Air Line Pilots Association

DATE: January 15, 2010  
TO: ALPA Executive Council  
FROM: Brendan Kenny, Director, ALPA Government Affairs Department  
RE: Legislative Issues of Interest to ALPA for 2010

The second session of the 111th Congress is about to convene. As we look towards this legislative session, I thought it would be useful to review some of the priority issues we believe will occupy our time and efforts in the coming months. Keep in mind that, given the vagaries of the legislative process, unanticipated pilot-related issues can arise at any time, demanding our immediate and undivided attention.

Health Care Reform

Health care overhaul and, from our perspective, the fight over the excise tax will dominate the Congressional agenda in early 2010. The House-passed version is significantly different from the Senate version. The House version of health care overhaul legislation pays for some of the changes through an increase in income taxes paid by individuals earning over $500,000, and couples earning over $1,000,000. One of the main funding mechanisms in the Senate bill is an “excise tax” on “Cadillac plans.” This excise tax amounts to decreased benefits and increased costs for our members. All of organized labor has been opposing the excise tax, and we have played an instrumental role in this fight. In fact, we worked very hard to get nearly 200 House members to sign a letter to Speaker Pelosi highlighting their concern with the Senate excise tax.

As of 1/15/10, a tentative agreement had been reached, providing labor unions time to make adjustments to our health care plans that have been negotiated through the collective bargaining process. Specifically, under the compromise, collective bargaining agreements will be exempt from any excise tax until January 1, 2018. Until the legislation is signed into law, however, nothing is final.

Security

Airline Security/Terrorism Preparedness: We will take direction from ALPA’s National Security Committee (NSC) on our legislative agenda, but are already talking to the House and Senate about the attempted terrorist attack on Northwest 253 on Christmas Day. Airline security could be one of the first items on the agenda during this congressional session. Hearings are planned for January in both the House and Senate. Like many issues, this issue is very dynamic and will likely be driven much by public opinion and media attention. We will attempt to use whatever vehicle is moving to further our security agenda and maintain a seat for ALPA at the table during discussions of airline security.
TSA Reauthorization: The House passed a TSA reauthorization bill last year (H.R. 2200). The Senate has not begun to consider a TSA reauthorization bill and may, in fact, include TSA as part of a broader Department of Homeland Security reauthorization bill. The December 25, 2009, attempted bombing may change that, but it is too early to tell. ALPA-supported initiatives included in the House bill are: (1) FFDO improvements including program management and oversight requirements, reimbursement for training costs and access to all FAMs training facilities for FFDOs, and (2) security training for cargo pilots.

CrewPASS: We will continue to use legislative vehicles, as appropriate, to advance our goal of full implementation of CrewPASS nationwide.

Economic Issues

Stability of the Airline Industry and the Piloting Profession: This issue touches many of the bullet points here, but also will be a cornerstone of much of the work we do more broadly in 2010. There will continue to be discussions, both formal and informal, stemming from the November 2009 DOT/FAA “summit” and we will be vocal in those discussions. We will work to promote a national aviation policy that protects U.S. piloting jobs and builds strong and sustainable U.S. air carriers.

Bankruptcy Overhaul: Neither chamber of Congress has introduced a comprehensive bankruptcy reform bill; however, both chambers are prepared to introduce a bill in early 2010. We have worked extensively with the Judiciary Committee during the drafting of this legislation. The comprehensive bill, which we support, will fundamentally change the Section 1113 bankruptcy rules to provide a stronger voice for workers during a bankruptcy. One of our key components, the ability to provide for self help, is expected to be included in the legislation.

Pension Protections: We are working on obtaining enactment of H.R. 4147, which could give airline employees who have received payments of notes and claims in bankruptcy the ability to roll those funds over into a traditional IRA. In the last Congress, we were able to secure enactment of legislation that permitted a rollover into a ROTH IRA. This issue is very important to the Delta and United pilot groups.

We continue to press for legislation that would allow pilots whose defined benefit plans have been terminated to receive the full benefit payable from the PBGC at 60 rather than 65. This is the so-called Akaka/Miller legislation.

National Mediation Board: The comment period on the proposed rule change on election procedures at the National Mediation Board closed on January 4, 2010. We have been vocal in our support of the rules change and have been advocating that Members of Congress weigh in with the NMB in support of the change (230 Members and Senators signed three letters in support to the NMB.) We anticipate opposition from industry and some on Capitol Hill, which could include a legislative proposal to mandate the same standards for decertification as the
pending rule change proposes for elections. We will continue to be involved and active on any changes at the Board.

**RLA Changes:** In response to an ALPA Executive Board resolution and efforts made by the ALPA Collective Bargaining Committee, ALPA legal and outside counsel have drafted legislation that would amend the Railway Labor Act. The proposal would strengthen airline boards of adjustment and also apply the RLA extraterritorially. The legislation has been drafted as two separate bills. Enactment of either will be a major undertaking and will require the support of the AFL-CIO Transportation Trades Department and other AFL-CIO affiliated unions.

**International Aviation**

**Labor Protections in International Aviation Joint Ventures:** We continue to pursue a legislative proposal to stem the potential offshoring of airline jobs in new international revenue sharing arrangements similar to UAL-Aer Lingus. Our hope is to include a provision in the FAA reauthorization bill, but we are also pursuing a free-standing bill in the House and other legislative or regulatory options.

**Cabotage/Foreign Ownership:** We will continue to oppose any and all efforts to abolish U.S. cabotage laws or weaken foreign ownership standards. Congress will continue to look to us as a resource (and us to them) during international aviation negotiations and on specific international arrangements such as Air Canada, Virgin America, etc.

**Safety/Aviation Industry Issues**

**FAA Reauthorization:** In December 2009, Congress passed its eighth short term extension, which punt the FAA reauthorization bill into 2010. The Senate Majority Leader has said that FAA reauthorization is on the short list for the Senate floor after health care. The Finance Committee still must act on the financing portion of the bill, but there are relatively few controversial issues that should hold this bill up (the FedEx “express carrier” provision being the biggest one). In addition to funding for NextGen and overall operation of the FAA and national airspace system, we have several ALPA-supported priorities in either one or both of the reauthorization bills and a few outstanding issues still to be resolved:

* Pilot training (see below)  
* Safety inspections of regional carriers  
* Duty period/flight time limitation (tail end ferry flying)  
* Alternative fuel research  
* UAS  
* Flight deck doors for cargo  
* Air carrier citizenship  
* Flight crew fatigue  
* FOQA, ASAP, LOSA programs  
* Wake turbulence, volcanic ash, and weather research  
* HIMS authorization  
* Runway safety  
* Midway and Wake Island airports
Pilot Training: The House-passed H.R. 3371, for which ALPA provided significant technical background, includes many industry improvements that ALPA has long championed. Specifically, the bill addresses pilot qualifications, training, mentoring and professional development, FOQA and ASAP, and fatigue. It is expected that the Senate will incorporate much of this bill into its FAA reauthorization legislation.

Fatigue: FAA Administrator Babbitt has promised a final rule on fatigue by the end of 2010. We anticipate controversy and attempts to water down or apply exceptions to the fatigue rule. We plan continued outreach to Congress to ensure a strong rule, without exemptions, this year.

Hazardous Materials Reauthorization (Lithium Batteries): We were successful in late 2009 in securing passage of a strong lithium battery provision in the House Transportation and Infrastructure Committee’s mark of the Hazardous Materials Transportation Reauthorization bill (H.R. 4016). The bill has not gone to the House floor and will likely be incorporated into the surface transportation reauthorization bill – which is a priority for 2010. There is currently no Senate companion bill. We anticipate major industry and Republican pushback on the lithium battery issue and expect to expend significant Government Affairs Department resources to retain the strong provisions currently included in H.R. 4016, as the process moves forward.

“Passenger Rights” Proposals: Generally, we have not been supportive of the passenger rights’ legislative proposals, but they may still be on the agenda in 2010 and we will respond as necessary.

Energy

Climate Change: Climate change will definitely carry over well into 2010 and likely beyond. Significant differences remain between the House-passed version and the various proposals under consideration in the Senate. Should the Senate take up this legislation in 2010, it could be as time-consuming for the Senate legislative agenda as health care legislation was in 2009.

We have been working with the carriers to inform Congress about our concerns with the bills. Under the proposals, airlines will be subjected to carbon trading fees by multiple nations. Our belief is that this issue should be addressed through ICAO. The global nature of our industry and standards such as this are exactly the reason ICAO was created and the Kyoto Protocol recommended that ICAO handle aviation emissions issues. Congress has received our input favorably and we continue to work on this issue.

Financial Overhaul (Oil Speculation): The House voted on H.R. 4173 before Christmas. The bill contains language supported by the airlines and labor regarding derivatives trading. Unregulated derivatives trading on Wall Street and on the OTC contributed significantly to the oil price spike we endured last year. The House bill seeks to provide more oversight and transparency of these markets. The Senate bill is still being crafted. The Senate Banking Committee hopes to have a bill for markup this January. With other items dominating the Senate floor agenda, this issue has a long way to go before completion.