



A bold voice for transportation workers

June 4, 2021

U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: DOT-OST-2021-0036

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Department of Transportation's request for comment on its notice entitled Notification of Regulatory Review. TTD consists of 33 affiliate unions representing workers in all modes of transportation. We therefore have a vested interest in this policy.¹

The notice announces DOT's intention to review its existing regulations and other agency actions to align with recent executive actions regarding public health, climate change, and regulatory processes. As noted, Executive Order 13990 sets a national "...commitment to empower our workers and communities, promote and protect our public health and the environment ... and the creation of the well-paying union jobs necessary to deliver on these goals." This order directed all executive departments and agencies to conduct a review of regulations to ensure that regulatory policies align with these priorities. Executive Order 13992 further directed executive departments to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing revoked executive orders, stating that "executive departments and agencies ... must be equipped with the flexibility to use robust regulatory action to address national priorities."

TTD welcomes and applauds President Biden's clear executive orders. We concur that robust regulations and policies are needed to promote well-paying union jobs and the safety and dignity of workers. Transportation workers are vital for the health, security, and success of our country. This past year has shown us exactly how much we rely on our transportation system to deliver critical cargo, enforce health guidelines, and ensure the continuous operation of essential functions. Workers represented by TTD affiliated unions have gone into work facing uncertainty and personal risk to ensure that our transportation system is there when we need it. Their sacrifices underscore the need for a strong regulatory agenda that puts their needs at the forefront.

¹ Attached is a list of TTD's 33 affiliated unions.

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer



During the previous administration, DOT has neglected to properly wield its authority and has made minimal to no progress to improve safety for working people. There have been numerous issues that have posed direct threats to transportation workers and system safety where the previous administration has failed to provide decisive leadership and has instead abdicated its authority to the industry itself, even in the face of issues which posed direct threats to transportation workers and system safety.² Trump's DOT also failed to make progress on a number of key congressional mandates that would protect workers and create jobs, and instead focused on working with industry to find ways to eliminate worker protections. At the same time, some modal agencies directed focus towards rubberstamping nearly every request from corporations to cease compliance with long held standards.

DOT now has the opportunity to assert its leadership to support transportation workers by proactively ensuring that their work environments are safe and minimizing risks. The transportation industry is continually adapting to evolving conditions, and DOT has a duty to examine the realities of today's industry. It is critical that the Department understands where existing regulations are no longer keeping up with emergent needs such as new operational models or technologies. DOT has a responsibility to ensure that new technologies and practices are properly regulated before inviting unneeded risks such as fatigue, unfair treatment, and unsafe conditions into our transportation networks. Our transportation workers need a vigilant and active DOT because safety only comes through diligent effort.

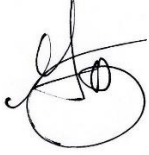
DOT also has the ability to craft and defend regulatory frameworks that ensure the transportation industry provides good middle-class jobs and can expand economic opportunity. Existing regulations that preserve the rights and jobs of workers, guarantee living wages, and ensure that federal spending benefits U.S. workers and companies are key tenets of a pro-worker regulatory regime. Regulations and other policies that promote domestic industries and job growth must be prioritized, implemented, and fully enforced.

We believe the best way for DOT to achieve a pro-safety, pro-worker, pro-union agenda is to include frontline workers and their unions in every aspect of the regulatory process and oversight of the industry. Workers are the undisputed experts in implementing transportation safety and operations—because they quite literally do it every day for a living. Their insight is indispensable, and we call on DOT to ensure their voices are heard in the review, crafting, and enforcement of regulations. This is particularly salient as the transportation sector continues to innovate rapidly, and we look to generational efforts to build transportation infrastructure projects that will have transformative effects for the nation's economy and workforce. Transportation labor must continue to be a key partner in these developments.

² <https://ttd.org/news-and-media/fta-fails-to-protect-transit-workers-from-violent-assaults/>

Finally, while not an exhaustive list, please find attached a number of regulatory priorities TTD has previously submitted to the administration.³ We appreciate the opportunity to comment on DOT's regulatory review and look forward to working with the Department going forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', with a large circular flourish at the end.

Greg Regan
President

³ <https://ttd.org/wp-content/uploads/2021/06/Transportation-FINAL.pdf>



Transportation Trades Department, AFL-CIO
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TTD MEMBER UNIONS

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Longshoremen's Association (ILA)
International Organization of Masters, Mates & Pilots (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Aviation Safety Specialists (PASS)
Sailors' Union of the Pacific (SUP)
Sheet Metal, Air, Rail and Transportation Workers (SMART)
SMART-Transportation Division
Transportation Communications Union/ IAM (TCU)
Transport Workers Union of America (TWU)
UNITE HERE!
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)
United Mine Workers of America (UMWA)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service
Workers International Union (USW)

These 33 labor organizations are members of and represented by the TTD



WORKERS FIRST AGENDA

Transportation

COVID-19 RESPONSE

THE PEOPLE WHO BUILD, OPERATE AND MAINTAIN our nation's transportation systems are struggling, as are most Americans, with the scope and effects of the COVID-19 pandemic. Seven months into the pandemic, it is clear that it is not slowing down and that the federal government has failed to provide the economic and health care aid that working people need. A Biden administration will need to deal with these crises immediately. Specifically, it must adopt policies that:

- Address the public health crisis by preventing the spread of the disease and keeping workers safe on the job.
- Provide additional, worker-focused economic stimulus for transportation networks.
- Provide long-term economic stability for transportation workers and the systems they support.

CONFRONTING THE PUBLIC HEALTH CRISIS

Although many employers are telling employees to work from home, front-line transportation and hospitality workers cannot just log into a computer to do their jobs. Bus drivers, port workers and longshoremen, mariners onboard ships, train operators, airline pilots, flight attendants, mechanics, highway and road maintenance crews, passenger service agents, and others must be physically present to perform their duties. It is therefore incumbent on government agencies and employers to ensure that working people are given the guidance, training, resources and equipment to both keep themselves healthy and to prevent further spread of the virus.

This starts with strict and sector-specific guidance from the Centers for Disease Control and Prevention (CDC) for all front-line transportation workers. These guidelines must recognize all modes of viral transmission, including the inhalation of infectious aerosols, and stress employer responsibility for providing and maintaining a safe work environment. Further, the Occupational Safety and Health Administration (OSHA) must issue an emergency temporary standard to protect working people from occupational exposure to infectious diseases, including COVID-19. The Department of Transportation (DOT) also should issue emergency rules requiring the use of facial coverings by all passengers and employees; clear standards on sanitization and disinfection; an upgrade of heating, ventilation and air conditioning systems in facilities and rolling stock equipment with advanced technology developed to combat the COVID-19 virus; protocols for employee notification of potential COVID-19 exposure; and the provision of personal protective equipment (PPE) in transportation systems and facilities—a step the Trump administration recently refused to take.

Finally, COVID-19 tests must be free and available to everyone to ensure prompt diagnosis and treatment. The lack of adequate testing allows public health officials to understate the true scope of the virus and prevents individuals from making informed, intelligent decisions when deciding whether to go to work or remain on the job. Widely available tests and clear federal guidance on testing protocols will greatly benefit public health and increase public confidence in the safety of travel.

IMMEDIATE ECONOMIC ASSISTANCE

The Coronavirus Aid, Relief and Economic Security (CARES) Act provided economic relief for millions of Americans when it was passed earlier this year. As of October, a second round of economic relief has yet to be enacted, despite obvious and desperate needs. Even if Congress and the administration manage to pass a second round of economic relief, it is clear that more will be needed early in the next year. This includes substantial funding for transit systems, airlines, Amtrak, and state and local DOTs. A comprehensive, forward-looking transportation and infrastructure bill is needed to address the long list of outdated and underfunded transportation systems, as well as to provide long-term economic stimulus to help lead our nation out of the current economic recession.

FIRST 100 DAYS

Vice President Joe Biden's proven leadership on infrastructure could not come at a more crucial time. Estimates just to maintain our existing infrastructure assets and levels of service were in the trillions—but we know that the status quo is not good enough. A comprehensive infrastructure plan must be central to a Biden administration's first 100 days in office. All Americans depend on good, accessible and reliable transportation infrastructure and services to access job opportunities and critical services like health care.

Yet, all Americans are not served equally by our transportation network. Too many of us lack access to public transportation. The economic futures of too many of our towns and cities are put in needless jeopardy because of inadequate or crumbling roads and bridges. Our air and sea ports cannot keep up with demand and are falling behind the rest of the world. And no American is well served when the major federal programs that authorize funding for infrastructure are strung together by months or years of short-term extensions, as we are currently facing with the expiration of the Fixing America's Surface Transportation (FAST) Act.

COVID-19 has only compounded these problem. Fear of traveling, major revenue shortfalls and an inconsistent federal response have left state departments of transportation, public transportation agencies and airports in dire need of revenue. The impacts of these shortfalls will be felt by all Americans—and particularly by the hundreds of thousands of front-line workers whose jobs are in jeopardy because of the shortsighted failure of President Trump to step forward and show leadership in protecting their industries. If we allow investments in infrastructure to grind to a halt and good jobs in our country to be left behind now, we do nothing more than hinder our ability to recover from this crisis and return to our normal lives.

The Moving Forward Act (H.R. 2), which was passed by the House earlier this year, laid out important policy benchmarks that should guide efforts in 2021. That bill provides historic investments to rebuild

and repair our transportation system while creating and sustaining good jobs for working Americans. To ensure our transportation infrastructure works for all Americans, Biden should take the following actions:

CHAMPION SUSTAINABLE, LONG-TERM FUNDING FOR THE HIGHWAY TRUST FUND

In October 2020, President Trump signed a one-year extension of the FAST Act surface transportation law after Congress failed to act on a long-term reauthorization. It is a pattern we have seen too many times over the past 15 years, and one that we must put to an end. Between 2006 and 2016, Congress passed a staggering 36 short-term extensions of the federal surface transportation program. The simple fact is, until Congress and a presidential administration can agree on a path forward for sustainable, long-term revenue, we are in for more of the same.

This strategy of kicking the can down the road has serious impacts on our infrastructure, our workforce and every family in America. It creates uncertainty at state departments of transportation, leading to delayed or canceled bids and increased costs for highway and transit projects. [As noted in one report](#), at least seven states halted projects altogether in the face of uncertainty about long-term funding in 2015 at the expiration of the Moving Ahead for Progress in the 21st Century Act (MAP-21). It prevents transit agencies from conducting reliable, long-term capital expense planning. It all takes a toll on America's commuters, who deserve better.

A Biden administration must prioritize shoring up the Highway Trust Fund to guarantee these investments in America's jobs and economy for generations to come. The Transportation Trades Department (TTD), AFL-CIO, has long maintained that a user-pays system is the best, most efficient way to ensure the solvency of the trust fund; however, the administration will be faced with two significant challenges in meeting our infrastructure needs through a user-pays system in January.

- Americans are still facing significant financial challenges because of COVID-19, and we aren't out of the woods yet. There are still about twice as many people out of work now than before the pandemic, and a growing number of people are losing jobs permanently as businesses close for good. In the short term, the administration should take advantage of historically low borrowing costs to provide us the chance to make necessary and lasting improvements in our transportation network cheaply, without raising costs at the pump for out-of-work or struggling Americans, while simultaneously putting Americans back to work improving economic growth.
- In the long term, we know that the transition to low- or no-fuel vehicles will continue to render our current user fee structure significantly less effective. The administration should aggressively expand and investigate the potential for a mileage-based user fee that will ensure all Americans are paying equally into the system.

INVEST IN A 21ST CENTURY RAIL SYSTEM

The new administration should advocate for a robust rail safety and passenger rail title as part of any surface reauthorization that includes robust funding for Amtrak and rail infrastructure grant programs, including those who seek to expand the nation's rail network such as high-speed rail, and address needed investments in grade separations and crossings. This plan should include guarantees that the conditions of such funding do not sever workers from relevant labor protections, that employees who are covered by the Railway Labor Act and the Railroad Retirement Act due to the nature of their work continue to be covered, and that funding arrangements support, not undermine, longstanding

statutory coverage of rail work. Further, the new administration should advance provisions that promote and preserve Amtrak service, its products and its workforce, and ensure that its board is representative of Amtrak users and supporters of a national network.

In terms of safety, there are several regulatory actions that the administration should take immediately, which are detailed below. However, a reauthorization bill can and should be a vehicle to address important safety improvements statutorily. This includes the requirement that most freight rail trains operate with two qualified crew members, and required studies of new trends in the railroads industry that pose threats to safety, including Precision Scheduled Railroading and dangerously long trains.

GUARANTEE STRONG LABOR PROTECTIONS IN NEW OR EXPANDED FUNDING AND FINANCING PROVISIONS

The labor movement expects that the Davis-Bacon Act (DBA), Federal Transit Act Section 13(c), domestic preferences, and other protections for rail and public sector employees apply to any federally funded or federally financed infrastructure proposal put forward by a Biden administration. TTD has worked to ensure two recent policy measures in that regard—the attachment of strong labor protections in a pilot program for expediting transit Public-Private Partnerships (P3s) in the FAST Act and transparency provisions in Section 1507 of the America’s Transportation Infrastructure Act of 2019, which a Biden administration should look to as examples as the norm for future transportation legislation. At the same time, we oppose federal subsidies or other federally sanctioned financial arrangements that encourage the privatization of any public jobs designing, maintaining and operating infrastructure.

As a matter of executive action, labor protections in P3s that do not displace public workers could be further strengthened by adopting the Labor Best Practices chapter, developed jointly by the Department of Labor (DOL) and Department of Transportation during the Obama–Biden administration, to apply to all federally assisted P3 agreements. Labor best practices provisions will be incorporated in model contracts, as preferences or requirements during the bidding process or required in contracts. This will include:

- The Davis-Bacon Act (DBA) and Federal Service Contract Act (SCA) covering wages and fringe benefits for construction and service employees, respectively.
- Nondisplacement policies, including Section 13(c) of the Urban Mass Transportation Act, Executive Order 13495 (governing nondisplacement of Qualified Workers Under Service Contracts) and rules related to the privatization of federal government work (48 CFR § 52.207-3). Section 13(c) is the most expansive model and protects employee rights, including the continuity of collective bargaining rights, when federal money is used to acquire, operate or improve a transit project.

Finally, as state DOTs and others have called for increased cross-modal flexibility in DOT grants, Biden must ensure that under any such arrangement, the protections imposed should cover all affected employees, regardless of the mode or statutory funding source.

STRENGTHEN AMERICA’S PUBLIC TRANSPORTATION SYSTEMS

The public transportation sector has been incredibly hard hit by the current health and economic crisis, but Americans will return to work and our systems will undoubtedly return to their previous capacity. To prepare for this, we must make smart investments now that keep our public transportation systems strong and healthy.

First, we know there is a clear link between increasing reliable transit service and increased ridership. Prior to the COVID-19 pandemic, cities across the country benefited from this positive trend in recent years after making significant investments in their transit systems, and certainly will again. Any infrastructure plan put forward by a Biden administration must support public transit through significantly increased funding to ensure that our transit systems are still there to support the American people when we return to normal. Additional measures, such as providing funding flexibility for federal dollars to support operating expenses, should be embraced at least for the duration of the current crisis.

Second, despite their industry-touted benefits, recent technological advancements, including automation and mobility-on-demand services, pose a serious threat to goals of public transportation and to good jobs for workers on the front lines if not implemented in a way that guarantees good jobs, equity, sustainability and safety. Joe Biden can ensure that technology enhances transit without undermining these goals by:

- Prioritizing funding for existing public transportation systems and ensuring that new entrants are not allowed to compete with and undercut those services.
- Creating workforce policies for the federal funding of new transit technologies, including autonomous vehicles (AVs) and mobility on demand, that create:
 - Obligations of employers to notify employees prior to job eliminations or significant changes in responsibilities due to the introduction of new technologies, as well as to train the existing workforce for jobs being created.
 - Right-of-first-refusal for existing employees to newly created jobs.
 - Requirements for employers and employees to bargain in good faith over the terms of implementing the project, including requiring such changes be a mandatory subject of bargaining.
 - Proactive policies to ensure the manufacturing and development of new technology is done within the United States and that new jobs created are high quality and unionized to the extent allowed by law.
- Enacting a new regulation in 2 CFR covering federal funding to nonfederal agencies for transportation, infrastructure and new technology subsidies, grants and contracting that requires:
 - A certification that workers performing the work are properly classified as employees under the simple and objective “ABC test,” which only allows a hiring entity to classify a worker as a contractor if the hiring entity can prove: (A) the worker is free from control both under the contract and, in fact; (B) the worker is performing work outside the usual course of the hiring entity’s business; and (C) the worker was customarily engaged in an independently established trade/business of the same nature as the work being performed.
 - The company receiving the federal funds through a grant or contract will be responsible for the costs of upgrading fleet technology, rather than shifting costs off onto individual drivers.
- A Workforce Impact Assessment (WIA) prior to the implementation of any AV or mobility-on-demand project that receives federal funding to operate on public roads. This WIA will be required as a condition of the receipt of any federal funds and any federal or federally assisted contracts. The WIA should evaluate jobs created or improved by new investment and innovation; jobs lost, disrupted or made lower paying by new technologies.

SUPPORTING AMERICA'S DOMESTIC MANUFACTURING

Despite the claims of President Trump, domestic manufacturing has not thrived under his leadership over the past four years. Worse still, the minimal gains we have seen in domestic manufacturing under Trump have been wiped out by the COVID-19 crisis—with 740,000 manufacturing jobs lost this year alone, as of August 2020. Vice President Biden can spur real growth in domestic content and manufacturing by taking the following actions:

- Require the secretary of transportation, other federal agencies, as appropriate, and modal administrations—Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA) and others—to develop a single, strong Buy America standard for all federal spending. This will encompass federal highway and transit funding, federal grants, federal loan or credit enhancement programs, such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), State Infrastructure Banks (that involve federal financing), or public-private partnerships.
- Ban attempts to avoid Buy America requirements by requiring federal agencies to prohibit project sponsors from breaking up federally funded projects into smaller parts, segments or phases, as a condition for federal assistance, federal grants or federal loans. Most recently, that the Washington Metropolitan Area Transit Authority (WMATA) has gone out of its way to avoid Buy America in the procurement of new rail cars should raise significant red flags for this administration. It is a precedent that must not be allowed to be set.
- Use the next generation of clean vehicles to drive growth in American manufacturing. Clean energy deployment can drive job growth by guaranteeing that investments in electric vehicles (EV) and EV supply equipment infrastructure are designed to support high-quality, good-paying union jobs. Safeguarding the characterization of a “high-quality” job can be accomplished by clearly defining the attributes of the employer and wages and benefits the worker earns. Additionally, federal investments for publicly available, passenger electric vehicle refueling infrastructure should be tied to the industry-labor developed Electric Vehicle Infrastructure Training Program (EVITP) standards. Requiring EVITP-certified electricians to install EV supply equipment, which is already being done in California and Nevada, not only ensures good jobs, but will guarantee Americans’ tax dollars are being used to provide the best value by using only the most reliable, high-skilled workers.
- Significant investments in battery electric buses, along with the necessary training to ensure the incumbent workforce can maintain and operate those technologies and install the requisite infrastructure, will not only create more jobs in public transportation, but will drive domestic manufacturing and significantly reduce greenhouse gas emissions. We also strongly support an EV cash-for-clunkers style program, [as recently proposed by Senate Minority Leader Chuck Schumer](#), tied to strong domestic content and manufacturing protections to sustain and create good jobs right here in America, where they are needed the most.

EXECUTIVE AND REGULATORY POLICY

The Trump administration has left every mode of transportation, as well as their workforces, in worse shape. In some cases, the administration has ignored congressional directives that would improve safety and working conditions or enhance U.S. competitiveness. In other cases, his administration has taken proactive positions that undermine transportation workers.

A Biden administration would have an opportunity to take our transportation sector in a new direction that will make our country safer, more competitive and better suited to meet our national needs. Below are the specific executive actions and policy positions that a new administration should take to achieve this shared goal.

DAY ONE EXECUTIVE ACTION

FEDERAL EMPLOYEE RIGHTS

In order to determine the scope of the problem at each federal agency, the Biden–Harris transition team should meet with the unions representing employees at each of the federal government’s agencies. Career civil servants can provide the most accurate perspective of how the Trump administration has undermined agency missions and the damage it has caused to the necessary functioning of each individual agency and department. The unions that represent these civil servants are the best source of information to ensure the Biden–Harris team has the details necessary to correct the course at each agency.

- President Biden should immediately withdraw Executive Orders (EOs) 13836, 13837 and 13839. In May 2018, President Trump issued three EOs that negatively affect federal employees and their unions. These EOs have multiple negative effects, including: (1) expediting the process for removing federal employees in performance-based adverse actions; (2) reducing the number of official time hours on union representation government-wide; (3) reducing the subjects agencies and unions can negotiate; and (4) reducing the time it takes to negotiate a collective bargaining agreement and reducing the costs contained within them.
- Due process protections for federal workers (EOs 13836 and 13839): These EOs signed by President Trump on May 25, 2018, direct agencies to reopen collective bargaining agreements and impose unfavorable terms on federal workers, while encouraging agencies to adopt policies that erode fairness concepts such as progressive discipline, performance improvement plans, seniority and grievance filings for performance appraisals. The result of the EOs have frustrated the ability of labor and management to collaborate to the benefit of the employees and taxpayers, and has instead fostered a work environment ripe for distrust and inefficiency.
- Official time (EO 13837): By law, federal employee unions are required to provide representation for all employees in units that have elected union representation, even those who choose not to pay dues. Federal employee unions also are forbidden from collecting any fair-share payments or fees from nonmembers for the services, which the union must provide by law. In exchange for the legal obligation to provide the same services to all employees regardless of whether they pay dues or not, the Civil Service Reform Act of 1978 establishes a right to use official time to perform these official mandated representational duties, with agencies and unions instructed to negotiate over the appropriate use of official time. Under this law, federal employees who serve as union representatives are permitted to use official time to engage in negotiations and to perform other representational activities on duty status on behalf of the employees they represent in an effort to increase the efficiency and effectiveness of the federal workforce. Indeed, the law provides the amount of official time that may be used is limited to that which the labor organization and employing agency agree is reasonable, necessary and in the public interest. As pointed out in a Congressional Research Service report, “(a)ny activities performed by an employee relating to the

internal business of the labor organization must be performed while in a non-duty status.” Thus, the argument that official time is taxpayer-funded union time is false and malicious, designed to deceive the public. EO 13837 guts the use of official time, is intended to make it all but impossible for federal unions to represent their members and should be rescinded.

- Further, President Biden should authorize unions, at their election, to reopen negotiated agreements, whether voluntarily entered into or imposed by the Federal Service Impasses Panel (FSIP) or other process during the effective period of these EOs. President Biden should order, that once a union has elected to reopen negotiations, the status quo ante collective bargaining agreement shall be in effect. The president has the authority as the chief executive of federal agencies to order agencies to participate in permissive bargaining (bargaining that is permitted but not mandated by Chapter 71) and to voluntarily agree to comply with the terms of the last signed agreement.

DAY ONE—DAY 100 EXECUTIVE AND POLICY ACTIONS:

MARITIME

- **Full Compliance with U.S. Flagshipping Requirements**—U.S.-flag cargo preference shipping requirements mandate that a percentage of U.S. taxpayer-financed exports and imports be transported on privately owned U.S.-flag commercial vessels. The full implementation of the cargo preference requirements helps guarantee that America’s maritime jobs will not be outsourced and that the vessels that provide these jobs will have the cargo needed to operate and remain active in time of peace. The evasion of cargo preference laws by U.S. government agencies denies U.S.-flag vessels and American crews their lawful share of taxpayer-financed cargoes and diminishes the national defense capability provided by a strong and active U.S.-flag merchant marine. It is critically important that Ship American, like Hire American and Buy American, be the policy of the administration. It is imperative for the new administration to direct all federal shipper agencies and departments to fully comply with U.S.-flag cargo preference shipping requirements.
- **Full support of the Jones Act.** This law, enacted in 1920, is critical to the survival of the maritime industry, which has sustained American commerce and self-sufficiency since colonial times. The law ensures that companies engaged in domestic shipping comply with U.S. laws, and requires that vessels operating in shipping services between two U.S. ports be built in U.S. shipyards, owned by U.S. citizens and crewed by U.S. mariners. The domestic shipping and shipbuilding industry provides an estimated 500,000 jobs, including thousands of good-paying union jobs at no cost to the taxpayer and very little, if any, to the consumer. A strong maritime industry—U.S. flag ships and U.S. citizen mariners—is critical to the economic and military security of the United States. The Jones Act has stood the test of time; the new administration must support this key American industry and its workers.

TRANSIT

- **Autonomous Vehicles**—Many companies have begun selling autonomous technology to transit agencies for pilot projects and proving grounds. This technology comes with a long list of safety concerns and an uncertain effect on jobs. No federal funds should be approved for a project utilizing autonomous vehicles for transit unless the vehicle has been cleared by the FTA’s existing safety standards, and the larger project meets all federal requirements for labor protections, accessibility, and equity.
- **Rule on Transit Operator Assault**—Section 3022 of the FAST Act required the FTA to implement a rulemaking to address the problem of transit operator assaults. This rulemaking was dismissed by

the Trump administration without any effective action taken. This decision must be reversed and a new rulemaking to be completed as soon as possible that includes protective barriers, a direct communication connection to law enforcement and left-side exit doors for operators. TTD and our transit unions have sent a [letter](#) to DOT outlining the need to implement this rule quickly to better protect workers and passengers.

- **Transportation Network Companies (TNC)**—The Department of Transportation must ensure that TNCs that provide public transit services through contracts adhere to the same safety, labor and ADA rules that apply to public transit agencies.
- **New Technologies**—The FTA should establish a new framework that ensures federal dollars that are used by public transportation agencies to procure new technologies do not come at the expense of good jobs. Specifically, recipients of federal transit funding should be required to:
 - Complete a workforce impact assessment prior to the implementation of any project utilizing new technology for nontraditional transit services.
 - Notify employees prior to job eliminations or significant changes in responsibilities due to the introduction of those new technologies, as well as to train the existing workforce for jobs being created.
 - Provide right-of-first-refusal for existing employees to newly created jobs.
 - Bargain in good faith over the terms of implementing those technologies.
- **Application of 13(c) Labor Protections**—Ensure that the Department of Labor aggressively enforces transit employees’ labor protections under Section 13(c), now codified as 49 U.S.C. Section 5333(b), and applies said protections especially in instances where transit agencies implement operational and management changes (e.g., outsourcing).

PORTS

- **Port Performance Freight Statistics Program**—Section 6018 of the FAST Act established the Port Performance Freight Statistics Program to provide Congress with nationally consistent measures of throughput and capacity at U.S. seaports with input from a Federal Advisory Committee Act (FACA) Working Group. The program and the FACA Working Group have been used by multinational shipping companies to try and require the Bureau of Transportation Statistics (BTS) to provide productivity metrics that can be—and have previously been—used by the private sector to seek Taft–Hartley Act injunctions against port unions and to trigger reforms of the National Labor Relations Act (NLRA) provided for in complimentary pieces of legislation. The DOT must ensure that BTS’ annual report to Congress not include any productivity metrics and refrains from interfering in the collective bargaining process in the port sector.

RAIL

- **Two-Person Crew**—The Trump administration withdrew the Obama administration’s safety-critical proposed rule by the FRA that ensured that rail operations are staffed with an appropriate number of certified crew members and preempted numerous state laws that had established state-level crew requirements. We request that the FRA withdraw its preemption of state crew size laws and finalize a federal rule that requires most freight trains to be operated by a certified locomotive engineer and a certified conductor.

- **Precision Scheduled Railroading**—Over the past several years, freight rail carriers increasingly have deployed a new model of operating, Precision Scheduled Railroading (PSR), which puts Wall Street profits ahead of operational needs, good jobs and safety. In the PSR model, railroad’s singular concern is “efficiency” and cost savings. This manifests as dangerously thin head counts, speed over adherence to the intent of FRA’s safety regulations and worsening service for shippers whose business models are incompatible with PSR. The introduction of this model is a driving factor behind the loss of nearly 50,000 railroad jobs in the past four years. A Biden administration must examine and address the safety risks that PSR needlessly introduces into the rail sector, ensure that high-quality freight rail service is provided, and guarantee that the jobs of front-line workers are protected as this business model progresses.
- **Rail Worker Protections**—The administration must ensure that statutory protections that attach to federal rail grants are properly applied to affected rail workers. Grant or loan programs that apply to rail infrastructure should adopt rail employee protections provided by 49 USC 22905(c).
- **Safety Waivers**—Over the past four years, the Trump FRA has acted as a rubber stamp to railroads seeking waivers of key safety regulations, including equipment and track inspections, fatigue protections, and requirements to adequately and safely test new equipment. Frequently, these waivers have been granted without due consideration for safety, and with only the flimsiest justifications. FRA should embark on a review of the waivers it has granted in the past four years to determine which ones are inconsistent with safety, and it should reinstate safe operations and the protection of railroad workers and the public as the agency’s No. 1 priority.
- **Cross Border Rail**—In 2018, FRA began to allow Kansas City Southern Railway (KCSR) to operate into the United States using crews domiciled in Mexico, overturning decades of precedent that prohibited such practices. To date, it is completely unknown to what extent these crews are complying with U.S. safety and labor laws while they operate north of the border, and any determination to this effect was negotiated behind closed doors between KCSR and the FRA. In fact, in September the U.S. Court of Appeals for the District of Columbia Circuit ruled that the FRA behaved illegally in its effort to eliminate transparency and deny stakeholders the ability to review its conclusions. Separately, the same railroads have sought FRA’s approval to begin performing brake inspections in Mexico, despite a failure to comply with clear statutory requirements on the matter. Both efforts represent a concerted effort by the railroad to outsource U.S. rail jobs and undermine rail safety—a Biden FRA must reject efforts to do on both accounts.
- **Rail Infrastructure Investment**—Across the nation, major rail projects include both overdue critical maintenance needs and new developments capable of spurring major economic growth. Yet the Trump administration has repeatedly interfered in these projects—whether that is through a series of steps to undermine federal investment in the Gateway Project or canceling funding for California high-speed rail. Our nation’s rail infrastructure doesn’t have time for these exercises, and the Biden FRA and FTA should ensure that it takes the steps necessary to move these projects forward, as well as other key rail infrastructure priorities like steps to address the worsening traffic bottleneck due to outdated rail infrastructure at Chicago’s 75th Street Corridor.
- **Liquefied Natural Gas by Rail**—When publishing and finalizing a new rule to allow highly dangerous liquefied natural gas to be transported by rail, the Trump FRA neglected to include meaningful safety measures to adequately address the inherent risks to this type of operation. While the Pipeline and

Hazardous Materials Safety Administration's (PHMSA's) existing system of patchwork special permits also was not an acceptable state of affairs, the FRA must give further consideration to the safety risks associated with liquefied natural gas transportation.

MOTORCOACH/CMV

- **Meal and Rest Breaks**—Both California and Washington have adopted pro-worker laws and regulations that ensure employees in those states receive meal and rest breaks at work during long shifts. Under Trump, the Federal Motor Carrier Safety Administration (FMCSA) has denied these protections to commercial drivers, by preempting these requirements under thin pretenses. For drivers who transport passengers, like motorcoach drivers, the state-provided breaks were the only break they were entitled to during the day. The FMCSA should immediately reverse its meal and rest break determinations and restore dignified work conditions to drivers in California and Washington.
- **Safety Waivers**—As with the FRA, the FMCSA has granted waivers to safety-critical hours of service protections to nearly every entity that requested them. Most egregiously, FMCSA issued a July 2020 final rule that rolled back a number of hours of service (HOS) protections, falsely claiming the rule provided “greater flexibility for drivers.” Not only should the FMCSA repeal the HOS notice of proposed rulemaking (NPRM), it should carefully analyze the ongoing scourge of fatigue among commercial drivers and determine what actions may be appropriate to reduce fatigue and protection for commercial motor vehicle (CMV) drivers and the traveling public. In addition to the FMCSA, the PHMSA has been similarly overly permissive, granting numerous waivers and safety permits exempting entities from key safety rules on hazardous materials.

TRANSPORTATION PROCUREMENT

- **Buy America**—The Department of Transportation should increase enforcement for compliance with Buy America standards. The DOT has done an exemplary job of supporting Buy America policy; however, there remain concerns that waivers are sometimes granted without scrutiny of the applicants' true exhaustion of American sources of material.
- **Fly America**—The Fly America Act supports the transportation of U.S. government personnel and cargo on U.S. airlines and, as such, our national defense mission. The General Services Administration should return to the letter and spirit of the Fly America Act by awarding government contracts to fly passengers and freight to U.S. air carriers, not foreign carriers or U.S. code share partners. Fly America awards must only be granted to U.S. carriers that are capable of providing the service.
- **Manufacturing Employment**—The DOT should continue to encourage local and state transportation agencies to adopt a U.S. Employment Plan (USEP) as part of the bidding requirements for transportation procurements, including rolling stock. The USEP, which was developed by the Jobs to Move America coalition, helps ensure that federal transportation dollars are used to promote domestic job growth and greater employment opportunities for disadvantaged communities.

AVIATION

- **Flag of Convenience Airlines**—The next administration should take a hard line on air carriers that use flag of convenience or atypical employment schemes. This will require the DOT to reject new foreign air carrier permits for countries found to be operating these schemes or impose terms and conditions on existing air carrier permits for these operations or other violations of U.S. statutory

policy priorities regarding employment practices for foreign operators. The DOT must utilize the public interest test for air carrier permits and adhere to the economic regulatory criteria for such tests (49 USC § 40101(A)). Further, the State Department must change negotiating objectives for agreements to mandate the consideration of labor standards moving forward. For instance, Norwegian Air International was granted its permit in 2016 despite wide objection from unions and foreign and domestic airlines. Finally, the next administration should endorse and sign into law the Fair and Open Skies Act (H.R. 3632), which would ensure that foreign air carrier applications are not undercutting U.S. workers and airlines with unfair and predatory employment practices.

- **Enforceable Labor Standards in Open Skies Agreements**—Aviation open skies agreements must include enforceable labor rules to better protect U.S. workers. These basic labor principles can best be represented by the International Labor Organization (ILO) Conventions and accompanying jurisprudence. By adopting these standards, in addition to protecting U.S. foreign ownership and control laws, our government can ensure that international liberalization proposals will not negatively impact aviation employees. The United States must enforce and uphold Article 17 bis of the E.U. –U.S. Open Skies Agreement, which governs the diminution of labor standards.
- **Unmanned Aircraft Systems**—The Department of Transportation must ensure that Unmanned Aircraft Systems (UAS), or drones, are carefully regulated for both commercial and recreational use to ensure they are safely integrated into the national airspace. Commercial and recreational UAS pose new safety challenges for commercial planes and for emergency response aircraft. The administration must work closely with unions representing pilots, air traffic controllers, commercial aircraft dispatchers and emergency helicopter pilots to ensure that expanded UAS use does not pose a safety risk to our aviation system. The Federal Aviation Administration (FAA) should further regulate commercial operations of UAS aircraft, including licensing requirements of the pilots who operate these aircraft with qualifications similar to those of commercial airline pilots.
- **Airline Workforce Training and Qualifications**—Congress has directed the FAA to undertake many important safety reforms that were triggered by a series of tragic fatal accidents. Minimum licensing, training and qualifications requirements for pilots and mechanics working in FAR 121 airline service have been written in direct response to these accidents. These regulations have significantly improved airline safety, and any efforts to weaken these regulations must be rejected.
- **Cockpit Barriers**—The 2018 FAA Reauthorization Act included a requirement for the FAA to issue a rule within one year requiring all newly manufactured commercial passenger aircraft to include secondary cockpit barriers. A key recommendation from the National Commission on Terrorist Attacks Upon the United States, known as the 9/11 Commission, installing secondary barriers is a critical measure that would help keep the cockpit secure at all points during a flight. The Trump administration has failed to implement this mandate, and implementing a final rule for all newly manufactured aircraft should be a priority for a new administration. Further, the FAA and Transportation Security Administration (TSA) should require all-cargo aircraft to have hardened, primary cockpit doors and regulate the carriage of supernumeraries on all-cargo aircraft, particularly those to be carried on cargo aircraft not equipped with an intrusion-resistant cockpit door.
- **Two Pilots**—The administration should maintain pilot staffing levels as required by regulation, including 14 CFR 121.385.
- **Aircraft Safety**—Increase regulations and oversight of shippers to prevent shipments of undeclared dangerous goods. Develop requirements for packaging and enhance regulations for shipments of

all lithium batteries. Implement 14 CFR Part 121 rule making to regulate the use of nonmotion flight training devices during training.

- **Pilot Fatigue**—The administration should implement a rule that creates a uniform regulatory standard for pilot flight time, duty time and rest by placing all-cargo operations under 14 CFR Part 117. At present, all-cargo pilots fly operations that result in greater fatigue and risk.. The current rules, which were updated after the 2009 Colgan Air crash, did not apply to all-cargo airline operations who share the same airspace as passenger airline operations, and deserve one level of safety.
- **Flight Attendant Fatigue**—The 2018 FAA Reauthorization Act included a requirement for the FAA to issue a rule within one year requiring a mandatory 10-hour rest period for flight attendants. The Trump administration has failed to implement this mandate— a change that would require a one-word adjustment to current regulation—instead choosing to proceed with an advance notice of proposed rulemaking (ANPRM) for the sole purposes of slowing down a critical health and safety requirement that would address dangerous fatigue among flight attendants. The next administration must immediately implement a flight attendant rest rule that requires a 10-hour rest period without exception.
- **Customer Service Agent Assaults**—In recent years there has been a troubling rise in assaults on airline customer service agents who work at gates, ticket desks and baggage claim areas. The DOT must issue regulations to ensure full enforcement of federal laws prohibiting interference with and verbal and physical assault of airline employees, including customer service agents. Regulations should include requirements for signage at airports to inform passengers of the federal penalties for assaulting an employee, as well as proper assault reporting standards for airlines. Further, the 2018 FAA reauthorization included a provision requiring airlines to submit an assault prevention and response plan for approval by the FAA. The next administration should ensure this mandate is being complied with and re-examine existing plans to ensure they are effective.
- **Foreign Repair Stations Safety**—As part of the FAA Modernization and Reform Act of 2012 (and again in the 2014 extension), Congress directed the FAA to issue a proposed rule within one year to ensure that employees at foreign repair stations, responsible for safety-sensitive maintenance functions on U.S. commercial aircraft, are subject to an alcohol and controlled substance testing program, as well as security background checks similar to their U.S. counterparts. This was part of a broader effort to ensure that foreign repair stations are held to the same safety and security standards as domestic repair stations. While the FAA issued an ANPRM in 2014, the agency has yet to produce a proposed rule, let alone a final rule, making this rule now more than seven years overdue. As Biden committed to his infrastructure plan, we urge the administration to immediately place these requirements on foreign repair stations and raise all aircraft maintenance to one level of safety.
- **Ramp Worker Safety**—The FAA and OSHA should recharter the Ramp Worker Safety Advisory Committee and authorize it within one year to develop a plan to address the risk of serious, sometimes fatal injury from safety hazards, including foreign object debris and insufficient lighting on the tarmac. To mitigate these risks, the FAA should implement a 2019 recommendation from the Government Accountability Office to collect and analyze data on ramp accidents. Further, OSHA should establish independent standards to address health effects on ground service workers of exposure to extreme heat and exhaust fumes.

- **FAA Employee Staffing**—The FAA continues to face a staffing crisis, with a full one-third of FAA employees, including air traffic controllers, aviation safety inspectors and systems specialists, eligible to retire beginning this year. The FAA must take steps to increase the hiring and training of new employees, as well as update and improve the hiring and training process. This should include the development of a formalized training plan to ensure FAA systems specialists, aviation safety inspectors and certification engineers are kept current on all technologies, and the agency must continue to fully embrace modern training alternatives that allow for more virtual and online learning. Further, the FAA should continue its recent effort with the National Air Traffic Controllers Association (NATCA) to improve the FAA’s previously flawed placement and transfer process for air traffic controllers.
- **Preventing the Recirculation of Pathogens**—Require that the fraction of ventilation supply air that gets recirculated is passed through a properly installed and maintained HEPA filter prior to re-entering the cabin/flight deck in order to reduce the risk of recirculating pathogens, such as COVID-19.
- **Airline Worker Fume Event Training**—Require that pilots, flight attendants and maintenance workers are trained to recognize, respond to and report the presence of engine oil and hydraulic fluid fumes that can contaminate the ventilation supply air on aircraft equipped with bleed air technology.
- **Fume Event Reporting**—Require that airlines report to the FAA all onboard incidents involving the presence of smoke or fumes that are suspected/confirmed to be sourced to the ventilation supply air, including during ground operations and in flight, and whether or not any mechanical fault or failure is identified.
- **Airport Fire Fighting**—Current Airport Rescue and Fire Fighting (ARFF) regulations are gravely deficient and woefully out of date. FAA regulations do not recognize the reality of modern air travel, with larger planes carrying more passengers and more fuel, often flying to and from facilities unequipped to handle heavy traffic. Neither do current standards recognize modern firefighting techniques, equipment and training. ARFF regulations are so deficient they do not require airport fire departments to maintain even a minimum staffing level, other than the minimum number of personnel necessary to operate vehicles and meet the response times and minimum discharge rates, i.e., one firefighter per vehicle. ARFF regulations should be updated to bring them into alignment with the National Fire Protection Association standards.

TRANSPORTATION SECURITY ADMINISTRATION

- **TSA Privatization**—The administration should reject any efforts to further privatize airport security screening operations currently conducted by trained Transportation Security Officers (TSOs) and reinforce the federal government’s role in keeping our airports and skies safe from terrorism.
- **TSO Rights and Protections**—TSOs are currently denied many of the basic rights and worker protections enjoyed by other federal workers, TSA managers and those in other Department of Homeland Security agencies. TSA must give full Title 5 federal employee rights to TSOs, including access to the Merit Systems Protection Board to appeal adverse personnel decisions, independent third-party arbitration of all grievances, discipline and adverse actions, Back Pay Act equivalency for back pay and attorneys’ fees, and elimination of the table of penalties. TSA must engage in bargaining that eliminates prior restrictions on topics of bargaining. TSA must update TSA pay by placing the TSO-D, TSO-E and TSO-F pay bands under the General Schedule system with

regular step and grade increases to provide for career ladder progression. The administration should eliminate the footnote in the Aviation and Transportation Security Act authorizing the TSA administrator to develop a separate personnel management system and pay system [49 USC, Sec. 114(n)]. Further, TSA must allow for adequate official time for TSO union representatives to work on collaborative resolution of workplace disputes, coordination of meetings and workgroups, and negotiation and implementation of workplace conditions or new operating procedures.

- **Security Officers**—To enhance security at airport check points, the administration should create a Transportation Security Law Enforcement Officer (TSLEO) pilot program at 50 airports to train and deploy armed law enforcement personnel, within the TSA structure, at protected podiums near each checkpoint. These trained and deputized officers would be responsible for the safety and security of checkpoints while allowing regular local and airport law enforcement to patrol the rest of the airport. Additionally, TSOs killed or permanently disabled while performing official duties protecting the nation’s transportation systems should be extended public safety officers’ death benefits.

MULTIMODAL

- **Drug and Alcohol Testing**—Across modes, our affiliated unions and their members are committed to keeping drugs and alcohol out of the nation’s transportation system and promoting the highest levels of safety. However, it is critical that the testing of millions of workers is done in a way that is fair and congruent with available scientific standards. TTD has long expressed our concern with the development of hair follicle testing for federally tested employees, as required by Section 5402 of the FAST Act. Recently, the Department of Health and Human Services revealed a half-baked hair testing proposal that asks more questions than it answers. This, or any related proposal, cannot move forward until critical scientific questions on fairness and validity can be answered.

AVIATION AND MARITIME SERVICES IN BROADER TRADE DEALS

- Aviation and maritime services must be excluded from all multilateral trade deals, including the Transatlantic Trade and Investment Partnership (TTIP). We reject the position of the European Union (EU) trading partners that seek to use such multilateral agreements as a vehicle to weaken or repeal components of the Jones Act, U.S.-flag cargo preference shipping requirements, and ownership and construction requirements applicable to dredges operating in the United States. At the same time, the negotiation of bilateral trade agreements between the United States and its trading partner offers an important opportunity for our government to address the tax, economic and subsidy programs available to foreign-flag vessels that place the U.S.-flag fleet at a severe competitive disadvantage and impede the ability of the U.S.-flag fleet to carry a greater share of U.S. commercial exports and imports. In fact, it is estimated that today U.S.-flag vessels carry less than 2% of all the commercial cargoes entering and leaving our country. We urge the negotiation of cargo sharing agreements as part of bilateral and other trade negotiations to reserve a portion of the covered cargoes to U.S.-flag vessels and to those of our trading partner in order to increase the amount of America’s foreign trade carried by U.S.-flag vessels and their U.S. citizen crews.
- Trade in aviation services should continue to be addressed through the bilateral “Open Skies” agreements overseen by dedicated experts in the departments of Transportation and State and not through broader trade negotiations such as TTIP. We also object to any efforts by the EU to use TTIP to weaken U.S. foreign ownership and control laws for domestic airlines.

WORKER MISCLASSIFICATION

The next administration should enact a new regulation under 2 CFR covering federal funding to nonfederal agencies for grants and contracting that requires:

- A certification that workers performing the work are properly classified as employees under the simple, objective “ABC test,” which only allows a hiring entity to classify a worker as a contractor if the hiring entity can prove:
 - The worker is free from control in contract and in fact.
 - The worker is performing work outside the usual course of the hiring entity’s business.
 - The worker was customarily engaged in an independently established trade, occupation or business of the same nature as the work being performed.

Further, the new administration should:

- Reverse the Trump administration’s DOL rule regarding classification under the Fair Labor Standards Act (currently at the Office of Information and Regulatory Affairs).
- Direct the Department of Transportation to work collaboratively with the Department of Labor to develop a targeted enforcement plan on misclassification in transportation and infrastructure, including interagency memorandum of understandings, information sharing, working with stakeholders to identify bad actors and referring violators to the IRS for tax audits.
- Repeal Trump administrative actions denying rights to misclassified workers issued by the DOL and the National Labor Relations Board (NLRB).
- Reinstate the Obama-era NLRB determination that misclassified workers, especially those in app-based employment, have the right to organize under the NLRA. Identify misclassification that should be considered a fortiori interference with free and fair NLRB elections.
- Support legislation that would adopt the ABC test for all employment-related tests under federal law, bar companies that have systematically misclassified workers from eligibility for federal contracts, subcontracts and grants, and require recipients of federal funds to apply this ban as a condition of eligibility for federal support.

FY 2022 BUDGET REQUEST

President-elect Biden’s fiscal year (FY) 2022 budget request will be his first opportunity to set the tone for his transportation infrastructure agenda as the nation continues to grapple with COVID-19 and its impact. As noted above, the budgetary impacts have been particularly severe in the transportation sector. As a result, President-elect Biden’s budget requires significant funding levels that reflect the immediate and long-term needs of our transportation networks.

To meet that mark, the bipartisan FAA Reauthorization Act of 2018 and the House-passed H.R. 2, the Moving Forward Act, which set unprecedented funding levels, should be used as the funding benchmark for the nation’s aviation, highway, transit and rail programs. This investment not only will secure the future of our transportation network and system, but also create good, middle-class jobs. To that end, this incoming administration must work with Congress to ensure that the Department of Transportation and its programs receive consistent and stable funding, and is not saddled with a cycle of short-term extensions and government shutdowns.

MARITIME

- **Fund Maritime Security Program (MSP) at \$318 Million**—The National Defense Authorization Act for FY 2020, Public Law 116-92, authorized \$318 million to the MSP. MSP is a public-private partnership between the U.S. government and the U.S.-flag shipping industry that provides the Department of Defense (DOD) with assured access to privately owned commercial shipping assets, related global intermodal systems and the active pool of U.S. citizen mariners necessary to support America's defense objectives around the world. MSP is a vital component of our commercial sealift readiness and global response capability. It is designed to ensure that the United States has the U.S.-flag commercial sealift readiness capability and trained U.S. citizen merchant mariners available in times of war or national emergencies. MSP also ensures that the United States can provide our troops overseas with the supplies and equipment necessary to do their jobs on behalf of our nation. This cost-effective program utilizes existing U.S. maritime private sector capabilities at a fraction of the cost of what it would take if the federal government were to replicate the vessel capacity and global intermodal systems made available to DOD by U.S.-flag shipping companies participating in the Maritime Security Program.

MASS TRANSIT

- **Competitive Bus and Bus Facilities Grant Program**—Restore and increase desperately needed competitive grant funding to replace, rehabilitate and purchase buses and other related equipment, and to construct bus-related facilities. The FAST Act restored the bus and facilities discretionary grants program after it had been converted into a formula program under the MAP-21 surface transportation bill. Restoring this grant program, while preserving the existing formula program, dramatically increased federal investments in clean public transportation around the country. However, the funds for this program are not part of the core program and rely on annual appropriations. We urge the administration to give strong support to this program, which ensures better transportation, environmental and equity outcomes in communities across the country.
- **Workforce Development**—The blue-collar, transit workforce is expected to contract with impending retirements without an adequate pipeline of recruits to replenish and fulfill projected workforce needs. There are few workforce development programs for front-line transit workers like bus drivers and train operators. To meet this workforce shortfall, Congress authorized \$5 million for a discretionary Innovative Public Transportation Frontline Workforce Development Program (revised 49 USC 5314(b)(2)(B)) in Section 3009 of the FAST Act. Additionally, we support the establishment of a national front-line workforce training center to ensure specific training outcomes for the development and training needs of transit workers, and the investment in time-tested, standards-based training in front-line transit and commuter rail workforces.

PORTS

- **Port Infrastructure Development**—Since FY 2019, Congress has provided substantial and dedicated expenditures for ports through the Port Infrastructure Development Program. The program provides funding for critical needs like intermodal connections and other facilities, and Congress wisely placed limitations on using these funds for automated technologies. We encourage the Biden administration to continue to request strong funding levels for the program while ensuring that these funds cannot be used for automated cargo handling equipment or infrastructure to support automated cargo handling.

- **Harbor Maintenance Trust Fund (HMTF)**—Fully unlock the HMTF and allow the use of unspent funds. The HMTF is authorized as a means of ensuring our ports are fully dredged by taxing inbound waterborne commerce. Due to the budgetary treatment of the HMTF, a considerable portion of collected monies either have gone unspent or have been used to offset other congressional priorities. Recently the CARES Act moved future HMTF expenditures off budget to ensure that these revenues are spent on their intended projects. In its first budget request, the Biden administration should include a similar mechanism to allow for an expeditious spend-out of the unspent funds in the trust, estimated to be more than \$9 billion. These funds can be used to address immediate needs of ports and harbors across the country and shouldn't be artificially limited by budgetary restrictions.

AMTRAK

- **Fully Fund Amtrak's Northeast Corridor and National Network.** Amtrak, the sole intercity passenger railroad, serves millions of Americans each year in small and large, urban and rural communities across the country, serving as a vital link of the national transportation system. At the start of 2020, Amtrak anticipated another recordbreaking ridership and revenue year for the company; however, the pandemic has wreaked havoc on all areas of the company. To ensure Amtrak's future viability, we support robust investment in the company similar to levels reflected in H.R. 2. However, any funds provided to Amtrak, for the purposes of operations or otherwise, must include a prohibition on involuntary furloughs—permanent or artificial—the use of contractors to replace furloughed workers, or the elimination and reduction of routes and onboard and customer services.

RAIL

- **Rail Grant Programs**—Consolidated Rail Infrastructure and Safety Improvements, State of Good Repair, Restoration and Enhancement are critically needed programs that fund capital projects to improve safety, efficiency and reliability of service; provide operating assistance to initiate, restore or enhance intercity rail service; and capital projects to replace or rehabilitate certain railroad assets. We urge strong FY 2022 funding levels similar to those set in H.R. 2.
- **The Railroad Retirement Board (RRB)**—The board needs \$140 million for the administrative budget, and \$26 million in no-year funding for information technology (IT) modernization. Responsive to unique aspects of rail employment, the RRB administers retirement-survivor and unemployment-sickness insurance benefits to more than 700,000 beneficiaries who live in every state and congressional district across the United States. A self-supporting system, the RRB's benefits are wholly funded by employer and employee payroll taxes and not by the federal treasury. The RRB's annual appropriations from the federal government comes from the board's own trust funds. And years of stagnant administrative budgets have left the RRB severely understaffed and ill equipped to meet the board's mission critical goals and the timely needs of its clients.

Beleaguered by flat administrative budgets, the board is also in the midst of overhauling its 40-plus-year-old IT hardware system and COBOL applications. These aging systems have left the agency vulnerable to cybersecurity threats and attacks, and can potentially expose personal RRB client-sensitive information. Additionally, RRB's unemployment and sickness benefits are being shortchanged through the artificial reduction of sequestration. The RRB works as a closed system; worker and management taxes go into the trust and the trust pays out benefits—monies never go outside of the system or through the Treasury, so the RRB's sequester cuts are not a "savings" that can be used to reduce the U.S. deficit, but rather is simply retained in the Railroad Trust Fund.

- **National Mediation Board (NMB)**—Increase funding for Section 3 arbitration of the Railway Labor Act. In the rail and airline industry, labor-management disputes relating to existing collective bargaining agreements are resolved through the arbitration system and administered by the NMB. This is due to rail labor’s agreement to relinquish the right to strike over arbitrable disputes. NMB administers this system by using annual appropriations to pay the salaries and expenses of the arbitrators who resolve these disputes. For decades, the board has contended with inadequate funding and, as a result, dispute cases are backlogged. Dispute resolutions are significantly delayed, with some cases taking years to be heard, causing a financial burden to workers, airlines and railroads as courts continue to route more disputes to arbitration. Continuing to insufficiently fund Section 3 effectively denies workers justice in a staggeringly slow process.
- **National Transportation Safety Board (NTSB)**—Increase funding for the board to ensure that key modal investigations are not constrained by a lack of funding or resources. In the past few years, the NTSB has not been able to investigate a number of fatal accidents in the rail sector. By providing NTSB additional funding, it ensures any accident involving the death of a transportation worker is never uninvestigated because of a lack of resources.

AVIATION

- Fully fund FAA Operations and Facilities and Equipment accounts and the Airport Improvement Program to the levels set in the 2018 FAA reauthorization bill and H.R. 2, respectively.

KEY ADMINISTRATION POSITIONS

DEPARTMENT OF TRANSPORTATION

- Secretary
- Deputy Secretary
- Undersecretary for Transportation Policy
- Assistant Secretary for Aviation and International Affairs
- Assistant Secretary for Transportation Policy
- Assistant Secretary for Government Affairs
- Assistant Secretary for Budget and Programs/CFO
- General Counsel
- Inspector General

FEDERAL AVIATION ADMINISTRATION

- Administrator
- Deputy Administrator

FEDERAL HIGHWAY ADMINISTRATION

- Administrator
- Deputy Administrator

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

- Administrator
- Deputy Administrator

FEDERAL RAILROAD ADMINISTRATION

- Administrator
- Deputy Administrator

FEDERAL TRANSIT ADMINISTRATION

- Administrator
- Deputy Administrator

MARITIME ADMINISTRATION

- Administrator
- Deputy Administrator

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

- Administrator
- Deputy Administrator

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

- Administrator
- Deputy Administrator

OFFICE OF THE ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY

- Assistant Secretary

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

- Deputy Assistant Secretary of Labor

DEPARTMENT OF HOMELAND SECURITY

- Secretary
- Administrator, Transportation Security Administration

DEPARTMENT OF STATE

- Ambassador, International Civil Aviation Organization

TRANSPORTATION BOARDS

- National Mediation Board
- Amtrak Board of Directors
- National Transportation Safety Board
- Railroad Retirement Board
- Surface Transportation Board
- Federal Maritime Commission