

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



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-



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 meet 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).



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



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.