OBAMA-BIDEN TRANSITION PROJECT

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Transportation Trades Department, AFL-CIO Recommendations for the Obama Administration

I. Overview

The nation's transportation industry forms the backbone of the national economy. Most aspects of American life rely on a safe, efficient and effective transportation system. And the success of our national economy is wholly dependent on a multi-modal private and public transportation system and infrastructure that are safe, well financed and able to keep pace with the nation's needs.

Our transportation network is a $1.4 trillion industry, representing 10.6 percent of the U.S. GDP.[1] Transportation connects Americans to each other and to the world, it enables the U.S. economy to function, it is critical to our security and fundamental to our way of life. For our national and multinational employers, the ability to reliably move their goods and employees contributes greatly to their successes and failures. For working Americans safe and efficient transportation choices are crucial to their daily lives. And for millions of workers, our transportation system provides good jobs.

America needs a national transportation policy. For too long our government has been indifferent to the decline of our ground, aviation and port and maritime systems. The Bush Administration's neglect of physical infrastructure has been overshadowed only by their neglect of the human infrastructure that is the backbone of the nation's transportation system. During the last eight years the Administration has been guilty of undermining workers rights and neglecting collective bargaining responsibilities. They have allowed infrastructure to decay and technology to age without properly investing in the future, and they have permitted inadequate worker security and insufficient skills training to go unimproved. The safety, security, and efficiency of the transportation system have suffered significantly at the hands of these irresponsible policies.

The new Administration has an opportunity to exert leadership and offer transportation solutions to problems that are threatening America's competitive edge. At the same time the new Administration can put people to work in an economy ravaged by recession. Every $1 billion investment in transportation infrastructure creates more than 30,000 good jobs.[2]

The new Administration has the opportunity to restore competence and fairness in the oversight and implementation of transportation investment, safety and security programs and ensure that the rights of workers are honored. The new Administration must:

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[1] BTS, RITA, Table 3-2a, U.S. Gross Domestic Product Attributed to Transportation-Related Final Demand.

[2] According to U.S. Department of Transportation (DOT) data every $1 billion of federal transportation investment supports approximately 30,000 jobs.

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- Protect collective bargaining and workers rights by reforming National Mediation Board (NMB) policies and select competent NMB appointees committed to protecting the rights of workers;
- protect collective bargaining rights for Federal Aviation Administration employees by repairing the broken system at the FAA under which the Agency abandoned its responsibility to negotiate in good faith with its work force. Repair the damage that has already been done by ensuring that the FAA returns to the bargaining table to reach a good faith agreement with all FAA bargaining units, including the air traffic controllers who are currently under imposed work and pay rules;
- commit to a strong federal transportation budget that deals with America's transportation infrastructure crisis;
- support and lead on major must-pass transportation policy and investment reauthorization legislation pending in 2009;
- deal with a decade-long backlog of safety improvements that will make transportation safer for traveling Americans and workers including implementing mandates passed by Congress;
- implement, fully fund and enforce key transportation security measures including strategically significant security upgrades and investments and training for workers; and
- address the major challenges posed by the globalization of transportation.

II. Recommendations for a New Administration

FIRST 100 DAYS PRIORITIES

Fill NMB vacancies with appointees who will support the rights of workers to form unions and bargain collectively

The NMB, an independent agency with jurisdiction over collective bargaining and union representation matters in the rail and aviation industries, has become a one-sided advocate for management to the detriment of workers. This is significant because with the failing economy and workers suffering now more than ever, the rights of workers to form and join unions and bargain collectively are critical to rebuilding the shrinking middle class. Republican appointees to the agency have failed to handle the sensitive responsibilities of mediation, collective bargaining and matters involving union representation, and in fact have blatantly favored the interests of airline and railroad companies. As a result, workers have faced:

- endless bargaining and mediation, often years at a time, as rail and air carriers have gamed the system;[3]
- blatant decisions to ignore clear cases of unlawful employer interference during organizing campaigns;
- agency rules that stifle the right to organize new unions;

[3] The 2008 bargaining settlements at Amtrak were held hostage by the NMB for eight years.

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- collective bargaining rights threatened by airline mergers and bankruptcies; and
- improper decisions extending Railway Labor Act (RLA) coverage to companies that provide service to air carriers thereby extinguishing representation rights and making it more difficult to join unions.

The most recent attempt by Delta flight attendants to choose the Association of Flight Attendants-CWA (AFA-CWA) as their bargaining representative is a clear example of how badly broken the NMB has become. The company engaged in a blatant campaign to encourage its employees not to vote in the election, even directing flight attendants to destroy their NMB-provided ballots. Because the NMB considers all those that don't vote as voting against the union, the NMB refused to certify the AFA-CWA even thought it received the support of 99 percent of the flight attendants who voted. To make matters worse, in a 2-to-1 decision, the Board failed to even investigate the 119 chargers of employer interference filed by AFA-CWA.[4]

Reformed voting procedures reflecting how Americans choose their elected representatives, i.e. majority of those voting, would restore fairness and balance at the NMB and give workers who seek a union voice a legitimate chance to overcome blatant employer interference. The NMB must reform union election procedures by employing a "YES/NO" ballot among those voting.

The recent collective bargaining stalemate at Amtrak is an example of NMB policy that has gone completely off track. It is a clear example of why it matters that the President appoints individuals to the NMB who respect the right of workers to bargain collectively and complete negotiations within a fair timeframe. Because the RLA does not prescribe time limits on bargaining and mediation, it is important for the individuals appointed by the President to use their power and discretion fairly. Although Amtrak employees finally secured new agreements in 2008, it is patently unfair for any worker to wait almost a decade for a new collective bargaining agreement.

Overall, reforming this agency and appointing individuals who will respect and foster the rights of aviation and rail workers to unionize and bargain collectively must be priorities in a new Administration.

Direct the FAA back to the bargaining table with FAA unions

The new Administration must direct the FAA to resume negotiations with the air traffic controllers under terms of the last mutually agreed upon contract in order to provide incentive for both sides to bargain in good faith and to reach an agreement.

- The collective bargaining system at the FAA is broken. The FAA unilaterally imposed pay and work rules on its air traffic controller workforce, misusing existing law to justify their refusal to bargain in good faith.

[4] The House Transportation and Infrastructure Committee, which has jurisdiction over the NMB, held a hearing on September 24, 2008 to examine the agency's conduct in union representation elections.

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- Four out of five bargaining units within the Professional Aviation Safety Specialists (PASS) have been at impasse with the FAA for over five years. The remaining contract involves PASS's Technical Operations unit. In this negotiation, 98 percent of voting employees rejected the FAA's proposed agreement. The unit now faces legal proceedings initiated by the Agency in an attempt to force the rejected agreement upon them.

Now the agency is characterized by:

- a severe air traffic controller staffing crisis as the imposed work rules have driven record numbers of veteran controllers to retire and resign from the FAA, far surpassing even the most alarmist predictions.
- Record levels of near misses and delays in the skies and runways, as an increasingly inexperienced and fatigued controller workforce is forced to stretch itself ever more thinly as air traffic has returned to pre-9/11 levels.
- completely ruptured labor-management relations making it impossible for labor and management to advance the important programmatic work of the agency;
- delays in FAA technology and modernization programs that have been badly mismanaged and plagued by major setbacks that might have been avoidable had the FAA been willing to collaborate with their front-line workforce.

Additionally, the bargaining system must be reformed through federal legislation[5] that insists on fair bargaining and mediation and settlement of outstanding issues through binding arbitration.

President's Budget and Investment in Transportation

The new President's 2010 Budget presents the first opportunity to reverse eight years of neglect by the Bush Administration. It will be a chance to present a vision that the President understands the bridge collapse in Minneapolis was a symptom of a much larger and more serious crisis facing America. Pending and scheduled reauthorization bills for various areas of transportation will also offer an opportunity for the Administration to address long-term investment needs. The President must present a 2010 investment blueprint to rebuild, improve and expand our transportation system and infrastructure and reject the policies of the past that left this responsibility to future generations and forced states to fend for themselves.

According to recent estimates, the U.S. needs to invest at least $2 trillion in transportation infrastructure over the next five years just to bring our current system into good condition. Investment shortfalls exist in every transportation mode.

Aviation: In FY 2008, Congress provided the FAA with $14.6 billion. Yet according to the FAA's own 2007-2011 National Plan of Integrated Airport Systems (Federal Aviation Administration Report to Congress, "National Plan of Integrated Airport Systems 2007-2011.") the five-year development costs for the nation's 3,431 grant eligible airports

[5] FAA Reauthorization Act of 2007, H.R. 2881, § 601, 110th Cong., 2d Sess. (2007).

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totals $41.2 billion. And the FAA reports that increasing airport capacity, repair and maintenance needs requires a $23.1 billion commitment, while bringing existing airports up to current design standards will cost an estimated $11.2 billion. Additionally, the Congressional Joint Economic Committee recently concluded that flight delays cost the national economy $41 billion in 2007 and $1.6 billion in additional fuel costs releasing an additional 7.1 million metric tons of carbon dioxide into the atmosphere. Meanwhile, studies have shown badly mismanaged air traffic control technology and modernization programs, along with major shortages in air traffic controllers and other key FAA personnel, have greatly hindered deployment of the next generation air traffic control system. Clearly, the new Administration inherits a severe aviation infrastructure challenge – at a time when future demand is projected to soar – that will require significant resources. The new President's 2010 Budget must depart from eight years of irresponsible Bush budgets and fully fund aviation programs.

Passenger & Freight Rail: In FY 2008, our government provided $1.325 billion in grants to Amtrak and paid scant attention to the nation's freight rail needs. Investment needs for intercity passenger rail total $60 billion over 20 years. Amtrak has a backlog of $4 billion in investment necessary just to avoid delays – freight delays alone cost Amtrak $137 million in fiscal year 2006. Freight railroads will need to invest $175 to $195 million annually and freight rail congestion costs $200 billion yearly – almost 1.6 percent of GDP. At a minimum, the FY 2010 budget request from the new Administration must include funds for Amtrak at least equal to the amount called for in the Amtrak Reauthorization legislation signed into law in the fall of 2008. [6]

Mass Transit & Commuter Rail: The Federal Transit Administration received $9.4 billion in budgetary resources in FY 2008. The capitol needs of the industry alone are approximately $60 billion annually and the federal government should provide at least half that amount by the end of the next reauthorization period. In order to achieve that objective, at least $12.4 billion in guaranteed funding (through continued use of budgetary firewalls), should be provided in the President's 2010 budget. It must be remembered that these needs come in an era of soaring fuel prices that is seeing record demand for transit in this country. As a result transit systems are not meeting demand while they face higher fuel prices as well. One way to boost use of public transportation and give Americans badly needed relief is for the government to give transit providers financial assistance to pay for soaring fuel costs that are forcing service cuts and fare increases at a time when Americans need more affordable transportation, not less.

Ports and Maritime: In FY 2008 Congress appropriated $307 million for programs and activities of the Maritime Administration and provided the Federal Emergency Response Administration with $400 million in port security grant funding for state and local governments. Considering that America's 361 seaports handle 95 percent of overseas trade, port expansion is essential for providing efficient transportation connections between roads, rail and water. Today, many arriving and departing containers sit at ports because there is inadequate landside infrastructure to move them. This "first mile"

[6] Rail Safety Improvement Act of 2008 and Passenger Rail Investment and Improvement Act of 2008, H.R. 2095, 110th Cong., 2d Sess. (2008).

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between port and land is an issue that must be addressed with federal resources and involvement. Navigation channels in need of dredging are delaying cargo transfer and causing bottlenecks. Additionally, port security grant programs (authorized at a total of $2 billion over five years) and the Maritime Security Program, with funding needs of $174 million per year, must be fully funded in the new President's Budget.

Highways and Bridges: As traffic on the nation's roads increases, investment in critical highway and bridge infrastructure remains inadequate. Traffic congestion alone is a $67.5 billion annual drain on the national economy. In FY 2008, Congress provided a net total of $38.1 billion for the Federal Highway Administration. According to the American Association of State Highway and Transportation Officials (AASHTO), government investment in highway and bridge infrastructure would have to nearly double to reach the projected $92 billion needed to simply maintain current infrastructure and increase by nearly 100 percent to fund meaningful infrastructure improvements. Annual expenditures of $131.7 billion are needed to repair deficient roads, while $9.4 billion is needed for bridges.[7] Additionally, funding shortages from inadequate revenues could jeopardizes the Highway Trust Fund – the primary financing source for the country's interstates, bridges, and mass transit. While Congress and a reluctant Bush Administration shored up the Highway Trust Fund with an infusion of $8 billion, a new Administration must ensure that this fund stays solvent and that transportation funds to the states are not jeopardized.

Fund Amtrak Collective Bargaining Agreement back-pay obligations in FY 2009 Appropriations Bill

In 2008, Amtrak and its employees agreed to new collective bargaining agreements after protracted negotiations. Those contracts granted back-pay for the eight years workers went without a general wage increase. Forty percent of that back-pay was paid in 2008 and the balance is due in spring 2009. According to Amtrak, the company will need up to $145 million to make the 2009 payments. If Amtrak fails to make the payments, Amtrak workers will have their right to strike restored. As Congress and the new Administration work to complete the FY 2009 appropriations cycle, funding for this contractual obligation must be specifically included.

New Amtrak CEO and Board

On November 14, 2008, Alex Kummant, Amtrak's President and CEO resigned from the company. Recently the Amtrak Board appointed Joe Boardman, the outgoing Bush Administration Federal Railroad Administrator, Interim CEO for up two 12 months and all indications are that he may be a candidate for the permanent job. Under the law, Amtrak's Board of Directors, on which the Transportation Secretary or a designee serves, is responsible for appointing the company's CEO. The future of Amtrak and passenger rail will be driven in very large part by the next CEO and his or her ability to leverage greater funding and mandated reforms included in the Amtrak Reauthorization law. That statute also expands and reforms the current Board membership to include a voice for Amtrak

[7] American Society of Civil Engineers, "2005 Infrastructure Report Card."

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employees. The incoming Obama Administration must work with the current Board to ensure a new permanent CEO is not hired until the new Administration's Transportation Secretary can assert a voice in the process. The incoming Administration must participate in the CEO search and ensure that President-elect Obama's vision for a strong national Amtrak system and building a strong collective bargaining relationship with the employees and their unions is shared by the next leader of Amtrak.

Issue an Executive Order stating that Air Traffic Services is an inherently governmental function

By issuing an executive order stripping the nation's air traffic services of its designation as an "inherently governmental function," the Bush Administration launched an effort to promote privatization of our air traffic services. At the expense of workers and public safety, the Bush Administration bowed to pro-privatization zealots pushing air traffic services toward a for-profit enterprise.

The men and women who operate, maintain, inspect and certify our air traffic control system perform critical safety jobs that must remain federal functions. Privatization is simply an attempt to allow a critical component of maintaining safe skies to be sold off to profit-driven commercial bidders. The new Administration must ensure that we do not privatize air traffic services by issuing an executive order re-establishing the nation's air traffic services as an inherently governmental function.

Aviation Policy Priorities: FAA Reauthorization

The new Administration will inherit an aviation system facing severe financial, infrastructure and technology challenges. Because Congress failed to complete FAA reauthorization legislation in 2008 and the current extension with expire on March 31, 2009, the next President will have an opportunity to take an immediate leadership role in shaping this must-pass legislation.

The FAA reauthorization expired on September 30, 2007. The House-passed FAA bill[8] moved through the chamber in September of 2007, but the Senate counterpart[9] is still pending. This bill is crucial to aviation unions as it presents an opportunity to address major issues of importance to aviation workers.

The new Administration should support FAA reauthorization measures that fix the broken collective bargaining system at the FAA and deal with the growing FAA staffing crisis; reaffirm U.S. policy on foreign ownership and control; correct an injustice that has deprived FedEx truck drivers and mechanics of the right to form and join a union[10];

[8] FAA Reauthorization Act of 2007, H.R. 2881, 110th Cong., 2d Sess. (2007).
[9] Aviation Investment and Modernization Act of 2007, S. 1300, 110th Cong. 2d Sess. (2007)
[10] Section 806 of the House-passed reauthorization bill would ensure that FedEx ground employees are covered by the National Labor Relations Act (NLRA), instead of treated as aviation employees covered under the RLA. It is harder for workers to organize under the RLA than the NLRA and FedEx has used this legal gimmick to ensure all of its ground employees are non-union. FedEx's chief competitor is

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advance long overdue OSHA safety and health protections for flight attendants; mandate strong aircraft cabin air quality standards[11]; modernize, expand and fully fund airports and the air traffic control system; better inspect foreign aircraft repair stations and improve safety at contract repair facilities; improve airport fire and rescue standards; alleviate pilot and flight attendant worker fatigue; and address runway incursion problems.

Establish a Presidential Task Force to Study and Recommend Solutions for an Airline Industry in Crisis

In May 1993, following debilitating financial losses in the airline industry that left every major airline in financial distress and tens of thousands of jobs at risk, President Clinton created a task force to study and bolster an industry in crisis. Congress and the President gave the panel a mandate to investigate and devise solutions to stabilize the nation's airlines. The new Administration will take office in the midst of an unprecedented airline industry crisis whose effects are already being felt in many sectors of the economy and in communities across the nation.

The new President should within the first 100 days appoint a task force comprised of highly qualified industry experts and stakeholders including representatives of aviation labor. Skyrocketing fuel prices, shortfalls in federal funding, mismanaged FAA programs and policies, the challenges of globalization, aging infrastructure and air traffic control equipment, an FAA staffing crisis, an outsourcing epidemic, mergers and bankruptcies, threatened pension benefits, and many other problems facing the industry and its employees must be reviewed. And this panel's mission and mandate must include a thorough consideration of how their recommendations will impact private and public sector aviation employees.

Ensure compliance with labor protection requirements in transportation security grants

In February 2008, the Federal Emergency Management Agency (FEMA) issued Program Guidance and Application Kits for four transportation security grant programs that do not inform grantees that certain labor protections apply to these programs. Specifically, when Congress passed the 9/11 Act it specified that Section 13(c) employee protections would apply to the transit and over-the-road bus grant programs and that Davis-Bacon prevailing wage requirements applied to all the grant programs (including Amtrak and freight rail as well as transit and bus). Congress added these requirements in the 9/11 Act to guarantee, among other things, that workers employed on construction projects

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covered by the NLRA for its ground operations and this competitive double-standard simply makes no sense.

[11] A landmark consensus standard on aircraft air quality overseen by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), includes cabin temperature limits, measures to address the problems of air supply contamination and pesticides and a mechanism for complaints to be heard and addressed. The new Administration should implement "ASHRAE Standard 161-2007: Air Quality within Commercial Aircraft" as a regulatory mandate.

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assisted by grant funds are paid no less than prevailing wage rates and that workers at transit agencies and bus providers are protected when grant funds are distributed. However, there is no mention in the FEMA application kits and program guidelines that grant recipients must adhere to these requirements as a condition of receiving funds. This omission must be corrected and the new Administration should direct FEMA to ensure that the program is implemented as intended by Congress and that grantees are aware of and comply with the requirements of the law.

Reform background check process for TWIC program

Congress created the Transportation Worker Identification Credential (TWIC) program in the aftermath of the 9/11 attacks to better secure our nation's seaports and maritime vessels as part of a nationwide response to terrorist threats. Workers must obtain a TWIC to get unescorted access to secure areas of a port or vessel. Workers needing a Hazmat endorsement on their commercial drivers license (CDL) must pass a background check based on the TWIC process. The TWIC program is also often used as a template and guide for other employee background check processes.

However, the program is plagued with problems. Initial TWIC denials are too often based on inaccurate criminal records. Redundant state background checks and worker credentials should be eliminated because they worsen delays, cause unnecessary expense, and exacerbate inappropriate denials of applications by creating hodgepodge standards with which port employees and employers must comply.

The new Administration should ensure that only accurate, up-to-date records from FBI and/or state databases are used and full due process rights are provided in TWIC and other employment-related security checks. Additionally, the new Administration must encourage TSA and its contractors to improve performance dramatically, provide better service to TWIC applicants, address the needs of non-English speakers, and improve worker education about disqualifying offenses as well as waiver and appeal rights.

Issue Administration statement clarifying U.S. Policy on foreign ownership/control and cabotage in the context of U.S.-EU negotiations

United States-European Union talks over a Stage 2 Open Skies agreement will be ongoing as the new Administration takes office. This market opening deal is designed to increase service opportunities for U.S. and European carriers traveling across the Atlantic. The EU will continue to push for complete liberalization by calling for elimination of restrictions on foreign ownership and control and for lifting existing restrictions on "point-to-point" domestic operations, or cabotage, which is currently reserved under law for U.S. citizens. Upon taking office, the new Administration should state clear policy opposing foreign control and ownership of U.S. air carriers and the lifting of existing cabotage restrictions.

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Cancel Cross Border Pilot Program

Since the early days of the Bush Administration, the President has sought to grant Mexico-domiciled motor carriers unfettered access to U.S. highways. In pursuing this policy through a recent pilot program, the Administration has ignored the safety and security threats posed by allowing poorly regulated and virtually un-inspected trucks to enter unencumbered onto American highways. Despite a Congressional bar in recent appropriations legislation[12], the Bush Administration has moved forward with a pilot program permitting a certain number of trucks to gain authority to travel onto U.S. highways. Undoubtedly, this move to liberalize cross-border transportation will eventually phase in bus commerce as well.

The continuation of the pilot program is against the law and does not address the numerous safety and security problems embodied in the poorly conceived cross-border transport provision of the North America Free Trade Agreement (NAFTA). If the flawed cross-border pilot project is allowed to continue, U.S. bus companies and their employees will be the next to face unfair competition from operators who evade U.S. regulatory requirements including key safety rules. The new Administration has a chance to restore confidence in the Department of Transportation's ability to comply with Congressional directives by blocking cross-border transportation commerce that threatens highway safety.

Issue and enforce regulations mandating that training requirements specified in transportation security bills be fulfilled

Since 9/11, Congress has taken aggressive steps to shore up many security risks in our transportation system after years of Bush Administration inaction. Specifically, Congress has mandated security training requirements for rail,[13] bus,[14] transit,[15] aviation[16] and maritime and longshore[17] workers. The Bush Administration in general has failed to adequately enforce new training requirements, missed critical deadlines for program implementation and where training programs do exist they are too often inconsistent and not in compliance with Congressional directives.

Transportation worker security training is a critical component to keeping the country's transportation systems safe for the public and working men and women. It is imperative that the new Administration fully implement existing security training requirements for front-line transportation workers.

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[12] Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008, S. 1789, 110th Cong., 2d Sess. (2007).
[13] Implementing Recommendations of the 9/11 Commission Act of 2007. Pub. L. No. 110-53 Stat. 121, § 1517 (2007).
[14] Implementing Recommendations of the 9/11 Commission Act of 2007. Pub. L. No. 110-53 Stat. 121, § 1534 (2007).
[15] Implementing Recommendations of the 9/11 Commission Act of 2007. Pub. L. No. 110-53 Stat. 121, § 1408 (2007).
[16] Aviation and Transportation Security Act (S. 1447). Pub. L. No. 107-71 Stat. 597, § 44918 (2001).
[17] SAFE Port Act (H.R. 4954). Pub. L. No. 109-347 Stat. 1884, § 113 (2006)

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Suspend and Review New Drug and Alcohol Testing Procedures

On June 25, 2008, the DOT published a final rule on new procedures for the Transportation Workplace Drug and Alcohol Testing Program (OST-2003-15245) which greatly expanded when and how workers would be required to have a specimen collected while being directly observed by a designated individual. TTD and a number of unions and transportation employers filed petitions with DOT asking for reconsideration of the rule. In response, DOT announced that it would proceed with the part of the final rule that imposed new and invasive procedures with direct observation was required but postponed implementation of expanding direct observation to all follow-up and return-to-duty tests until November 1, 2008 and asked for public comments. On October 22, 2008 DOT announced that it was proceeding with this part of the rule and that starting November 1, 2008 DOT would require expanded direct observation for all follow-up and return to duty test. Despite claims to the contrary, DOT has failed to demonstrate that direct observation for all follow-up and return to duty tests is warranted. Nor has the agency shown that the expansive procedures now in place, which include requiring employees to remove clothing to demonstrate they do not have a prosthetic device, are actually needed to combat potential rule violations. For these reasons a new Administration must reconsider the reach of this rule and the specific procedures now required.

Improve Fire Fighter Standards at Airports

The current FAA standards related to fire fighter response times, staffing, equipment and mission are out of date and need immediate improvement. Under the current standards far too many airports are left unprepared to respond in a timely and effective manner to fire emergencies and potentially hazardous materials incidents and accidents. While there was a provision included in the House-passed FAA bill that would address this issue, the new Administration can and should move forward to implement new Aircraft Rescue and Fire Fighting (ARFF) standards. Specifically, the new regulations should follow and be in compliance with the voluntary, consensus standards established by the National Fire Protection Association.

Clarify Wet Lease Policy

The new Administration should issue a statement that it will not grant authority to foreign carriers to wet lease aircraft to U.S. carriers if a labor dispute is underway in the U.S. In the U.S.-EU Stage One Open Skies agreement negotiated by the Bush Administration, a provision was included that would allow DOT, on a case-by-case basis, to decide whether a wet lease application would unfairly tilt the balance of power in a specific labor dispute. The U.S. government should not be in the position of even considering whether to allow U.S. carriers to use a wet lease from a foreign carrier to influence or break a strike in the U.S. and DOT should state clearly that they will not do so. In addition, DOT should amend its policy to require applications for authority to wet lease to be served on the union representing the applicable workers at U.S. carriers.

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FIRST YEAR PRIORITIES

Implement MOU and joint rulemaking establishing OSHA protections for flight attendants

For three decades the safety and health of flight attendants has been ignored by the Department of Transportation's FAA, which has jurisdiction over aviation employee safety. Since 1975, the FAA has claimed jurisdiction but has failed to issue sufficient safety rules for flight attendants. When OSHA conducted a survey[18] in 2000, it found an injury rate of eight percent among flight attendants, compared with a national average of 3.1 percent. (The Association of Flight Attendants-CWA found an injury rate of 10 percent). In 2000, the Clinton Administration's FAA and Department of Labor issued an MOU aimed at establishing OSHA safety standards for flight attendants, but the MOU has been suspended during the Bush Administration and no progress has been made toward its implementation for eight years.

The new Administration should initiate policy changes by re-starting the interagency cooperation between the FAA and OSHA and finally applying key OSHA standards to the cabin crew workplace.

Aircraft repair safety and security

Outsourcing of aviation maintenance has become an epidemic. Today 70 percent of aircraft maintenance performed by U.S. air carriers is outsourced – half of it is sent overseas where repair facilities do not meet rigorous U.S. safety and security standards. The new Administration's Department of Homeland Security and the FAA must meet their obligations under existing law. The 2003 FAA Reauthorization Act required the agencies to develop security rules by August 2004. Security audits of overseas repair stations performing maintenance on U.S. aircraft were to be conducted 18 months after the rules were finalized.[19] The security rules have not even been proposed and the audits have not been conducted.[20]

Similarly, although the Bush FAA has claimed that contract repair facilities operating overseas meet all FAA standards, in reality they do not, exposing air travelers to safety risks. For example, foreign repair station workers, even those working on U.S. aircraft, are not required to undergo drug and alcohol testing. Strict drug and alcohol testing standards apply for U.S. workers employed at domestic repair stations. Despite Congressional efforts spearheaded by Senators Claire McCaskill and Arlen Specter aimed at eliminating this safety loophole, the Republican Administration has allowed this dangerous double-standard to exist for far too long. The new Administration must reform

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[18] "Application of OSHA's Requirements to Employees on Aircraft in Operation," *FAA-OSHA Aviation Safety and Health Team First Report*, Dec. 2000.
[19] Vision 100-Century of Aviation Reauthorization Act, Pub. L. No. 107-176, 117 Stat. 2490, § 611 (2003).
[20] In the 9/11 bill, Congress specifically stated that if rules are not completed by August 2008 additional foreign repair stations cannot be certified and the timeframe for audits to be completed was shortened to six months after the rules were issued.

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the manner in which the FAA certifies and inspects maintenance and oversight performed at contract facilities. FAA employees must inspect overseas stations at least twice annually, and the Administration must reject agreements with foreign countries that allow foreign workers in lieu of FAA employees to inspect U.S.-certified repair stations. Additionally, until these safety and security standards are fully implemented, the new Administration should cease certifying foreign repair facilities and impose a moratorium on outsourcing of aircraft repair.

Support strong U.S.-flag merchant marine and key maritime programs and initiatives

The new Administration should acknowledge and support the critical role of the privately-owned United States-flag merchant marine - comprised of vessels crewed by licensed and unlicensed American merchant mariners - to our economic and military security during both peace time and as an auxiliary component of the U.S. Navy during wartime. Additionally, the new Administration should reaffirm support for the cornerstones of America's maritime policy. These fundamental elements of U.S. maritime operations include the Maritime Security Program, an essential part of the U. S. maritime transportation system, and the Title XI loan program, which promotes growth of the merchant marine by enabling owners of eligible vessels and shipyards to obtain long-term financing on terms and conditions that might not otherwise be available.

As cargo is the lifeline of the merchant marine, cargo preference programs requiring a certain percentage of government-generated cargo be carried on U.S.-flag vessels helps serve important economic and national interests. The new Administration should commit to continuing these programs that are instrumental in preserving a healthy U.S. maritime industry. Furthermore, the Jones Act, the nation's maritime cabotage law, preserves a robust pool of skilled civilian mariners capable of meeting the nation's strategic sealift needs; generates three-fourths of all commercial U.S. shipbuilding opportunities; and ensures that over 70 percent of the ocean-going self-propelled vessels in the Jones Act fleet are militarily useful. The new Administration should remain committed to upholding and enforcing Jones Act laws and to fighting attempts to undermine maritime cabotage protection policies.

Significant economic, environmental and security benefits will result from the increased investment in and development of a short sea shipping industry comprised of U.S.-flag commercial vessels built in the United States, owned by U.S. companies and crewed by U.S. citizen mariners. We encourage the new Administration to promote a transportation policy that recognizes the need for and prioritizes development of robust short sea shipping infrastructure. Additionally, we encourage the new Administration to promote legislation necessary to achieve a domestic short sea shipping industry including the Harbor Maintenance Tax (HMT), Title XI ship construction and port development.

The maritime security fleet, comprised of 60 militarily-useful U.S.-flag vessels crewed by U.S. citizen mariners, should be increased in order to better ensure that the United States has a greater number of American seafaring personnel and greater capability to support

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the Department of Defense and American troops in time of war or other international emergency. This fleet of U.S.-flag vessels and its crew of civilian mariners that enhances and strengthens maritime security and our nation's commercial sea power capability are significantly more cost-effective than if the Federal government had to do so without the partnership of the commercial maritime industry and the maritime security program. The new Administration should direct the Department of Defense and the Maritime Administration to determine whether and to what degree the maritime security fleet should be expanded.

The new Administration should also submit to Congress legislation that would extend section 911 of the Internal Revenue Code (relating to the exclusion from Federal income tax of income earned by American workers outside the United States) to American mariners working aboard liquefied natural gas (LNG) vessels. Such reform will facilitate and encourage the employment of Americans aboard vessels transporting LNG to the United States.

Oppose foreign efforts to include maritime services and programs in international trade negotiations

For over two decades, maritime labor has advanced the position that economic sectors that promote vital national interests, including security, should be excluded from unilateral and multilateral trade negotiations. It has been successfully pointed out to key legislators and policymakers that the coverage of domestic or international shipping matters in the World Trade Organization (WTO) and Free Trade Agreements (FTAs) would limit the ability of the U.S. to maintain and support an American-flagged, American-crewed and American-built merchant fleet. Inclusion of maritime services in trade pacts would eviscerate existing effective U.S. trade remedies, administered by the Federal Maritime Commission, that have helped to open up foreign markets. Coverage also would jeopardize promotional programs such as the Jones Act, financial assistance and investment requirements. For these reasons, the current exclusion of maritime transport services from U.S. trade negotiations must be continued.

Surface Transportation Reauthorization

The reauthorization of the highway and transit authorization bill, better known as SAFETEA-LU, which expires on October 1, 2009, is an opportunity for the new Administration to develop a blueprint to adequately fund the nation’s surface transportation system. There is no question that the investment needs of our nation’s transportation system, specifically those covered by SAFETEA-LU, are significant and the Administration must work with Congress to address these needs. In addition, the new Administration must support a SAFETEA-LU reauthorization that guarantees that all applicable labor protections apply to all current and new programs.

Specifically, the collective bargaining rights of workers in public transportation and commuter rail must be honored and supported. Section 13(c) collective bargaining protections – in the law since the 1960’s – are the cornerstone of stable labor-

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management relations at publicly supported and financed transit and commuter rail systems. These worker protections, administered by the Department of Labor, ensure that as the DOT distributes federal assistance to transit operators, the employees of grant recipients are not adversely affected and their bargaining rights are honored.

Similarly, Davis-Bacon prevailing wage requirements have been included in every major transportation investment legislation for 50 years. As Congress and the Administration prepare to rewrite transportation finance reauthorization legislation such as the highway-transit spending bills, Davis-Bacon requirements must be maintained and applied uniformly to all programs that may be considered.

By assuming a leadership role in dealing with the consequences of permitting our transportation infrastructure to collapse - as Americans witnessed in Minneapolis last year - the new Administration has the opportunity to make this the generation that rebuilt our aging infrastructure.

Implementing Amtrak Reauthorization

In the 110th Congress, Amtrak Reauthorization was finally signed into law providing the carrier with authorized funding levels that will help it address years of under-funding. Maintenance cutbacks and deferrals have been severe, improvements and upgrades to the equipment and infrastructure have been delayed, security needs have gone unaddressed. In addition, Amtrak must be provided with sufficient operating funds including adequate resources to meets its obligations under collective bargaining agreements recently agreed to by the carrier and its unions. We remain concerned that provisions of the new law could establish a framework for dangerous privatization experiments that will jeopardize or national system and the service it provides to millions of passengers. As the Administration implements this law, it must remember that Amtrak was born out of failing private passenger rail operations and that the recent British rail privatization disaster provides ample evidence that passenger rail privatization is a failed model. Finally, the Administration must oppose efforts to eliminate Amtrak jobs through contracting-out schemes such as an earlier attempt to outsource reservation positions overseas.

Airline Bankruptcy

Airline workers have had far too much experience with bankruptcy courts dictating new terms for previously adopted collective bargaining agreements and guaranteed pensions. Reform is urgently needed to restore balance and basic fairness for workers under the Bankruptcy Code.

The Federal Bankruptcy Code establishes a system,[21] commonly referred to as the 1113 process, by which employers can seek judicial permission to reject and thereby breach collectively-bargained obligations to their employees, and impose alternative pay and working conditions. This process was originally intended to prevent employers from

[21] 11 U.S.C. §§1113(a), (b)(1)(A), and (c)(3).

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using the Chapter 11 process as a tool to eliminate the binding, long and hard-fought pay and working conditions secured by collective bargaining agreements.

However, instead of safeguarding employees, the section 1113 process is being used by employers and bankruptcy courts sympathetic to debtor corporations to destroy collective bargaining agreement rights. The new Administration may very well take office at a time when financial distressed airlines are considering various options including mergers and bankruptcy. The new Administration should support reform of the Chapter 11 process ensuring that aviation employers do not continue to use bankruptcy and the federal courts to eviscerate collective bargaining agreements.

Declare support for FMLA legislation for flight attendants and pilots

Because of unusual time-keeping methods in the airline industry, flight crews find it difficult – if not impossible – to meet the 1,250-hour per-year threshold required for Family and Medical Leave Act (FMLA) eligibility. Pilots are not even allowed to approach that threshold due to safety rules. The unique nature of flight crew members' jobs includes performing numerous duties beyond recorded flight time. However, flight time is the only duty considered during calculation of hours worked toward FMLA eligibility. Examples of time that do not count toward FMLA coverage include layovers between connecting flights and overnight stays in cities away from families and homes.

Legislation pending in the 110th Congress gives FMLA protections to pilots and flight attendants. In May of 2008, the House of Representatives overwhelmingly approved the Airline Flight Crew Technical Corrections Act by a vote of 402-9. Companion legislation with over 30 cosponsors has been introduced in the Senate. [22]

If a bill granting FMLA protections to pilots and flight attendants fails to receive Congressional and Bush Administration approval, we urge the new Administration to support completion of this initiative early in 2009.

Enforce Rulemaking mandating one level of security for passenger and all-cargo air carriers

The revitalized focus on aviation security after 9/11 revealed that security regulations pertaining to cargo operations are inadequate and that the all-cargo airline industry is often exempted from complying with the stricter policies that are mandated for passenger airlines. A rule on Air Cargo Security Requirements was published in the Federal Register in November of 2004. It ultimately became a final rule in May of 2006.[23] Although the final rule mandated a number of major improvements to the security of the air-cargo supply chain, it still failed to apply an equal standard to the security of passenger and all-cargo operations in critical areas. Furthermore, deadlines for a number of facets of the final rule have been extended multiple times, and full implementation of the final rule has not yet been achieved. Cargo and passenger airliners should be viewed

[22] Airline Flight Crew Technical Corrections Act , H.R. 2744, 110th Cong., 2d Sess. (2007).
[23] 71 FR 03478; 5/26/2006

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equally in terms of susceptibility and exposure to risks associated with hijackings, improvised explosive devices and chemical, biological and radiological hazards.

The new Administration should address this problem and enforce provisions in the 2006 Rulemaking mandating equal security standards for passenger and all-cargo air carriers.

Regulate safety and ADA standards for curbside buses

The bus industry has seen the rise of low cost bus companies that in many cases operate outside federal safety requirements. Additionally, these non-regulated bus companies often fail to abide by federal Americans with Disabilities Act (ADA) requirements to safely accommodate disabled riders. Circumventing safety and ADA standards puts unsuspecting riders in danger and gives shadow, low-cost bus companies an unfair advantage over legitimate carriers who invest in, maintain and oversee equipment that meets government standards. Congress did pass the Over-the-Road Bus Transportation Accessibility Act in the fall of 2008 to ensure that all bus providers are held to ADA standards. The new Administration and the DOT must ensure compliance with this new law and vigorously regulate these so-called "curbside" operators and ensure that they do not compete unfairly against companies such as Greyhound by skirting safety requirements.