749 R22 and R44 helicopters in 2006. They are the world's largest producer of civil helicopters. A typical R44, a 4-place helicopter, which is the top selling helicopter in the world during the last 4 years can cost in the area of \$350,000. This business decision was made by the Airport Authority due to a rapid increase in based Robinson Helicopters at our airports by owners of small to mid-sized companies locating into the area and input from these

Customers that they were tired of flying long distances to Maryland and New York for service. We verified that there was a hole in the regional coverage of service centers centered on Pennsylvania. At this point, I know that all of you can tell me one of the primary contributory factors as to why there was not a service center to be found in Pennsylvania!

Any corporate official in an aircraft maintenance operation will tell you that the margins in the business are thin. That is typical for aviation in general. The sales and use tax is responsible for discouraging the growth of aircraft maintenance, repair and overhaul (MRO) business throughout the state by eroding these already thin margins and requiring businesses to sacrifice profit to offset the sales and use tax impact.

We are taking a business risk by establishing the Robinson Helicopter Service Center and it is too early to tell what reaction our customers will have to our cost disadvantage of 6% on parts and 6% on labor in the marketplace compared with service centers in adjacent states. If it functions anything like the public's reaction to driving long distances for lower airline fares, we may see our Robinson customers exchange the longer trip to out of state service centers for the savings on all but the smallest of jobs.

The sales and use tax is also eroding the fractional ownership and aircraft management and charter business. Many aircraft today are being placed under FAR Part 135 certificates in order to avoid the sales and use tax. The problem for airports or FBOs is that these aircraft then usually get what is referred to as contract fuel, which is an airline-like rate, as opposed to paying retail fuel prices, so the margins again are reduced for those selling fuel. These same operators then fly the aircraft out of state for any major maintenance, repair and overhaul (MRO) work. Why do they do this? Two reasons. First there are no shops in the state largely because of the sales and use tax and second, they do not want to pay the sales and use tax even if there were shops in the state. In aviation, we call this condition the Graveyard Spiral.

One of our based tenants at LVIA estimates that they could add up to 7 new aircraft to their management contract if the sales and use tax was eliminated. This could add 30 new jobs: increase fuel sales and increase hangar rental income. There is no doubt that this formula could be repeated at many airports across the state if the sales and use tax was eliminated.

As far as Part 91 aircraft are concerned, there is virtually no market for these companies to manage aircraft that are not protected from sales and use tax. In a place with a geographic advantage such as LVIA, these companies believe that there is good potential for business from New Jersey in this category.

As you have heard previously, probably the most prominent loss to LVIA attributable to the sales and use tax involved the ITT Corporation, which was the first major corporation to invest in a large hangar to base its fleet of corporate aircraft outside of the New York metro area. ITT contacted us after learning that the Department of Revenue was requiring payment of sales tax on a new Boeing Business Jet (BBJ), 737-400. A BBJ retails for \$43 Million to \$48 Million. The thought of paying nearly \$3 Million in sales tax created enough of an impact for them to take the aircraft out of the state permanently. The clear message to corporate aviation was “Stay out of Pennsylvania”. Further efforts during the past several years by the Department of Revenue to collect the sales and use tax have reinforced this message to aircraft owners as their airport landlords were asked to become informants for the collection effort by the State. Many declined.

As Mr. Rockmaker previously states, that message is repeated today by the experts retained as advisors to corporations evaluating aircraft purchases, leases and locations for flight departments.

It is clear that we need to catch up with the other states that have done the math and concluded that sales and use taxes discourage aviation business retention and growth.

Pennsylvania has an excellent system of airports that stand to contribute substantially more to the state economy by attracting new aviation businesses and strengthening existing aviation businesses.

The Legislature must recognize that we can no longer afford to ignore the detrimental impacts of this tax, particularly at a time when aviation is growing and the geographic location of Pennsylvania airports has never had as much upside potential to attract this business as it does right now. We must move quickly and directly to address the matter. We respectfully ask that you co-sponsor legislation once it is introduced and advocate to your fellow legislators and leadership to support the bill. We need you to move it through the process with urgency so we can begin engaging the competition posed by neighboring states that would like to lure away our existing aviation businesses and out-compete us for new aviation business. This is not a “Maybe Someday” topic. We must act now to stem the flow of aviation business out of state.

I hope that my comments have contributed to a better understanding of the policy position taken by the Aviation Council of Pennsylvania on the sales and use tax. Again, thank you for your attention and for the opportunity to present information to you about this important matter. I would be pleased to answer any questions you may have about my comments.

-End-

Lawrence J. Krauter

Deputy Executive Director, Lehigh Northampton Airport Authority

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Testimony of

Richard Witt

President and Owner

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Good Morning Chairman Madigan and members of the Senate Transportation Committee. It is a pleasure to come before you and discuss what could be one of the most positively beneficial business decisions regarding aviation ever undertaken in Pennsylvania.

I have owned and operated Leading Edge Aviation Inc., which is the FBO at the Doylestown Airport, for almost 15 years. Doylestown Airport is one of the busiest general aviation airports in the state. Doylestown is also a very popular destination for out of state visitors coming to our wonderful state.

The project to eliminate Pennsylvania sales taxes on aircraft sales, parts, maintenance, and repairs is very exciting to me, as the sales tax has had a detrimental effect on my business.

As Doylestown is in the eastern part of the state, we are convenient to many other states in the Northeast. In 30 minutes of flying or less, one can be in one of seven other states, many of which have a more favorable sale tax status. This hinders our ability to reach out to the many aircraft owners whose business I would like to attract.

Since we have to charge the 6% sales tax for any maintenance we perform and for the parts sold, we are at a distinct marketing disadvantage. To compete, our margins must be reduced, which gives our out of state competitors an unfair advantage. It is not unusual to get a phone call requesting a quote for maintenance service and then be rejected due to the sales tax disadvantage under which we operate.

We have also had opportunities to profit from someone's misfortunes that we could not capitalize upon because of Pennsylvania's sales tax structure. Allow me to cite several examples:

About a year ago a pilot and his family were enroute from Massachusetts to Florida in a Piper Mirage, which is a high performance pressurized single engine airplane. As he was approaching Pennsylvania he noticed his oil pressure was dropping. He elected to make a precautionary landing at Doylestown to

check things out. As he got closer the oil pressure dropped almost to zero, and he landed at Doylestown uneventfully.

My maintenance staff checked out his engine and it was determined that the turbocharger seal had failed and most of his engine oil had been consumed. Therefore his engine had to be overhauled to insure continued reliability, as there probably was considerable wear due to lack of lubrication.

He was comfortable with our maintenance shop and wanted us to do the work for him. As we were getting prices for his engine overhaul, we quoted the work including sales tax, which raised a big red flag with him since he is unaccustomed to paying sales tax in Massachusetts. An engine overhaul for this type of aircraft is in the \$50,000 to \$70,000 range, so 6% is a lot of money, in the vicinity of \$3,600. And for this \$3,600 he wasn't getting any better or different product.

Consequently the customer opted to purchase his overhauled engine directly from the supplier, and pay for it directly, in order to save the sales tax.

This action caused us to lose the profit on the sale of the overhauled engine. Our profit margin for this type of repair is in the 15% range, which by the loss of this sale reduced our profit by about \$9,000. That is a lot of money to a small business, and the profit just went away, and nobody gained a thing. Not my company, not Pennsylvania, not Massachusetts.

A virtually identical situation happened late this summer with a pilot from New Jersey while en route from his airport to the Poconos. He was en route and his engine was losing power so he elected to land at Doylestown. The players changed but it is exactly the same scenario as the one I just described. We still have his airplane awaiting his new engine.

These are the major cases, which stick in my memory due to the large monetary loss, but the same thing happens day after day on a smaller scale. But it all adds up, and at the end of the year we are working just as hard at our

business as our competitors in other states, but for less profit. It puts us at an unfair disadvantage.

In closing, I appeal to you to eliminate the sales tax on aircraft sales, parts, maintenance, and repairs in order to level the playing field and remove the obstacles that prevent growth in an industry that spans the borders of this great state of Pennsylvania.

I thank you for your time and consideration.

Richard Witt

President and Owner, Leading Edge Aviation Inc.

October 3, 2007