

**PROTECTING TRANSPORTATION WORKERS AND  
PASSENGERS FROM COVID: GAPS IN SAFETY,  
LESSONS LEARNED, AND NEXT STEPS**

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**REMOTE HEARING**  
BEFORE THE  
**COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE**  
**HOUSE OF REPRESENTATIVES**  
**ONE HUNDRED SEVENTEENTH CONGRESS**  
FIRST SESSION

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FEBRUARY 4, 2021  
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Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

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FEBRUARY 4, 2021

**SUMMARY OF SUBJECT MATTER**

TO: Members, Committee on Transportation and Infrastructure  
FROM: Staff, Committee on Transportation and Infrastructure  
RE: Full Committee Hearing on “Protecting Transportation Workers and Passengers from COVID: Gaps in Safety, Lessons Learned and Next Steps”

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**PURPOSE**

The Committee on Transportation and Infrastructure (Committee or T&I) will meet in 2167 Rayburn House Office Building and via videoconferencing through a virtual platform on Thursday, February 4, 2021, at 11:00 a.m. EST to further examine the impacts of the COVID-19 crisis on transportation workers and related issues within the Committee’s jurisdiction. At the hearing, Members will hear about how the COVID-19 pandemic continues to impact the health, safety, and working conditions of transportation industry workers, about ongoing gaps in safety, lessons learned, and next steps to protect transportation workers and passengers from COVID-19. Testimony will be provided by a public health expert, an air quality expert, a city councilmember, the Association of Flight Attendants—CWA, the Amalgamated Transit Union, and the Owner-Operator Independent Drivers Association.

**BACKGROUND**

The COVID-19 pandemic continues to surge around the globe and across our Nation, disrupting travel, affecting the economy, and ravaging communities. Prior to the Committee’s hearing on this topic last Congress on June 9, 2020, COVID-19 had killed more than 90,000 Americans.<sup>1</sup> As of early February, this number stood at more than 400,000.<sup>2</sup> Millions of front-line transportation workers drive buses, operate ports, load cargo on airplanes, and carry out a myriad of other tasks necessary to ensuring the Nation’s economy continues to function.<sup>3</sup> The federal government

<sup>1</sup> CDC, *Daily Updates of Totals by Week and State* (last accessed January 13, 2021), available at <https://www.cdc.gov/nchs/nvss/vsrr/COVID19/index.htm>. (Note: T&I staff calculated this number by adding the deaths reported on a weekly basis through May 30, 2020).

<sup>2</sup> Johns Hopkins University & Medicine Coronavirus Resource Center (last accessed January 25, 2021) available at <https://coronavirus.jhu.edu/>.

<sup>3</sup> Bureau of Transportation Statistics, “Employment in Transportation and Transportation-Related Occupations” (last accessed January 21, 2021) available at <https://www.bts.gov/content/employment-transportation-and-transportation-related-occupations>. For example, according to BTS data, 2019 employment in the following categories totaled 5.02 million: air traffic controllers; bus drivers, transit and intercity; passenger vehicle drivers, except bus drivers, transit and intercity; subway and street car operators; flight attendants; shipping, receiving, and traffic clerks; tank car, truck, and ship loaders; first-line supervisors of transportation and material moving workers, except aircraft cargo handling supervisors; rail yard engineers, dinky opera-

Continued

has made recommendations for keeping these and other essential workers safe during the pandemic, and employers have instituted some protections.<sup>4</sup> The Centers for Disease Control (CDC) characterizes transportation workers in the high-risk category of potential infection and suggests they should be prioritized for expanded testing to help prevent the “silent spread” of COVID-19 from asymptomatic individuals.<sup>5</sup>

#### COVID-19 IMPACTS ON TRANSPORTATION SECTORS

The impact of COVID-19 on transportation workers and passengers has been significant. Most transportation systems were developed to move large numbers of people in relatively small spaces, making some recommended protective measures such as social distancing difficult.

##### Airlines/Airports

A recent study by researchers at Johns Hopkins University correlated the number of COVID-19 cases and deaths to the proximity of the infected individual to the nearest airport or train station.<sup>6</sup> The CDC have also shown the ability of the virus to spread on commercial flights.<sup>7</sup> One CDC analysis in September 2020 found, for example, that a woman travelling from London to Vietnam in March 2020 infected 15 other passengers on the flight.<sup>8</sup> The CDC pointed out that there were 16 crew members and 201 passengers on this 10-hour flight.<sup>9</sup> Other studies have shown the potential for the spread of the COVID-19 virus during long duration plane flights as well.<sup>10</sup>

In addition, air traffic controllers have been impacted by COVID-19. Some air traffic control towers have been temporarily shut down for cleaning, some multiple times, due to COVID-19 infections. For example, on January 10, 2021, the Washington Air Route Traffic Control Center in Leesburg, Virginia, which serves airspace in Washington, D.C., and surrounding areas, closed for two hours after an employee there reported a positive test for COVID-19.<sup>11</sup> According to the *Washington Post*, employees at the center have tested positive 13 times since the start of the pandemic.<sup>12</sup> Last month, *Roll Call* reported that nearly 300 air traffic control centers nationwide have been impacted by COVID-19 infections since the epidemic began.<sup>13</sup>

##### Transit Systems

COVID-19 also poses challenges for the Nation’s public transportation agencies. The Amalgamated Transit Union (ATU), which represents transportation workers including bus operators, has lost more than 100 members due to COVID-19 since the start of the pandemic.<sup>14</sup> One study that investigated a case of COVID-19 trans-

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tors, and hostlers; captains, mates, and pilots of water vessels; truck drivers, heavy and tractor-trailer; and truck drivers, light or delivery services.

<sup>4</sup>CDC, For Specific Industries and Occupations: Transportation and Delivery (last accessed January 18, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/work-places-businesses/specific-industries.html#transportation-delivery>.

<sup>5</sup>“CDC Guidance for Expanded Screening Testing to Reduce Silent Spread of SARS-CoV-2,” Centers for Disease Control and Prevention (CDC), Updated January 21, 2021, accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/expanded-screening-testing.html>.

<sup>6</sup>Darrell J. Gaskin, et. al., “Geographic Disparities in COVID-19 Infections and Deaths: The Role of Transportation,” *Transport Policy*, [Received date: July 27, 2020; Accepted date: December 1, 2020], accessed here: <https://reader.elsevier.com/reader/sd/pii/S0967070X20309380?token=77C31809717417AECF7EB996C471F8AA40E04F95468FA9CD5D7E78E6C420FC7891DA99300D83A6B690677D1759F138E7>.

<sup>7</sup>Nathaniel Weixel, “New study shows dangers of in-flight COVID-19 transmission,” *The Hill*, September 18, 2020, available at <https://thehill.com/policy/healthcare/517146-new-study-shows-dangers-of-in-flight-covid-transmission>.

<sup>8</sup>Ibid.

<sup>9</sup>CDC’s Emerging Infectious Disease Journal, Volume 26, Number 11, “Transmission of SARS-CoV 2 During Long-Haul Flight” (November 2020). See: [https://wwwnc.cdc.gov/eid/article/26/11/20-3299\\_article](https://wwwnc.cdc.gov/eid/article/26/11/20-3299_article).

<sup>10</sup>Benedict Carey, “One 18-Hour Flight, Four Coronavirus Infections,” *New York Times*, January 7, 2021, available at <https://www.nytimes.com/2021/01/07/health/coronavirus-airline-passengers-outbreak.html>.

<sup>11</sup>Ian Shapira, “Air traffic control center in Leesburg closes for two hours because of coronavirus,” *Washington Post* (January 10, 2021) available at [https://www.washingtonpost.com/local/leesburg-faa-air-traffic-coronavirus/2021/01/10/f3394df8-536f-11eb-a08b-f1381ef3d207\\_story.html](https://www.washingtonpost.com/local/leesburg-faa-air-traffic-coronavirus/2021/01/10/f3394df8-536f-11eb-a08b-f1381ef3d207_story.html).

<sup>12</sup>Id.

<sup>13</sup>Jessica Wehrman, “Flights delayed as FAA controllers test positive for COVID-19,” *Roll Call*, January 7, 2021, accessed here: <https://www.rollcall.com/2021/01/07/flights-delayed-as-faa-controllers-test-positive-for-covid-19/>.

<sup>14</sup>ATU, “Remember Our Fallen,” (last accessed January 18, 2021), available at <https://www.atu.org/remember-our-fallen>

mission on two buses in China early on in the pandemic concluded, “This outbreak on public transportation vehicles highlighted the efficient transmission of [COVID–19] in crowded and closed settings. . . . The closed windows with running ventilation on the buses could have created an ideal environment for aerosol transmission.”<sup>15</sup> The study recommended an “open windows” policy on public transportation vehicles whenever possible and a reminder of the importance to wear face masks.<sup>16</sup> As discussed in more detail below, transit agencies have taken a number of steps to reduce crowding, improve ventilation, and ensure access to clean vehicles and surfaces for passengers and workers.<sup>17</sup>

#### *Maritime Transportation*

Cruise ships present a particularly difficult environment to control the spread of COVID–19 and other infectious diseases.<sup>18</sup> In early 2020, hundreds of passengers and crews on multiple cruise ships were infected with COVID–19.<sup>19</sup> On March 11, 2020, the World Health Organization (WHO) declared COVID–19 a pandemic.<sup>20</sup> An outbreak on the aircraft carrier USS Theodore Roosevelt in March 2020 infected 1,271 sailors, 27 percent of the crew.<sup>21</sup> The maritime industry has also experienced COVID–19 infections, including recent outbreaks among workers at the Ports of Los Angeles, Philadelphia, and Charleston.<sup>22</sup>

Following several high profile COVID–19 outbreaks on cruise ships, including the Diamond Princess and Grand Princess, which alone combined for more than 800 total COVID–19 cases, including 10 deaths,<sup>23</sup> the CDC issued a No Sail Order (NSO) on March 14, 2020.<sup>24</sup> The CDC subsequently modified and extended the NSO through October 31, 2020. According to the *New York Times*, however, the Trump Administration blocked an extension through mid-February 2021 of CDC’s NSO for cruise ships, allowing ships to sail under certain conditions after October 31, 2020. The cruise industry had already voluntarily agreed not to sail prior to October 31, 2020, however.<sup>25</sup> On October 30, 2020, the CDC issued a detailed Framework for Conditional Sailing order setting forth specific requirements that cruises must meet in order to sail.<sup>26</sup> Despite this, CDC still officially “recommends that all people avoid travel on cruise ships, including river cruises, worldwide, because the risk of

<sup>15</sup> Kaiwei Luo, et. al., “Transmission of SARS-CoV-2 in Public Transportation Vehicles: A Case Study in Hunan Province, China,” *Open Forum Infectious Diseases* (Infectious Diseases Society of America), published online September 13, 2020, accessed here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7543623/>.

<sup>16</sup> Kaiwei Luo, et. al., “Transmission of SARS-CoV-2 in Public Transportation Vehicles: A Case Study in Hunan Province, China,” *Open Forum Infectious Diseases* (Infectious Diseases Society of America), published online September 13, 2020, accessed here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7543623/>.

<sup>17</sup> See for instance, “Mandatory Directive: Public Transit,” Santa Clara County, California, Public Health Department, Issued July 20, 2020, accessed here: <https://www.sccgov.org/sites/covid19/Documents/Mandatory-Directives-Public-Transit.pdf>.

<sup>18</sup> Hirohito Ito, et. al., “The cruise industry and the COVID–19 outbreak,” *Transportation Research Interdisciplinary Perspectives*, May 5, 2020, accessed here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7254010/>.

<sup>19</sup> “Public Health Responses to COVID–19 Outbreaks on Cruise Ships—Worldwide, February–March 2020,” *Morbidity and Mortality Weekly Report* (MMWR), Centers for Disease Control and Prevention (CDC), March 27, 2020, accessed here: <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e3.htm>.

<sup>20</sup> “WHO characterizes COVID–19 as a pandemic,” World Health Organization (WHO), March 11, 2020, accessed here: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.

<sup>21</sup> Matthew R. Kasper, et. al., “An Outbreak of Covid-19 on an Aircraft Carrier,” *New England Journal of Medicine* (NEJM), December 17, 2020, accessed here: [https://www.nejm.org/doi/full/10.1056/NEJMoa2019375?query=featured\\_home](https://www.nejm.org/doi/full/10.1056/NEJMoa2019375?query=featured_home).

<sup>22</sup> Pranshu Verma, “Very High Risk: Longshoremen Want Protection From the Virus So They Can Stay on the Job,” *New York Times*, December 12, 2020, accessed here: <https://www.nytimes.com/2020/12/12/us/politics/coronavirus-longshoremen-ports.html>.

<sup>23</sup> CDC Morbidity and Mortality Weekly Report (March 23, 2020) available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e3.htm>.

<sup>24</sup> CDC, No Sail Order (March 14, 2020) available at [https://www.cdc.gov/quarantine/pdf/signed-manifest-order\\_031520.pdf](https://www.cdc.gov/quarantine/pdf/signed-manifest-order_031520.pdf).

<sup>25</sup> Sheila Kaplan, “White House Blocked C.D.C. Order to Keep Cruise Ships Docked,” *New York Times* (September 30, 2020), available at <https://www.nytimes.com/2020/09/30/health/covid-cruise-ships.html>; see also Jonathan Swan, “Scoop: CDC Director overruled on cruise ship ban,” *Axios* (September 29, 2020), available at <https://www.axios.com/scoop-white-house-overruled-cdc-cruise-ships-florida-91442136-1b8e-442e-a2a1-0b24e9a39fb6.html>.

<sup>26</sup> CDC, “Quarantine and Isolation: Cruise Ship Guidance” (last updated October 30, 2020) available at <https://www.cdc.gov/quarantine/cruise/index.html>.

COVID-19 on cruise ships is very high.”<sup>27</sup> Major cruise lines operating out of U.S. waters have voluntarily extended their no sail period through March 2021 and some, including Carnival Cruise Lines, will not sail until at least May 2021.<sup>28</sup>

#### TESTING

The CDC recommends increased testing, including for individuals with a higher risk of exposure based on their occupation, such as transportation workers who come into face-to-face contact with the public.<sup>29</sup> One of the considerations for testing, according to the CDC, is: “People who have taken part in activities that put them at higher risk for COVID-19 because they cannot socially distance as needed, such as travel, attending large social or mass gatherings, or being in crowded indoor settings.”<sup>30</sup> Most transportation workers, including bus operators and flight attendants, fall into this category of workers who come into face-to-face contact with the public.<sup>31</sup> Despite the importance of testing, some localities are continuing to experience challenges ensuring sufficient testing capacity, marked by high demand, hard-to-come-by appointments, and a lack of supplies and personnel.<sup>32</sup> From the start of the pandemic the Federal Government has followed a policy that permitted state and local authorities to take the lead on testing.<sup>33</sup>

#### CASE REPORTING

Case reporting and contact tracing have been touted as core public health strategies for controlling and preventing the spread of infectious diseases, including COVID-19.<sup>34</sup> The Collegium Ramazzini has emphasized the role of national governments to protect high-risk workers from the COVID-19 epidemic.<sup>35</sup>

A scientific journal article published online in mid-November 2020 by the *American Journal of Industrial Medicine* highlighted the benefits of testing. The study examined 10,850 cases of COVID-19 in Washington State and found that those employed in the transportation and infrastructure sectors were among those workers highest at risk of COVID-19 infections.<sup>36</sup> The study found that [n]onhealthcare occupations at the highest risk of COVID-19 infection are dominated by workers who are either in close direct contact with others, such as flight attendants ... or may

<sup>27</sup> CDC, “Traveler’s Health: COVID-19 and Cruise Ship Travel” (last viewed January 19, 2021) available at <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-cruise-ship>.

<sup>28</sup> Brittany Chang, “Several cruise trips have already been cancelled this year. See when major cruise lines plan on operating again,” *Business Insider*, January 22, 2021, accessed here: <https://www.businessinsider.com/cruise-lines-2021-sailing-plans>.

<sup>29</sup> CDC, *Summary of Guidance for Public Health Strategies to Address High Levels of Community Transmission of SARS-CoV-2 and Related Deaths* (December 2020) available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e2.htm>.

<sup>30</sup> “COVID-19 Testing Overview: Considerations for who should get tested,” Centers for Disease Control and Prevention (CDC), accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html>.

<sup>31</sup> CDC, *Testing Strategy for Coronavirus (COVID-19) in High-Density Critical Infrastructure Workplaces after a COVID-19 Case Is Identified* (last accessed January 13, 2021) available at <https://www.cdc.gov/coronavirus/2019-ncov/community/worker-safety-support/hd-testing.html>.

Note that this guidance refers to essential workers being in close contact with other workers, but it seems like it would apply to workers in contact with others, i.e. passengers.

<sup>32</sup> See for example The Boston Globe, *COVID-19 Testing Remains a Challenge; It Could Get Worse as Health Care Providers Juggle Vaccine Rollout* (January 7, 2021); Pittsburgh Tribune-Review, *Allegheny County Attributes Low Number of New COVID Cases to Limited Testing* (December 28, 2020); Bangor Daily News, *COVID Testing Challenges Loom with Winter Weather and End of Federal Support* (December 10, 2020).

<sup>33</sup> Mike Stobbe and Matthew Perrone, “Will the US ever have a national COVID-19 testing strategy,” *Associated Press* (AP), December 6, 2020, accessed here: <https://apnews.com/article/will-us-national-virus-testing-strategy-ceeda0ed971631f47666882eae89a8e>.

<sup>34</sup> Elizabeth Ruebush, MPH, et. al., “COVID-19 Case Investigation and Contact Tracing: Early Lessons Learned and Future Opportunities,” *Journal of Public Health Management & Practice*, January/February 2021, Volume 27, Number 1 Supplemental, accessed here: [https://journals.lww.com/jphmp/Fulltext/2021/01001/COVID\\_19\\_Case\\_Investigation\\_and\\_Contact\\_Tracing\\_15.aspx](https://journals.lww.com/jphmp/Fulltext/2021/01001/COVID_19_Case_Investigation_and_Contact_Tracing_15.aspx).

<sup>35</sup> The Collegium Ramazzini is an independent, international society comprised of 180 physicians and scientists from 35 countries whose mission is to increase scientific knowledge of the environmental and occupational causes of disease with the goal of transmitting this knowledge to decisions-makers and the global public to prevent disease, promote health and save lives. “24th Collegium Ramazzini statement. Prevention of work-related infection in the COVID-19 pandemic,” *International Journal of Occupational Medicine and Environmental Health*, Online publication date May 19, 2020, accessed here: [http://ijomeh.eu/24th-Collegium-Ramazzini-statement-Prevention-of-work-related-infection-in-the-COVID\\_122172\\_0\\_2.html](http://ijomeh.eu/24th-Collegium-Ramazzini-statement-Prevention-of-work-related-infection-in-the-COVID_122172_0_2.html).

<sup>36</sup> Michael Zhang, MD, (University of Nevada, Las Vegas), “Estimation of differential occupational risk of COVID-19 by comparing risk factors with case data by occupational group,” *America Journal of Industrial Medicine*, published online November 18, 2020, accessed here: <https://onlinelibrary.wiley.com/doi/10.1002/ajim.23199>.



be directly exposed to [COVID-19].”<sup>37</sup> The study noted that the CDC is now recommending the collection of data on occupation and workplace during COVID-19 case interviews.<sup>38</sup> Ultimately, the study concluded: “More comprehensive data is needed on the individual occupation level, preferably across the entire United States, to fully assess worker risk and direct protective measures tailored to individual occupations.”<sup>39</sup>

Last May, the President of the American College of Occupational and Environmental Medicine (ACOEM) that represents 4,000 occupational medicine physicians and related health care professions wrote to the CDC Director imploring him to improve the CDC’s efforts to gather workplace specific COVID-19 infection data which was largely limited to the healthcare workforce.<sup>40</sup> “We urge you to take all feasible steps to better understand the connection between COVID-19 and occupational factors by gathering codable data on industry and occupation in reported [COVID-19] cases.”<sup>41</sup> The ACOEM president specifically cited “public transportation” workers as one of those high-risk groups that were prone to “occupational risks” from COVID-19 infections.<sup>42</sup>

#### CONTACT TRACING

Contact tracing is a resource intensive exercise dependent upon individuals with the right public health skills and access to laboratory testing facilities.<sup>43</sup> However, it has been shown to be an effective measure to control the spread of infectious diseases, including COVID-19.<sup>44</sup> A study by researchers at Harvard and Stanford Universities, using a mathematical model, found that the most effective contact tracing programs could reduce the overall transmissions of COVID-19 infections by almost half.<sup>45</sup> Yet, while the United States has suffered nearly twice as many deaths as Brazil,<sup>46</sup> with the second highest number of deaths in the world, and has more than twice as many COVID-19 infections as India with the second highest number of worldwide cases, during the last ten months the United States did not have a cohesive federal contact tracing program or plan.<sup>47</sup> Instead, the Federal Government has largely left COVID-19 contact tracing efforts up to state and local officials.<sup>48</sup> The CDC’s own guidance says, “State and local public health officials will decide how to implement these activities and how to advise specific people, or groups of people, to be tested.”<sup>49</sup>

#### QUARANTINE

Forcing those infected with COVID-19 to quarantine or self-isolate has proven difficult. In December, for example, a passenger on a United Airlines flight died of an

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Letter from Beth A. Baker, MD, President, American College of Occupational and Environmental Medicine (ACOEM) to Dr. Robert R. Redfield, Director, Centers for Disease Control and Prevention (CDC), “SUBJECT: Inclusion of occupational data fields in COVID-19 case reporting,” May 20, 2020, accessed here: <https://acoem.org/acoem/media/PDF-Library/May-2020-letter-to-CDC.pdf>.

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> “COVID-19: Laboratory Capacity,” Centers for Disease Control and Prevention (CDC), accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/laboratory.html>

<sup>44</sup> Matt J. Keeling, T. Deirdre Hollingsworth and Jonathan M. Read, “Efficacy of contact tracing for the containment of the 2019 novel coronavirus (COVID-19),” *Journal of Epidemiology and Community Health*, October 2020, accessed here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7307459/#:~:text=In%20general%2C%20contact%20tracing%20is,transmission%20from%20the%20secondary%20cases>.

<sup>45</sup> Alyssa Bilinski, MS, Farzad Mostashari, MD and Joshua A. Salomon, PhD, “Modeling Contact Tracing Strategies for COVID-19 in the Context of Relaxed Physical Distancing,” *JAMA Network Open* (Research Letter/Public Health), August 21, 2020, accessed here: <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2769618>.

<sup>46</sup> On January 17, 2021, the United States had 397,561 recorded deaths from COVID-19 while Brazil had 209,847 recorded COVID-19 deaths and the United States had 23,932,306 recorded COVID-19 cases followed by India with 10,557,985 recorded COVID-19 cases. See, Johns Hopkins University’s “COVID-19 Dashboard” created by the Center for Systems Science and Engineering (CSSE), accessed here: <https://coronavirus.jhu.edu/map.html>.

<sup>47</sup> Beth Duff-Brown, “Model shows potential contact tracing impact against COVID-19,” News Center, Stanford University’s School of Medicine, August 24, 2020, accessed here: <http://med.stanford.edu/news/all-news/2020/08/model-shows-potential-contact-tracing-impact-against-covid-19.html>.

<sup>48</sup> “Contact Tracing for COVID-19,” Centers for Disease Control and Prevention (CDC), Updated December 16, 2020, accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/contact-tracing.html>

<sup>49</sup> Id.

apparent heart attack.<sup>50</sup> However, the man's wife apparently told emergency medical personnel that he had COVID-19 symptoms, including loss of taste.<sup>51</sup> The coroner later confirmed he died of acute respiratory failure and COVID-19.<sup>52</sup> With those symptoms he should have been in self-quarantine.<sup>53</sup> In addition, transportation and other workers may feel compelled to go to work so that they don't miss a paycheck, particularly if they are asymptomatic.<sup>54</sup> In December, the CDC shortened its recommended time for quarantine from 14 days to 10 days or potentially 7 days, depending on the specific test results and an individual's symptoms.<sup>55</sup>

#### VACCINATIONS

Immunization with a safe and effective COVID-19 vaccine is a critical component of the United States' strategy to reduce COVID-19-related illnesses, hospitalizations, and deaths, and to help restore more normal social functioning and economic activity.<sup>56</sup> The Department of Homeland Security considers transportation workers to be part of the essential critical infrastructure workforce and has noted that a degradation of infrastructure operations and resilience will make stopping the spread of the virus more difficult.<sup>57</sup> Essential workers, such as those employed in a range of transportation occupations, are among the populations being considered for initial phased allocation of limited vaccine doses.<sup>58</sup> But states and localities vary in how they intend to prioritize essential workers, including those in the transportation sector, to receive vaccinations.<sup>59</sup>

#### PERSONAL PROTECTIVE EQUIPMENT (PPE)

##### Masks

The CDC strongly recommends all passengers and operators wear masks on public transportation, including airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares.<sup>60</sup> CDC also strongly recommends mask use at transportation hubs and in boarding areas.<sup>61</sup> CDC further recommends that operators refuse to board anyone not wearing a mask, and require all people on board to wear masks for the duration of the trip with a few exceptions, such as for brief periods to eat, drink, or take medicine.<sup>62</sup> During the Trump administration, however, the CDC did not issue a mandatory mask requirement.<sup>63</sup>

According to the *New York Times*, the CDC drafted an order in September 2020 under its quarantine powers that would have required all passengers and employees

<sup>50</sup> Melissa Alonso, Kelly Murray and Hollie Silverman, "United passenger died of Covid-19 and acute respiratory failure, coroner says," *CNN*, December 22, 2020, accessed here: <https://www.cnn.com/2020/12/19/us/united-passenger-died-covid-symptoms/index.html>.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> "Isolate If You Are Sick: Separate yourself from others if you have COVID-19," Centers for Disease Control and Prevention (CDC), accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/isolation.html>.

<sup>54</sup> "Report Shows Transportation Workers Lack Support and Flexibility on the Job: Many workers come to work sick, worrying losing pay or their job," *Roads & Bridges*, June 5, 2020, accessed here: <https://www.roadsbridges.com/report-shows-transportation-workers-lack-support-and-flexibility-job>.

<sup>55</sup> Colin Dwyer, "CDC Shortens Its COVID-19 Quarantine Recommendations," *National Public Radio* (NPR), December 2, 2020, accessed here: <https://www.npr.org/2020/12/02/941355347/cdc-shortens-its-covid-19-quarantine-recommendations>.

<sup>56</sup> CDC, *COVID-19 Vaccination Program Interim Playbook For Jurisdiction Operations* (October 29, 2020) available at [https://www.cdc.gov/vaccines/imz-managers/downloads/COVID-19-Vaccination-Program-Interim\\_Playbook.pdf](https://www.cdc.gov/vaccines/imz-managers/downloads/COVID-19-Vaccination-Program-Interim_Playbook.pdf).

<sup>57</sup> U.S. Department of Homeland Security-Cybersecurity & Infrastructure Security Agency, *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response* (August 18, 2020).

<sup>58</sup> CDC, *Summary of Guidance for Public Health Strategies to Address High Levels of Community Transmission of SARS-CoV-2 and Related Deaths* (December 2020) available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e2.htm>.

<sup>59</sup> NBC Nightly News, *Who's Next for the COVID Vaccine, a Look at What Some States Are Deciding* (December 13, 2020).

<sup>60</sup> CDC, "Wear Face Masks on Public Transportation Conveyances and at Transportation Hubs," (Updated November 20, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html>); See also CDC, "Interim Guidance: Wearing of face masks while on public conveyances at stations, ports and similar transportation hubs," October 20, 2020, available at <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Erika Edwards, "CDC says mask mandates can slow COVID-19," *NBC News*, November 20, 2020, accessed here: <https://www.nbcnews.com/health/health-news/cdc-says-mask-mandates-can-slow-covid-19-spread-n1248417>.

to wear masks on all forms of public and commercial transportation in the United States.<sup>64</sup> However, these CDC plans were blocked by the White House and never issued, according to these reports.<sup>65</sup> On October 2, 2020, the U.S. Department of Transportation (DOT) denied a petition from the Transportation Trades Department, AFL–CIO asking DOT to require passengers to wear masks on airplanes, trains, buses, and passenger vessels as well as in boarding areas and associated facilities such as airports and stations.<sup>66</sup>

On January 21, 2021, President Biden signed an executive order requiring, to the extent consistent with applicable law, that masks be worn in compliance with CDC guidelines in airports, on commercial aircraft, trains, public maritime vessels including ferries, intercity buses and public transportation.<sup>67</sup> The order also requires, to the extent feasible, that travelers entering the United States from a foreign country produce proof of a negative COVID–19 test prior to entry and travelers, “comply with other applicable CDC guidelines concerning international travel, including recommended periods of self-quarantine or self-isolation after entry into the United States.”<sup>68</sup>

Every domestic commercial airline requires, as a matter of company policy, that passengers and crew wear face coverings on flights, as well as during check-in and boarding.<sup>69</sup> Most major transit systems, and a lot of smaller ones, require masks.<sup>70</sup> Uber<sup>71</sup> and Lyft<sup>72</sup> require masks for both drivers and passengers, and Amtrak requires masks for customers and front-line employees and is also limiting bookings on reserved trains to allow for more social distancing.<sup>73</sup>

Passenger access to PPE, including masks, varies by transit agency. In New York City, the Metropolitan Transportation Authority (MTA) has created a “Mask Force” comprised of hundreds of volunteers who distribute free masks on subways and buses two days each month.<sup>74</sup> The Chicago Transit Authority (CTA) recently announced a pilot program to provide free, disposable masks on 200 buses serving 20 bus routes,<sup>75</sup> following the installation of personal protective equipment vending machines at six of CTA’s rail stations which offer riders access to items like masks and hand sanitizer for prices ranging from \$3.75 to \$10.<sup>76</sup>

<sup>64</sup> Sheila Kaplan, “White House Blocked C.D.C. From Requiring Masks on Public Transportation,” *New York Times* (October 9, 2020), available at <https://www.nytimes.com/2020/10/09/health/coronavirus-covid-masks-cdc.html>.

<sup>65</sup> Sheila Kaplan, “White House Blocked C.D.C. From Requiring Masks on Public Transportation,” *New York Times* (October 9, 2020), available at <https://www.nytimes.com/2020/10/09/health/coronavirus-covid-masks-cdc.html>.

<sup>66</sup> Andy Kroll, “Trump Administration Rejected a Mask Mandate on the Day Trump Was Hospitalized for Covid-19,” *Rolling Stone* (October 3, 2020) available at <https://www.rollingstone.com/politics/politics-news/trump-covid-positive-test-hospital-plane-train-mask-mandate-transportation-1070629/>; See also Ian Duncan, “Labor Unions Petition Transportation Department for a mandatory mask rule,” *Washington Post* (July 28, 2020) available at [https://www.washingtonpost.com/local/trafficandcommuting/labor-unions-petition-transportation-department-for-a-mandatory-mask-rule/2020/07/28/0cc36306-d0f0-11ea-9038-af089b63ac21\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/labor-unions-petition-transportation-department-for-a-mandatory-mask-rule/2020/07/28/0cc36306-d0f0-11ea-9038-af089b63ac21_story.html).

<sup>67</sup> Executive Order on Promoting COVID–19 Safety in Domestic and International Travel, Section 2 available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-promoting-covid-19-safety-in-domestic-and-international-travel/>.

<sup>68</sup> Executive Order on Promoting COVID–19 Safety in Domestic and International Travel, Section 5 available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-promoting-covid-19-safety-in-domestic-and-international-travel/>.

<sup>69</sup> Becky Pokora and Caroline Lupini, “Master List of U.S. Airline Seating and Mask COVID–19 Policies,” *Forbes* (December 7, 2020) available at <https://www.forbes.com/sites/advisor/2020/12/07/master-list-of-us-airline-seating-and-mask-covid-19-policies/?sh=34c9d2fb1bb4>.

<sup>70</sup> APTA Health & Safety Commitments Program, Participating Agencies, available at [https://apta.com/wp-content/uploads/Participating\\_Agencies\\_12-23-2020.pdf](https://apta.com/wp-content/uploads/Participating_Agencies_12-23-2020.pdf).

<sup>71</sup> Dalvin Brown, “No mask. No ride.: Uber will require drivers and passengers to wear face masks indefinitely,” *USA Today* (July 1, 2020) available at <https://www.usatoday.com/story/money/2020/07/01/uber-require-face-masks-drivers-and-passengers-indefinitely/5354164002/>.

<sup>72</sup> Andrew J. Hawkins, “Lyft will require drivers and Passengers to wear face masks,” *The Verge* (May 7, 2020) available at <https://www.theverge.com/2020/5/7/21250999/lyft-face-mask-require-driver-passenger-coronavirus>.

<sup>73</sup> Amtrak, “Amtrak Requires Facial Coverings As Added Measure of Protection,” (May 7, 2020) available at <https://media.amtrak.com/2020/05/amtrak-requires-facial-coverings-as-added-measure-of-protection/>.

<sup>74</sup> <https://new.mta.info/maskforce>.

<sup>75</sup> Chicago Transit Authority, “CTA Announces Free Face Mask Pilot Program,” (December 29, 2020) available at <https://www.transitchicago.com/cta-announces-free-face-mask-pilot-program/>.

<sup>76</sup> Chicago Transit Authority, “CTA Announces New PPE Vending Machines for Customers at Rail Stations,” (October 21, 2020) available at <https://www.transitchicago.com/cta-announces-new-ppe-vending-machines-for-customers-at-rail-stations/>.

However, enforcement of mask policies has been a challenge. For example, bus drivers have been assaulted while trying to enforce mask mandates, including a 62-year-old public bus driver in New York City who was hit after reminding a passenger that masks were required, and a bus driver in San Francisco who was beaten by three men who had been ordered off for refusing to put on a mask.<sup>77</sup> There have also been numerous reports of airline passengers verbally abusing flight attendants as they have tried to enforce airline mask requirements and of passengers exploiting food and drink mask exceptions for prolonged periods to avoid mask wearing.<sup>78</sup> Moreover, these disturbances have safety implications beyond even spreading the virus, with at least one report of an airline captain being so distracted by a mask-related problem with a passenger that the captain mistakenly descended to the wrong altitude.<sup>79</sup>

#### *Healthy Flights Act*

On July 30, 2020, Chair DeFazio, Chair Larsen, and more than a dozen members of Congress introduced the Healthy Flights Act of 2020 (116th—H.R. 7867), which sought to clarify FAA’s authority to impose requirements on passengers to protect health and safety, require passengers to wear masks on board aircraft and within airports during public health emergencies caused by airborne disease, mandate development of a national aviation preparedness plan to respond to pandemics, call for a study on transmission of infectious diseases in airplane cabins, and create an FAA Center of Excellence on Infectious Disease Response and Prevention in Aviation to advise the FAA Administrator on infectious diseases and air travel. The bill was not marked up or otherwise advanced by the Committee during the 116th Congress.

#### *Bus Shields*

On buses, plastic shields, which have previously been used to help protect drivers from assaults, are now being added by some transit agencies to help protect drivers from coronavirus.<sup>80</sup> According to the American Public Transportation Association’s (APTA) Mobility Recovery and Restoration Task Force, adding physical barriers between drivers and passengers minimizes the person-to-person spread of disease.<sup>81</sup> The Amalgamated Transit Union (ATU), which represents over 200,000 workers, includes temporary barrier installation as part of its recommended “Bus Airflows and Solutions for Operators.”<sup>82</sup>

#### *Surface Sanitization*

The CDC recommends frequent hand washing and/or use of hand sanitizer containing at least 60 percent alcohol.<sup>83</sup> To help airplane passengers comply, the Transportation Security Administration (TSA) allows passengers to carry on one container of hand sanitizer up to 12 ounces.<sup>84</sup>

Both public and private transportation services have also explored innovations in disinfection. JetBlue has experimented with a machine from Honeywell that uses

<sup>77</sup>Christine Goldbaum, “When a Bus Driver Told a Rider to Wear a Mask, ‘He Knocked Me Out Cold,’” *New York Times* (September 18, 2020) available at <https://www.nytimes.com/2020/09/18/nyregion/mta-bus-mask-covid.html>

<sup>78</sup>Michael Laris, “Sneezed on, cussed at, ignored: Airline workers battle mask resistance with scant governmental backup,” *Washington Post* (January 1, 2021) available at [https://www.washingtonpost.com/local/trafficandcommuting/coronavirus-mask-airplanes/2020/12/31/09c12d52-4565-11eb-975c-d17b8815a66d\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/coronavirus-mask-airplanes/2020/12/31/09c12d52-4565-11eb-975c-d17b8815a66d_story.html); Maria Cramer, “Mask Fights and a ‘Mob Mentality’: What Flight Attendants Faced Over the Last Year,” *New York Times* (January 26, 2021), available at <https://www.nytimes.com/2021/01/26/business/airlines-capitol-violence.html?action=click&module=Top%20Stories&pgtype=Homepage>.

<sup>79</sup>Id.

<sup>80</sup>Luz Lazo, “Plastic barriers protected bus drivers from assaults. Now they shield them from the coronavirus,” *Washington Post* (December 30, 2020) available at [https://www.washingtonpost.com/local/trafficandcommuting/bus-driver-barriers-coronavirus/2020/12/29/7e4ce230-3e1a-11eb-8bc0-ae155bee4aff\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/bus-driver-barriers-coronavirus/2020/12/29/7e4ce230-3e1a-11eb-8bc0-ae155bee4aff_story.html).

<sup>81</sup>American Public Transportation Association Mobility Recovery and Restoration Task Force White Paper, “Transit Leadership in the Post-COVID-19 Mobility Landscape Part One: Measures to Promote Safe Mobility,” (September 2, 2020) p. 16 available at [https://apta.com/wp-content/uploads/Updated\\_Transit\\_Leadership\\_in\\_the\\_Post-COVID-19\\_Mobility\\_Landscape\\_Part\\_1\\_v2.pdf](https://apta.com/wp-content/uploads/Updated_Transit_Leadership_in_the_Post-COVID-19_Mobility_Landscape_Part_1_v2.pdf).

<sup>82</sup>Amalgamated Transit Union, “Safe Service Now: COVID019—Bus Airflows and Solutions” (last viewed Jan. 17, 2021), available at [https://www.atu.org/covid-one9/resources/STRAT\\_COVIDPerilsofAirflowFlyer.pdf](https://www.atu.org/covid-one9/resources/STRAT_COVIDPerilsofAirflowFlyer.pdf).

<sup>83</sup>CDC, “How to Protect Yourself & Others,” Updated December 31, 2020 available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

<sup>84</sup><https://www.tsa.gov/travel/security-screening/whatcanibring/items/hand-sanitizers>.

UV light to disinfect cabins.<sup>85</sup> The CTA has purchased electrostatic sprayers to help evenly distribute its cleaning agent and help the agent to cling to surfaces, as well as with surface coating products to prevent viruses from sticking to surfaces inside of vehicles.<sup>86</sup>

APTA's Mobility Recovery and Restoration Task Force has recommended that transit agencies comply with recommendations by health and safety agencies regarding masks, and provide key supplies in both vehicles and facilities for both passengers and employees to help mitigate against the spread of contagious disease.<sup>87</sup> Examples of such supplies include soap, cleaning wipes, hand sanitizer dispensers, paper towels, tissues, and trash cans to dispose of used products.<sup>88</sup>

Some transit agencies are also transitioning to contactless payment systems such as phone app-based fare collection, which helps reduce touch points and potentially infections.<sup>89</sup> Other concepts transit systems are considering to reduce surface-based infection include antimicrobial coverings for handrails and other key touch points to inhibit growth of microbes,<sup>90</sup> copper coatings, which reduce the length of time COVID-19 can remain on a surface, and self-cleaning nanocoatings, which can kill viruses on surfaces and nearby air.<sup>91</sup> The Port Authority of New York and New Jersey, for example, has been experimenting with a self-cleaning escalator handrail system using UV light.<sup>92</sup>

#### PHYSICAL DISTANCING

The CDC recommends maintaining physical distance of at least six feet as a strategy to decrease the spread of coronavirus. When an infected person coughs, sneezes, or talks and droplets from their mouth or nose are launched into the air they can land in the mouths or noses of people nearby, potentially infecting those individuals.<sup>93</sup> However, as the following examples demonstrate, the ability to maintain six feet of separation varies across and within modes of transportation. In aviation, many airports have instituted physical distancing requirements within terminals, but once aboard aircraft, flight crew and travelers are generally limited in their ability to remain six feet apart due to the size of the cabin.<sup>94</sup> Likewise, maintaining

<sup>85</sup> Cailey Rizzo, "JetBlue Is Testing a Giant UV Light Machine That Could Disinfect Plane Cabins in Under 10 Minutes," *Travel + Leisure* (July 30, 2020), available at <https://www.travelandleisure.com/airlines-airports/jetblue/jetblue-airplane-cabin-disinfectant-machine-coronavirus>.

<sup>86</sup> <https://www.transitchicago.com/coronavirus/vehicles/#New>.

<sup>87</sup> American Public Transportation Association Mobility Recovery and Restoration Task Force White Paper, "Transit Leadership in the Post-COVID-19 Mobility Landscape Part One: Measures to Promote Safe Mobility," (September 2, 2020) p. 13 available at [https://apta.com/wp-content/uploads/Updated\\_Transit\\_Leadership\\_in\\_the\\_Post-COVID-19\\_Mobility\\_Landscape\\_Part\\_1\\_v2.pdf](https://apta.com/wp-content/uploads/Updated_Transit_Leadership_in_the_Post-COVID-19_Mobility_Landscape_Part_1_v2.pdf).

<sup>88</sup> *Id.* at p. 8.

<sup>89</sup> American Public Transportation Association Mobility Recovery and Restoration Task Force White Paper, "Transit Leadership in the Post-COVID-19 Mobility Landscape Part One: Measures to Promote Safe Mobility," (September 2, 2020) pp. 19-20 available at [https://apta.com/wp-content/uploads/Updated\\_Transit\\_Leadership\\_in\\_the\\_Post-COVID-19\\_Mobility\\_Landscape\\_Part\\_1\\_v2.pdf](https://apta.com/wp-content/uploads/Updated_Transit_Leadership_in_the_Post-COVID-19_Mobility_Landscape_Part_1_v2.pdf); See also "Contactless Payment: Metro Makes TAP Cards Available On Apple Devices," CBS Los Angeles (September 3, 2020) available at <https://losangeles.cbslocal.com/2020/09/03/contactless-payment-metro-makes-tap-cards-available-on-apple-devices/>.

<sup>90</sup> *Id.* at p. 23.

<sup>91</sup> *Id.* at pp. 24-25.

<sup>92</sup> Larry Higgs, "Self-sanitizing escalator handrail coming to Port Authority bus terminal," NJ.com (August 2, 2020) available at <https://www.nj.com/coronavirus/2020/08/self-sanitizing-escalator-handrail-coming-to-port-authority-bus-terminal.html>; see also American Public Transportation Association Mobility Recovery and Restoration Task Force White Paper, "Transit Leadership in the Post-COVID-19 Mobility Landscape Part One: Measures to Promote Safe Mobility," (September 2, 2020) pp. 26-27 available at [https://apta.com/wp-content/uploads/Updated\\_Transit\\_Leadership\\_in\\_the\\_Post-COVID-19\\_Mobility\\_Landscape\\_Part\\_1\\_v2.pdf](https://apta.com/wp-content/uploads/Updated_Transit_Leadership_in_the_Post-COVID-19_Mobility_Landscape_Part_1_v2.pdf).

<sup>93</sup> CDC, *Summary of Guidance for Public Health Strategies to Address High Levels of Community Transmission of SARS-CoV-2 and Related Deaths* (December 2020) available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e2.htm>; CDC, Social Distancing (last accessed January 13, 2021) available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>.

<sup>94</sup> See, for example, Houston Airports Authority, *FlySafe Houston* (accessed on January 13, 2021) available at <https://www.fly2houston.com/flysafe>; San Francisco International Airport, *What We Are Doing* (accessed on January 13, 2021) available at <https://www.flysfo.com/travel-well/new-health-protocols>; Saint Louis Lambert International Airport, *Travel Update: Coronavirus (COVID-19)* (accessed on January 13, 2021) available at <https://www.flystl.com/newsroom/stl-news/2020/travel-update-coronavirus-covid-19>.

at least six feet of distance can be challenging in other crowded transportation settings, such as in buses and subway cars and on commuter ferries.<sup>95</sup>

#### AIR QUALITY/VENTILATION

The CDC encourages increasing indoor air ventilation as a strategy to help reduce transmission of coronavirus.<sup>96</sup> The American Society of Heating, Refrigerating and Air-Conditioning Engineers has recommended specific actions to improve air quality and thereby decrease the risk of infectious disease exposure in indoor environments, including mobile environments such as vehicles and ships.<sup>97</sup> These recommendations include, for example, using filters and air cleaners and ensuring sufficient outdoor airflow rates.<sup>98</sup> Most commercial airliners use high-efficiency particulate air (HEPA) filters<sup>99</sup> and have a high air-exchange rate, including a mix of outside and recirculated air.<sup>100</sup> Particles generated by sneezing or coughing, however, remain in the cabin air creating exposure for disease transmission until they enter the ventilation system and are effectively removed by HEPA filters.<sup>101</sup>

#### U.S. DEPARTMENT OF TRANSPORTATION STATUTORY AUTHORITY TO COMBAT THE COVID CRISIS

On July 27, 2020, the Transportation Trades Department AFL-CIO (TTD) and its 33 member unions petitioned the DOT to mandate by regulation the usage of masks or face coverings for passengers on DOT-regulated commercial transportation providers.<sup>102</sup> In its petition, TTD cited the “patchwork of state or local mandates and a deeply inadequate federal response consisting of non-mandatory guidance” which failed to protect front-line transportation employees.<sup>103</sup> At the time of the petition, “barely half of states [had] enacted mandatory mask requirements in public” even as the country set global records on the rate of new COVID-19 infections.<sup>104</sup>

The Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) already have the authority to mandate the usage of masks and face coverings. Under title 49 of the U.S. Code, the FAA has the statutory authority to issue mandates that promote safety.<sup>105</sup> For example, this has been interpreted in the past by the FAA through the issuance of a “Public Health Authority Notification” via publication in the Federal Register to include regulations related to passengers with communicable diseases.<sup>106</sup> FRA and

<sup>95</sup> CDC, *Wear Face Masks on Public Transportation Conveyances and at Transportation Hubs* (last accessed January 13, 2021) available at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html>.

<sup>96</sup> CDC, *Summary of Guidance for Public Health Strategies to Address High Levels of Community Transmission of SARS-CoV-2 and Related Deaths* (December 2020) available at <https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e2.htm>.

<sup>97</sup> ASHRAE Epidemic Task Force, *Core Recommendations for Reducing Airborne Infectious Aerosol Exposure* (accessed on January 14, 2021) available at <https://www.ashrae.org/file%20library/technical%20resources/covid-19/core-recommendations-for-reducing-airborne-infectious-aerosol-exposure.pdf>.

<sup>98</sup> *Id.*

<sup>99</sup> HEPA filters are high efficiency particle air (HEPA) filters with an efficiency of 99.97% removal of particulates larger than 0.30 microns. See: “Frequently Asked Questions,” American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), accessed here: <https://www.ashrae.org/technical-resources/frequently-asked-questions-faq>.

<sup>100</sup> Airlines for America, “Working Together to Protect Travelers from Curb to Gate” (July 2, 2020) available at <https://www.airlines.org/blog/working-together-to-protect-travelers-from-curb-to-gate/>.

<sup>101</sup> National Academies of Science, *Infectious Disease Mitigation in Airports and on Aircraft* (2013) available at <http://nap.edu/22512>.

<sup>102</sup> Letter from Larry I. Willis, President, Transportation Trades Department AFL-CIO, to Secretary Elaine Chao, U.S. Department of Transportation (July 27, 2020) available at <https://ttd.org/policy/federal-comments/ttd-petitions-dot-for-passenger-face-mask-mandate/>.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> See 49 U.S. Code § 44701, “General requirements,” available at <https://www.govinfo.gov/content/pkg/USCODE-2018-title49/pdf/USCODE-2018-title49-subtitleVII-partA-subpartiii-chap447-sec44701.pdf>; 49 U.S. Code § 44703, “Airman certificates,” accessed here: <https://www.govinfo.gov/content/pkg/USCODE-2018-title49/pdf/USCODE-2018-title49-subtitleVII-partA-subpartiii-chap447-sec44703.pdf>; 49 U.S. Code § 44507, “Regions and centers,” available at <https://www.govinfo.gov/content/pkg/USCODE-2018-title49/pdf/USCODE-2018-title49-subtitleVII-partA-subpartiii-chap445-sec44507.pdf>.

<sup>106</sup> “Public Health Authority Notification,” Federal Aviation Administration, Department of Transportation, Federal Register, Vol. 71, No. 31, 71 FR 8042, February 15, 2006, available at <https://www.govinfo.gov/content/pkg/FR-2006-02-15/pdf/06-1424.pdf>. The notification is summarized as follows: “The FAA is publishing this notice to inform hospitals and other health care organizations of its status as a ‘public health authority’ under the medial privacy requirements of the Health Insurance Portability and Accountability Act of 1996.” *Ibid.*

FTA’s rulemakings also include requirements to promote safety. For example, under FRA’s System Safety Program and Risk Reduction Program final rule, a hazard is defined as “any real or potential condition (as identified in [the railroad’s] risk-based hazard analysis) that can cause injury, illness, or death; damage to or loss of a system, equipment, or property; or damage to the environment.”<sup>107</sup> The FTA uses a similar definition in its Public Transportation Agency Safety Plans regulation: “Hazard means any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment.”<sup>108</sup>

#### *U.S. Department of Transportation Actions*

On October 3, 2020, DOT rejected TTD’s petition for an emergency order mandating masks on all commercial public transportation modes.<sup>109</sup> As of January 17, 2021, DOT has failed to issue an order.<sup>110</sup> In a letter to Chair DeFazio on December 30, 2020, providing an update on DOT’s response to COVID–19, DOT listed the following accomplishments: “the Department has issued over 200 administrative actions granting regulatory relief to support critical needs and recovery, distributed over \$35 billion in Coronavirus Aid, Relief, and Economic Security (CARES) Act relief, facilitated distribution of 100 million facemasks to front-line transportation operators, and provided emergency relief to truckers.”<sup>111</sup> The DOT has also communicated health and workplace guidance from the CDC and OSHA with stakeholders.

One of these stakeholders, APTA, has developed a “COVID–19 Resource Hub” with best practices and implemented the “APTA Health & Safety Commitments Program” to ensure safe operation of public transportation systems.<sup>112</sup>

#### *Transportation Provider Actions and Enforcement Issues*

Many front-line transportation workers have been left largely on their own to enforce any mask mandates.<sup>113</sup> For flight attendants, aside from company policies that may bar passengers who do not wear masks from future flights, any federal enforcement only stems from passengers who become unruly.<sup>114</sup> On January 11, 2021, noting recent violence at the U.S. Capitol and press reports of rowdy and unruly passengers on commercial airlines who refused to wear masks, Chair DeFazio and Chair Larsen wrote to FAA Administrator Stephen Dickson urging him to deter disorderly passengers by vigorously enforcing its authorities and pursue maximum penalties authorized by law—\$35,000 per violation.<sup>115</sup> On January 13, 2021, citing increased disruptive behavior by airplane passengers stemming from both refusal to wear masks and from recent violence at the U.S. Capitol, the FAA issued a zero-tolerance policy by which the agency committed to taking enforcement action against unruly passengers, including fines up to \$35,000 and possible jail time, as

<sup>107</sup> “System Safety Program and Risk Reduction,” Federal Railroad Administration, Department of Transportation, Federal Register, Vol. 85, No. 43, 85 FR 12826, March 4, 2020, accessed here: <https://beta.regulations.gov/document/FRA-2009-0038-0118>.

<sup>108</sup> 49 C.F.R. § 673.5, “Definitions,” accessed here: [https://www.ecfr.gov/cgi-bin/text-idx?SID=7e96bb63db489533521d747f860cf48&mc=true&node=pt49.7.673&rgn=div5#se49.7.673\\_15](https://www.ecfr.gov/cgi-bin/text-idx?SID=7e96bb63db489533521d747f860cf48&mc=true&node=pt49.7.673&rgn=div5#se49.7.673_15).

<sup>109</sup> Press Release, “On the Day POTUS Tests Positive for COVID–19, U.S. DOT Rejects Mask Mandate for All Commercial, Public Transportation,” Transportation Trades Department AFL-CIO (October 3, 2020) available at <https://tttd.org/news-and-media/on-the-day-potus-tests-positive-for-covid-19-u-s-dot-rejects-mask-mandate-for-all-commercial-public-transportation/>.

<sup>110</sup> Jorge L. Ortiz, “Blood on his hands: As US nears 400,000 COVID–19 deaths, experts blame Trump Administration for a ‘preventable’ loss of life,” USA Today (January 17, 2021) available at <https://www.usatoday.com/story/news/nation/2021/01/17/covid-19-us-400-000-deaths-experts-blame-trump-administration/6642685002/>.

<sup>111</sup> Letter from Adam J. Sullivan, Assistant Secretary for Governmental Affairs, Department of Transportation, to Chair DeFazio (December 30, 2020).

<sup>112</sup> American Public Transportation Association, “COVID–19 Resource Hub,” (last viewed January 17, 2021) available at <https://apta.com/covid-19-resource-hub/>.

<sup>113</sup> Harmeet Kaur and Natalia V. Osipova, “For flight attendants, getting people to wear masks is now one of the hardest parts of the job,” CNN, January 21, 2021 available at <https://www.cnn.com/travel/article/flight-attendants-unruly-passengers-masks-trnd/index.html>.

<sup>114</sup> *Id.*

<sup>115</sup> “DeFazio and Larsen Encourage FAA Administrator to Use the Full Weight of Federal Law to Protect Airline Passengers and Crews Ahead of Inauguration,” Majority Press Release, Committee on Transportation and Infrastructure, January 11, 2021, accessed here: <https://transportation.house.gov/news/press-releases/defazio-and-larsen-encourage-faa-administrator-to-use-the-full-weight-of-federal-law-to-protect-airline-passengers-and-crews-ahead-of-inauguration>.

opposed to first using counseling and warnings.<sup>116</sup> The policy is currently in effect through March 30, 2021.<sup>117</sup>

#### FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) RESPONSE

On March 13, 2020, in response to the COVID-19 pandemic, President Trump declared an emergency under Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, P.L. 93-288 as amended).<sup>118</sup> The initial series of declarations authorized Public Assistance emergency protective measures to all states, territories, the District of Columbia, and 32 federally-recognized tribes.<sup>119</sup> By April 22, 2020, President Trump had approved major disaster declaration requests for all 50 states, the District of Columbia, the five territories, and one federally-recognized tribe.<sup>120</sup> Currently, pandemics are not explicitly included in the definition of “major disaster” under the Stafford Act.<sup>121</sup> Areas of concern raised by recipients of the assistance have included the federal cost share and eligibility and reimbursement clarifications.<sup>122</sup>

#### ECONOMIC IMPACT ON TRANSPORTATION SYSTEMS

##### *Inter-city and charter buses*

The Nation’s private motorcoach industry—which includes about 3,000 operators of commuter shuttles, private charters, and scheduled service—has suffered devastating ridership and revenue losses as a result of decreased travel demand during the COVID-19 pandemic.<sup>123</sup> Based on reports from motorcoach companies, between 80 and 95 percent of charter motorcoach trips have been cancelled or are simply not being booked due to the pandemic.<sup>124</sup> The American Bus Association (ABA) has estimated that up to 50 percent of bus companies could go out of business by the end of 2021.<sup>125</sup> Further, ABA-commissioned research indicates that without a strong recovery (and without government assistance), 78 percent of jobs in the charter-bus sector will be lost during the next year and around 65 percent will be lost in the commuter, scheduled, and shuttle-bus sectors.<sup>126</sup>

##### *Aviation*

Demand for commercial air travel plummeted last spring as coronavirus cases surged, and it continues to be far below typical levels. Airlines operating in the United States are now offering just 42 percent of the seats that they offered a year

<sup>116</sup> David Shepardson, “Exclusive: U.S. FAA chief orders ‘zero tolerance’ for disruptive airline passengers, possibly jail,” Reuters (January 13, 2021) *available at* <https://www.reuters.com/article/us-usa-election-aviation-exclusive/exclusive-u-s-faa-chief-orders-zero-tolerance-for-disruptive-airline-passengers-possibly-jail-idUSKBN29I302>; See also FAA, “Press Release—Federal Aviation Administration Adopts Stricter Unruly Passenger Policy,” (January 13, 2021) *available at* [https://www.faa.gov/news/press\\_releases/news\\_story.cfm?newsId=25621](https://www.faa.gov/news/press_releases/news_story.cfm?newsId=25621).

<sup>117</sup> FAA, “Press Release—Federal Aviation Administration Adopts Stricter Unruly Passenger Policy,” (January 13, 2021) *available at* [https://www.faa.gov/news/press\\_releases/news\\_story.cfm?newsId=25621](https://www.faa.gov/news/press_releases/news_story.cfm?newsId=25621).

<sup>118</sup> Stafford Act, 42 U.S.C. §§5121 et seq.; Letter from President Donald J. Trump on Emergency Determination Under the Stafford Act (March 13, 2020) *available at* <https://www.whitehouse.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/>.

<sup>119</sup> *Id.*

<sup>120</sup> Federal Emergency Management Administration, COVID-19 Disaster Declarations (last accessed January 18, 2021) *available here* <https://www.fema.gov/disasters/coronavirus/disaster-declarations>.

<sup>121</sup> See 42 U.S.C. §5122, “Definitions,” *available at* <https://www.govinfo.gov/content/pkg/USCODE-2018-title42/pdf/USCODE-2018-title42-chap68-subchapl-sec5122.pdf>.

<sup>122</sup> See Coalition Letter on the FEMA Assistance Relief Act (September 29, 2020) *available at* <https://www.nga.org/advocacy-communications/coalition-fema-assistance-relief-act/>.

<sup>123</sup> Tim Levin, “With no COVID-19 relief in sight, the private bus industry could collapse—taking with it a vital US transport network” *Business Insider* (November 24, 2020) *available at* <https://www.msn.com/en-us/travel/news/with-no-covid-19-relief-in-sight-the-private-bus-industry-could-collapse-taking-with-it-a-vital-us-transport-network/ar-BB1bjHWt>.

<sup>124</sup> John Dunham and Associates, Memo to American Bus Association President Peter Pantuso (September 8, 2020) *available at* [https://www.buses.org/assets/images/uploads/pdf/Economic\\_Update\\_on\\_Motorcoach\\_Industry\\_090820-B.pdf](https://www.buses.org/assets/images/uploads/pdf/Economic_Update_on_Motorcoach_Industry_090820-B.pdf).

<sup>125</sup> Tim Levin, “With no COVID-19 relief in sight, the private bus industry could collapse—taking with it a vital US transport network” *Business Insider* (November 24, 2020) *available at* <https://www.msn.com/en-us/travel/news/with-no-covid-19-relief-in-sight-the-private-bus-industry-could-collapse-taking-with-it-a-vital-us-transport-network/ar-BB1bjHWt>.

<sup>126</sup> *Id.*; John Dunham and Associates, Memo to American Bus Association President Peter Pantuso (September 8, 2020) *available at* [https://www.buses.org/assets/images/uploads/pdf/Economic\\_Update\\_on\\_Motorcoach\\_Industry\\_090820-B.pdf](https://www.buses.org/assets/images/uploads/pdf/Economic_Update_on_Motorcoach_Industry_090820-B.pdf).



ago.<sup>127</sup> TSA security screenings remain far below normal levels as well; on Christmas day 2020, for example, TSA screened only a quarter of the passengers that it did on the same day in 2019.<sup>128</sup> As airlines struggled to remain solvent in the face of declining revenues over the past year, they furloughed tens of thousands of flight attendants, pilots, and other workers prior to receiving financial assistance.<sup>129</sup> The Coronavirus Aid, Relief, and Economic Security Act (PL 116–136; CARES Act), enacted March 27, 2020, provided financial assistance to air carriers to pay airline employees with a prohibition on involuntary worker furloughs. This prohibition initially expired after September 30, 2020. A second round of funding was approved as part of another COVID relief package, which extended the layoff moratorium until March 31, 2021, and requires that air carriers recall any involuntarily furloughed employees.<sup>130</sup>

The COVID–19 pandemic has also affected revenues flowing into the Airport and Airways Trust Fund (“Trust Fund”), the major federal source of funding for improvements to airports and the nation’s air traffic control system. Section 4007 of the CARES Act authorized a suspension of aviation excise taxes through calendar year 2020. The suspended taxes include the primary revenue sources for the trust fund—the 7.5 percent tax on airline passenger ticket sales, segment fees, the air cargo waybill tax, and aviation fuel taxes paid by both commercial and general aviation aircraft.<sup>131</sup> The tax holiday, coupled with the precipitous drop in air travel during the pandemic, meant the trust fund faced potential insolvency; Congress responded by transferring \$14 billion from the general fund into the trust fund under the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116–159), which averted insolvency.

### *Transit*

COVID–19 and the resulting shelter-in-place orders, business closures, suspension of tourism, and increasing unemployment significantly decreased public transit and commuter rail ridership. In the San Francisco Bay Area, public transit ridership through Bay Area Rapid Transit is 88 percent below its baseline; rail ridership in Washington, D.C., has plummeted 86 percent since 2019; and ridership on New York’s MTA subways is down around 70 percent.<sup>132</sup> Public transit agencies also have incurred substantial costs through increased cleaning and disinfecting procedures, steps meant to protect employees and the public.<sup>133</sup>

These revenue declines and additional costs have fueled extreme budget shortfalls. The Washington Metropolitan Area Transit Authority (WMATA) reported a revenue decline of \$550 million this fiscal year.<sup>134</sup> Washington State Ferries, which operates commuter ferries in Puget Sound and around the San Juan islands, lost \$68 million in revenue due to decreased ridership.<sup>135</sup> The Chicago area’s commuter rail system projects a two-year budget deficit of \$682.5 million.<sup>136</sup> These revenue

<sup>127</sup> John Grant, OAG Update (last accessed January 15, 2021) available at <https://www.oag.com/blog/coronavirus-update-week-one-2021>.

<sup>128</sup> TSA, traveler checkpoint numbers for 2019–2020 (last accessed January 15, 2021) available at <https://www.tsa.gov/coronavirus/passenger-throughput>.

<sup>129</sup> CNBC, *Airlines Begin Complex Process of Calling Back More Than 32,000 Furloughed Workers* (last accessed January 15, 2021) available at <https://www.cnbc.com/2020/12/23/coronavirus-stimulus-gives-airlines-15-billion-to-call-back-furloughed-workers.html>.

<sup>130</sup> *Id.*  
<sup>131</sup> Congressional Research Service, “Federal Civil Aviation Programs: In Brief” (July 20, 2020) available at <https://crsreports.congress.gov/product/pdf/R/R42781>.

<sup>132</sup> Abby Vesoulis, “The Future of American Public Transit Depends on Congress,” *Time* (December 17, 2020) available at <https://time.com/5921917/mass-transit-covid-congress/>.

<sup>133</sup> Paul P. Skoutelas, APTA President and CEO, “Examining the Surface Transportation Board’s Role in Ensuring a Robust Passenger Rail System,” testimony before the House Subcommittee on Railroads, Pipelines and Hazardous Materials (November 18, 2020), available at: <https://www.apta.com/advocacy-legislation-policy/testimony-letters/letters/paul-p-skoutelas-president-and-ceo-apta-on-examining-the-surface-transportation-boards-role-in-ensuring-a-robust-passenger-rail-system-house-subcommittee-on-railroads-pipelines-and-haza/>.

<sup>134</sup> Justin George, “Metro is planning normal service this year, but hoping for a cash infusion in 2022,” *Washington Post* (January 14, 2021), available at [https://www.washingtonpost.com/local/trafficandcommuting/metro-budget/2021/01/14/211a0f8e-562f-11eb-a931-5b162d0d033d\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/metro-budget/2021/01/14/211a0f8e-562f-11eb-a931-5b162d0d033d_story.html).

<sup>135</sup> Michelle Baruchman, “Washington state ferry ridership dropped to historic lows last year,” *Seattle Times* (January 13, 2021) available at <https://www.seattletimes.com/seattle-news/transportation/washington-state-ferry-ridership-dropped-to-historic-lows-last-year/>.

<sup>136</sup> Robert Channick, “Metra is falling further behind budget amid COVID–19 ridership decline,” *Chicago Tribune* (August 19, 2020) available at <https://www.chicagotribune.com/coronavirus/ct-coronavirus-chicago-metra-ridership-revenue-decline-20200819-ff12sbjnujempaex5pbbt5zqta-story.html>.

shortfalls force transit authorities to slash routes and delay scheduled expansions—decisions that, experts say, could impair transit for the next decade.<sup>137</sup> While the pandemic package Congress passed at the end of the 116th Congress included \$14 billion for public transit, APTA estimates it would take \$39.3 billion for the nation's transit systems to recover to pre-pandemic levels.<sup>138</sup>

#### *Cruise Industry*

The cruise industry has been uniquely affected by the COVID-19 pandemic, including, early on, tens of thousands of people, including both passengers and crew members, being quarantined for months onboard ships.<sup>139</sup> There is a 'Conditional Sailing Order' in place in the United States, while Canada, the Cayman Islands, Australia, New Zealand, the Seychelles, and Spain have all banned cruise ships for the foreseeable future.<sup>140</sup> Major cruise lines, including Carnival Cruise Line, Princess Cruises, and Holland America Line, have cancelled all sailings for several more months.<sup>141</sup> The financial impact on cruise ship companies has been severe. The *Financial Times* reported in June 2020 that Carnival Cruise Lines was losing \$1 billion each month.<sup>142</sup> Also last year, following substantial losses due to the pandemic, the credit ratings of Carnival and Royal Caribbean were downgraded to junk status by two major rating agencies.<sup>143</sup> Virtually the entire U.S. domestic commercial passenger fleet, including overnight excursions, day charters, and tours, has also shut down.<sup>144</sup> Stakeholders, including the Passenger Vessel Association, are working with the CDC to develop reopening guidelines based on CDC recommendations.<sup>145</sup>

#### *Maritime Industry*

The U.S. maritime industry, including merchant mariners, vessel owners and operators, and shipbuilders, the Nation's port system, and supporting industries integrate our economy with a vast global maritime supply chain system that moves more than 90 percent of the world's trade by tonnage, including sources of energy, consumer goods, agricultural products, and raw materials.<sup>146</sup> These industries, vessels, infrastructure, and personnel also play critical roles in national security, supporting our Nation's ability to provide sealift for the Department of Defense (DOD) during times of war and national emergency.<sup>147</sup> It is estimated that before the COVID-19 pandemic, more than 650,000 Americans worked in the maritime industry.<sup>148</sup> Even more jobs—roughly 30.8 million—were supported by cargo moving through deep ports in the United States.<sup>149</sup>

<sup>137</sup> Abby Vesoulis, "The Future of American Public Transit Depends on Congress," *Time* (December 17, 2020) available at <https://time.com/5921917/mass-transit-covid-congress/>.

<sup>138</sup> Laura Bliss, "For Public Transit, the Stimulus Is a Lifeline—But a Short One," Bloomberg (December 22, 2020) available at <https://www.bloomberg.com/news/articles/2020-12-22/transit-gets-a-reprieve-not-a-rescue-in-stimulus>; Press Release, "New Independent Economic Analysis Shows Public Transportation Industry Faces \$39.3 Billion Shortfall," American Public Transportation Association (January 28, 2021) available at <https://apta.com/news-publications/press-releases/releases/new-independent-economic-analysis-shows-public-transportation-industry-faces-39-3-billion-shortfall/>.

<sup>139</sup> Taylor Dolven, "Cruise ships sailed on despite the coronavirus. Thousands of people paid the price," *Miami Herald* (April 23 2020) accessed at: <https://www.miamiherald.com/news/business/tourism-cruises/article241640166.html>.

<sup>140</sup> Kaye Holland, "Hoping for calmer waters: Cruise industry looks ahead to 'the year of recovery'" *The Telegraph* (January 7, 2021) available at <https://www.telegraph.co.uk/travel/cruises/news/positive-future-for-cruise-holidays-say-experts/>.

<sup>141</sup> Taylor Dolven, "Cruises keep getting canceled due to the pandemic" *Miami Herald* (December 4, 2020).

<sup>142</sup> Alice Hancock, "Coronavirus: is this the end of the line for cruise ships?" *Financial Times* (June 7, 2020) available at <https://www.ft.com/content/d8ff5129-6817-4a19-af02-1316f8defe52>.

<sup>143</sup> *Id.*

<sup>144</sup> Letter from Passenger Vessel Association to Speaker Nancy Pelosi (April 8, 2020) available at <http://www.passengervessel.com/downloads/letters/2020-CARES-ACT-2-Speaker-Pelosi.pdf>.

<sup>145</sup> Passenger Vessel Association, "Reopening Guidelines: Getting the Domestic Passenger Vessel Industry Back Underway," (last accessed January 19, 2021) available at <http://www.passengervessel.com/covid-19.html>.

<sup>146</sup> Maritime Administrator Mark H. Buzby Testimony before the House Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation (March 6, 2019), available at <https://transportation.house.gov/imo/media/doc/Buzby%20Testimony1.pdf>.

<sup>147</sup> *Id.*

<sup>148</sup> Press Release, "Ports, Other Maritime Entities Request \$3.5B in COVID-19 Relief," American Association of Port Authorities, December 9, 2020, available at <https://www.aapa-ports.org/advocating/PRDetail.aspx?ItemNumber=22701>.

<sup>149</sup> *Id.*

Globally, maritime trade was down 4.1 percent in 2020.<sup>150</sup> There was also a sharp decrease in port calls compared to 2019.<sup>151</sup> A coalition of U.S. maritime stakeholders describe the impacts as follows: “Commercial cargo has plummeted—total waterborne trade volume is down 6.3% compared to last year, while the total value of this trade has crashed by 13.9% totaling \$200 billion.”<sup>152</sup> With commercial cargo and trade down, there have also been added costs to stakeholders to design and implement COVID-19 protocols and precautions.<sup>153</sup>

#### *State and Local Revenues, Federal Trust Funds*

The pandemic’s initial effect on travel behaviors has been significant. While the long-term specific impact is still uncertain, early data showing an estimated one billion fewer miles driven each day, or an 11.4 percent decrease when compared to 2019.<sup>154</sup> As a significant portion of state transportation funding comes from user fees, such as motor fuel taxes, declines in travel have had a direct impact on state transportation budgets.<sup>155</sup> Density-reliant user fee revenue sources, such as transit fares, variable toll rates, and congestion pricing, have been particularly hard hit by the COVID-19 pandemic.<sup>156</sup> While gas tax revenue sharply declined during the first two months of the pandemic, these receipts have appeared to recover faster than other revenue sources, particularly when compared to user fees that rely on specific commuter patterns.<sup>157</sup> Early estimates from the American Association of State Highway and Transportation Officials project that state departments of transportation will see \$16 billion in revenue declines in 2020, and \$37 billion in losses over the next five years.<sup>158</sup> However, the most recent census data shows that State motor fuel tax receipts for the first nine months of 2020 were down by \$2.5 billion (-6.3 percent) compared to their 2019 levels, whereas State vehicle and operator license revenues that are also often used by States to fund transportation were down \$1.0 billion this year, or -3.9 percent.<sup>159</sup> Overall impacts on tax receipts can vary widely depending on the State, given the mix of different revenue sources relied upon to fund transportation. Oregon reported collecting \$27 million less in gas tax revenue between January and August 2020, and estimates the State Highway Fund will collect \$170 million less in 2020 and 2021.<sup>160</sup> Pennsylvania’s Department of Transportation reported in November 2020 that it has already lost nearly \$400 million in revenue as a result of reduced travel, and expects to lose a total of \$500 to \$600 million in 2020.<sup>161</sup>

#### *CONGRESSIONAL ACTION*

Congress included billions of dollars of relief and job protection measures in the CARES Act and the Consolidated Appropriations Act, 2021 (P.L. 116-260). Among the Committee-related provisions in the CARES Act are the following: \$32 billion to fund the Payroll Support Program for airline workers, \$29 billion in loans to air carriers, \$10 billion in grants to airports, \$25 billion to public transit operators, \$1 billion for Amtrak, \$45 billion for the FEMA Disaster Relief Fund, and other funds for federal agencies to prevent, prepare for, and respond to COVID-19.<sup>162</sup> The Con-

<sup>150</sup> UNCTAD, “COVID-19 cuts global maritime trade, transforms industry,” November 12, 2020, available at <https://unctad.org/news/covid-19-cuts-global-maritime-trade-transforms-industry>.

<sup>151</sup> UNCTAD, “COVID-19 and maritime transport: Impact and responses,” (2020), available at [https://unctad.org/system/files/official-document/dtltlbinf2020d1\\_en.pdf](https://unctad.org/system/files/official-document/dtltlbinf2020d1_en.pdf).

<sup>152</sup> Letter from American Association of Port Authorities and other maritime entities to Congressional Leadership, (December 9, 2020), available at [https://aapa.cms-plus.com/files/MTS%20Relief%20Coalition%20Letter\\_Congress.pdf](https://aapa.cms-plus.com/files/MTS%20Relief%20Coalition%20Letter_Congress.pdf).

<sup>153</sup> *Id.*

<sup>154</sup> National Governor’s Association, Transportation Funding and Financing During COVID-19, (December 7, 2020) available at <https://www.nga.org/memos/transportation-funding-financing-covid-19/>.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> Jeff Davis, “Loss from COVID Uneven and Less than Anticipated” *Eno Center for Transportation*, (December 21, 2020), available at <https://www.enotrans.org/article/new-census-data-shows-state-local-revenue-loss-from-covid-uneven-and-less-than-anticipated/>.

<sup>160</sup> National Governor’s Association, Transportation Funding and Financing During COVID-19, (December 7, 2020) available at <https://www.nga.org/memos/transportation-funding-financing-covid-19/>.

<sup>161</sup> *Id.*

<sup>162</sup> P.L. 116-136, §§ 4003, 4112, & Division B. More information is also available at <https://transportation.house.gov/news/press-releases/chair-defazio-offers-his-support-for-putting-american-families-and-workers-first-in-third-covid-19-relief-package>.

solidated Appropriations Act included the following among its provisions: \$14 billion for transit; \$10 billion for state transportation departments and local transportation agencies; \$1 billion for Amtrak; \$2 billion for motorcoach and bus operators, school bus companies, and U.S. flag passenger vessel operators; \$2 billion for airports; \$15 billion to extend the Payroll Support Program for aviation employees through March 31, 2021; and \$2 billion for FEMA's Disaster Relief Fund.<sup>163</sup>

WITNESS LIST

- Professor David Michaels, PhD, MPH, Department of Environmental and Occupational Health, Milken Institute School of Public Health, The George Washington University
- Ms. Sara Nelson, International President, Association of Flight Attendants—CWA
- Mr. Lewie Pugh, Executive Vice President, Owner-Operator Independent Drivers Association (OOIDA)
- Mr. Ismael Rivera, Bus operator for Lynx and Member of Amalgamated Transit Union (ATU) Local 1596, Orlando, FL
- Professor William P. Bahnfleth, PhD, PE, FASHRAE, FASME, FISIAQ, Professor of Architectural Engineering, The Pennsylvania State University
- The Honorable Joe Buscaino, Councilman, Los Angeles City Council, and Past President, National League of Cities, on behalf of National League of Cities

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<sup>163</sup> P.L. 116-260 Division F & Division M. More information is *available at* <https://transportation.house.gov/news/press-releases/chair-defazio-applauds-new-round-of-aid-for-the-hard-hit-transportation-sector-in-omnibus-and-covid-relief-legislation->.

**PROTECTING TRANSPORTATION WORKERS  
AND PASSENGERS FROM COVID: GAPS IN  
SAFETY, LESSONS LEARNED, AND NEXT  
STEPS**

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**THURSDAY, FEBRUARY 4, 2021**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
WASHINGTON, DC.

The committee met, pursuant to call, at 11:29 a.m., in room 2167 Rayburn House Office Building and via Cisco Webex, Hon. Peter A. DeFazio (Chair of the committee) presiding.

Present in person: Mr. DeFazio, Ms. Johnson of Texas, Mr. Garamendi, Mr. Stanton, Mr. Kahele, Ms. Newman, Mr. Graves of Missouri, Mr. Young, Mr. Webster, Mr. Perry, Mr. Rodney Davis, Dr. Babin, Mr. Graves of Louisiana, Mr. Rouzer, Mr. Bost, Mr. Westerman, Mr. Mast, Mr. Fitzpatrick, Miss González-Colón, Mr. Stauber, Mr. Burchett, Mr. Johnson of South Dakota, Dr. Van Drew, Mr. Guest, Mr. Nehls, Ms. Mace, Ms. Van Duyne, and Mrs. Steel.

Present remotely: Ms. Norton, Mr. Larsen, Mrs. Napolitano, Mr. Cohen, Mr. Sires, Mr. Johnson of Georgia, Ms. Titus, Mr. Maloney, Mr. Huffman, Ms. Brownley, Ms. Wilson of Florida, Mr. Payne, Mr. Lowenthal, Mr. Lynch, Mr. Carbajal, Mr. Brown, Mr. Allred, Ms. Davids, Mr. García of Illinois, Mr. Delgado, Mr. Pappas, Mr. Lamb, Mr. Moulton, Mr. Auchincloss, Ms. Bourdeaux, Ms. Strickland, Ms. Williams of Georgia, Mr. Massie, Mr. LaMalfa, and Mr. Balderson.

Mr. DEFAZIO. I now call the full committee hearing to order.

I ask unanimous consent that the chair be authorized to declare a recess at any time in today's hearing.

Without objection, so ordered.

Today we are here to discuss one aspect of COVID-19: the impact on the transportation system, its workers, its passengers, the gaps that still exist in protecting these workers and passengers, lessons we have learned from the Federal Government's response to the pandemic so far, and potential next steps to better protect transportation workers and passengers from COVID-19 and other future potential health crises.

It has hit a lot of sectors hard. The reduction in mass transit ridership and air passengers has led to devastating economic consequences for local and State governments, transit agencies, and commercial airlines. Maritime and trucking have been hit variably, depending upon their lines of business. But for all, there have been consequences in terms of COVID itself.

The transportation workers have been very hard hit by health dangers and also the financial repercussions of the COVID health crisis. The Transportation Trades Department, which represents a lot of these transportation workers, is sharing some of those stories online as we speak. And I would encourage people to check out “COVID transportation stories” on Twitter to hear even more examples of why today’s hearing is so important but only after you have sat through the fascinating hearing.

I am thankful, however, that we now have a commonsense national strategy unveiled by the Biden administration the first day in office. It won’t be easy. There is no immediate fix, but at least they have put in place some basic national consistent measures. We need more PPE, obviously. Maritime workers are moving cargo through our ports. Busdrivers and rail operators are helping doctors, nurses, and American workers engage in combating COVID-19 through their essential jobs. Aviation is transporting some of these same essential people and the vaccines by air. Transportation workers in all of these modes are at a high risk of contracting COVID-19: close quarters, large number of individuals that travel, and frequent trips make them particularly vulnerable. Truckdrivers, busdrivers, delivery personnel, mechanics, engineers, maritime workers, pilots, flightcrews, and railroad conductors have all been impacted by COVID-19 economically, socially, and medically. Many have been infected and some, tragically—actually, quite a few—have lost their lives.

For months, I pushed for a national mask mandate for transportation workers and passengers, but unfortunately, the previous administration would not impose such a mandate. When measures have been adopted by individual airlines as rules of the airline and/or by transit agencies and local jurisdictions, flight attendants and busdrivers have been harassed, beaten, and attacked while carrying out their job duties trying to protect themselves and their other passengers from those who refuse to wear a face mask. We owe those workers a debt of gratitude for their commitment and courage for showing up every day to keep America moving.

Now those mandates will be backed by Federal law. I have had conversations with Administrator Dickson. The maximum fine is \$35,000 and 1 year imprisonment, and they will be for egregious cases pursuing those maximum fines to get the attention of people.

CDC just came out with guidance, which we will get into, on what constitutes a proper mask, which is going to be confusing, and it is going to require a lot of work by the various modes to get that information to their users, their passengers, their customers. So that is a work in progress as of this week.

I have actually contacted Chair Thompson of the Homeland Security Committee. We have a new memorandum of understanding with them on areas of mutual concern and interest, and I informed him that I am going to contact the head of the Transportation Security Administration and ask them to take the lead, at least in airports, on enforcing this mandate because if people get past TSA, and they get to the gate, and none of the vendors down there sell masks, it becomes a big problem. You are supposed to actually have the mask on as you enter the airport. So, by the time they get to TSA, they should have a proper mask on, and they should

put up posters like they do for everything else we can't carry on about what kind of mask you can have and you can't. This is going to be a difficult transition.

As Dr. David Michaels, the former head of OSHA under the Obama administration, one of the witnesses here today, has pointed out, the Trump administration has steadfastly refused to put forward regulations to protect American workers and the workforce at large. OSHA is now developing individual workplace—because all workplaces vary—mandates and requirements, some of the States have done it individually, but it is better to have a national system, a national plan. You have got to wear a hard hat when you go on a construction site, even if it is a construction site where it is not likely anything is going to fall on your head. And not having a mandatory requirement for something as dangerous as COVID-19 was a huge, huge lack.

Face masks and proper ventilation systems can help. We will hear from ASHRAE today about that. I was interested in some of their assessment of different environments in terms of transmission, airborne transmission of the virus, and I will look forward to their testimony and the testimony of others working directly with the traveling public.

We need a massive increase in testing capacity. I have concerns that the CDC is considering a national mandate that everyone have a COVID test before they fly. That would mean an immediate increase of at least 50 percent in daily testing capacity, and I don't know where that comes from. And, furthermore, I am not certain of its effectiveness given that, even the most effective test is not particularly accurate. The PCR has a 100-percent failure rate at day one, and people are most infectious days minus one, minus two, and day plus one. So I just question whether this would be effective. And if it is necessary in aviation, well, then I guess we would have to worry about interstate trucking, interstate buses, Amtrak, and people getting in their automobiles and crossing State lines. So I hope we will have some discussion of that here today also.

With that, I recognize the ranking member for his opening remarks.

[Mr. DeFazio's prepared statement follows:]

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**Prepared Statement of Hon. Peter A. DeFazio, a Representative in Congress from the State of Oregon, and Chair, Committee on Transportation and Infrastructure**

Today, we are here to discuss one aspect of the COVID-19 pandemic, the impact on the U.S. transportation system, its workers and its passengers, the gaps that still exist in protecting these workers and passengers from the virus, the lessons that have been learned from the Federal Government's response to the pandemic so far, and potential next steps to better protect transportation workers and passengers from COVID-19 and any future public health crisis we may confront.

The coronavirus pandemic has been a public health catastrophe and economic disaster for our country and a calamity for the world. Still, the chaotic, contradictory, and lackluster federal response inarguably made things much worse than they needed to be, cost more lives, and created the conditions that exacerbated the widescale spread of the disease across our nation. The COVID-19 virus has now taken the lives of more than 440,000 Americans to date and infected more than 26 million others in the U.S. alone.

And it has hit the transportation sectors hard. The reduction in mass transit riders and air passengers has led to devastating economic consequences for local, regional and state governments, transit agencies, and commercial airlines. The maritime and trucking industries have also suffered dire economic consequences. Our transportation networks will take a long time to recover financially, and they may be forever altered fundamentally by changing workplace practices. Transportation workers in particular have been hard hit by the devastating health dangers and significant financial repercussions of the public health crisis our nation continues to face. The Transportation Trades Department, which represents a lot of those transportation workers, is sharing some of those stories online as we speak and I would encourage people to check out “COVID transportation stories” on Twitter to hear even more examples of why today’s hearing is so important.

I am thankful, however, that we now have a common-sense national strategy unveiled by the Biden administration on its first day in office to combat the COVID-19 pandemic. It won’t be easy. There is no immediate fix. More lives will be lost in the weeks and months ahead. Correcting the damage that has already resulted from waiting so long to lead the nation out of this public health crisis will take time. A long time. In the meantime, this Committee will help lead the way in protecting the health and safety of transportation workers and passengers. I believe there is hope on the horizon.

The U.S. transportation network and its workers play a critical role in keeping passengers and freight moving to their destinations on time. During the pandemic they have helped to get personal protective equipment (PPE) to where it needed to go via air, sea, rail and truck. Maritime workers are keeping our economy running by moving cargo through our ports. Bus drivers and rail operators are helping transport doctors, nurses, and American workers engaged in combatting the COVID-19 pandemic to their essential jobs. All of these efforts and others have put transportation workers—and continue to put transportation workers—at a high-risk of contracting the COVID-19 virus. The close quarters, large numbers of individuals that travel on transportation systems, and frequent trips make transportation workers particularly vulnerable to COVID-19.

Truck drivers and bus drivers, delivery personnel, mechanics and engineers, maritime workers, pilots and flight crews, and railroad conductors have all been impacted by the COVID-19 pandemic economically, socially, and medically. Many have been infected with the virus and some have lost their lives. For many months, I have pushed for a national mask mandate to protect transportation workers and passengers from the risk of being infected with the COVID-19 virus. A lack of federal resolve by the Trump administration to implement uniform national policies on this basic and most critical public health safety measure has led to confusion and confrontation.

Flight attendants and bus drivers have been harassed, beaten, and attacked while carrying out their job duties trying to protect themselves and their passengers from those who refuse to wear a face mask. We owe all of these workers a debt of gratitude for their commitment and their courage for showing up for their jobs every day to move America.

Unfortunately, efforts to rely on science to protect transportation workers and passengers from COVID-19 were often impeded and ignored by the Trump administration. According to the New York Times, the CDC drafted an order in September 2020 under its quarantine powers that would have required all passengers and employees to wear face masks on all forms of public and commercial transportation in the United States, but it was blocked by the White House.

In addition, the White House reportedly prevented the CDC from extending its original No Sail Order for cruise ships to mid-February. The Trump administration also failed to use its statutory powers to enforce fundamental health and safety best practices in the workplace to help protect transportation and other workers from the COVID-19 pandemic by holding employers responsible for this basic duty.

As Dr. David Michaels, the former head of the Occupational Safety and Health Administration under the Obama administration and one of our witnesses here today has pointed out, the Trump administration steadfastly refused to implement regulations that would protect transportation workers and the American workforce at large from the deadly risks of the COVID-19 virus.

While there are federal regulations requiring workers to wear hard hats in construction sites and their employers face financial penalties if they do not, the Trump administration was unwilling to issue mandatory workplace requirements surrounding some of the hard facts regarding the COVID-19 pandemic: that wearing face masks saves lives, that physical distancing prevents the spread of the virus, that proper ventilation systems can help diminish COVID-19 infections. These are hard scientific facts and the lack of clear, comprehensive, and mandatory measures



to protect transportation workers and passengers from the COVID-19 virus has cost lives and spread infections among co-workers, into their local communities and across the nation.

We must do better. There is hope on the horizon with a vaccine, new plans by the Biden administration to double the Nation's testing capacity, and to mobilize 100,000 Americans in a new U.S. Public Health Jobs Corps to conduct contact tracing, and implement a national mask mandate.

I look forward to hearing from our witnesses today about these important issues. With that I yield to Ranking Member Graves. Thank you.

Mr. GRAVES OF MISSOURI. Thank you, Chairman DeFazio.

And I appreciate our witnesses being here today to testify about the impact of the COVID pandemic and what impact it is having on transportation workers and how we can continue forward through a safe recovery.

The pandemic has ravaged our country since the first case was reported in January 2020. Many workers can't work virtually like we are today and continue to show up in person to perform those essential services that we all rely upon. Notably, this includes our frontline transportation workers that make sure our grocery store shelves are stocked, that safely transport people across the country and ensure that our frontline workers can get to their jobs to help serve the public.

Just like the overall economy, different sectors of the transportation economy have been affected or been impacted in different ways by the coronavirus. Since the last time that we examined this topic, Congress has authorized an unprecedented amount of \$113 billion to support different sectors of the transportation industry to ensure that workers stay employed and that these businesses can bounce back quickly. This assistance includes grants totaling \$60 billion for airlines, airports, and their contractors; \$39 billion for transit systems; \$10 billion for State departments of transportation; \$2 billion for Amtrak, and \$2 billion for motorcoach operators, schoolbus companies, and passenger ferries. We need to ensure that all of this money leaves the Federal Government and gets to the intended recipients as soon as possible.

Moving forward through the recovery, we must make safe, smart, and responsible decisions to get our workforce going and businesses hiring again. This is going to affect our ability to restart and reconnect supply chains that are key to the economic recovery. As Americans get back to traveling, they need safe and effective measures to give them the confidence that they need to return, but we also have to ensure that the workers providing these transportation services are safe as well.

I am glad we have the opportunity today to hear directly from frontline workers about their experiences during the pandemic. Thank you again for participating today, but more importantly, thank you for keeping the country, our country, moving in these very difficult times. Thank you very much.

And, with that, I yield back, Mr. Chairman.

[Mr. Graves of Missouri's prepared statement follows:]

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**Prepared Statement of Hon. Sam Graves, a Representative in Congress from the State of Missouri, and Ranking Member, Committee on Transportation and Infrastructure**

Thank you, Chair DeFazio. I appreciate our witnesses being with us today to testify about the impact that the COVID pandemic is having on transportation workers and how we can continue forward through a safe recovery.

The pandemic has ravaged our country since the first U.S. case was reported in January 2020. Many workers can't work virtually like we are today and continue to show up in-person to perform the essential services that we all rely upon. Notably, this includes our frontline transportation workers that make sure our grocery store shelves stay stocked, transport people safely across the country, and ensure that other frontline workers can get to their jobs to help serve the public.

Just like the overall economy, different sectors of the transportation economy have been impacted in different ways by the coronavirus. Since the last time we examined this topic, Congress has authorized an unprecedented amount of \$113 billion to support different sectors of the transportation industry to ensure that workers stay employed and that these businesses can bounce back quickly. This assistance includes grants totaling \$60 billion for airlines, airports, and their contractors; \$39 billion for transit systems; \$10 billion for state departments of transportation; \$2 billion for Amtrak; and \$2 billion for motorcoach operators, school bus companies, and passenger ferries. We need to ensure that all of this money leaves the federal government and gets to the intended recipients as soon as possible.

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As Americans get back to traveling, they need safe and effective measures to give them the confidence needed to return. But we also must ensure that the workers providing these transportation services are safe.

I'm glad we have the opportunity today to hear directly from frontline workers about their experiences during the pandemic. Thank you for participating today, but more importantly thank you for keeping our country moving even in these difficult times.

Mr. DEFAZIO. I thank the ranking member.

I would now like to welcome witnesses on our panel: Professor David Michaels, Department of Environmental and Occupational Health, Milken Institute School of Public Health, George Washington University; Ms. Sara Nelson, international president, Association of Flight Attendants–CWA; Mr. Lewie Pugh, executive vice president, Owner-Operator Independent Drivers Association; Mr. Ismael Rivera, a bus operator for Lynx and member of ATU, Amalgamated Transit Union Local 1596, Orlando; Professor William Bahnfleth, a professor of architectural engineering from Pennsylvania State University, chair of the ASHRAE Epidemic Task Force; and the Honorable Joe Buscaino, councilman, Los Angeles City Council, past president, National League of Cities, on behalf of the National League of Cities.

Thank you for joining us today. We look forward to your testimony.

Without objection, our witnesses' full statements will be included in the record, and they have been distributed prior to this meeting, and many of us have read your written testimony. So I would urge that you, you know, you may deviate, you may expand, expound, you may respond to others who are on the panel if you come after them. I would like to have something a little more active than sitting there reading your notes.

With that, you will each be recognized for 5 minutes.

Professor Michaels, you may proceed.

**TESTIMONY OF PROFESSOR DAVID MICHAELS, Ph.D., MPH, DEPARTMENT OF ENVIRONMENTAL AND OCCUPATIONAL HEALTH, MILKEN INSTITUTE SCHOOL OF PUBLIC HEALTH, THE GEORGE WASHINGTON UNIVERSITY; SARA NELSON, INTERNATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL-CIO; LEWIE PUGH, EXECUTIVE VICE PRESIDENT, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION; ISMAEL RIVERA, BUS OPERATOR, LYNX, AND MEMBER, AMALGAMATED TRANSIT UNION LOCAL 1596, ORLANDO, FLORIDA; WILLIAM P. BAHNFLETH, Ph.D., P.E., FASHRAE, FASME, FISIAQ, PROFESSOR OF ARCHITECTURAL ENGINEERING, THE PENNSYLVANIA STATE UNIVERSITY, TESTIFYING ON BEHALF OF HIS ROLE AS CHAIR, ASHRAE EPIDEMIC TASK FORCE; AND HON. JOE BUSCAINO, PRESIDENT PRO TEMPORE, LOS ANGELES CITY COUNCIL, TESTIFYING ON BEHALF OF THE NATIONAL LEAGUE OF CITIES**

Mr. MICHAELS. Thank you, Chairman DeFazio, Ranking Member Graves, distinguished members of this panel. My name is David Michaels. I am an epidemiologist and professor at the George Washington University School of Public Health. From 2009 to 2017, I served as Assistant Secretary of Labor for the Occupational Safety and Health Administration, the longest serving Administrator in OSHA's history. From 1998 to 2001, I was Assistant Secretary for Environment, Safety, and Health at the U.S. Department of Energy, protecting the workers, the communities, and the environment around the Nation's nuclear weapons facilities.

Since this pandemic began, much of my work has focused on improving the protection of workers exposed to the virus that causes COVID-19. I was a member of the Biden-Harris COVID-19 Advisory Board and served on the National Academies' expert panel that developed the framework for equitable vaccine allocation.

COVID-19 has created an unprecedented public health crisis with a huge impact on the transportation sector. Workers need better protection to avoid illness and death. Passengers need reassurance they can travel without fear of infection. And the industry needs safe workers and willing passengers to survive in this difficult period. We don't know how many workers have developed or died from COVID after workplace exposures, but there are many studies demonstrating that exposure in transportation greatly increases risk of disease.

We have to protect transportation workers and passengers from COVID, and we know how to do it. Every transportation system must develop a plan to prevent virus exposure. Look, infection control is not simple or easy, and it requires the active cooperation of everyone involved. Plans must be developed, implemented, and evaluated collaboratively with the workers and, if there is one, the workers' union.

This infection control plan must be based on what we call the hierarchy of controls. This is a widely applied set of principles to prevent workplace health hazards. It is the basis for modern industrial hygiene and for all of OSHA's health standards.

The most effective way to reduce exposure is to make sure that people who may be spreading the virus stay home. Workers need to be supported financially to enable them to quarantine or to iso-

late, and small employers may need help paying for this. Enacting emergency sick leave support should be a very high legislative priority.

Masking is the next step in keeping the virus out of the air of a workplace. The CDC now requires all passengers and workers on global and interstate transportation to be masked. This will no doubt save many lives.

But once the virus gets into the air, individuals must be kept far apart. Six feet apart is the often-cited requirement, but this is an arbitrary distance, and more is always better. And even 6 feet is impossible in many transportation settings, underscoring the need for mandatory masks, maximizing ventilation, and ensuring appropriate filtration.

In many cases, ventilation and filtration on buses and other modes of public transportation will need to be improved. OSHA, the Federal agency charged with ensuring worker safety and health, has just strengthened its COVID safety recommendations and, as you heard, is likely to soon finally issue an emergency standard, including requirements for masks, distance, and ventilation, as well as, very importantly, protection against retaliation for workers who raise safety concerns.

Effective enforcement of public health rules will require active collaboration between the Transportation Security Administration, DOT agencies, OSHA, and transportation employers and unions. However, many of the transportation workers at highest risk for COVID are not covered by OSHA. DOT agencies with weak or no worker protections have preempted OSHA's authority. The result is that for large numbers of transportation employees, their workplaces are OSHA-free zones. This committee should strongly encourage DOT agencies to quickly develop joint regulatory and enforcement efforts with OSHA.

Prioritizing vaccination of transportation workers at high risk is also of great importance. The Federal Government should establish a vaccination program specifically for workers involved in interstate or global travel by land, air, and sea, and provide the vaccines at hubs and ports they pass through for their work.

So, in summary, the Federal Government must take strong actions to ensure the safety of passengers who rely on transportation systems, their workers, and the communities in which passengers and workers live. If transportation is not safe, we will not be able to stem this pandemic and return the economy to normalcy. Thank you very much.

[Mr. Michael's prepared statement follows:]

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**Prepared Statement of Professor David Michaels, Ph.D., MPH, Department of Environmental and Occupational Health, Milken Institute School of Public Health, The George Washington University**

Thank you, Chairman DeFazio and Ranking Member Graves for inviting me to testify at this important hearing addressing the COVID-19 pandemic, one of the most pressing and difficult issues facing the nation today.

My name is David Michaels. I am an epidemiologist and Professor of Environmental and Occupational Health at the Milken Institute School of Public Health of George Washington University. The views expressed in my testimony are my own and do not represent the views of George Washington University.

From 2009 until January 2017, I served as Assistant Secretary of Labor for the Occupational Safety and Health Administration (OSHA), the longest serving Assistant Secretary in OSHA's history. From 1998 to 2001, I was Assistant Secretary of Energy for Environment, Safety and Health, charged with protecting the workers, community residents and environment in and around the nation's nuclear weapons facilities. I am currently a member of the Board of Scientific Counselors of the US National Toxicology Program, appointed by Health and Human Services Secretary Alex M. Azar in 2019.

Since the COVID-19 pandemic began, much of my work has focused on improving the protection of workers exposed to SARS-CoV-2.<sup>1,2</sup> I was a member of the Biden-Harris Transition COVID-19 Advisory Board; served on the National Academy of Sciences, Engineering and Medicine's expert panel that developed a Framework for Equitable Allocation of Vaccine for the Novel Coronavirus; and am a member of the Lancet COVID-19 Commission's Task Force on Safe Work, Safe School, and Safe Travel.

COVID-19 has created an unprecedented public health crisis, one that has had a huge impact on the transportation sector. Workers need better protection to avoid illness and death, passengers need reassurance that they can travel without fear of infection and the industry needs safe workers and willing passengers to survive in this difficult period.

My testimony today focuses on the COVID-19 risks facing workers and passengers who travel by air, bus, train, ship and mass transit. While many of the challenges facing this sector are similar to those facing other essential industries, there are aspects that are unique and require approaches and solutions that are new, bold and immediate.

The United States is facing a massive worker safety crisis. As the COVID-19 pandemic has continued to devastate the nation, millions of workers continue to risk their lives by continuing to go into work to care for the nation's sick and elderly, to help families put food on their tables, to ensure public safety and to get people to and from work and to destinations near and far. The toll on these essential workers—and on their families and communities—has been enormous.

There are inadequate data on the extent of COVID-19 infection related to exposures in the US in general and, specifically, in the transportation sector. The federal government collects almost no data on the job or occupation of most cases of COVID-19. Anecdotally, we learn of powerful tragic stories, like that of Jason Hargrove, a bus driver from Detroit who died of COVID-19 eleven days after he reported on a video about a passenger on his bus who was openly coughing without covering her mouth. Articles in the press have alerted the public to the large number of cases and deaths among passengers and workers on cruise ships, as well as the suicides that have occurred among the tens of thousands of workers who have been stranded on these ships after the passengers were allowed to disembark.

As you are hearing today from other panelists, unions representing transportation sector workers have seen large numbers of members sickened and, in many cases, killed by the virus, but comprehensive statistics on workers or passengers are unavailable.

There is no question that, without adequate protections, the risk of infection is high among both transportation passengers and workers. There are numerous studies demonstrating that exposure in transportation greatly increases risk of COVID-19. In one outbreak reported from China that occurred early in the epidemic, before precautions were implemented, a single individual transmitted the virus to more than one-third (23 of 67) of their fellow passengers on a bus trip of just a few hours.<sup>3</sup>

Having virtually no reliable data on work-related COVID-19 in the United States, we must look to studies undertaken abroad. There is convincing empirical evidence from studies in other countries that workers employed in transportation, including flight attendants and bus drivers, are at greatly increased risk for infection.

A study of COVID-19 cases by occupation in Norway, where there are complete data on occupation of cases, found that in the first wave of the pandemic (Feb 26–

<sup>1</sup>Michaels D, Wagner GR. Occupational Safety and Health Administration (OSHA) and Worker Safety During the COVID-19 Pandemic. *JAMA*. 2020;324(14):1389–1390. doi:10.1001/jama.2020.16343

<sup>2</sup>Michaels D, Wagner GR. Halting Workplace COVID-19 Transmission: An Urgent Proposal to Protect American Workers. The Century Foundation. October 15, 2020. Available at: <https://tcf.org/content/report/halting-workplace-covid-19-transmission-urgent-proposal-protect-american-workers/>

<sup>3</sup>Shen Y, Li C, Dong H, et al. Community Outbreak Investigation of SARS-CoV-2 Transmission Among Bus Riders in Eastern China. *JAMA Intern Med*. 2020;180(12):1665–1671. doi:10.1001/jamainternmed.2020.5225

July 17, 2020), bus and tram drivers had a more than five-fold excess risk of infection. By the second wave (July 18–October 20, 2020) when improved precautions were implemented, these drivers still had a 70% increased risk of infection, but the risk of infection among travel attendants and travel stewards, a category that includes flight attendants, had almost five-fold excess risk.<sup>4</sup>

Bus and coach drivers were also found to have elevated risk of death from COVID-19 in the United Kingdom,<sup>5</sup> and, in Sweden, bus and taxi drivers have “substantially heightened” risk of both COVID-19 infection and death.<sup>6</sup>

We know what is necessary to protect both transportation workers and passengers. Every organization that operates a transportation system must develop a plan to prevent virus exposure. Infection control is not simple or easy and requires the active cooperation of everyone involved. In general, successful hazard control initiatives require worker involvement in all aspects of Safety and Health Management System. This is even more true of an infection control plan; workers have the most to lose if the plan fails, but if they do not have some ownership in the program, it is less likely to succeed. For these reasons, the plan can’t simply be imposed by fiat. It must be developed, implemented, and continuously evaluated with the input and collaboration of the workers, including, if there is one, the workers’ union.

The infection control plan must be based on the “hierarchy of controls”, the widely applied set of principles to prevent workplace health hazards that is the basis for OSHA’s policies and the modern practice of industrial hygiene. The application of the hierarchy of controls to the prevention of virus transmission in transportation is outlined below.

The most effective way to reduce exposure is to keep people who may be spreading the virus home. Workers need to be supported financially to enable them to quarantine or isolate as appropriate and requiring this of small employers may be particularly burdensome. There is compelling evidence that the emergency sick leave provision of the bipartisan Families First Coronavirus Response Act (FFCRA) was successful in not only providing badly needed financial support for workers who were required to isolate or quarantine, but in helping prevent hundreds of COVID-19 cases.<sup>7</sup> Unfortunately, this life-saving program ended Dec. 31, 2020. Government support for paid sick leave helps prevent transmission to passengers and other workers and levels the playing field for employers. Renewing this program should be a very high legislative priority.

Since it will not be possible to ensure that all potentially infectious individuals remain at home, the next steps are to limit exposure to the virus. It is now understood that the virus can be spread by tiny aerosol particles and by larger, although still tiny, droplets. Masking is the first line of source control; facial covering will prevent much of the virus exhaled by an infected person from entering the environment. Once the virus is in the air, efforts must be made to prevent it from being inhaled by others, preferably by eliminating it from the environment. It is of great importance to keep individuals (even masked individuals) as far apart as possible. The often-cited requirement is six feet between people, but that is an arbitrary distance, and more is always desirable. But even six feet is impossible in most transportation settings. This underscores the particular need for mandatory masks, maximizing ventilation, and ensuring appropriate filtration systems. In many cases, ventilation and filtration on buses and other modes of public transportation will need to be improved.

In some situations of high exposure risk, workers may be given personal protective equipment (PPE), such as N95s or other respirators. These have a different objective than the masks discussed above. Those are to reduce viral load in the air and do not protect the individual from exposure; PPE is meant to protect the wearer.

<sup>4</sup>Magnusson K, Nygård K, Methi F, Vold L, Telle K. Occupational risk of COVID-19 in the 1st vs 2nd wave of infection. medRxiv doi: <https://doi.org/10.1101/2020.10.29.20220426>

<sup>5</sup>United Kingdom Office of National Statistics. Coronavirus (COVID-19) related deaths by occupation, England and Wales: deaths registered between 9 March and 28 December 2020. Jan. 25, 2021. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/coronaviruscovid19relateddeathsbyoccupationenglandandwales/deathsregisteredbetween9marchand28december2020#men-and-deaths-involving-covid-19-by-occupation>

<sup>6</sup>Sunnee B, Maria B, Siddartha A, Sven D, Gunnar A, Eleonora M. Deaths in the frontline: Occupation-specific COVID-19 mortality risks in Sweden, 2020. Available at: [https://su.figshare.com/articles/preprint/Deaths\\_in\\_the\\_frontline\\_Occupation-specific\\_COVID19\\_mortality\\_risks\\_in\\_Sweden/12816065/2](https://su.figshare.com/articles/preprint/Deaths_in_the_frontline_Occupation-specific_COVID19_mortality_risks_in_Sweden/12816065/2)

<sup>7</sup>Pichler S, Wen K, Ziebarth NR. COVID-19 Emergency Sick Leave Has Helped Flatten The Curve In The United States. Health Affairs 2020;39(12). Available at <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00863>

Hand sanitation and disinfection must be included in the infection control plans, as well. Workers must be given the opportunity, proper disinfecting agents, and enough time to wash their hands and take any other precautions necessary to reduce exposure risk.

Whistleblowers play a vital role in identifying hazards and protecting themselves and their coworkers. Employers should welcome the concerns they raise, because workers are often the first to spot conditions that may result in exposure to themselves, to other workers, or to the public. From the first report of a Washington State physician being fired after raising safety concerns,<sup>8</sup> there have been numerous reports of retaliation against workers for raising safety concerns with their employer or with OSHA, or for using their own personal protective equipment when management did not supply adequate protection.<sup>9</sup>

For these reasons, plans must include provisions to encourage workers to raise concerns, along with assurances that they will not suffer retaliation if they do. This sort of retaliation is against the law under numerous transportation statutes as well as the OSHA law, and employers should know they risk significant penalties for violating these statutes.

One aspect of the pandemic that crosses all sectors is the failure of leadership of the previous administration. There was no national plan for addressing the pandemic and reducing virus transmission in workplaces, schools or transportation. Much of this was left to the states, which, given the interstate or global nature of transportation, meant that little or nothing was done by government agencies to mitigate exposure on all commercial modes of interstate travel. Both the Occupational Safety and Health Administration and the Department of Transportation (DOT) refused to issue enforceable regulations to protect workers, or, in the case of DOT, passengers and workers. Efforts by the Centers for Disease Control and Prevention (CDC) to require masks in transportation were blocked by the White House.<sup>10</sup>

Fortunately for the nation, the Biden Administration is now stepping up efforts to prevent community and workplace transmission. There is now a national plan to control the pandemic and enhanced workplace protections are a component of this plan.

The CDC has issued an order, effective February 1, 2021, requiring all passengers and workers on global and interstate transportation wear masking:

This Order must be followed by all passengers on public conveyances (e.g., airplanes, ships, ferries, trains, subways, buses, taxis, ride-shares) traveling into, within, or out of the United States as well as conveyance operators (e.g., crew, drivers, conductors, and other workers involved in the operation of conveyances) and operators of transportation hubs (e.g., airports, bus or ferry terminals, train or subway stations, seaports, ports of entry) or any other area that provides transportation in the United States.

People must wear masks that cover both the mouth and nose when awaiting, boarding, traveling on, or disembarking public conveyances. People must also wear masks when entering or on the premises of a transportation hub in the United States.<sup>11</sup>

Enforcement will require active collaboration between the Transportation Security Administration, Department of Transportation agencies and transportation systems. The Biden Administration is also increasing efforts to speed up vaccine production and vaccination rates, but until most of the nation is vaccinated, stopping exposure in transportation will remain of paramount importance, and a significant challenge. There are structural reasons this will be particularly difficult for the transportation sector.

OSHA, the primary federal agency with authority in worker safety and health, has strengthened its recommendations for worker protections and is likely to issue

<sup>8</sup>Judd R. Backed by ACLU, whistleblowing doctor sues Bellingham hospital after he was fired for raising coronavirus concerns. *Seattle Times*, May 28, 2020. <https://www.seattletimes.com/seattle-news/aclu-joins-ousted-doctor-ming-lin-in-lawsuit-against-bellingham-hospital>

<sup>9</sup>Berkowitz D. OSHA Must Protect Whistleblowers Who File Retaliation Complaints. *National Employment Law Program*. October 8, 2020, Available at: <https://www.nelp.org/publication/osha-failed-protect-whistleblowers-filed-covid-retaliation-complaints>

<sup>10</sup>Kaplan S. White House Blocked C.D.C. From Requiring Masks on Public Transportation. *October 9, 2020*. Available at : <https://www.nytimes.com/2020/10/09/health/coronavirus-covid-masks-cdc.html>

<sup>11</sup>US Centers for Disease Control and Prevention. Federal Register Notice: Wearing of face masks while on conveyances and at transportation hubs. Available at: <https://www.cdc.gov/quarantine/masks/mask-travel-guidance.html>

an Emergency Temporary Standard which would apply to the millions of employers under that agency's authority.

However, for the most part, many of the workers in the transportation sector most at risk for exposure to COVID-19 are not covered by OSHA regulations or enforcement. Section 4(b)1 of the OSHA law states:

Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies ... exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

Applying this unfortunate part of the OSHA statute, many DOT agencies with weak or no worker protections or enforcement have pre-empted or significantly restricted the application of OSHA regulations. The result is that for large numbers of transportation employees, their workplaces are OSHA-free zones.

In addition, OSHA does not cover public employees in twenty-four states which means that transportation workers who are employed by public entities have no legal right to a safe workplace in those states.

It is important for the safety of transportation workers that Congress pass legislation providing OSHA protections to public employees and that requires OSHA and the Department of Transportation to reach an agreement providing protection for transportation employees equal to that provided other workers as a result of OSHA's Emergency Temporary Standard.

One of the lessons of the first ten months of the pandemic in the US is that voluntary government recommendations are not adequate to protect workers and the public. General recommendations for mask use were ignored by a sizable minority of people, contributing to uncontrolled spread in many locations. For example, OSHA and CDC recommendations to employers in the meat and poultry industry have not been successful in stemming workplace transmission in this industry.

By making only recommendations, federal agencies shift the burden of enforcement on to employers. Recalcitrant passengers are far more likely to follow requirements if they are imposed by federal or state agencies, compared with policies of the operator, who have little ability to punish passengers who refuse to comply. Further, federal regulations level the playing field so that, if investment is required, employers who want to do the right thing and protect their employees are not at a disadvantage competing with low-road employers who have less commitment to worker safety.

The objective must be to stop exposure to the virus in all modes of transportation in which people from unrelated households travel. The CDC's mask requirement is a valuable and vitally important first step. Now is the moment for federal transportation agencies to take the steps necessary to require all transportation systems and the transportation hubs under its jurisdiction to develop and implement comprehensive infection control plans applying the hierarchy of controls. The details of these required plans will need to be developed by federal public health experts, with the input of employers and unions representing the workers involved.

While these must be enforceable requirements to be effective, at the moment, it will be extremely difficult for the DOT agencies involved to actually enforce them. To enhance enforcement, some DOT agencies may have to cede some authority to OSHA. This can be done; in 2014, the FAA and OSHA signed a Memorandum of Understanding enabling OSHA to enforce its hazard communication, bloodborne pathogens and noise standards to the working conditions of aircraft cabin crewmembers while they are on aircraft in operation.<sup>12</sup> This committee should strongly encourage these agencies to quickly develop joint regulatory and enforcement efforts with OSHA.

Given the extent of exposure among transportation workers, prioritizing vaccination of those workers at high risk is of great importance. However, the state-based system of vaccine allocation may make this prioritization more difficult, since workers involved in interstate and global transportation are often in cities other than those that they call home. (While this is a significant concern for many transportation workers, it is a particularly intractable problem for seafarers, who are at elevated risk of workplace exposure and disease, and who have little ability to register for and receive a vaccination in their home state in a timely manner.) The federal government should establish a comprehensive COVID-19 vaccination program spe-

<sup>12</sup>Memorandum of Understanding between the Federal Aviation Administration and the Occupational Safety and Health Administration. Occupational Safety and Health Standards for Aircraft Cabin Crewmembers. Aug. 26, 2014. Available at: [https://www.faa.gov/about/initiatives/ashp/media/FAA\\_OSHA\\_MOU\\_2014.pdf](https://www.faa.gov/about/initiatives/ashp/media/FAA_OSHA_MOU_2014.pdf)



cifically for transportation workers and provide the vaccines at hubs that they pass through for work.

In summary, ensuring the safety of passengers who rely on transportation systems, their workers, and the communities in which passengers and workers live, is of critical importance to the future of the country. If transportation is not safe, we will not be able to stem the epidemic and return the economy to normalcy.

I urge this committee to do all within its power to advance programs that prevent transmission of COVID-19 in all means of transportation under its jurisdiction. Universal masking is an important step, but it is not sufficient. Workers and passengers need operators to develop and implement comprehensive infection control plans based on the hierarchy of controls. DOT agencies must collaborate with OSHA and other federal agencies to enforce this requirement.

Mr. DEFAZIO. Thank you, Dr. Michaels.

We would now proceed to Ms. Sara Nelson, Association of Flight Attendants, president.

Ms. NELSON. Thank you, Chairman DeFazio and Ranking Member Graves, and the members of the committee for the opportunity to testify today.

Together, we are tackling the worst public health crisis in over 100 years and a financial crisis deeper than all previous economic disrupters combined that our industry has faced in its 100-year history.

In the absence of a Federal plan, until recent days with the Biden administration, I want to recognize the airline industry for working with unions on safety measures, such as required mask policies for airports and airplanes. Receiving backing from the Federal Government on these mask requirements makes all the difference for flight attendants, passenger service agents, and TSA officers who are tasked with ensuring travelers comply.

It has been difficult and combative at times without clear instruction to the public. We applaud FAA Administrator Steve Dickson for his strong statements and emergency order to make clear there will be no second chances for passengers who fail to comply with crewmember instructions that keep everyone safe. Violators will face the Federal penalties of up to \$35,000 and imprisonment. This zero tolerance policy is in effect through the end of March, and we encourage the FAA to extend it.

Aviation is critical for vaccine distribution, and the people on the front lines of aviation need priority. We encourage the Federal Government to set up vaccine clinics at major airports and make it easy for airline crewmembers to access both their first and second doses. This will maximize efficacy of the vaccine and prevent wasted doses.

Until we can contain the virus and fully open our economy, the airline industry will continue to operate at massive losses. The good news is that, with the support of this committee, and Chairman DeFazio leading the way, we created the first Federal relief program that is truly workers first, which covered 2.1 million workers under the CARES Act through September 30th of 2020. When it was not extended, furloughs, separations, and no-paid status began on October 1, affecting hundreds of thousands of workers and those still working. The late December emergency relief continued the same requirements of the original CARES Act PSP: no furloughs or layoffs, and reinstatement of pay as of December 1 through March 31, no cuts to hourly wage rates, maintain and restore service to all communities, caps on executive compensation

for 2 years beyond the relief period, and a ban on stock buybacks and dividends. This workers first plan, we hoped, would be a template for relief across other industries. It looks much like the successful programs we have seen in Europe except that in this country, it is even more valuable because healthcare is also tied to employment. We need to extend the PSP through September 30th of 2021 with a \$15 billion Payroll Support Program, and we thank this committee for promoting this as part of the COVID relief package Congress is working to secure for Americans in the coming weeks.

The program is the best use of the public's money because it uses the payroll systems, the airlines, and contractors already in place. Workers continue to pay taxes, supporting their cities' and States' tax base, continue Social Security contributions, Medicare and more. Healthcare, pension, and retirement contributions, sick leave programs, and other protections remain in place.

When the program lapsed, furloughs caused certification and security credentials to lapse too. Nearly 3 months of furloughs caused a 4-month recovery of the credentials to get everyone back to work. Without an extension, this problem will grow exponentially.

Airline workers are getting back in place to support vaccine distribution and recovery. We support 1 in 14 jobs in this country. PSP supports the best public health decisions, no cost-cutting strains on safety and health policies. In the long term, airline balance sheets are already loaded up on debt. Debt-heavy balance sheets will lag recovery and create downward pressure on good jobs and hurt consumers too. There were endless arguments about why PSP makes sense on a Government balance sheet, but this is really about the people: the flight attendant who sought this union job because she had Crohn's disease and needed regular preventive care in order to live a normal life but who without it becomes so ill, she can't even look for another job. The flight attendant who cares for elderly parents and whose sister and husband lost their jobs during COVID but have children to provide for, and so the entire family moved in together, and he became the sole provider thanks to PSP. The flight attendant who was forced to work more during the furloughs because in a cost-cutting environment, productivity is driven high. She was displaced from her home base and sent to spend more time on an airplane to get to work out of Philadelphia instead of Phoenix. She lost her life due to COVID just this past week.

Furloughs disproportionately affect women and people of color and force an older workforce to leave home more often to work with greater risks of serious effects of the virus. Aviation has a long history of collaboration among Government, industry, unions, scientists, and consumers. We can beat COVID and emerge stronger, and let's do this together. I look forward to your questions. Thank you.

[Ms. Nelson's prepared statement follows:]

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**Prepared Statement of Sara Nelson, International President, Association of Flight Attendants—CWA, AFL-CIO**

INTRODUCTION

My name is Sara Nelson. I am a twenty-five year union flight attendant and president of the Association of Flight Attendants—CWA, AFL-CIO (AFA), representing 50,000 flight attendants across the industry. Thank you for the opportunity to testify today on what we are experiencing in our work environment during this pandemic and how uniform safety policies can mitigate risks and instill confidence for the traveling public.

Exactly one year ago, on February 4, 2020, responding to concerns voiced by rank-and-file Flight Attendants and in consultation with infectious disease experts, our union called for the administration to create and implement a coordinated, comprehensive federal plan to contain and combat the virus. Aviation plays an important role in stopping the spread of communicable disease. Our requests for leadership and efforts to coordinate with government went unanswered by the previous administration. In the year since, the pandemic has battered our economy, devastated the aviation industry, and killed more than 440,000 Americans.

The health and economic impacts of COVID-19 still loom large for our industry. Keeping passengers and crew safe is our top priority.

PAYROLL SUPPORT PROGRAM (PSP)

While new health and safety standards for air travel are critical to the recovery of the industry, these measures are only possible because of Congress' unprecedented and bipartisan support for aviation workers over the past year. And, I underscore that the reforms you consider today will only succeed if Congress maintains that financial support.

Members of this Committee joined together nearly one year ago to pass a historic workers' first relief package for aviation workers in the CARES Act. The result was the Payroll Support Program (PSP), the most successful jobs program in the CARES Act. PSP was designed with a single purpose: to keep aviation workers—gate agents, flight attendants, mechanics, caterers, and pilots—paid, connected to healthcare, out of the unemployment lines, and ready to lift the entire country. This program is the best use of public funds because it used systems already in place through airline payrolls, kept benefits and payroll taxes in place, and maintains the basis for retirement security both in terms of government programs and contractual or company policy retirement benefits. Aviation workers were able to have certainty and continue spending into the economy. Fundamentally, it allowed us to take care of ourselves so our country could focus on those who were sick or vulnerable.

Under the terms of the program, funding for PSP goes exclusively to maintaining the salaries, wages, and benefits for aviation workers. Corporate restrictions during the relief period and for years after include, no dividends, no stock buybacks, and unprecedented limits on executive compensation. It conditions the carriers' receipt of federal funds on making no involuntary furloughs or layoffs. Participating carriers must also maintain levels of scheduled service, critical to small communities. In the pandemic this was especially important to ensure well-functioning health care and pharmaceutical supply chains to serve small and remote communities.

PSP has been an overwhelming success, responsible for saving hundreds of thousands of jobs in our industry, and maintaining critical spending in our communities, where every aviation job supports 3.55 additional jobs.

Last October, when the program expired prematurely, the impact was immediately clear. The airlines' dire warnings turned into immediate and massive furloughs and layoffs. Even more aviation workers took unpaid leave to save healthcare, or had to make hard decisions like moving across the country in the middle of the pandemic in order to keep the job. The furlough numbers only tell a fraction of the story of the impact on the workforce. Only a short-term extension in Congress' end of year emergency relief forestalled a workforce disaster.

I share this background to underscore a point that members of the Committee make all the time. The recovery of our nation's health and our economy are inextricably linked. Long overdue federal coordination on safety measures will help protect our passengers and aviation workers, and with it payroll support is essential.

As we warned prior to the furloughs on October 1, furloughed workers while back on payroll as of December 1 with the emergency relief will not all be qualified to work until the end of March. Two to three months of furloughs caused a three to four month recovery of the infrastructure. Without an extension, this problem grows exponentially and this demonstrates the unique issue in aviation with job loss.

PSP allows airlines to maintain staffing levels necessary to keep air routes open and keep passengers safe. As we fight our way to the other side of this pandemic, we need a robust crew list to ensure no worker goes to work when they aren't feeling well and to avoid travel disruption when crew call out sick. During the holiday travel season, when PSP had lapsed and crews were involuntarily furloughed, we saw a preview of the kind of disruption that can be caused when airlines do not have reserve staff on hand to manage absences caused by the virus or weather-related disruptions. In a diverse field, widespread furloughs hit women and people of color the hardest. Those who remain on the job are older and more likely to have complications from COVID, and they are forced to work more during furloughs.

When PSP was originally put in place in March 2020, the assumption or hope was that the country would be on its way to recovery by the fall. The opposite happened and by the fall the only thing we knew for certain about COVID was that there was no certainty about when recovery would occur. Now we know more. We have a vaccine and an administration with a plan. But we know revenues will continue to suffer by staggering numbers for at least the first half of this year. International network airlines are still losing up to 30 million dollars a day. Considerable liquidity makes it possible for airlines to "weather the storm" with furloughs and deep cost cuts, but the result is felt by workers and consumers. In the long term, debt heavy balance sheets will lag overall economic recovery and create downward pressure on good jobs.

Current emergency funding supports aviation jobs through March 31, 2021. But, airlines schedule two months in advance and the process of job cuts for April 1 has already begun. Essential workers have been living with incredible chaos and uncertainty. The furloughs are felt by the entire workforce. The continuation of PSP can't wait.

A PSP extension through September 30, 2021 will keep hundreds of thousands of airline workers current with certifications and security clearances that will be necessary when more normal travel can finally resume. I appreciate the Committee's continued support for this job-saving program.

#### PROVIDING CONSISTENT AND READY ACCESS TO VACCINES

Interstate transportation workers—including airline crewmembers—are essential to the U.S. economy, ensuring the transport of people and goods (including vaccines) across state lines, on the ground and in the air. These essential workers who cross state lines every day to carry out interstate commerce should be covered by a federal vaccination program. Providing clearly-defined access to vaccinations is particularly urgent, given the emerging threat of new viral strains. State programs are inconsistent in how they prioritize the vaccination for crewmembers. We propose DOT, in coordination with other federal agencies, run a federal vaccination program that reflects CDC's Tier 1B priority vaccination (alongside public transit workers and other essential workers) for frontline aviation workers.

Flight attendants, in particular, have contact with a large number of people every day, typically crossing state lines, putting them at increased risk of infection.<sup>1</sup> To facilitate an efficient vaccination rollout for this highly mobile workforce, the federal government should set up vaccination clinics at major airports to make it easy for airline crewmembers to access both their first and second doses, without disrupting their travel schedules. Doing so would also maximize the efficacy of the vaccine and prevent wasted doses.

Ultimately, widespread vaccination is the only path to sustained recovery for the airline industry. Prioritizing access to vaccinations for airline crewmembers will improve safety and public confidence in airline travel. Airline crewmembers who are vaccinated will be ready to report for work, assuring their ability to support the distribution of vaccines to communities across the United States.

#### CONFIDENCE IN THE SAFETY OF AVIATION

Commercial aviation depends on consumer confidence that flying is safe. Traditionally, aviation safety has been concerned with accidents and terror-related

<sup>1</sup> A 2020 Norwegian population study regarding the risk of COVID-19 by occupation concluded the following: "[B]artenders, waiters, travel stewards, bus, tram, and taxi drivers had a higher risk of infection than other occupation groups in the 1st and/or 2nd wave of infection, and they also typically have contact with many different people in their work possibly exposing many people if they are not aware that they are infected." Note that "travel stewards" includes flight attendants and their counterparts on ships. Reference: Magnusson, K; Nygard, K; Vold, L; and Telle, K. (2021) "Occupational risk of COVID-19 in the 1st vs 2nd wave of infection," medRxiv preprint, doi: <https://doi.org/10.1101/2020.10.29.20220426>; posted Nov. 3, 2020.

threats but, today, viral spread is first and foremost on the minds of most passengers. Simply put, American aviation—and with it many key sectors of our economy like tourism and travel—will not recover until passenger confidence returns and our economy can safely open. This Congress and the new administration must create and promote a culture that puts safety first in order to contain the spread of COVID-19 in aviation and renew confidence in travel and trust in our nation’s handling of the pandemic. When President Biden issued his Executive Order titled “Promoting COVID-19 Safety in Domestic and International Travel” on his first full day in office, it sent a clear message of his Administration’s commitment to science and public health. In tandem, we need the relevant federal agencies to establish and enforce penalties for those who refuse to follow these rules in order to keep us all safe. Confidence is not a static concept. In light of the discovery of COVID-19 mutations that are more contagious strains, safety procedures must also evolve to reflect the science and enhanced dangers of the virus.

We support a comprehensive approach to safety that will protect passengers and crew while rebuilding public confidence in air travel, including mandating masks, minimizing food/beverage service, mitigating disruptive passengers, ensuring appropriate access to pay-protected quarantine, improving notification and contact tracing, maximizing onboard ventilation and filtration, establishing sanitation protocols, and prioritizing crewmember access to vaccines. We stand ready to support Congress and the Administration in the important and necessary work of implementing these measures.

#### MASK MANDATE

On January 29, the Centers for Disease Control and Prevention (CDC) published a long-awaited mask mandate entitled “Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs,”<sup>2</sup> to effectuate President Biden’s day one Executive Order. This common-sense requirement aligns with the extensive scientific findings that facial coverings are the most important line of defense in crowded environments, particularly where the ability to social distance is limited. We applaud and are deeply grateful for President Biden’s decisive action, mandating mask-wearing at airports, onboard, and on ground transportation and for the CDC’s timely promulgation of the order. We now urge the FAA to promote enforcement by mandating electronic signage at airports and safety announcements onboard and at the gate.

We know from experience that the flying public is ready to adapt to new behaviors when instructions are clear and rules are enforced. Passengers learned to stop smoking, pack minimal fluids in their carry ons, and turn off their cell phones for engine start and climb. They can readily learn to wear a mask if the FAA clearly and repeatedly defines both the expectation and the penalties for non-compliance. We applaud Administrator Dickson’s recent public campaign to back up crew who enforce mask policies and other rules to keep everyone safe, including communicating clearly the consequences for failing to do so. In addition, when flight attendants’ work requires them to take on additional risk of exposure—such as entering the flight deck with a pilot who may not be wearing a mask, or providing first aid to a passenger—airlines should be required to provide a supply of N-95 masks for additional protection.

Any exemptions must be stringent, well-documented and managed before any passenger arrives at the gate for their flight. When the smoking ban was proposed, a minority of passengers didn’t want to be told they couldn’t smoke onboard. They argued it would be emotionally hard and that surely there should be exemptions. But the blanket non-smoking rule was put into effect anyway—without exemptions—because the Department of Transportation recognized that doing so would improve safety for everyone, send an unequivocal message about risks posed by smoking onboard, improve confidence in the safety of travel, and make compliance much easier.

Protocols in the airports are needed for Customer Service and other ground personnel. Airlines should provide Personal Protective Equipment (PPE) including equipment such as face shields to be worn along with masks. High traffic areas such as ticket counters, waiting areas, jet bridges and staff lounges must be routinely and thoroughly sanitized to reduce the risk of infections. These measures are recommended by the CDC and must be implemented to protect the safety of aviation workers. To best protect workers, the Communications Workers of America (CWA) advocates using the Hierarchy of Hazard Controls as a framework for workplace protections. Multiple types of protections are necessary based on job hazard assess-

<sup>2</sup>[https://www.cdc.gov/quarantine/pdf/Mask-Order-CDC\\_GMTF\\_01-29-21-p.pdf](https://www.cdc.gov/quarantine/pdf/Mask-Order-CDC_GMTF_01-29-21-p.pdf)

ments, including the use of administrative controls, e.g. work from home when feasible, reduction in staffing or staggered schedules, occupancy limits, and distancing.

#### MINIMIZE ONBOARD FOOD AND BEVERAGE SERVICE TO ESSENTIAL ITEMS

A 2020 study of COVID-19 infection by occupation in Norway found that flight attendants and their counterparts working on ships reported nearly five times the risk of COVID-19 during the second wave of infection last summer and fall, as compared to the general working population in Norway, when matched by age and gender.<sup>3</sup> The only jobs that posed a higher risk of COVID-19 during that time involved serving food and beverages. Even health care workers in Norway were at lower risk than flight attendants during that time. The data is clear: repeated exposure to unmasked individuals increases the risk of transmission. For this reason, to protect passengers and flight crews, it is critical that food and beverage services be reduced to the absolute minimums.

Study after study confirms that wearing a mask is the single best protection against spreading and receiving COVID-19. Modeling data and population studies both show a strong effect, but only when masks are worn properly and consistently. As Americans, we are told to wear a mask in the grocery store and the doctor's office, and if we were to remove our mask to eat a sandwich or sip a glass of wine in those environments, we'd be escorted off the premises. Flight attendants work in one of the most densely-occupied spaces in the world with windows that don't open, doors that aren't available most of the time, and limited ventilation.

Until the pandemic is over, the FAA must send a consistent message about masking up to prevent onboard disease transmission, including mandatory, regular announcements for passengers to not remove their mask until the flight attendants have passed their row and, even then, to only "dip" their mask down momentarily to take a bite or sip ("dip and sip"). AFA recommends that airlines only serve cold food and drinks on flights less than 1,800 miles or three hours, that drinks are only distributed in individual cans/bottles, and that onboard alcohol sales are suspended until the pandemic is over.

#### DISRUPTIVE PASSENGERS

Starting in mid-2020 and worsening in 2021, crewmembers have experienced a notable increase in the frequency and intensity of disruptive passenger incidents, many of which involve the combination of alcohol and a refusal to comply with mask rules. AFA is deeply appreciative of the leadership from FAA Administrator Steve Dickson who issued a new order on Jan. 13, 2021<sup>4</sup> to enhance enforcement and penalties against disruptive passengers. Under the new order, passengers are advised there are no warnings or second chances for passengers who interfere with, physically assault, or threaten to physically assault aircraft crew or anyone else on an aircraft. They will immediately and surely face stiff penalties, including fines of up to \$35,000 and imprisonment. Public health measures have been politically charged and the subject of conflict on our planes. This action by Administrator Dickson serves as an effective deterrent for bad actors as flight crews work to protect the health and safety of all passengers.

Following President Biden's Executive Order and the new mask mandate from the CDC, we ask that the FAA make clear that a refusal to wear a mask and abide by federal regulations constitutes a violation carrying the same significant penalties. Passengers who compromise health and safety and violate federal rules may be banned from flying. This action helps deter violations and bolsters the safety-first culture that has long defined the aviation industry.

Gate agents who work inside the airport routinely come into contact with passengers while helping them board the aircraft. Staying six feet away from others is virtually impossible at these counters. Agents must also enforce federal/airline rules to wear masks in the gate area and to report symptoms on screening questionnaires. The combination of irate passengers, reduced staffing levels, and slow response from law enforcement has led to increased cases of assault against our members. Airlines must give workers the support they need to protect themselves, particularly in pushing for faster response from Airport Law Enforcement.

The FAA Reauthorization Act of 2018 created new protections from physical and verbal assault for customer service agents. Implementation of these protections and FAA enforcement has been inadequate. Airlines must be required to post ample

<sup>3</sup>Magnusson, K; Nygard, K; Vold, L; and Telle, K. (2021) "Occupational risk of COVID-19 in the 1st vs 2nd wave of infection," medRxiv preprint, doi: <https://doi.org/10.1101/2020.10.29.20220426>; posted Nov. 3, 2020.

<sup>4</sup>[https://www.faa.gov/news/media/attachments/Order2150.3C\\_CHG%204.pdf](https://www.faa.gov/news/media/attachments/Order2150.3C_CHG%204.pdf)

signage alerting passengers of these protections and properly record any violent interaction on injury/illness logs.

#### EXPANDING ELIGIBILITY TO QUARANTINE

As a general rule, airline policies state that a flight attendant is only eligible to quarantine if they had a “known exposure” to COVID-19, which the CDC defines as at least 15 minutes within six feet of someone who has tested positive. This may be an appropriate standard for exposures in an office or home environment where notification is likely and dilution ventilation is generally high. But it is a nearly impossible bar to meet on aircraft, in part because it is highly unlikely that a flight attendant will know if a passenger has tested (or will test) positive. Also, if a flight attendant spends five minutes assisting a passenger who is coughing and removes their mask to breathe more freely, that most certainly constitutes exposure. CDC guidance is critical for a science-based approach to minimize risk and limit spread of disease. However, occupational realities of the aircraft must be integrated for guidance to be effective.

The CDC exposure tight definition means few flight attendants are eligible to quarantine with pay protection and are, instead, told to “self monitor” for COVID-19 symptoms. As a result, if an airline creates its policies based on this guidance alone, crewmembers risk transmitting the virus to their fellow crew, passengers, and family members. Also, crewmembers risk being stuck away from home on a subsequent flight or layover with symptoms. It is very important to expand the definition for crews to include “known or suspected exposure to someone who is positive or has symptoms consistent with COVID-19.” Importantly, while the current FAA guidance document “SAFO 20009” supports the airline interpretation of “exposure,” it also recommends that crews should be excluded from work if they were exposed to a person who was even “likely” to have COVID-19. Further, that same “SAFO” document recommends that crews maintain six feet from others while sitting on the jumpseat, working in the galley, and while on ground transportation, all of which is impossible. The crowded, enclosed nature of crewmembers’ work spaces makes it all the more important that crews who were likely exposed to COVID-19—without necessarily defining a fixed number of minutes—are permitted to quarantine until they either secure a negative PCR test or they recover, and all without fear of discipline or financial penalty. Crewmembers need consistent, safety-oriented definitions for what constitutes an exposure and they need access to pay-protected quarantine protocols that put safety first.

#### ENSURING A SAFE DURATION OF QUARANTINE

On Dec. 2, 2020, the CDC published revised COVID-19 quarantine guidance. Specifically, the agency noted that, because a 14-day quarantine period is onerous for most Americans, it would instead recommend either a 7-day quarantine (for people who took a COVID-19 test and were negative) or a 10-day quarantine (for people who did not get tested). The CDC noted that a shortened quarantine period should “reduce the burden” and “increase community compliance” which was an exercise in pragmatism, but did not reflect any change in the science of COVID-19. Since then, a population-based study was published in a CDC journal which reported a negative effect of shorter quarantine.<sup>5</sup> The authors of that work concluded that “persons released from quarantine before 14 days should continue to avoid close contact and wear masks when around others . . .” However, avoiding close contact and ensuring mask compliance for passengers and even other crew is not possible in the aircraft cabin. Despite this, some airlines have chosen to follow the less protective quarantine guidance for their workers. Airlines should be required to ensure non-punitive policies for testing and a pay-protected 14-day quarantine for workers who have had either known or suspected exposure to COVID-19. Doing so will help to reduce spread of the virus in aviation and reflect a safety-focused aviation culture.

#### IMPROVING CONTACT TRACING

It is not clear which agency, if any, is responsible for contact tracing of passengers and crews, and flight attendants are unlikely to ever know if a passenger with whom they had contact onboard was positive for COVID-19. We have had a few re-

<sup>5</sup> Rolfes, MA; Grijalva, CG; Zhu, Y; et al. (2021) “Implications of shortened quarantine among household contacts of index patients with confirmed SARS-CoV-2 infection—Tennessee and Wisconsin, April–September 2020.” *Morbidity and Mortality Weekly Report*, 69(5152):1633–1637, 1 Jan. 2021; Available for download at: <https://www.cdc.gov/mmwr/volumes/69/wr/mm695152a1.htm>

ports from members who received a phone call from their state health department weeks after a flight to notify them that a passenger tested positive, by which time they had contact with thousands of passengers and multiple crews. Crews can't even be assured of being notified if a member of their crew tested positive, even though crewmembers routinely share ground-based transportation to and from layover hotels, and may share meals during a layover as well. Where possible, airlines should be required to conduct a 72-hour lookback in response to a report of passenger or crew infection, with timely notification to flight attendants. The Public Health Agency of Canada maintains a website with a list of flights, including the date, airline, flight number, city pair (and seat number, if known), during which there was a report of one or more positive COVID-19 cases. The list provides a useful and inexpensive first step for contact tracing in a timely way. On this, we should follow the lead of our northern neighbor.

Improvements are needed on incident reporting, contact tracing and timely notification to all affected employees of potential exposure, and reporting of cases to the Union. The employer's COVID-19 illness reporting to the Union varies at each airline and station and is not being used in a consistent manner to effectively give warning to employees to prevent potential outbreaks.

#### MAXIMIZING ONBOARD VENTILATION AND FILTRATION

We urge the FAA to go beyond a recommendation and to mandate that all recirculated air on aircraft be filtered to the high-efficiency particulate air (HEPA) standard. Airlines and manufacturers consistently claim that the high air exchange rate onboard aircraft protects passengers and crew from airborne exposure to viruses like COVID-19. While air exchange rate onboard is high, so too is the production of "bioeffluents" onboard—the gases and particles, including viruses, exhaled by people. In the small space of the cabin, the rate of dilution of bioeffluents is consistently and considerably lower than in ground-based environments. Ensuring that aircraft ventilation systems are operating to maximize health and safety protects passengers and crew, minimize risk of transmission, and help build consumer confidence.

#### IMPLEMENTING EFFECTIVE DISINFECTION/SANITATION PROTOCOLS

It is well-recognized that the primary means of exposure to COVID-19 is through the airborne route. However, to address contact with contaminated surfaces, airlines must also maintain sanitation and disinfection protocols. In addition, it would be prudent to minimize or eliminate touch points for flight attendants, both within food and beverage service, and for non-essential services such as hanging passengers' coats. Finally, crews would benefit from being provided with regular briefing sheet reminders about best practices of avoiding common touch locations, using hand sanitizer with a minimum 60% alcohol content, and routine hand washing for at least 20 seconds as practicable after arrival.

#### CLOSING

COVID-19 is a public health emergency and financial catastrophe. It has had a more severe impact on aviation than any other economic downturn or crisis in aviation's 100 years combined. There is no doubt our country and the airline industry have the experience and resources to implement plans that can eradicate the virus and recover. Doing this properly truly is an action of solidarity. Investing in people, jobs, and safety nets now are critical if we are to have the vast majority of the population able to care for themselves so we can focus on the sick and vulnerable to isolate the virus, contain it, and get beyond the pandemic. Aviation has a long history of collaboration among government, industry, unions, scientists, and consumers. This collaboration and careful approach to layered safety, security and health has built the safest mode of transportation, the backbone of the American economy, and the access that we enjoy around the world. We can ensure safety and recover—together.

Mr. DEFAZIO. I thank the gentlelady.

I would now move on to Mr. Pugh.

Mr. Pugh, you have 5 minutes. Unmute wherever you are.



Mr. PUGH. Thank you very much. I appreciate it. I am Lewie Pugh with the Owner-Operator Independent Drivers Association. Prior to working at OOIDA, I had 23 years' experience of driving and being a small business trucking owner and still have a CDL. Thank you.

Throughout the COVID-19 pandemic, small business truckers and professional drivers literally put their lives on the line. When many Americans began working from home, truckers continued to crisscross this Nation, picking up and delivering the items that we all needed. When COVID first hit, shippers and receivers started restricting access to their facilities. Suddenly, finding a place to use the restroom became very difficult, even impossible at times. Drivers weren't able to find masks, hand sanitizer, or even bottled water. Ironically, they were delivering everything Americans needed to survive, yet, they could hardly buy much of this themselves. But it wasn't until FEMA began distributing these items in truckstops that truckers finally were able to get what they needed.

They also had no real idea what they were to do if they experienced COVID symptoms themselves, a lot of times hundreds, if not thousands, of miles from home.

And then things went from horrible to unimaginable when freight rates dropped to historic lows. Some loads were paying pennies per mile. By May of 2020, roughly 80,000 truckers were out of work.

Congress, you could have temporarily suspended the Federal diesel tax so drivers could have kept some extra money in their pockets during these toughest times. You could have waived the heavy vehicle use tax so that truck owners would have gotten a modest break. You could have reinstated the per diem for employee drivers or even suspended UCR payments. Instead, you hung your hats on PPP which failed most small carriers.

DOT and DHS, they did rise to the occasion. They were engaged with the industry and took a number of steps to address the real issues that were affecting drivers. For example, the Federal Highway Administration permitted States to allow food trucks in rest areas. Unfortunately, many States, just like here in Missouri, wouldn't allow the food trucks in these rest areas. Think about that. Truckers couldn't buy food in a truckstop. They couldn't buy food in a restaurant. And yet States had the nerve to deny them to even have a hot meal at a rest area. We here at OOIDA were not even allowed to give away free food in a rest area. To me, that is a real shame.

We were all shocked last year when this committee voted in the middle of a global catastrophe to increase Federal insurance requirements by \$1.25 million. Truckers watched in disbelief as this panel, who was patting them on the back on social media, went to kicking them while they were down.

Things are getting better, but safe truck parking is still at a national crisis. Last year, this committee provided \$250 million for truck parking projects in the highway bill. That is a great starting point, but more must be done.

Thank you to Representative Mike Bost and Angie Craig for working with us to develop a bill to address the problem. Despite

there being over 65 members on this committee in the last Congress, only 4 of you cosponsored this legislation.

So what do we want? We want more truck parking. Not only should you cosponsor the Truck Parking Safety Improvement Act, but let's get it done.

Try to do something good for truckers without doing something bad. Don't cripple them with unnecessary insurance increases and speed limiter mandates.

Repeal the overtime exemption for employee drivers. I have been asked by legislators what would be the result of this. The result would be truckers would finally be paid for the time that they work. This would also cure the driver churn that big carriers misleadingly tout as a shortage.

Reinstate the per diem for employee drivers. Let them deduct their meals while they are out on the road again.

You can take steps to help, but you must avoid causing unnecessary damage. Truckers have earned your respect by now. Show them some real appreciation. Twitter statements are real nice, but they don't put food on the table.

Drivers still worry about how they are going to get the vaccine while they continue to work. Finding a decent meal is still tough for them. Many are concerned about the future of their business, uncertain freight markets, and new regulations. Some even fear that their business will survive COVID only to be put out of business by you, Congress.

So I appreciate this time and look forward to answering your questions. Thank you.

[Mr. Pugh's prepared statement follows:]

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**Prepared Statement of Lewie Pugh, Executive Vice President, Owner-Operator Independent Drivers Association**

Chairman DeFazio, Ranking Member Graves, and members of the Committee, my name is Lewie Pugh and I am the Executive Vice President of the Owner-Operator Independent Drivers Association (OOIDA). Prior to working at OOIDA, I was a small-business trucker for nearly 23 years with 2.5 million miles of safe driving. Before operating my own trucking business, I drove a truck during my service in the United States Army. I still proudly hold a Commercial Driver's License (CDL). In short, I've been a trucker my entire career.

ABOUT OOIDA

OOIDA has represented the interests of owner-operators and professional drivers for over 45 years. We were created by truckers to ensure their voices were being heard in Washington and beyond. Decades later, we continue to be led by men and women who make their living behind the wheel. Today, we have over 150,000 members across the United States and Canada. We know truckers better than anyone.

Small trucking businesses like those we represent account for 96% of registered motor carriers in the U.S. We are undoubtedly the safest and most diverse operators on our nation's roads. Our activities impact all sectors of the American economy on a daily basis. We move everything and anything—from agricultural products and household goods to military equipment and energy resources.

INTRODUCTION

Throughout the COVID-19 pandemic, small-business truckers and professional drivers have literally put their lives on the line to keep us safe. When many Americans began working from home, truckers continued to crisscross the country, picking up and delivering items that we all need.

The perseverance of the nation's truck drivers has never faltered even in the face of many new challenges. At the onset of COVID-19, shippers and receivers started restricting access to their facilities, including restrooms. Suddenly, finding a place to use the bathroom was more difficult, even impossible at times. Initially, drivers weren't able to find masks, hand sanitizer, or even bottled water. Ironically, they were delivering everything Americans needed to survive, though they couldn't actually buy much of it themselves. It was a cruel reality, and it wasn't until FEMA began distributing items at truck stops that many truckers finally had what they needed.

They also had no real idea what they would do if they experienced COVID symptoms while on the road, often hundreds if not thousands of miles from home. And then things went from horrible to unimaginable when freight rates dropped to historic lows, in some cases only paying pennies per mile. By May of 2020, roughly 80,000 truckers were out of work.

Congress could have temporarily suspended the federal diesel tax so drivers would have extra money in their pockets during the toughest times. You could have waived the heavy vehicle use tax (HVUT) for a year so that every truck owner would get a modest break. You could have reinstated the per diem for employee drivers or even suspended Unified Carrier Registration (UCR) payments. Instead, you hung your hats on the Paycheck Protection Program (PPP), which failed to support most small carriers.

In the midst of the crisis, the Department of Homeland Security (DHS) and the Department of Transportation (DOT) rose to the occasion. They engaged industry stakeholders and took a number of steps to address real issues that were affecting drivers. For example, the Federal Highway Administration (FHWA) allowed states to permit food trucks at rest areas. Unfortunately, many states, like Missouri, wouldn't allow it. Think about that for a minute—truckers couldn't buy food at a truck stop or restaurant, yet some states had the nerve to deny them a hot meal at rest areas. OOIDA wasn't even permitted to give free meals away in Missouri. That's a damn shame.

We were all shocked last year when this Committee voted, in the middle of a global catastrophe, to increase motor carriers' federal minimum liability insurance requirements by \$1.25 million. Truckers watched in disbelief as members of this panel went from patting them on the back on social media to kicking them while they were down.

Things are getting better, but safe truck parking is still a national crisis. Last year, this Committee provided a one-year, \$250 million authorization for truck parking projects in the highway bill. This is a great starting point, but more must be done. We've worked with Reps. Mike Bost (R-IL) and Angie Craig (D-MN) to develop a bipartisan bill to address the problem. Despite there being over 65 members on this Committee last Congress, only 4 of you cosponsored the legislation.

So what do truckers want?

- We want more truck parking. Not only should you cosponsor the Truck Parking Safety Improvement Act, but get it done.
- Try to do something good for truckers without doing something bad. Don't cripple them with unnecessary insurance increases or a speed limiter mandate.
- Repeal the overtime exemption for employee drivers in the Fair Labor Standards Act (FLSA). I've been asked by some lawmakers what would happen as a result. My answer is simple: employee drivers would actually be paid for the hours they work. This would also help fix the driver churn that big carriers misleadingly tout as a driver shortage.
- Reinstating the per diem tax deduction for employee drivers. Let them deduct their meals while out on the road again.

You can take steps to help, but you must also avoid causing unnecessary damage. Truckers have earned your respect by now. We encourage you to show them some real appreciation—Twitter statements are nice but it doesn't put food on the table.

Drivers still worry about getting the vaccine while they continue to work. Finding a decent meal is still tough. Many are concerned about the future of their business, an uncertain freight market, and new regulations. Some even fear that their business will survive COVID only to be destroyed by Congress.

#### TRUCK PARKING

The truck parking shortage is a national safety crisis. In 2015, the Federal Highway Administration's (FHWA) Jason's Law survey report recognized the lack of

truck parking had become a serious highway safety concern.<sup>1</sup> Unfortunately, the problem has only worsened since then. In December 2020, FHWA issued findings from its 2019 Jason’s Law survey, which found that truck parking shortages are still a major problem in every state and region of the country.

Furthermore, the expansion of truck parking capacity hasn’t kept pace with truck vehicle miles traveled, and a handful of states actually have fewer public parking spaces than they did at the time of the original survey. Governments at all levels are failing to confront this challenge, and Congress must step in to solve this urgent safety problem.

While the truck parking shortage has been a concern for decades, the closure of rest areas during the coronavirus pandemic brought new attention to truck parking challenges. For example, countless truckers were left scrambling to find places to take a break after Pennsylvania closed its rest areas early in the pandemic. At the time, our industry pushed federal officials, as well as those in Pennsylvania, to reopen these critical facilities without delay. With the encouragement of FHWA, the state ultimately reversed course and reopened each of its rest areas over time.

Unfortunately, the reopening process was unnecessarily slow and undoubtedly still forced some drivers to park in unsafe areas. In the future, federal and state transportation and health officials must understand the importance of these facilities in the safe and efficient movement of goods during a national emergency, and ensure they remain accessible for truckers. Thankfully, swift outreach from industry and federal officials not only helped reopen shuttered facilities in Pennsylvania, but prevented other states from following suit. Although pandemic-related parking issues have largely been resolved, the underlying parking shortage remains.

Professional drivers regularly report difficulty accessing safe parking for commercial motor vehicles (CMV), especially during times of high demand. Surveys of our members routinely reveal most truckers have been forced to drive beyond the point where they feel safe and alert simply because they could not find a place to park. This not only jeopardizes their own safety, but also the well-being of the motoring public with whom they share the road. Truckers are commonly placed in no-win situations where they must decide to park in an unsafe or illegal location—such as a vacant lot—or violate federal hours-of-service (HOS) regulations by continuing to search for a safer and legal alternative.

The current crisis also creates hazards for the general public. As a last resort, drivers who are unable to find adequate parking often reluctantly park in hazardous road-side locations, such as highway shoulders and interstate entry and exit ramps. This creates safety risks for law enforcement officials as well. Often, they are faced with the dilemma of allowing a tired trucker to rest in a dangerous location or ordering them to relocate when they are out of drivable hours.

Congress can help address the truck parking shortage by enacting the Truck Parking Safety Improvement Act, which would dedicate existing highway safety funding for the expansion of truck parking capacity. This legislation doesn’t create any new uses for federal funds or authorize new spending. Instead, it ensures that existing funding is focused on creating new parking spaces through the establishment of a competitive grant program. We would like to thank Representatives Mike Bost and Angie Craig for introducing this legislation during the 116th Congress, and we look forward to building even greater bipartisan support for this legislation in the new Congress.

Unfortunately, too many federal dollars have been spent on technology-based solutions that fail to address the root of the parking problem. We’ve determined federal investment in the expansion of truck parking *capacity* is key. With a focus on increasing capacity, the Truck Parking Safety Improvement Act would provide funding for the construction of new rest areas and truck parking facilities, while also helping public entities convert existing spaces—such as inspection sites, weigh stations, and closed rest areas—into truck parking locations.

OOIDA believes providing federal investment in the expansion of truck parking capacity must be a top priority for Congress in the development of the next highway bill. Addressing this problem will certainly demonstrate to professional drivers that Congress understands one of the most significant challenges they face on a daily basis and wants to help.

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<sup>1</sup>Jason’s Law Truck Parking Survey Results and Comparative Analysis, Office of Freight Management and Operations, Federal Highway Administration, United States Department of Transportation.

## MINIMUM LIABILITY INSURANCE

Trial lawyers and their allies in Congress have proposed legislation to increase the minimum level of financial responsibility for trucking companies operating in interstate commerce. While working to gather support for their proposal, organizations like the American Association for Justice (AAJ) have shared wholly misleading information about this issue.

Federal law currently requires motor carriers to maintain at least \$750,000 in liability coverage (\$5 million for those hauling hazardous materials). However, the vast majority of carriers are insured at \$1 million or more. Having additional coverage is obviously not required, but the insurance industry tends to naturally adjust levels based on market conditions. If enacted, legislation like H.R. 3781 (the INSURANCE Act) from the 116th Congress would increase minimums from \$750,000 to a whopping \$4,923,154. Small-business truckers would quickly see their premiums dramatically increase.

OODA would like set the record straight on the real impact a minimum insurance increase would have on highway safety and the catastrophic effect it would have on small trucking businesses. This is particularly important for small carriers, who are already struggling as a result of the pandemic and uncertainty within the freight market. Truckers want to operate safely, and to do so, they make significant investments in their equipment to keep it in good working order. Placing new costs on small-business truckers through unnecessary increases to minimum insurance requirements would detract from these goals and ultimately put some of the safest drivers out of business.

Because there are so many factors that determine premium costs, it is difficult to estimate precisely how much they would increase for different motor carriers. We know from surveying our members and analyzing the American Transportation Research Institute's annual surveys on the cost of operation that small motor carriers already pay more per mile than their larger competitors. This is by no means a result of poor driving records, but rather the inability of small businesses to negotiate better rates. Our members also typically have a higher deductible to keep costs down, meaning any increase in minimum requirements would disproportionately affect small businesses. Compounding this problem, any increase is likely to cause some insurers to no longer provide coverage to large trucks. This will further increase costs, as supply becomes limited.

We estimate that if Congress increased minimum coverage requirements to \$2,000,000, as this Committee did in last year's H.R. 2, premium costs for small business truckers could at least double, causing a trucker who currently pays \$10,000 per year to pay a whopping \$20,000. This would be unaffordable to many small businesses, who would quickly be driven out of business. For other carriers that try to offset the news costs by increasing their rates, they would likely lose business to better-leveraged large fleets.

Contrary to claims by those who will benefit financially from an increase in insurance minimums, this will do absolutely nothing to improve highway safety. Supporters of the proposal have no reputable research indicating it would. And they never will, because there is no correlation between insurance coverage and highway safety. In fact, increasing insurance minimums would likely force many owner-operators—who are collectively among the safest, most experienced drivers on the road—out of the industry because premiums would become unaffordable. As a result, an increase to minimum insurance requirements may actually decrease highway safety, not improve it.

Proponents of this proposal claim that insurance requirements need to be increased simply because they haven't been raised since the 1980s. This erroneously assumes the insurance industry only provides coverage at the federally-mandated levels. Again, most motor carriers are insured at least \$250,000 above the current minimum threshold because that's what the market dictates.

AAJ and their allies, including members of this Committee, want you to believe the rising cost of healthcare for those involved in a crash justifies an increase in insurance minimums. However, research indicates this is patently false. As required by MAP-21, the Federal Motor Carrier Safety Administration (FMCSA) commissioned the John A. Volpe Transportation Systems Center (Volpe) to research this issue in greater detail. In 2014, Volpe released its report, which explained, "The vast majority of CMV-caused crashes have relatively small cost consequences, and the costs are easily covered with the limits of mandatory liability insurance."

If you're wondering if this includes some of the most costly crashes, Volpe adds, "A small share exceed the mandatory minimum but are often covered by other insurance or assets." There are certainly catastrophic crashes that exceed today's requirements. However, Volpe helps put these rare occurrences into perspective by

stating, “A final portion of high-cost crashes would fall outside compensation instruments even if the minimum liability were raised.” In short, these exceptional cases are often times so expensive that *no level of insurance would cover them*. We would also point out that, according to Volpe, only 0.6% of crashes result in damages that exceed today’s minimum coverage limits.<sup>2</sup>

If the existing insurance minimum covers over 99% of truck-involved crashes, what’s the impetus for increasing the current requirement?

It should come as no surprise that AAJ is leading this proposal, as trial lawyers typically receive 30–40% of a judgment or settlement against a motor carrier—and sometimes more. For AAJ, this is a shrewd, if not unabashedly transparent effort. Mandating an increase in coverage limits will exponentially boost their judgments and settlements.

What remains most important is the fact that proposals to increase minimum insurance rates for motor carriers will do nothing to improve highway safety. Rather, it imposes yet another unnecessary and expensive federal mandate that will force the safest and most experienced truckers off the road, while further lining the pockets of our nation’s trial lawyers. It will also do nothing to help protect transportation workers or rebuild our infrastructure. As Congress rightfully focuses on defeating the coronavirus and reviving our economy through infrastructure investment, a minimum insurance increase has no place in the discussion.

#### FLSA AND OVERTIME COMPENSATION

Like all hard-working Americans, truckers want to be appropriately compensated for their work. For decades, driver compensation has been eroding, making careers in trucking less appealing to new entrants and less sustainable for experienced truckers.

One of the most unnecessary barriers to fair compensation that truckers face is the Fair Labor Standards Act (FLSA), which currently exempts employee drivers from overtime pay requirements. This exemption was implemented in the 1930s to prevent drivers from working too many hours, but today it simply prevents them from receiving adequate compensation for their work. It also contributes to problems with excessive detention time because shippers, receivers, and others in the industry have no financial incentive to load and unload trucks in a timely, efficient manner.

The unfairness of the overtime exemption has always been clear, but the long hours truckers have worked during the pandemic makes the injustice even more obvious. Waivers to HOS regulations for truckers hauling emergency supplies exacerbated this issue, with some truckers working even longer hours than they normally would. All of this work was done without a guarantee of overtime pay for their efforts. While OOIDA supported the relaxing of HOS requirements to quickly respond to the early challenges of the pandemic, keeping them in place for an extended period of time has resulted in most drivers working longer hours without any additional compensation.

Simply put, the FLSA exemption makes it the law that a driver’s time is less valued than other professions. If Congress is serious about providing relief to the working class, then you must start by repealing this outdated exemption. While the Education and Labor Committee has final jurisdiction over repealing this exemption, it is interrelated with the issues that the Transportation and Infrastructure Committee is discussing today and handles more generally.

#### ACCESS TO FOOD AND RESTROOMS

In addition to difficulty finding parking at the outset of the pandemic, truckers also faced challenges accessing basic needs like food and restroom facilities. During government mandated stay-at-home orders, restaurants and other fresh food options at truck stops were largely closed. To provide at least some relief to truckers, we supported FHWA’s decision to allow states to permit food trucks to temporarily operate at highway rest areas. We thank Members of Congress who also encouraged the agency to take this step. Unfortunately, very few states embraced this solution. As COVID cases surged across the country this fall and states renewed or expanded dining restrictions, truckers again found themselves struggling to find warm, quality meals while on the road.

Moving forward, we encourage Congress to not only allow states greater flexibility in permitting food trucks at rest areas during crises, but expand daily food access

<sup>2</sup>Kent Hymel et al., *Financial Responsibility Requirements for Commercial Motor Vehicles*, John A. Volpe Transportation Systems Center (2013).

to hard-working truckers by reversing the federal ban on the commercialization of rest areas.

Truckers also experienced difficulty accessing restrooms at shipping and receiving facilities throughout the pandemic. Some businesses claimed that limiting access was a way to control the spread of the virus to their employees. These policies were counterproductive. As the most transient community in America, truckers must have the ability to wash their hands after handling freight, paperwork, and business equipment to help combat the spread of the virus. During any future public health crisis, Congress must work with the logistics community to ensure truckers have access to restrooms.

More broadly, the federal government should continue to improve its communication to public and private entities about the problems of closing critical facilities to truckers during emergencies. While there may be valid health reasons for these measures, truckers' needs were often ignored in the heat of the moment when policies were implemented.

#### ACCESS TO PPE

In the early months of the pandemic, acquiring PPE was a serious challenge for truckers. Many had to independently purchase equipment or find free distribution sites, despite being appropriately deemed essential workers. OOIDA worked closely with FMCSA to obtain and distribute protective masks to drivers. We also appreciated the efforts of the Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA) in obtaining and distributing PPE to hundreds of thousands of truckers. Still, many truckers, including employee drivers, have been forced to independently track down and pay out-of-pocket for PPE, hand sanitizer, and other supplies to protect themselves and those they come into contact with. In any future national health crisis, the distribution of protective supplies to truckers must occur immediately. Not only are professional drivers moving critical supplies to areas of need, they are also the most transient community in the country, which increases their chances of exposure.

As an association that represents employee drivers, owner-operators, and small-business motor carriers, our top priority is ensuring the safety and well-being of truckers. We support government efforts to help make PPE as widely-available as possible. We are also open to legislative proposals that would require employers to provide basic supplies to employees, but any proposal must take into account the unique challenges small businesses face and the limited availability of supplies, especially for those not purchasing in large quantities. Furthermore, these measures must not be overly complicated or punitive for businesses that are facing unprecedented challenges.

#### ACCESS TO TESTING AND VACCINES

Truckers face distinct challenges when it comes to accessing testing for COVID-19. Most of the time, our members are out on the road, away from home—often for hundreds of nights a year. It is not easy for them to drop in to their doctor's office for a COVID test if they are feeling sick, exhibiting symptoms or have been in contact with an infected individual. During the worst parts of the pandemic, it was very difficult for our members to find information about where they could obtain a test while on the road. While the federal government has since made information available on testing locations, Congress should make certain this information is communicated to essential workers like truckers much earlier and more clearly during any future health crisis.

Similarly, truckers are now concerned about how they will access vaccinations while continuing to work. For professional drivers, who often spend several consecutive weeks or even months on the road to make ends meet, accessing vaccinations can be logistically difficult and economically disruptive. Few truckers know precisely where they will be from week-to-week, making it difficult to return home for shots and often impossible to predict where they may be located when it's time for a second booster. Even those who are capable of getting vaccinated while they work will undoubtedly experience difficulty accessing vaccination sites—visiting a clinic, pharmacy or medical facility by car is much easier than finding a location to temporarily park a CMV. Providing vaccinations at truck stops and rest areas throughout the country would be an effective solution to ensuring the essential workers in our industry are receiving the care they need.

## PPP AND ECONOMIC RELIEF

As this Committee considers how to improve the federal government's response to future national emergencies and help small-business truckers survive the current pandemic, it also needs to be aware of the ways Congress failed to help truckers during the economic downturn caused by coronavirus. Far too many of our members didn't qualify for a loan under the Paycheck Protection Program (PPP) because of the way the program was structured. In short, this program doesn't work well for independent contractors that make significant investments in equipment and take multiple deductions when filing taxes.

While the PPP falls outside the Transportation and Infrastructure Committee's jurisdiction, it's important to understand the frustration truckers felt when they were told to apply for this government assistance program, only to find out that it doesn't work for them. This was the go-to recommendation for small-businesses impacted by the coronavirus, and when it didn't work for our members, they were essentially out of luck.

Compounding this frustration, truckers have seen Congress provide passenger airlines with billions of dollars in aid, but are left to wonder why the small trucking businesses who keep the supply chain moving were essentially left out. While some of these decisions weren't made in this Committee, you have the power to help truckers make it through these challenging times by avoiding unnecessary regulatory costs and burdens.

For truckers who didn't get any relief in 2020, the last thing they need is new costs that don't provide them, or the public, any real benefit. Small-business truckers need to be able to make necessary investments in their equipment and their businesses to continue operating safely, and they need to make investments to adapt to changes brought on by COVID. None of this will be possible if they are hurting from the economic downturn, are unable to access federal aid, and have to pay new costs to meet new federal regulations.

## BROKER TRANSPARENCY

In the immediate aftermath of the pandemic, freight rates reached historic lows and many drivers were struggling. After years of small-business truckers expressing frustration about the deliberate evasion of transparency regulations (49 CFR §371.3) by freight brokers, the detrimental impacts of COVID-19 finally caught the attention of federal regulators. In May, the President remarked that truckers were being price-gouged by brokers and DOT started listening. Let's be clear, current regulations mandate that brokers keep transaction records and allows carriers to review such records.

These rules enable carriers to make educated decisions about what loads to take and with whom to do business. However, because these regulations go largely unenforced, brokers have implemented common practices that make it difficult for carriers to ever access transactional information required by §371.3. These practices include making carriers visit a broker's physical business location to view information in person or forcing carriers to waive their rights under §371.3 when signing contracts.

As a solution to improve broker transparency, OOIDA filed a petition with the agency that would require brokers to provide transaction information automatically within 48 hours of the completion of the contractual services and would prohibit brokers from including any contractual provision that waives a carrier's right to access transaction records. Since our petition was submitted in May 2020, FMCSA has opened up a variety of regulatory dockets to gather public comments regarding this issue. Once the agency has completed their review of these comments, OOIDA strongly encourages FMCSA to promulgate and enforce measures that will prevent brokers from continuing to circumvent transparency requirements. All truckers want is for brokers to comply with existing federal regulations. They're not asking for anything more than their right to transparency, which is used to help them differentiate good brokers from unscrupulous ones.

## CONCLUSION

Throughout the COVID-19 pandemic, small-business truckers and professional drivers have literally put their lives on the line to keep us safe. While they have faced daunting new obstacles, our truck drivers have ensured that critical supplies get delivered to all corners of the country. We have outlined just a few of the steps that Congress can take to show their appreciation and support, but we also urge you to avoid causing unnecessary damage that would force the industry's safest drivers off the road.



Thank you.

Mr. DEFAZIO. Thank you, Mr. Pugh.

Mr. Rivera.

Mr. RIVERA. Good afternoon. Hello, and thank you for the opportunity to testify. My name is Ismael Rivera. I have been a transit worker since 1997. I began driving a bus for New York City Transit Authority and came to Lynx in Orlando 17 years ago.

I am a proud member of ATU Local 1596. Led by international president John Costa, ATU has taken extraordinary steps since the beginning of this pandemic to keep transit workers and passengers safe and save our members' jobs. ATU developed a list of demands for transit systems on the safe provision of service including gloves, masks, protective barriers, pandemic leave, rear-door entry, and onsite testing.

The International also partnered with transit agencies to secure \$39 billion in Federal funding to save the industry and buy PPE, and we are now seeking another \$39.3 billion. Our union in many locations stepped up and helped transit systems acquire gloves and masks. ATU International also launched a mask education campaign to ensure our members know their right to refuse to work when confronted with hazardous safety conditions.

Driving a bus has always been a tough job. Busdrivers get attacked on moving vehicles regularly. Now we are being attacked by an invisible enemy. Each time a passenger coughs just a few feet behind us, we know that we are in a potential death trap, driving down the road in a tin can with bad air circulation. One hundred twenty-six ATU members have died due to COVID, and thousands have been infected.

In addition to driving a bus, ATU members also now serve as the mask police. We are getting brutally attacked for simply enforcing the rules and trying to stop the spread of the virus. There was a baseball bat beating in California and a 2 by 4 attack in Texas. Here in Florida, a homeless woman boarded a bus and began coughing on passengers. The driver told her that she needed to wear a mask. The woman then spat on the driver.

When someone boards without a mask, we are faced with a tough choice: say nothing and risk that an infected rider will spread the virus or tell them to put on a mask and risk a violent reaction. It is just the beginning. I am constantly checking the mirror, making sure that riders are keeping their masks on. They often pull the mask off, and that is when the real tension begins. I am a bus-driver, not a police officer. I don't need political debates on my bus, but that is the way things are right now.

Social distancing on a bus is very hard to do. In Orlando, we have been told to limit our capacity to 15 passengers on a 40-foot bus. Although the agency gives us discretion to allow a few more riders, passengers are allowed in front rows, which is too close for comfort for many of us. Lynx gives us four masks per shift for passengers who don't have one, and we hit the road hoping that is enough. We come in early to wipe down the vehicles, especially the driver shields. Our shields are better than nothing but still leave a gap, exposing us to attacks. We must still touch wheelchairs to help disabled riders get on board, secure their wheelchairs, and

help them exit. The buses we drive have major issues with air flow, air sterilization, and filters. It is no wonder so many of us are dying.

By my count, about 20 workers at Lynx have been infected with coronavirus, including myself. We do have contact tracing, for what it is worth. Florida officials are not following Federal vaccine guidelines, that give transit workers priority. So, despite our high risk, we wait for the shot, putting our lives on the line every day.

FTA needs to fully use its safety authority as soon as possible. President Biden's action on day one requiring masks on public transit is a great start. We need high-quality masks available more widely and help enforcing mask requirements and making sure buses are not overcrowded. ATU joins APTA in urging Congress to provide an additional \$39.3 billion in relief to help keep systems running and buy PPE. We strongly support hazard pay for transit workers in the next COVID bill. Our members are heroes, but we get treated like zeroes at the bargaining table. It is not right.

Finally, the CARES Act required employers to offer 2 weeks of paid sick leave to anyone who got sick with COVID or had to quarantine because they had been exposed. That expired in 2020. Congress needs to restore this. Nowadays, getting behind the wheel of a bus or working at a maintenance shop when you are not feeling well can have deadly consequences for so many people.

In conclusion, COVID has shown the world the true meaning of essential workers. Since the pandemic began, transit workers have put their lives on the line, bravely reporting to work every day. With continued operations funding, commonsense safety measures, and a seat at the table for the workers to express their concerns, we can work our way through these challenges together. Thank you very much.

[Mr. Rivera's prepared statement follows:]

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**Prepared Statement of Ismael Rivera, Bus Operator, Lynx, and Member,  
Amalgamated Transit Union Local 1596, Orlando, Florida**

INTRODUCTION

Chairman DeFazio, Ranking Member Graves, and Members of the Committee, thank you for the opportunity to testify today on protecting transportation workers and passengers from COVID. I look forward to providing information on gaps in safety, lessons learned and next steps. My name is Ismael Rivera. I've been a transit worker since 1997. I began driving a bus for the NY MTA in Brooklyn and then up in Harlem, and came down here to Lynx in Orlando 17 years ago, where I am a proud member of Amalgamated Transit Union (ATU) Local 1596.

SAVING JOBS, LIVES

Led by International President John Costa, ATU has taken extraordinary steps since the beginning of this pandemic to keep transit workers and passengers safe and save the jobs of our members nationwide. Early on, ATU developed a list of demands for transit systems regarding the safe provision of service. These recommendations included, but were not limited to, gloves, masks (for both workers and passengers), protective barriers, pandemic leave, rear door entry, on-site testing, and other critical measures. The International also partnered with transit agencies in 2020 to secure \$39 billion in federal funding to save the industry and provide the resources to purchase critical personal protective equipment (PPE). In fact, at the height of the PPE shortage in the spring, it was our union that in many locations stepped up and helped the transit systems acquire life-saving gloves and masks. ATU International also launched a mass education campaign to ensure our

members know their right to refuse to work when confronted with an imminent hazardous safety or security condition, as protected under the National Transit Systems Security Act, the Surface Transportation Assistance Act of 1982, the federal Occupational Safety and Health Act, and National Labor Relations Act.

#### DANGEROUS JOB

Driving a bus has always been a tough job, even before the coronavirus. Bus drivers get attacked on moving vehicles regularly. People don't like paying fares or being told about regulations, and they get angry about service issues, so they often take out their frustrations on the drivers. ATU members all across the country have been viciously assaulted. With no barriers to protect us, we are sitting ducks. I was attacked back in New York.

Now, we are being attacked by an invisible enemy. Our members drive everyday not knowing who's at each stop, or who they've been in contact with. Each time a passenger coughs just a few feet behind us, the drivers' hands grip the wheel a bit tighter, as we know that we are in a potential death trap, driving down the road in a tin can with bad air circulation. Throughout the U.S. and Canada, 124 ATU members have died due to coronavirus and thousands of transit workers have been infected.

#### THE MASK POLICE

In addition to driving a bus, ATU members also now serve as the "mask police." Far too often during these politically charged times, we have been brutally attacked for simply enforcing the rules and trying to stop the spread of the virus.

A baseball bat beating in California, a two-by-four attack in Texas, and a bone-breaking sucker punch in New York are just a few violent incidents that underscore another danger for transit workers in a coronavirus world—and they all happened in one month. Since the pandemic began, there have been hundreds of COVID-related violent encounters between bus drivers and angry passengers who refuse to wear masks or follow social distancing protocols.

At the beginning of the pandemic, transit systems were boarding from the back and waving fares. But regular fare collection and front door boarding resumed again in the summer, bringing passengers and drivers within a few feet of one another, exposing us to the virus and angry people.

When someone boards one of our buses without a mask, we are faced with a tough choice: say nothing and risk that an infected rider will spread the virus, or tell the passenger to put on a mask and risk a violent reaction. When you confront someone, it can escalate quickly. He could spit on you, he could throw something at you, or he could hurt another passenger. But what if that person is sick and contaminates everyone on this bus? And you could have prevented that?

Last May, a St. Louis man boarded a bus without a mask. After the female driver informed him that he could only ride the bus with a face covering on, the man fired a 9 mm pistol at the driver. She was saved only by the polycarbonate shields that were installed as part of the COVID response. In Austin, TX, a man threatened a bus driver with broken scissors after being told to wear a mask. In Springfield, MA, a PVTA bus driver was assaulted after asking a passenger to wear a face covering. The suspect punched the woman driver in the back of the head and then assaulted another person who tried to help. Knoxville, TN police arrested a man after he threatened a bus driver with a box cutter after she asked him to put on a face mask before boarding. In Staten Island, NY, a man was arrested on assault charges for throwing hot coffee onto an MTA bus driver's face when he was asked to put on a face covering.

In Boston, a teenager recently attacked an MBTA bus driver after he was asked to put a mask on or get off the bus. He then began coughing on the driver, claiming he had COVID and attacked the driver with a block that's put under the bus wheels when it is parked. Here in Florida, a homeless woman recently boarded a Miami bus and began coughing on passengers. The driver told her she needed to wear a mask. The woman then spat on the driver. Coughing on someone is not a laughing matter. When the pandemic first began back in March, ATU Member Jason Hargrave, from Detroit, posted a Facebook Live video complaining about one of his passengers who was openly coughing several times on his bus without covering her mouth. Eleven days later, Jason died of COVID-19. Jason loved his job and was proud to do it. He was always concerned about his passengers. He suffered too, as his temperature soared, his fingertips turned blue, and he couldn't breathe.

Once a passenger gets on the bus with a mask, it's just the beginning for me. While driving down the road, I am constantly checking the mirror, making sure that riders are keeping their masks on. They often pull the face coverings off, and that's

when the real tension begins. I'm a bus driver, not a police officer. I do not need political debates on board my vehicle, but that's the way things are right now. When people don't listen, we need to call in the issue to the company so they can send help.

#### DRIVING A BUS IN A COVID WORLD

We are frontline workers. That does not change, virus or no virus. Our job is to make sure that people can get where they need to go—the doctor, the pharmacy, the grocery store—safely. All of this has become quite challenging during the pandemic.

Social distancing on a bus is extremely hard to do. In Orlando, we have been told to limit our capacity to 15 passengers on a 40 foot bus, although the agency gives us the discretion to allow a few more riders. My route includes our local Home Depot, where day workers gather each day looking for work. I make sure they get where they need to go. But if I reach the maximum and come to a stop where people want to board, they have to wait for the next bus. Passengers are allowed in the front row, which is too close for comfort for many of us, and we are once again collecting fares.

In some cities, passengers are provided with masks if they do not have one, but our members often drive in the inner cities where homeless people are currently boarding the buses for free, and boxes of masks on the vehicle usually disappear quickly. My employer, Lynx, gives us four masks per shift for passengers who do not have one, and we hit the road hoping that is sufficient.

We come in early, not to use the company gym, which is closed, but to complete the COVID pre-shift tasks, grabbing the spray bottle and wiping down the vehicles, especially the driver shields that have been installed since the pandemic started. Our shields are better than nothing, but still leave a gap exposing us to attacks.

As always, we must still touch wheelchairs to help disabled riders get on board, secure their wheelchairs, and help them exit. Anywhere we touch, the surface gets wiped down.

By my count, about 20 workers at Lynx have been infected with the coronavirus, including myself. We do have contact tracing—if one of us comes down with the virus, people who have come into contact with the person are told to stay home for ten days.

Federal vaccine recommendations give priority, in the second tier, to grocery store employees, transit workers and other front-line workers, along with people age 75 and older. Unfortunately, Florida officials are not following those guidelines. So despite our high risk, we wait for the shot, putting our lives on the line every day.

#### BUS AIR FLOW ISSUES

It's no surprise that nationwide, thousands of transit workers have already tested positive for COVID, and hundreds have died. The buses we drive have major issues with air flow, air sterilization, and filters. When a bus is moving forward, it creates reversed airflow in the cabin, bringing unhealthy air into the driver's workstation. The buses have dangerous airflow with recycled and very poorly filtered air. Some jurisdictions have tried temporary measures, such as hanging shower curtains near the driver and separating us from the passengers, but transit worker deaths are still piling up.

#### FEDERAL ACTION NEEDED

The original CDC interim guidance for reopening public transit took into consideration many of the ATU's demands regarding social distancing, PPE, contact tracing, and several other protective measures for transit workers. But the previous administration watered down the CDC guidance, seriously scaling back or completely removing specific recommendations for transit systems:

- No specific guidance on necessary PPE;
- Lack of recommendations for testing transit workers and performing contact tracing;
- No guidance for strategic continuation of service to reduce overcrowding;
- Failure to offer specific guidance for effective sanitation and filtration of HVAC systems on transit vehicles;
- Scaled back recommendations for waiting to allow for air exchange before cleaning possibly contaminated work areas;
- Removed examples of physical barriers and partitions as effective measures to enforce social distancing and correct air flow recirculation issues; and
- Watered down protocols for responding to cases of potentially infected workers.

We look forward to working with the new leadership at the Federal Transit Administration (FTA) to put these ideas into practice at the local level for the safety of the passengers and workers. Although the previous administration had recommended transit agencies make policies regarding facial coverings to reduce the risk of COVID, it stopped short of a mandate. FTA needs to use its safety authority in this area as soon as possible. President Biden's action on Day One requiring masks on public transit is a great start. Right off the bat, transit workers need high-quality masks available more widely, and as discussed above, we need to get help with new duties, such as enforcing mask requirements and making sure buses are not overcrowded.

#### THE NEXT COVID RELIEF BILL

We are of course incredibly grateful to the U.S. Congress for providing the resources necessary for the transit industry to survive the public health crisis. The \$25 billion in emergency operating aid from the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the recent \$14 billion in the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) have preserved essential service for the millions of people who rely on transit and kept hundreds of thousands of transit workers off the unemployment line during these very difficult times.

However, even if the vaccine rollout improves drastically in the first half of this year and our economy comes back to life, transit will still be in need of emergency operating aid for the foreseeable future. Dedicated sales taxes from bars and restaurants have dried up, leaving the agencies with no local transit operating assistance. Choice riders are understandably hesitant to get back on transit vehicles due to safety concerns. It will likely take years for ridership levels and fare box revenue to recover, and we will need significant levels of federal operating aid to survive. As highlighted by the American Public Transportation Association (APTA), an independent economic analysis found that public transit agencies face a projected funding shortfall of nearly \$40 billion through 2023. We therefore urge Congress to *provide an additional \$39.3 billion* in emergency funding to help public transit agencies provide safe, reliable service as they continue to grapple with the financial burden caused by the COVID-19 pandemic. All transit systems have been hit hard by this pandemic, and ATU calls on Congress to *ensure that the next bill provides funding for all FTA grantees*. The December bill, with its formula providing up to 75% of 2018 operating costs between the CRRSAA and the CARES Act, did not result in distributing funding to every system.

ATU also strongly supports *pandemic premium (hazard) pay for essential workers (including public transit workers)* in the next COVID-19 legislation. The dictionary defines a "hero" as "a person noted for courageous acts or nobility of character." Long before the coronavirus, transit workers, the eyes and ears of our communities, have been routinely performing heroic acts that impact all of us, whether you ride transit or not, like providing CPR to a taxi driver, saving a six year old boy with disabilities wandering through a busy intersection, or preventing a woman from jumping off of a bridge. Now, of course, ATU members and other essential workers are considered heroes for simply reporting to work each day. Our members are getting sick at a rate that is much higher than the general population because we are continuously exposed to large crowds of transit-dependent riders at close range, often times without the necessary PPE to keep us safe. There are safer and easier ways to earn about \$25 per hour. The least we can do as a nation to recognize the sacrifices that transit workers and their families have made and will continue to make during this health crisis is to provide us with pandemic premium pay. While transit workers are rightfully being called "heroes" during these horrific times, we are finding that when we return to the bargaining table, we are being cast away as "zeroes."

Finally, the CARES Act required employers to offer *two weeks of paid sick leave* to anyone who got sick with COVID or had to quarantine because they'd been exposed, and up to 12 weeks of partially-paid family and medical leave for parents who had to stay home with a child whose school or daycare closed. But that mandate, which applied to companies with between 50 and 500 employees, expired at the end of 2020, and Congress did not extend it when it passed the CRRSAA. *It is critical that Congress restores these provisions*. Even before the pandemic, the lack of sick leave has always been a major issue for frontline workers, including transit employees, struggling to make ends meet. It's one thing to report to work with a common cold. Nowadays, getting behind the wheel of a bus or working in the maintenance shop when you are not feeling well can have deadly consequences for so many people, including coworkers, passengers, and their families. If you are sick,

you should not have to feel the pressure to come to work because your paycheck is in jeopardy.

#### CONCLUSION

The coronavirus has shown the world the true meaning of “essential” workers. We are the ones who people rely upon to survive when everything around us shuts down. Since the pandemic began, transit workers have put their own lives on the line, bravely reporting to work every day, driving riders in our communities to the doctor, the grocery store, and the pharmacy. We make sure that nurses and other hospital workers get to their jobs to care of our family members and friends who are suffering. With continued adequate operations funding, a stronger federal role in the enforcement of common sense safety measures, and a seat at the table for workers to express their COVID concerns, we can work our way through these challenges together and live to see brighter days ahead.

Mr. DEFAZIO. Thank you.

We now move to Professor Bahnfleth.

Mr. BAHNFLETH. Thank you, Chairman DeFazio and Ranking Member Graves, for the opportunity to address the committee today. I am testifying on behalf of ASHRAE, a professional and technical society of more than 55,000 individual members dedicated to advancing the arts and sciences of heating, refrigerating, air conditioning, and aligned fields. The president of ASHRAE, Charles Gulledge, extends his thanks for your investigation of this important subject and offers ASHRAE’s continued technical support.

I chair the ASHRAE Epidemic Task Force, which was formed to develop the guidance for space conditioning systems needed to make indoor environments as safe as possible during the pandemic. Task force members are volunteer experts who specialize in making indoor environments safer and healthier. ASHRAE guidance standards and other resources are science-based and free from commercial interests. The task force has produced hundreds of pages of widely referenced guidance materials based on current understanding of infection transmission and control, including recommendations specific to transportation systems.

COVID-19 is believed to transmit by three modes.

Short-range droplet transmission that occurs when an infected person and a susceptible one are close together. Public health authorities have long held this is the most important mode.

Fomite transmission that occurs when an infected person contaminates an intermediate object that has been touched by a susceptible person who infects themselves. There is little evidence that this is a common mode of transmission.

Airborne transmission resulting from the inhalation of fine particles small enough to remain airborne for long periods of time that can move far from their source is the third mode. The perceived importance of airborne transmission has grown substantially over the course of the pandemic.

Each mode has specific controls: distancing and masks for short-range transmission, cleaning and personal hygiene for fomite transmission, and HVAC engineering controls for airborne transmission, ventilation, air distribution, filtration, and air cleaners. Masks also help control airborne transmission by reducing aerosol emissions from infected persons.

How do these fundamentals apply to the protection of transportation workers and passengers?

First, public health guidance should be followed. Distancing, hygiene, and indoor mask use are critically important. Secondly, mobile environments, such as aircraft, ships, cars, buses, and trains, are indoor environments provided with some level of HVAC system. The same engineering controls apply to buildings also apply generally to mobile environments.

With respect to engineering controls, ASHRAE's primary recommendations are: provide at least required full occupancy ventilation whenever people are present, including janitorial and maintenance crews; use filters for recirculated air that remove infectious particles efficiently. If necessary, supplement ventilation and filtration with air cleaners demonstrated to be effective and safe. Combine ventilation and filtration and air cleaners to meet risk reduction targets while minimizing energy use and cost. Avoid indoor air flows that can extend short-range transmission by large droplets. Prevent reentry of contaminated air. And, finally, commission systems to verify that they are functioning as designed. This can improve protection and reduce energy use.

Transportation HVAC systems vary widely in terms of the levels of ventilation and filtration they provide, as others have already noted. Aircraft have highly maintained systems that provide large air change rates and utilize high-efficiency filters. The age, condition, and air quality controls of buses and trains, however, cover a wide range and may present significant risk to passengers and workers alike. Ships may have good HVAC systems but space layouts that make distancing difficult.

Plus, it is hard to generalize, but what is generally true is that there is non-negligible potential for COVID-19 transmission on all modes of transport. Published studies of COVID-19 outbreaks document, among others, that a 10-hour flight carrying 217 travelers resulted in 14 infections; a 7½-hour flight, only 17 percent full, that yielded 13 cases among 49 passengers; a 100-minute trip in a poorly ventilated bus on which 24 of 68 passengers were infected by a single person; and an ocean cruise on which 712 of 3,711 passengers and crewmembers contracted COVID-19.

For the safety of those who must travel and those whose work is supporting travel, the ventilation and filtration capabilities of mobile environments, as well as related stationary facilities, should be evaluated and updated as necessary. Post-pandemic, consideration of significant design changes for new systems may be warranted. Some technologies needed to make future transportation safer are available now, but there are also many opportunities and needs for applied research to improve system design.

ASHRAE is committed to support this effort, helping to ensure that the safest possible conditions are provided for all who need and want to travel today and in the future.

I appreciate the committee's attention. I will be happy to answer your questions. Thank you.

[Mr. Bahnfleth's prepared statement follows:]

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**Prepared Statement of William P. Bahnfleth, Ph.D., P.E., FASHRAE, FASME, FISIAQ, Professor of Architectural Engineering, The Pennsylvania State University, testifying on behalf of his role as Chair, ASHRAE Epidemic Task Force**

Thank you for the opportunity to address the committee today. I appreciate that Chairman DeFazio and Ranking Member Graves recognize the importance of transportation worker and passenger safety as the COVID-19 pandemic continues to threaten health and life worldwide. I also want to thank the leadership of this committee for their foresight in holding a hearing on this topic last summer when few imagined that the worst days of the pandemic lay ahead. Today, COVID continues to take a terrible toll, so it is more important than ever to understand the tools available to us to reduce risk of disease transmission in aircraft, ships, trains, and buses, as well as the stationary facilities that support transportation. The lessons of this unprecedented public health crisis must be applied upon now to reduce case numbers and save lives, and absorbed so we will be better prepared to confront future epidemics that threaten our lives and livelihoods.

I am testifying today on behalf of ASHRAE, a professional and technical society made up of more than 55,000 individual members founded in 1894. The President of ASHRAE, Charles Gullledge, also wants to extend his thanks for your investigation of this important subject. He asked me to share his message: "Protecting the transportation workforce and passengers, many of whom are essential workers, is critical for all of us, as those traveling can rapidly spread the coronavirus over large distances. I am delighted that you have called upon the Chair of ASHRAE's Epidemic Task Force who is one of the leading experts in this field. On behalf of the entire ASHRAE organization, we offer continued technical support to your committee as you work on policies and legislation to make transportation systems safer and healthier."

In response to the pandemic, ASHRAE formed an Epidemic Task Force last March, which I was appointed to chair. The Task Force is comprised of volunteer members who are experts in the fields of air conditioning, ventilation, filtration and air cleaning. It includes practitioners as well as researchers and academics like myself who have focused their careers on making indoor environments safer and healthier. Importantly, as part of ASHRAE, the task force like all activities at ASHRAE, is free from commercial interests. Our guidance, standards, and other resources are based on science and consensus. The Task Force has produced hundreds of pages of guidance materials, conducted more than a hundred instructional webinars and courses, held briefings for policy makers, and developed summaries of this guidance that can be more accessible to the general public.

ASHRAE's Epidemic Task Force has produced a 43-page guidance document specific to transportation systems (Attachment A). This guidance is based on current understanding of how COVID-19 is transmitted and on the principles of infection controls applicable to indoor environments generally, which includes mobile environments such as cars, trains, buses, aircraft, and ships. I will begin by reviewing those foundational considerations and then relate them to the transportation applications.

According to the US Centers for Disease Control and Prevention (CDC) as well as other public health authorities such as the World Health Organization (WHO), COVID-19 transmission is believed to be possible through three modes:

- Short range "droplet" transmission that occurs when an infected person and a susceptible one are sufficiently close together that large virus-containing droplets emitted by the infector through activities such as breathing, speaking, talking, coughing, and sneezing land in the eyes, nose, or mouth of the susceptible person. This mode of transmission is addressed by social distancing and use of masks, which limits the distance that infectious droplets travel and also the quantity of droplets. It should be noted that while the customary guideline in use for distancing is six feet, it has been shown experimentally that a sneeze may project a cloud of infectious droplets more than 25 ft from the source in still air. Air currents in an indoor environment may carry these infectious clouds over even larger distances. There is strong evidence for droplet transmission.
- Intermediate surface or "fomite" transmission that occurs when an infected person contaminates a surface that is touched by a susceptible person who infects themselves by touching their eyes, nose, or mouth. Fomite transmission is controlled primarily by personal hygiene, i.e., not coughing or sneezing into one's hands, regular hand washing, and not touching the face, and by disinfection of surfaces, especially high touch surfaces like door handles. While still deemed possible, the perceived importance of fomite transmission has decreased over



the course of the pandemic and there is little evidence that it is a significant mode of transmission.

- Airborne transmission resulting from the inhalation of infectious aerosols, the particles produced by drying of respiratory droplets that are sufficiently small to remain airborne for long periods of time and to become distributed throughout an indoor environment. Airborne transmission has been divided by some into short range and long range airborne transmission, as aerosols are always present even within the range associated with droplet transmission and may contribute significantly to risk within the 6 ft distancing radius.

Airborne transmission risk is controlled by “engineering controls” associated with heating, ventilating, and air-conditioning (HVAC) systems, including dilution with outdoor air, exhaust of contaminated air at its source, control of indoor air flows, filtration to remove infectious particles from the air, and air cleaners that capture or destroy infectious particles. Risk is also reduced through the use of masks, which reduce the amount of infectious material emitted into the air as well as the amount inhaled by a susceptible person. The focus of ASHRAE’s COVID-19 guidance is mitigation of airborne infection risk, but within the context of a layered infection control strategy that addresses all significant modes of transmission.

Early in the pandemic, WHO, CDC, and other health authorities were highly skeptical of the significance—or even possibility—of airborne transmission. Based on evidence of airborne transmission at the time, ASHRAE and some other organizations concluded that while definitive proof might not yet be available, there was sufficient reason to suspect airborne transmission that it should develop guidance to prevent it. Over time, the potential for airborne transmission became clearer and, since October of last year, however, both WHO and CDC have recognized that it can occur under certain circumstances and now recommend taking precautions against it. An important characteristic of airborne transmission is that it is proportional to airborne concentration of infectious particles, duration of exposure of susceptible persons, and the type of activities taking place. For example, an infected person exercising in a fitness center will shed infectious droplets at a higher rate than a sedentary individual and susceptible exercisers will inhale droplets at a faster rate.

These modes of infection may occur in any type of indoor environment, but the extent of the risk represented by each mode and the extent to which it can be mitigated varies with the characteristics of a particular environment.

ASHRAE’s COVID-19 guidance currently addresses nine different facility types: residential, multifamily, healthcare, residential healthcare, commercial, communities of faith, school and university, laboratory, and transportation. Additional guidance is under development. The recommendations for each of these indoor environment types involve applications of the same engineering controls in ways appropriate to the specific indoor environment.

- Ventilation with outdoor air. Outdoor air is normally free of indoor pathogens, particularly viruses, which do not survive well outside the body. Outdoor air is mixed with indoor air, diluting viral aerosol it may contain and replacing potentially contaminated air that is exhausted at an equal rate. Ventilation is the most fundamental control for control of all contaminants. For buildings, a minimum amount of ventilation based on the type of use, number of occupants, and floor area is generally required by codes that are based on ASHRAE Standard 62.1 for non-residential buildings, Standard 62.2 for residential buildings, and Standard 170 for healthcare facilities. For non-healthcare facilities, the minimum ventilation requirement specified in the standard is not sufficient to provide a high degree of protection from airborne transmission.
- Air distribution. Air movement in indoor spaces can have positive and negative impacts on infection risk. Poor circulation of air in a space can result in poor removal of contaminants by ventilation. High velocity currents of air created by HVAC systems can create risk of extended droplet transmission. However, directional airflow can also be used to efficiently remove contaminants when the location of the source is known, for example, when an infected patient is in bed in a hospital patient room.
- Filtration. The filters used to remove particles from indoor air are typically composed of densely matted fibers. A range of filter efficiencies are available. The MERV rating system established by ASHRAE Standard 52.2-2017 is most commonly used for filters found in HVAC systems. MERV ratings range from 1–16 with higher numbers representing filters that are more efficient, particularly for small particles in the size range associated with respiratory aerosols. Current minimum filter efficiency requirements in ASHRAE Standards 62.1 and 62.2 are MERV 8 and MERV 6, neither of which removes fine particles

with high efficiency. As in the case of minimum ventilation rates, minimum filtration requirements do not provide much protection against airborne transmission.

- Air cleaners. A large number of technologies are available that disinfect air via different process. This includes many for which the evidence for efficacy and safety is lacking. If effective, air cleaners can be adjuncts to ventilation and filtration. The best established technology currently is disinfection with germicidal ultraviolet light, which can be applied in a number of different ways, both inside occupied spaces and in HVAC systems.

ASHRAE's Core Recommendations for Reducing Airborne Infectious Aerosol Exposure (Attachment B) summarize guidance for HVAC system design and operation changes to reduce risk of COVID-19 transmission. The recommendations address the following key points:

- *Public health guidance should be followed.* Social distancing and good hygiene help reduce droplet and fomite risk and indoor mask use in public spaces during the pandemic reduces both short and long distance exposure.
- *Minimum levels of ventilation and filtration should be maintained and may be exceeded if necessary to achieve desired levels of exposure reduction.* Code minimum ventilation and MERV 13 or better filter efficiency should be viewed as baseline requirements that may not be sufficient. A requirement to increase outdoor air is not needed if exposure can be reduced sufficiently by other controls.
- *Air cleaners may be used as a supplement to minimum ventilation and filtration to achieve risk targets.* Only those demonstrated to be safe and effective should be used.
- *Ventilation, filtration, and air cleaners may be combined to achieve exposure reduction goals while minimizing energy use.* The energy cost of increased outdoor air flow, which must be brought to the indoor temperature, can be significant and a disincentive to increase protection. Filters and air cleaners can also reduce the amount of active virus in the air and may be able to do it with lower energy use and operating cost.
- *Unless a directional airflow strategy is applicable, air distribution should not create strong air currents in the occupied part of a space that can blow large droplets from person to person and should thoroughly mix the air in a space.* As noted previously the range of droplet transmission can be extended by high velocity air flows. Some studies of ventilation in healthcare facilities have found that in many cases good mixing of room air results in lower exposure than stratified air distribution.
- *Ventilation systems should operate whenever occupants are present and outdoor air flow should not be reduced from its design values.* Systems should remain in operation when, for example, janitorial or maintenance crews are present. Demand controlled ventilation, which reduces outdoor air flow in proportion to the number of people in a space, should not be used because it slows the removal of infectious particles and increases their concentration in the air.
- *Re-entry of potentially contaminated air should be limited to safe values.* Infections may be transmitted by recirculation of exhaust air in some types of energy recovery devices, placement of exhausts too close to outdoor air intakes, and by unintentional air flows through plumbing and ventilation shafts. Unintentional airflows were identified as the cause of outbreaks during the SARS epidemic. Recent investigations indicate that COVID-19 can be transmitted in this way.
- *Systems should be commissioned to verify that they are functioning as designed.* Many existing HVAC systems are not properly maintained and, as a result, use more energy than necessary and may not provide good control of indoor air quality.

Further, in assessing risk related to transportation, an end to end approach should be taken that includes the entire trip, not only, for example, time spent on an airplane. An air traveler may take a train to the airport, then spend time in the terminal prior to boarding and, after arrival must again move through the terminal and may again use public transportation to reach their destination. Any of these steps in the process may be the cause of transmission.

Ground facilities associated with transportation, including terminals, stations, hangars, garages, barns, and business offices have much in common with facility types for which extensive guidance is already available from ASHRAE and others. It should be possible to apply effective airborne protections to such facilities. A primary concern for public facilities such as terminals is the combination of large transient populations passing through them and the difficulty of maintaining distancing and of keeping the many high touch surfaces disinfected.

Although they are not stationary, aircraft, ships, cars, buses, and trains are, nevertheless, indoor environments typically provided with some level of HVAC system. Therefore, the same engineering controls applied to buildings potentially can be applied to them. However, they are by no means simply small moving buildings. Aircraft, ships, cars, buses, and trains are all relatively small enclosed volumes in which the density of people is ordinarily much higher than in buildings. This density inherently increases the risk of short range transmission and it is difficult, if not impossible, to isolate passengers and workers in some cases, for example, in taxis. Ships, particularly cruise ships, bear more resemblance to land facilities but still provide many opportunities for close contact and fomite transmission.

Transportation HVAC systems vary greatly in terms of the levels of ventilation and filtration they provide. Aircraft HVAC utilizes high recirculation rates through very efficient (HEPA) filters to greatly reduce airborne transmission risk, and aircraft maintenance is typically very thorough. There is a much wider range of conditions in trains and buses. Ventilation rates are likely to be low, and filter efficiencies not sufficient to provide good control of infectious aerosols. Ability to provide protected environments for workers that are isolated from the passenger environment also vary. Bus and taxi drivers, in particular, are exposed to the same environment as passengers in an enclosed environment that may not be well ventilated. HVAC systems on ships may be more like those in buildings with respect to ventilation and filtration, but the layout of ships can make distancing difficult. These differences affect the requirements for, and even the feasibility of making substantial reductions in risk. In some cases, control options are limited by security concerns, for example the risk of fire from malfunctioning electronic air cleaning devices in buses.

Numerous case studies have been published investigating the transmission of COVID-19 during the current pandemic, mostly focused on aircraft, cruise ships, and buses. Similar studies in the past have investigated transmission of SARS and other diseases, particularly influenza. A few examples will serve to illustrate typical findings. Even in the highly ventilated, HEPA filtered environment of aircraft, transmission of COVID-19 has been observed during long-haul flights. In general, infections traced to travel tend to be passengers or workers who are in proximity to the index patient. For example, during a roughly 10-hour flight from London to Hanoi carrying 217 travelers that resulted in 14 infections among passengers and one among crew members, 12 of the infected were in the business class cabin where the index patient was located (Khanh, et al. 2020). Significant outbreaks have been associated with even sparsely occupied planes, as in the case of a flight to Ireland that yielded 13 in-flight cases—12 passengers and one crew member—even though it was only at 17% capacity with 49 of 283 seats filled (Murphy, et al. 2020). In this case, there were several groups of infected travelers in adjacent seats. While these incidents suggest close contact transmission because of the clustering of cases, investigations of other incidents suggest airborne transmission. For example, during a 100 minute round-trip by bus to a religious event, 24 of 68 passengers were infected by a single index patient. The air conditioning system on the bus was in recirculation mode during the trip, i.e., no outdoor air was being brought in to dilute air contaminants (Shen, et al. 2020). In the case of the Diamond Princess Cruise ship incident, in which 712 of 3711 passengers and crew members contracted COVID-19, one analysis of infection data concluded that long range aerosol transmission accounted for most of the cases, even though the HVAC system on the ship was not recirculating air, while a second implicated close contact (Xu, et al. 2020).

Like most buildings, our means of transportation have not been designed to protect us from the risk of airborne infection. Aircraft, with their well-maintained systems that provide good ventilation and filtration of air still have proved vulnerable to infection transmission because of passenger density and the long duration of some flights. Other transportation modes provide greater opportunities to transmit disease to passengers and workers because of their designs that provide only modest ventilation and filtration and that may not be subject to the stringent maintenance requirements of aircraft. The COVID-19 pandemic has exposed the extent of these limitations as documented in forensic studies of transportation-related outbreaks. For the present, the best way to minimize infection risk related to travel remains to do so only when necessary and, even then, by observing all recommended safety and hygiene measures, particularly distancing and use of masks.

For the safety of those who must travel, it may be possible to upgrade the HVAC systems of some modes of transportation by improving ventilation, increasing filter efficiency and adding air cleaning technologies where applicable. However, as noted previously, there are limitations to the kind and extent of upgrades. This lesson—that risk can be significant and that our transportation systems currently may not provide the desired level of protection to workers and passengers, should be re-

flected in the design of future trains, buses, automobiles and ships. Improvements could include the obvious measures of increasing ventilation rates and filter efficiencies as well as making use of emerging air cleaner technologies. Some of the technologies we need are available now, but there are many opportunities for applied research to improve system design. For the safety of workers, providing isolated, clean environments for workers is also important, given the higher level of risk they experience due to spending a much greater amount of their time exposed to the risks inherent in transportation. Clear instructions to passengers regarding safe travel practices that are enforced is also a way to make existing transportation system safer while new and better protected fleets are developing. Given the rate at which vaccines for COVID-19 are being deployed, follow through in addressing all of these needs is essential. ASHRAE is committed, within its sphere of expertise, to helping ensure that the safest possible conditions are provided for all who need and want to travel, today and in the future.

I appreciate the committee's desire to investigate this important topic and your consideration of my testimony. Protecting transportation workers and passengers is vital, especially for essential workers and those with critical needs such as doctor appointments. I hope my perspective focused on the built environment and HVAC systems proves useful, and I look forward to answering your questions. I also would be happy to provide any additional technical assistance from ASHRAE's Epidemic Task Force to advance the work of this committee. Thank you.

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## ATTACHMENT A

## ASHRAE EPIDEMIC TASK FORCE GUIDANCE ON TRANSPORTATION

[The 43-page document is retained in committee files and is available online at <https://www.ashrae.org/file%20library/technical%20resources/covid-19/ashrae-transportation-c19-guidance.pdf>.]

## ATTACHMENT B

## ASHRAE'S CORE RECOMMENDATIONS FOR REDUCING AIRBORNE INFECTIOUS AEROSOL EXPOSURE

[Attachment B is retained in committee files and is available online at <https://www.ashrae.org/file%20library/technical%20resources/covid-19/core-recommendations-for-reducing-airborne-infectious-aerosol-exposure.pdf>.]

Mr. DEFAZIO. Thank you, Professor. Now Councilman Buscaino.

Mr. BUSCAINO. Good morning, Chair DeFazio, Ranking Member Graves, and members of the committee. I am here today on behalf of the National League of Cities, the Nation's oldest and largest network of cities, towns, and villages across America.

The Nation's cities are on the front lines of the COVID-19 response, and it is clear that the health and economic crisis is not

over. Together, Congress and America's city communities must keep up the pace this year to respond, recover, and rebuild from the COVID-19 pandemic and the economic challenges that came with such a prolonged and devastating pandemic.

Local governments and our essential employees have been organizing since the first cases of COVID-19 were reported. Whether it was mask-wearing policies, keeping essential workers and projects moving, or supporting local restaurants and businesses with sidewalk or street access, we have tried to tackle every challenge head on.

Locals are working to keep essential services and workers moving during COVID-19, but it has created a ripple effect of shut-downs and devastating health impacts that has docked almost every budget line in our city. This year, local budgets nationally are facing a shortfall of at least \$90 billion, and we have depleted our reserves throughout 2020 on COVID expenses, leaving little cushion.

To balance budgets, it has cost the U.S. 1.3 million good Government jobs, including transportation workers. In Los Angeles alone, the city's budget is short by \$600 million this year, which will wipe out our \$259 million reserve savings. It also leaves us with an unpaid \$75 million loan to ourselves from our public works trust fund, which must be repaid on July 1st, per our city charter.

Large cities like ours that were lucky enough to get CARES Act COVID relief funding have met needs quickly; 96 percent of L.A.'s CARES relief funding have been used. While many cities and towns had to wait for State or county allocation, they put their CRF funds to good use by getting PPE to essential city workers, helping small businesses, and providing housing relief to families.

I want you to know, colleagues, that any relief Congress passes for cities will be used to continue to support our most valuable asset: our people. America's communities are proud to have a dedicated and resilient workforce of professional, essential workers who have kept everything running, especially those who are part of our national supply chain, like my family and friends and neighbors in my hometown community of San Pedro that work the docks at the Port of Los Angeles and those that provide transportation to our communities.

Unfortunately, far too many have fallen ill or lost their lives, like my dear friend Eddie Greenwood. They protect others from the virus. Our dockworkers may be essential but shouldn't be sacrificial.

We salute them as essential workers and this committee can honor their sacrifices by taking steps to protect them and their jobs. Most importantly, colleagues, we have to get essential supplies and vaccinations to essential workers. The COVID-19 spread to dockworkers at the Port of Los Angeles is concerning, and we have come close to having to shut down.

Ten percent of our longshore workers are quarantined, while more than 30 ships are lined up waiting to unload all the goods Americans are ordering online and getting shipped to their doorstep. This is unheard of at our port complex.

Port truckdrivers, the men and women who haul containers from our Nation's seaports to warehouses, distribution centers, and rail

yards, are also essential workers, transporting the necessities like food and medical supplies, like PPE, to make sure that we all can survive this pandemic.

But because they are misclassified as independent contractors, they don't receive sick leave and are not offered any protections to guard against the virus. This situation leaves drivers to fend for themselves against the pandemic, placing their lives at risk and threatening our supply chain that provides over 40 percent of goods to the country.

It is clear a stronger connection is needed between FEMA declarations during a pandemic, DHS definitions of essential workers, and then access to PPE for our essential workers. We cannot have a Wild West PPE procurement strategy. From profiteering to seizures, it was a mess, and it cost us more. We must do better.

Finally, the Federal Government can directly partner with local governments to support workers effectively. The National League of Cities recommends passing additional COVID relief, using a formula like the one in H.R. 199 by Representatives Delgado, Katko, and Zeldin, and keeping our transit moving.

FEMA can be a more reliable partner, and we thank President Biden and FEMA for ensuring that COVID relief will be 100 percent federally matched.

We ask this committee to support our transportation workers across all modes by working with us and to help us bridge the last gap between now and substantial vaccine distribution. Members, colleagues, we must act with urgency, but we must all be prepared to tackle the important rebuilding that is ahead of us.

Mr. Chairman, thank you, sir.

[Mr. Buscaino's prepared statement follows:]

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**Prepared Statement of Hon. Joe Buscaino, President Pro Tempore, Los Angeles City Council, testifying on behalf of the National League of Cities**

Good morning, Chair DeFazio, Ranking Member Graves and Members of the Committee:

I am Joe Buscaino, President Pro Tempore of the Los Angeles, California, City Council, and I am here today on behalf of the National League of Cities (NLC), the nation's oldest and largest network of cities, towns, and villages across America. While I happen to represent one of the biggest cities in the U.S. with one of the nation's largest ports in my district's backyard, I am proud to serve alongside great elected city leaders from Lexington, SC; Union City, GA; Bozeman, MT; Easton, PA, and so many other cities and towns of all sizes across the country. NLC is the collective voice of every town in America working with Congress on local priorities, and we are proud to be a part of each and every one of your Districts. NLC looks forward to working with you to strengthen our federal programs and policies and providing innovative solutions that can serve all our communities in COVID-19 relief and infrastructure legislation this year.

**SUPPORTING ESSENTIAL WORKERS IN AMERICA'S CITIES**

*The nation's cities are on the front lines of the COVID-19 response, and it is clear that the health and economic crisis is not over. Together, Congress and America's communities must keep up the pace this year to respond, recover and rebuild from the COVID-19 pandemic and the economic challenges that have arrived with such a prolonged and devastating pandemic. Local governments have been the first line of defense in responding and organizing against the virus since the first cases were reported. Whether it was mask wearing policies, keeping essential workers moving, or supporting local restaurants and businesses with sidewalk and street access, we have tried to tackle each challenge head on. But COVID-19 at the local level has*

not been one single challenge. The ripple effect of shutdowns and devastating health impacts has docked almost every budget line in our city. Even with our best efforts, we have already lost far too many friends, family members, and local workers to this pandemic. Vaccinations cannot come quickly enough for essential workers who must stay on the job like our transportation workers, police, firefighters, and many others.

In my hometown of Los Angeles, we are doing everything we can to fight the rapid spread of the virus. My fellow city leaders across the nation also responded with urgency to protect the health of residents while also trying to keep as much of our essential businesses and services as open as possible. Yet, as we reach one year after the crisis began, Los Angeles has one of the highest concentration of cases in the country despite our efforts to combat COVID-19. To put this more starkly, one in every nine residents of L.A. County has tested positive. Now, we are reaching the end of our fiscal reserves, even while COVID cases surged in L.A. in the winter.

*To pay for the COVID response essentials and services, we have exhausted our budget and typically dependable revenues are off substantially.* One clear and unavoidable example is the \$92 million economic loss to Los Angeles' economy of a cancelled 2020 cruise season out of the Port, and the loss in 2021 may be equally severe. The City Administrative Officer has projected that General Fund revenues are likely to fall short of the 2020-21 Budget by \$600 million. Closing this gap will deplete the entire \$259 million Contingency Reserve Account and Budget Stabilization Funds, created in the wake of the last recession, by the end of the fiscal year. Compounding the problem, the City already borrowed \$75 million from the Public Works Trust Fund, in order to meet immediate, emergency expenditures related to COVID, such as setting up the nation's largest testing site at Dodger Stadium and providing meal delivery for our seniors. This loan must be repaid by July 1, 2021, according to the City Charter. Congress chose not to include local aid in their December COVID response package, and we do not expect FEMA reimbursements before then. Your support in the next COVID package will make a difference as we continue to respond to every 911 call, provide housing assistance programs like Project Room Key, and keep vaccine sites like Dodger Stadium running at full pace.

*Cities and towns of every size and in every state have reached out to Congress to tell you clearly—local budgets in the fiscal 2021 budget year are short by at least \$90 billion, and we have depleted our strategic reserves throughout 2020.* Two-thirds of America's cities indicated in an NLC survey that they are delaying or completely cancelling capital outlays and infrastructure projects. Six out of ten cities are cancelling equipment purchases. Cities in the middle like Duluth, Minnesota, were projecting a \$25 million budget hit to its \$93 million general fund, had to lay off over 50 workers and institute a hiring freeze. Kansas City, Missouri, now anticipates a \$50-million deficit during this fiscal year despite freezes and cuts. Cities and towns have slashed programs, positions, and postponed local infrastructure projects, and the strain on keeping essential services and workers protected is nearing a breaking point. The U.S. has lost 1.3 million jobs connected to local and state government in the last year, leaving many positions unfilled and many workers doing overtime to fill in the ranks.

*We need Congress to understand the urgency of the situation at home in our communities.* Those cities like ours who were lucky enough to receive direct CARES Act funding have put that Congressional support to use swiftly and prudently. The City of Los Angeles has committed 96% of our Coronavirus Relief Funds (CRF) to eligible tasks, programs, and equipment, and the remainder of the funds will soon be expended. Those smaller cities and counties who received a small portion of what their states shared are moving quickly to use it on personal protective equipment (PPE) and gaps in basic needs for their residents like food, housing, and utilities. Places like North Kansas City, Missouri, used the majority of their funds for small business grants, and the remainder for rental and utility assistance as well as PPE and physical distancing supplies.

However, in most places, the CARES Act CRF funds are not equal to the need even with additional city resources. In Los Angeles, we dedicated \$100 million for rental assistance, and in less than three weeks we stopped accepting applications for the program due to the huge demand and limited funding. In many ways our cities are more directly and quickly reaching the pressing needs of residents. The City of Phoenix, Arizona, used CRF to provide \$30 million in rental assistance compared to the state which only stood up a \$5 million rental assistance fund. As Congress negotiates the next response bill, *we implore Congress to pass additional COVID economic relief that can be quickly and efficiently delivered everywhere it is needed to combat the scale of this challenge. To fight this, we must lead together, with urgency.* This crisis continues to eat away at our communities and our economic competitiveness, and we cannot wait until there is nothing left to appro-

privately respond. The time to act is now, and only then will we all be prepared to tackle the important rebuilding that is ahead of us.

America's communities are proud to have a dedicated and resilient workforce of professionals who have kept everything running during these unprecedented challenges. We ask this Committee to support our transportation workers across all modes. They have been essential workers since the beginning of the pandemic, and they have kept our transportation systems for people and goods moving. Unfortunately, far too many have fallen ill or have lost their lives to protect others from the virus. Today, I'd like to highlight two groupings of local workers: those who are part of our national supply chain—like the family, friends, and neighbors in my hometown community of San Pedro that work down on the docks at the Port of Los Angeles, and those that provide transportation to our communities—and some specific actions this Committee can take to protect and support them as they earn their livelihood.

#### SUPPORTING TRANSPORTATION SUPPLY CHAIN ESSENTIAL WORKERS AND SAFE OPERATIONS

*America's transportation supply chain is a national resource, but it all starts and ends in local areas like my District which includes the Port in Los Angeles.* The Port of Los Angeles is the busiest container port in the nation and supports more than 144,000 jobs (about 1 in 13 jobs) in the City of Los Angeles and 517,000 jobs (1 in 17 jobs) in the five-county Southern California region, and 1.6 million jobs nationally. These include 15,000 members of our longshore workforce, 18,000 truckers, in addition to railroad, warehouse, and other logistics service providers. The City has worked consistently to support essential workers across the supply chain by donating masks and personal protective equipment (PPE) procured through a whole-of-city effort called *Logistics Victory Los Angeles*, as well as providing the Port a supply of industrial grade bleach from our Department of Water and Power to dilute for cleaning of terminals. The Port, in turn, worked with restaurant supply companies to provide these supplies to other essential workers as well.

The COVID-19 spread at the Port of Los Angeles is concerning. Two-thirds of all imports into our local ports make their way across the country brought by the port drivers and train operators who are delivering these goods. Almost 700 dockworkers at the Los Angeles and Long Beach port facilities alone have confirmed they contracted COVID-19, and around 10% of the longshore workforce is in quarantine. Logistics and transportation workers have seen their mortality rates increase 28% due to COVID, second only to food and agriculture workers (39%). One of the port's largest container terminals was close to shutting down over the holidays. They were able to remain open only by adopting enhanced protocols—including remote dispatching, temperature checks for workers, and more rigorous testing. However, even with current protocols in place for cleaning and social distancing, COVID transmissions are increasing.

Port longshore workers and drivers are also staring at over 32 arriving container ships that are backed up on our shoreline—a clear visual reminder of how the pandemic is affecting our economic well-being as well as our health and the need to quickly vaccinate this essential and at-risk group of transportation workers. While COVID-19 cases have surged locally and transportation workers are trying to be careful, the port is very busy and likely will continue to be. While Americans were not taking flights or going to sporting events, they are shopping from their phones and getting everything delivered to their doorstep which all comes through the national and localized transportation network. If a large number of longshore workers are unavailable to work, or if terminals need to shut down, the waiting time to unload will increase causing a ripple through the national supply chain.

#### SUPPORTING LOCAL TRANSPORTATION WORKERS AND ESSENTIAL RIDES

Local transportation workers range from construction crews to bus drivers to maintenance specialists and so many more. Transportation is particularly sensitive to demand, and one of the immediate clear signs of an effective healthy stay-at-home order was that far less people were using transportation. Through shutdowns and uncertainty, COVID-19 has greatly impacted the 435,000 transportation and workers and transit agencies, like the Los Angeles Metro, as well as all the businesses they work with and riders across the nation. With the shift in demand, transit agencies and providers, like transportation network companies and scooter and bike rentals, have shifted as well with many reevaluating their routes and services and how to best protect their workers as well as the public.

For many transit providers, the stay-home orders gave a very clear view of the essential rides they were providing for essential workers. For many low-wage essen-



tial workers in Los Angeles—such as grocery store workers and hospital janitorial and maintenance staff—public transit is likely their primary way to get to work, and we now have insight on how to serve them. This is also true with rural and small-urban transit providers, as recent analysis by Community Transportation Association of America shows that ridership held steady during COVID-19 at half their normal ridership, indicating these trips are for essential workers or essential functions. For a larger system like Metro which adjusted service levels during Los Angeles’ *Safer at Home* restrictions, April ridership was about 31 percent, and by September, Metro was up to 55 percent of its normal ridership.

Transit providers, including Los Angeles’ Metro, worked collectively with the American Public Transportation Association (APTA) to commit to actively communicate with riders and to show exactly what transit agencies are doing to help keep their service as safe as possible and slow the spread of COVID-19. For workers, the necessary PPE continues to be distributed and procured as safety of employees is one of Metro’s top priorities. For customers, mask requirements and cleaning have been a visual and robust reinforcement of the commitment to reduce the spread. Metro mandated the use of operator safety barriers on all buses to ensure the separation of bus operators from customers. To spread out passengers and avoid frequent contact with bus drivers and the public, many systems implemented rear door boarding and alighting, with the exception of our ADA passengers requiring the use of wheelchair lifts to safely board buses.

For those required to work at Metro locations, masks are required for all employees, vendors and customers; self-symptom self-checks are required prior to entering Metro facilities and locations; social distancing requirements are posted and monitored by management; and hand sanitizers are installed at locations and stations. Metro continues to issue trainings, communications, and written guidance to employees regarding safety and social distancing requirements. The agency has issued daily communications to all employees regarding COVID updates, leave requirements, emergency telecommuting, deaths and positive case counts, and revenue service updates. For all administrative staff, Metro has expanded its telecommuting policy to allow for emergency telecommuting for all positions whose jobs can be performed remotely. This has significantly reduced onsite workforce and has resulted in the use of modified work schedules to allow for telecommuting where practicable.

While we are arriving at the one-year anniversary of COVID, only this week has a comprehensive national mask mandate while traveling across modes been in place with the executive action of the President and the Centers for Disease Control and Prevention (CDC). Cities welcome this support as one of the most effective ways to keep everyone across the transportation chain safer as they work. As COVID cases and deaths increase in communities, transportation workers are at risk as their jobs are often performed by necessity in the public sphere and in close proximity to the public or with colleagues. Masks and social distancing are key to stopping transmission so much so that some transportation service providers went as far as to pause all fare collection temporarily to limit interaction time with drivers. In Los Angeles, Metro’s transit drivers confirmed COVID cases track with community spread, but as with most skilled transportation workers, the pool of qualified workers is limited, sometimes leading to more overtime hours and therefore, more transmission risks just from time spent on the job.

As the vaccine rollout begins, urban and rural transportation services will be essential to getting at-risk populations to vaccine sites. Forty-four percent of rural transit system responders reported they are already engaging with public health officials at the local level to assist in a variety of ways with vaccine distribution. Private transportation providers are also stepping up their advertisements and support for this as well. Transit has benefited from previous Congressional COVID packages, but the financial limits to providing service with limited passengers and farebox revenue is challenging many of the largest systems. As vaccinations increase, the CDC guidance and federal and state strategies must continue to take into account the critical interaction of essential workers who serve the public daily.

## COVID-19 LESSONS LEARNED THAT CONGRESS CAN ACT ON

### 1. *Share Essential Supplies with Essential Workers*

Locally, we ensured that all local and state emergency orders recognized workers across the supply chain as “essential,” as defined by the U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency (CISA). As we reflect on the gaps for port and supply chain workers, their delineation as “essential workers” by CISA did not provide them any minimum guarantees of protective equipment by the federal government, and in fact, it increased their risk. Essential workers were encouraged to go to work even without access to PPE, and in some

cases, such as port drivers who are identified as independent contractors, their employers did not have to provide them PPE. The City and our Port made every effort to fill these gaps. Since a larger percentage of the nation's essential worker jobs are held by people of color, it is concerning that the risks of our policies are being passed on disproportionately. From a national legislative perspective, a stronger connection between FEMA declarations during a pandemic and CISA definitions of essential workers would establish a clearer process to procure essential protection items for essential workers.

#### 2. *Improve the National Pandemic Procurement Strategy*

Unfortunately, the federal government's lack of national procurement strategy of PPE led to higher prices for local and state governments, health care workers, and essential workforces. Many suppliers were profiteering middlemen that sold at highly inflated prices, set unacceptable terms, or offered shipments of goods that could not be verified as legitimate, medical grade PPE. During that period, L.A. competed with other government agencies to procure N95 masks; in another, a shipment targeted by L.A. for potential procurement was seized by the federal government. In a pandemic, local governments should have insight into how their mask and PPE acquisitions would be aligned with national procurement as well as the number of essential CISA workers in their cities. The federal government may learn from Los Angeles' whole-of-city effort, *Logistics Victory Los Angeles*.

#### 3. *Provide More Transportation Workforce Testing and Targeted Vaccinations*

Each state is providing vaccinations to essential workers differently, and some have prioritized transportation workers more than others. In my role with the City of Los Angeles, I have led a resolution in Council to ask our state legislature and administration to support the Port's essential waterfront workers and prioritize distribution of the COVID-19 vaccine for essential waterfront workers. The need for both prioritized vaccination and available testing for essential workers is clear. Scaled up and more frequent testing is necessary to get a more accurate assessment of positivity rates. The Los Angeles Port is working with stakeholders to identify a location for large scale testing and vaccination of the workforce.

#### 4. *Direct Funding Is the Quickest Delivery of Emergency Relief*

Local officials are distinctly positioned to protect the health and safety of America's residents and to provide reassurance in times of crisis. In the future, NLC recommends that all pandemic emergency funding should use an allocation formula based on the Community Development Block Grant program (CDBG) as approved by the House in the HEROES Act and now H.R.199. Relying on a CDBG framework would eliminate the time-consuming need to stand up a completely new administrative or regulatory framework as was required by the CARES Act Coronavirus Relief Fund (CRF). CDBG is also the most familiar revenue sharing mechanism for states and localities. Additionally, entanglement of state and local funding should be minimized. A lack of clarity burdened communities trying to responsibly use the CARES CRF from the start, resulting in confusion, delays, and infighting among primary and secondary grant recipients.

Federal transit support in Congressional COVID relief bills has been incredibly effective and efficient using existing and dependable formulas to support local transit agencies. We urge you to consider the level of service reliability that may be jeopardized if draconian cuts must be made to transit service and workers. APTA has recommended a funding level of an additional \$39.3 billion in additional COVID-19 emergency funding to help public transit agencies continue to provide a critical lifeline to essential workers and to help our communities begin to rebuild our economy. Unfortunately, the ability of cities to fill gaps in local transit budgets are now limited by our financial challenges from COVID, and depending on action by Congress, the ability to support additional service may be limited.

#### 5. *FEMA Must Be Reliable, Relief Must be Accessible and Available Quickly in the Future*

The Federal Emergency Management Agency (FEMA) is responsible for assisting communities in disaster, but the level of support is dependent on quick Congressional action or Presidential Executive Order. Congress and this Committee introduced H.R. 8266, the FEMA Assistance Relief Act of 2020, adjusting the FEMA cost-share for all COVID-19 related Emergency and Major Disaster declarations to 100 percent, and while it did not pass, President Biden's recent executive order has unlocked future FEMA support at 100 percent. However, a gap remains that Congress could fill now and provide some relief to communities who still have to meet the matching requirements for last year after their budgets have been depleted by COVID-related expenses. *Congress must pass legislation that would consistently pro-*

*vide 100 percent federal support under all COVID FEMA emergency designations rather than only some.*

We would also strongly encourage legislation to confirm that communities could be reimbursed for certain expenses including PPE for public transit, public utilities and other government buildings and services, and for FEMA to rescind their prior policy guidance which does not allow for essential workers to receive essential protective equipment. NLC also strongly encourages all action to expedite FEMA repayment so that communities do not have to float costs over budget cycles. Cities and towns across this country employ thousands of dedicated police officers, firefighters and transportation workers that courageously serve the public and keep our communities moving, even in the most challenging times. They rely on the cities and towns across this country to meet their biweekly or monthly payroll obligations. Delayed FEMA repayments will result in layoffs of critical frontline workers. Lastly, we also urge action to limit the amount and standards for FEMA to claw back reimbursements that were approved.

#### *6. Broadband Remains a Pandemic Gap and Future Transportation Demand*

Connectivity became an essential utility for workers and students during the pandemic as much as water and electricity, and with connected vehicles, signals and other infrastructure, transportation is poised to benefit from a reliable broadband “highway” nationally. A serious national connectivity effort is needed to meet the demands of business and our transportation future. However, local investment has been hampered by state and federal preemption, digital redlining, and monopolistic practices by incumbent providers. Congress should prioritize rectifying these mistakes and invest in broadband as a national priority as part of any recovery or infrastructure effort. This Committee could allow for broadband buildout alongside all federally funded transportation projects. Regrettably, cities in half of the U.S. states are prohibited from building, owning, or operating broadband service that is essential to our residents. Congress could include the Community Broadband Act in future legislation to free cities from these state limitations, at no cost to the federal government. The Protecting Community Television Act and Accelerating Broadband Development by Empowering Local Communities Act would provide communities with needed flexibility and more substantial support to protect residents and promote digital equity, again at no cost to the federal government.

#### CONGRESS CAN PARTNER WITH LOCAL GOVERNMENTS

America’s cities, towns and villages need urgent support from Congress to keep essential services and workers moving locally, and we remain fully committed to being the federal government’s partner in fighting this pandemic and solving the challenges we are confronted with. It cannot be overstated that U.S. transportation patterns and revenues changed overnight, and cities, states, and this Committee must analyze what is fundamentally changed, along with what is temporarily changed yet extremely difficult, and, finally, what advantages and disadvantages exist as we rebuild and reimagine our current assets and goals for transportation. The National League of Cities looks forward to the discussions to come to address this and how to improve and innovate across the nation’s transportation systems.

#### APPENDIX

[The 22-page appendix is retained in committee files and is available online at <https://docs.house.gov/meetings/PW/PW00/20210204/111128/HHRG-117-PW00-Wstate-BuscainoJ-20210204-SD001.pdf>.]

Mr. DEFAZIO. All right. I thank the gentleman for his testimony.

We want to move on to Member questions. Each Member will be recognized for 5 minutes. I will start by recognizing myself.

What is that? Oh, sorry.

I ask unanimous consent to insert into the hearing record the statement from the National Safety Council.

Without objection, so ordered. Thank you. All right.

[The information follows:]



**Statement of the National Safety Council, Submitted for the Record by  
Hon. Peter A. DeFazio**

Thank you for holding this hearing on the important steps that need to be taken to protect all transportation users from COVID-19, and for allowing the National Safety Council (NSC) to submit these comments for the record.

NSC is America's leading nonprofit safety advocate and has been for over 100 years. As a mission-based organization, we work to eliminate the leading causes of preventable death and injury, focusing our efforts on the workplace, roadway and impairment. We create a culture of safety to keep people safer at work and beyond so they can live their fullest lives. Our more than 15,500 member companies represent 7 million employees at nearly 50,000 U.S. worksites.

These are times like no other, with the coronavirus impacting all aspects of our lives, including our mobility systems. To help tackle some of these issues, NSC launched the Safe Actions for Employee Returns (SAFER) initiative with large and small companies, nonprofits, legal experts, public health and medical professionals and government agency representatives.<sup>1</sup> SAFER includes a transportation subgroup focused on many of the key transportation and COVID-19 safety issues you will undoubtedly examine during this hearing. The SAFER initiative also produced a free online playbook<sup>2</sup> specifically focused on transportation considerations.

Transportation is one sector that has largely continued operations during the pandemic, placing transportation workers on the front lines. They have been essential to providing critical transportation for healthcare and other essential workers, as well as food, medicine, and other goods necessary to keeping the economy going. Through SAFER, NSC has provided the transportation and other sectors with factual, scientific information for employees to keep them safe and healthy. Some of the recommendations we have made for months include basics such as wearing face masks, social distancing, and hand washing, which we know must continue even as people are being vaccinated. These basic steps have been proven effective at limiting the spread of the virus. NSC supports the executive actions of the new Biden Administration and subsequent CDC guidance requiring masking on domestic transportation systems. This is a simple step to keep people safe and the economy moving.

Regarding vaccinations, NSC calls on employers to be leaders in helping educate their employees on the fact that the coronavirus vaccine is safe and effective, and by taking the vaccine once it is available to them, they are keeping their families and the most vulnerable safe. Employers should also lead by providing factual, science-based information to counter vaccine misinformation. Many of the vaccination recommendations are centered around occupations, underscoring required employer leadership and education, and we urge state and federal policymakers to communicate clearly with employers on which personnel are eligible for vaccinations. The CDC developed an occupational guidance document to assist.<sup>3</sup> NSC likewise supports the call from President Biden to provide paid time off for employees and contractors to be vaccinated due to how critical vaccine uptake is for addressing the pandemic and continuing our economic recovery.

On January 29, NSC was also pleased to see the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) issue new guidance to help employers mitigate the risk and prevent the spread of COVID-19.<sup>4</sup> We support this guidance, and we urge widespread sharing of this information and updates as they are available with all industries.

Another transportation safety issue this committee should address is the declining state of roadway safety during the pandemic. Roadway fatality rates and numbers have increased at an alarming rate. Emptier roads have led to dangerous driver behavior such as operating at excessive speeds, being impaired or distracted behind the wheel, and not wearing seat belts. From January–November 2019, 35,879 people died on our roads. For the same period in 2020 (January–November), 38,370 people died on the roads. Preliminary estimates show a 9% increase in motor vehicle deaths for November 2020, up from last year, despite an 11.1% decrease in the number miles driven. Transportation incidents are still the leading cause of workplace deaths.<sup>5</sup> There is much more we can and must do to end these preventable deaths,

<sup>1</sup> [www.nsc.org/safer](http://www.nsc.org/safer)

<sup>2</sup> <https://www.nsc.org/getmedia/6fa9f7e9-166d-476c-9fdb-9f9f97a2dbaef/transpotation-considerations.pdf.aspx>

<sup>3</sup> <https://www.cdc.gov/vaccines/covid-19/categories-essential-workers.html>

<sup>4</sup> <https://www.osha.gov/coronavirus/safework>

<sup>5</sup> <https://www.bls.gov/news.release/pdf/cfoi.pdf>

and NSC looks forward to working with you to address our roadway fatality epidemic as well.

Transportation workers are heroically meeting the many logistical challenges to ensuring the distribution of supplies, including vaccines, head-on. However, the alarming increase in roadway fatalities indicate that we must continue to double down on proven roadway safety practices rather than loosen regulations which could lead to more deaths on the road. For example, NSC supports maintaining the existing requirement for interstate commercial motor vehicle drivers to be at least 21 years old. Data shows that motor vehicle crashes are the leading cause of death for 15 to 24 year olds, and drivers 21 and younger have the highest fatal crash rates of any age group.<sup>6</sup> Many teens lack the maturity and ability to respond quickly to hazards, struggle at driving the appropriate speed for conditions, have trouble driving at night and are easily distracted by young passengers.<sup>7</sup> We remain concerned about a pilot program proposed by the Federal Motor Carrier Safety Administration (FMCSA)<sup>8</sup> to allow 18–20 year olds to operate commercial motor vehicles (CMVs) across state lines.

Employers and their workforces, including in the transportation sector, have been grappling with one of the worst workplace safety challenges in history. Continuing to promote basic safety precautions for employees and users alike will ensure that our transportation system continues to operate safely, while ensuring widespread vaccine access to communities across the U.S. NSC looks forward to working with this committee to protect the workers and users of our national transportation system, on which so many of us depend.

Mr. DEFAZIO. OK. I am going to move to, in the sense this is potentially looming, the issue of mandatory COVID testing before people get on airplanes, what that would do potentially to the industry, what it would mean for diverting COVID tests from other needed places, et cetera. So I'll first start with Ms. Nelson.

Ms. NELSON. Thank you, Chairman DeFazio. Let's just recognize that this would be devastating to the airline industry. We cannot do cosmetic things that won't actually contain, kill the virus, and make sure that we are eradicating it. We do not have the tests to be able to perform this.

Isolating the airline industry and not doing the same thing for mass transit or doing this at grocery stores or restaurants doesn't make any sense as we have community spread. So this would really be more about targeting the airline industry and the workers who would suffer from this policy without having something that we can actually do that is effective.

We really need to focus our efforts on effective methods of containing the virus and keeping us all safe.

Mr. DEFAZIO. OK. Thank you. Would one of our two healthcare experts like to comment on the problems and/or potential for such a measure?

Mr. MICHAELS. Certainly, Mr. Chairman. I agree with Sara Nelson. I think while testing can be useful, I actually don't think it adds much. I think we know how to protect workers and passengers on planes. Masking, improved ventilation, filtration, and distancing has been shown to be very effective, and I think if you give people tests, given the possibility of false negatives, you actually could provide a sort of false security that we don't really want to have. So, given the cost and the imposition of it, I would oppose that as well.

Mr. DEFAZIO. You raised the issue of distancing. If I could just get into that, some analysis I have read said it is not so much the

<sup>6</sup> <https://injuryfacts.nsc.org/motor-vehicle/overview/age-of-driver/>

<sup>7</sup> The Anatomy of Crashes Involving Teens, <http://www.ncbi.nlm.nih.gov/books/NBK9672/>

<sup>8</sup> Docket No. FMCSA–2018–0346

actual physical distance because you can't get that far away from anybody in a plane, but the fact that you are limiting in total the capacity of the plane, which lessens the likelihood of a severely infected person transmitting on the plane. Is that your understanding of how we would deal with this in aviation? Because I am only aware of one airline that has totally continued that policy at this point.

Mr. MICHAELS. You know, I think it is a combination of factors. Certainly you want to limit distance. The improved ventilation system will help you more than probably anything else. But my understanding is that airflow is key, and you got to watch exactly where the air goes and test that.

But you also want to limit the people who are sitting right next to each other because people don't have their masks on all the time. They take masks off for eating and for other reasons, and that should happen in a minimal way, but it still does happen. So I think we have got to really focus on this from a public health point of view. Get everybody together and say, OK, what is the way to ensure that these planes can be as safe as possible.

Mr. DEFAZIO. So, since planes have the capability of more or less when in flight, it does cut into fuel mileage, if they run the packs on full. They should be running the packs on full at all times.

Mr. MICHAELS. You know, I don't know much about fuel economy and fuel usage in airplanes. I am going to pass on commenting on that.

Mr. DEFAZIO. Well, what I am saying is, we know we can get more air circulation, but they are going to burn a little more fuel.

Mr. MICHAELS. Yes.

Mr. DEFAZIO. I think the trade-off would be beneficial. Thank you.

Mr. MICHAELS. That is unfortunately the case. You know, look, with COVID-19 everybody has got to make sacrifices. We have got to make sure people are safe.

Mr. DEFAZIO. OK. And then Mr. Rivera, you talked about the problems. I mean, I can see enforcement and how we are going to do enforcement at the airport and on the airplanes, but how are we going to do enforcement and give you folks some help on the buses when you are all just so dispersed?

Mr. RIVERA. Well, on the bus side, we would have to get more kinds of PPE, better PPE, and get some kind of enforcement, law enforcement, get all the resources to help us on the ground. That is all I can say at the moment.

Mr. DEFAZIO. OK. All right. Thank you. My time has expired.

Mr. RIVERA. Thank you.

Mr. DEFAZIO. I would now recognize first on the Republican side the Honorable Rodney Davis.

Mr. DAVIS. Mr. Chair, did you miss me? He didn't even say yes.

Mr. DEFAZIO. He said no. I had my microphone off.

Mr. DAVIS. You know, Mr. Chairman, I did miss you, and I missed all of our colleagues. And I am wondering if there is a camera above me or there might be a bug, but you took my question on the CDC testing. But it is an excellent question, and I agree with you; it is something that needs to be addressed.

And, Sara, you had great comments. I was going to ask you to offer the same comments as Chairman DeFazio did, and I think your answer and the other responses were spot on. This is an issue that can punish this industry and stop it at its most critical time from being able to overcome what we have all gone through, and especially the aviation industry over the last year.

Most of us in this room utilize your industry, and we see the devastating effects that have taken place with a lack of passengers and a lack of ability to continue to operate in a very high-cost environment. And I want to thank you and your members too for the hard work they have done to keep passengers safe and also keep our aviation industry going.

I do have a second question and, again, agree wholeheartedly with what the chairman said about this discussion of mandatory CDC testing and agree wholeheartedly with you also, Sara. But there is another issue I know that the chair and the ranking member and those of us on this committee have been working on, and that is trying to figure out the—and you mentioned it in your testimony—the need for additional PSP dollars. How bad will it get for the aviation industry if both the PSP is not extended and the CDC implements a testing mandate?

Ms. NELSON. Well, let's be clear, the furloughs that we saw in October would be dwarfed by the furloughs that we would see if we had a testing mandate that we can't effectively run. We would see many, many more furloughs, and without the extension of PSP, which also requires the airlines not to furlough and continue to support that payroll that they simply can't support in this kind of environment where revenue is down 80 percent, it would be devastating.

And in that situation, we wouldn't just be talking about lost jobs. We would also likely be talking about airline bankruptcies. So that is how devastating it would be.

I just want to note one thing, air travel, through the work of airlines working with unions, there is more we can do still, but it is one of the most controlled environments in the country for public health.

And we need to focus on those controlled environments, focus on the mask policies, using those properly, single touch on service, no alcohol being served, which makes people take those masks off, and all the other things that we have been doing in layers of safety to keep this a controlled environment.

Those are the things we need to focus on with the continued payroll support to make this work and be able to lift the economy again.

And just one other note, the airline industry employees are part of the infrastructure that this country counts on, and when we lose our jobs, we lose our qualifications. And it takes a long time for the airlines to get back up and running again and have the airlines in place to be able to support vaccine distribution and everything else that our communities count on and then be able to lift the economy again. So it would be devastating not only for us but for the whole country if PSP is not continued.

Mr. DAVIS. I appreciate your comments, Sara, and it is great to see you, even if it is via video. I think the last time we saw each

other, we were at a bipartisan press conference talking about the importance of PSP last fall. And thankfully we came together in a bipartisan way to get those dollars to an industry that needed it.

And it is great to see you teaming with the aviation industry and your members' employers, to be able to work together on solutions. That is what we need to do here, and I appreciate your voice and the chairman's voice and the ranking member's voice, and all our voices, in urging President Biden to include an additional round of PSP funding in any coronavirus package that is going to be debated, be it reconciliation or hopefully via a bipartisan agreement.

So, Sara, it is great to see you again. Thank you all for your testimony.

Mr. Chairman, great to see you, my friend, I missed you, and I will yield back.

Ms. NELSON. Thank you, Congressman.

Mr. DEFAZIO. I do have a few decent beers upstairs in the chairman's office. We will get caught up sometime.

Mr. DAVIS. Can we do it now?

Mr. DEFAZIO. The sun isn't—well, it is over the yardarm—but we are not.

Anyway, Representative Eleanor Holmes Norton, you are recognized.

Ms. NORTON. Thank you. Thank you, Mr. Chairman, and I very much appreciate this hearing. Just the issues discussed here, transportation issues, have disproportionate effects on our Nation's Capital which I represent.

Ms. Nelson of the Association of Flight Attendants, your testimony was very moving, and of course your members are put in a disproportionate position. So let me ask you this question. As far as one of your members sees a passenger not following the public health guidelines like wearing a mask, can you kind of take us through, walk us through, how your members respond? How are they trained to handle this difficult situation, and what are the potential repercussions they weigh when determining how to intervene? I am just trying to find ways Congress can be helpful to you.

Ms. NELSON. Thank you, Congresswoman Norton. I appreciate that very much, and we are trained in deescalation tactics. We are trained in how to make sure that people are complying with the rules because there are rules in aviation, and there has to be the spirit of we are all in it together, to do things that are maybe a little bit uncomfortable so that we can all safely fly.

Now, today, that absolutely includes the mask requirement. And so on the front end, making it clear to people with notifications from the airlines, that they will absolutely acknowledge that they will wear that mask, they will wear it the right way, announcements from the airlines to help people understand you have got to wear that over your nose and mouth, if you are going to sip a sip, make sure that the crews are a few rows away—

Ms. NORTON. Ms. Nelson, have you encountered people who simply refuse to wear masks? I am trying to find out what position that puts a flight attendant in.

Ms. NELSON. Yes, we have. And it is one thing to say that someone is not used to doing this and reminding them, but the problems that we encounter are when people come to the door of the airplane



or come into the airport, and they have been told that this is a political issue rather than a public health issue, and they are confrontational.

We have websites out there that instruct people about how to avoid wearing the masks the whole time. Just this past week, we had a family of four sucking on lollipops the whole time and thinking that that was going to be their excuse for not wearing the masks. Those people are being banned from that aircraft now.

But we are trained in deescalation and helping to advise people, so we know, flight attendants know, when we approach someone who maybe just forgot to put that mask back on and we are reminding them, as opposed to someone who is absolutely refusing to do that.

And the refusal can either be trying to avoid it and coming up with sneaky ways to do that, or it can be outright confrontational where we have had flight attendants even assaulted. This has been confrontations on the plane over the past year that have been very difficult for our members, and we are very grateful now for the FAA, with the backing of the Biden administration, stepping up and making it very clear there is going to be clear fines for anyone who is not complying.

Ms. NORTON. Well, I wish you would keep us in touch with whether those fines are working because the testimony was important for us to hear.

Mr. Rivera, I am particularly interested in what is happening with respect to our busdrivers and those in your union. You mentioned a series of CDC recommendations for transit systems that had been watered down by the prior administration. In particular, I am interested in the areas of airflow, and the sterilization and filters that busdrivers may be concerned about.

We know now that COVID is spread through the air as we learn more and more about it, and indeed, we are hearing the notion that people should double-mask, which scares me. What steps would you like to see taken for busdrivers who face this airflow issue with people on the bus and filters that may be of concern to busdrivers?

Mr. RIVERA. Well, thank you for the question.

Mr. DEFAZIO. Be very brief because her time is expired, but answer quickly.

Mr. RIVERA. OK. They need better ventilation because everything that goes on in the buses, the bus operator gets it at front, and we are constantly getting all the customers boarding the buses and they're trying to have conversations and ask us questions without the masks. So they need better sterilizing of the bus, the air filters have to be much better, and the flow itself has to be—they have to do a greater job than they are doing now.

Ms. NORTON. Thank you very much.

Mr. RIVERA. Thank you.

Mr. DEFAZIO. Thank you. I now recognize Representative Webster for 5 minutes.

Mr. WEBSTER. Thank you, Mr. Chairman. I would like to direct my questions to Dr. Bahnfleth, and I thank you that ASHRAE has brought up air quality and the idea of using mechanical means to clear the air, as opposed to inoculate somebody from getting the

disease. This keeps the disease from getting to them, and I am grateful for that.

A couple of the other recommendations I actually gave to the engineer of the Capitol over a year ago, and one was just increasing the fresh air. The other, though, is: I have one of these on [indicating]. I don't know if you can see it or not. It is an ionizer. It produces about 2 million ions a second and basically takes down viruses and germs and so forth, down to the ground and attaches themselves to them and takes them down.

And my question is: I noticed that you had recommended UV lights, which is a great thing, and then also there are these ionizers. Have you done any tests on them, not this particular one, but I am talking about ones that would be fitted in duct systems and so forth, have you done any tests on those also?

Mr. BAHNFLETH. Thank you for the question. The short answer is, no, I have not, but there is some literature on ionizers and also a lot of laboratory reports produced by the manufacturers. And the reason that ASHRAE, and in fact CDC as well, does not make an affirmative statement about ionizers is because the evidence base for them is simply not as strong as for UV.

UV has been in use since the 1930s. It is approved by CDC for tuberculosis control. We don't have the same basis in peer-reviewed evidence for ionizers, either for effectiveness or safety that we do for UV.

But that said, there is some evidence that indicates it can be effective. On the other hand, some evidence that indicates that there may be some hazards associated with it. So I think one of our clear needs is to do the research to determine what the characteristics of that technology actually are and develop standards so that we can have certified products that we can apply confidently.

Mr. WEBSTER. Maybe I am frying my brain, I don't know. But the other question is, though, UV lights work, but you can't hang them around your neck. Basically they will blind you, or they will burn your skin. But I have heard—and maybe you could say something about this, because I don't know enough about it—aren't there some studies or development of UV lights that may be a shorter wavelength than—I think the usual ones are about 254 nanometers, but they would be shorter, and they can be exposed to the skin, exposed to your eyes, and not bring any harm. So it can be kind of like the lights in here, you could just screw them into the—and clean the air. Do you know anything about the development of that?

Mr. BAHNFLETH. Yes, I do. Thank you. You have done your homework, obviously, Congressman. We are talking about what is called far-UVC, and that is currently being produced by sources that make 222-nanometer UV. And because of the shorter wavelength, it penetrates the skin to a much smaller depth, and there have been animal studies and one human study that I know of, that shows that it doesn't cause skin irritations. So that would open up new applications where you could use UV on an entire room.

I should say, though, that 254-nanometer UV, produced by mercury vapor lamps, essentially fluorescent lamps, is highly effective,

but you do have to keep it in the upper room, away from the occupants.

Mr. WEBSTER. So, anyways, appreciate that. I had one other thought. I noticed that you had in there that a six or eight MERV filter, which is standard but kind of minimal but still quite a bit effective, more than just a—something else. These little masks here, I don't think, have the filter of even them, and it says that that particular MERV efficiency is not very effective. You need to get to about 13, which is a pretty thick filter, maybe around 6, 7, 8 inches or something in thickness. What do you think of masks?

Mr. BAHNFLETH. Thank you. Another great question. Masks of the type that you might be wearing, a cloth mask, are most effective at blocking aerosol emissions. They are indeed not as effective as an N95 respirator at protecting the wearer but by stopping coughs and sneezes from traveling long distances, and by substantially reducing the amount of infectious material that gets into the air, it actually greatly reduces risk. So if everyone is wearing even cloth masks indoors, it makes a big difference in the amount of airborne risk that everyone is subjected to.

Mr. WEBSTER. Thank you very much. I yield back.

Mr. DEFAZIO. Thank you, Webster. Representative Larsen? I left out the "Mr."

Mr. LARSEN. Thank you, Mr. Chair. My first question is for Ms. Nelson. Since 2015, I and many others have called for a national aviation preparedness plan to ensure all levels of Government, airlines, airports, and frontline aviation workers are better equipped for public health crises like we have. We have learned some lessons over the last year about being not prepared.

What priorities would you include in a future national aviation preparedness plan?

Ms. NELSON. So thank you very much for the question, Chairman Larsen. We actually learned a lot during the Ebola crisis, and we had an interface with CDC on lessons learned in our occupational space, how the best CDC guidelines can be applied to our workspace.

The first thing that I would say is that it was very quickly a problem that we did not have a proper supply chain on the proper PPE for the people on the front lines. We did not have access. Airlines did not have access to get the proper PPE to protect crew and keep us safe.

In addition to that, we finally got OSHA training on blood-borne pathogens on board. I would say that crewmembers were at an advantage because we had training in the first place to be able to stop the spread or take actions that would limit the risk of a spread.

First and foremost, though, we really need to make sure that we are coordinating immediately. We can stop the spread of communicable disease at transportation's door, if we are doing the things that we need to do, about identifying where these outbreaks may be taking place in the rest of the world, how we can get resources to be able to target that and try to contain that where those outbreaks exist, getting information to transportation workers so that we know what to look out for, and getting that proper PPE on the lines to be able to protect ourselves and make sure that we are not

carriers ourselves, and also doing screenings at the airports and all the agencies involved at the airports about screening and making sure that we are keeping problems on the ground.

So those are the first and most important steps, but it really does require good information, coordination between unions, industry, and Government. And we have seen it work before. It can work even better now with the lessons that we have learned.

Mr. LARSEN. OK. Well, tomorrow, I will be introducing the National Aviation Preparedness Plan bill, and I would encourage Members to sign on to that.

Ms. NELSON. Thank you.

Mr. LARSEN. Again, Ms. Nelson, Reuters reported that a major U.S. carrier instructed some of its flight attendants—this was in December—whose coworkers tested positive to continue flying and just monitor their symptoms. Have you heard of any similar situations from your members since?

Ms. NELSON. Yes. This is a problem that we see across the industry, and it is because of the very narrow definition of what exposure is. So CDC is defining exposure as 15 minutes in close contact with someone who has tested positive. And crewmembers are told to continue to monitor themselves and keep working and come in contact with thousands of people and cross State lines.

We think this is a very narrow definition that needs to be expanded because of the kind of contacts that crewmembers have with people, in close contact in our workspace, but also serving people food, picking up their trash. So we need to be much more attentive to when those contacts have been made and the cases where we have found that someone has contracted the virus and make sure that we are getting those crewmembers notified and into quarantine and supported with pay during that time.

Mr. LARSEN. Thank you. Professor Bahnfleth, I apologize if I am mispronouncing, but in your presentation, in the backup material on guidance for air operators, you say, for various reasons, modifications to aircraft ECS are not recommended as a short-term response to COVID-19 concerns, and emphasis therefore on operation measures should be the focus.

Can you explain that recommendation, and are you arguing or is ASHRAE recommending that we think longer term about the ECS systems in aircraft?

Mr. BAHNFLETH. Yeah, thank you, Congressman, for the opportunity to clarify that point. I think when I say that, it is in the context that I have already indicated that we believe that aircraft are generally the safest transportation environments available because of the high air circulation rates, the large ventilation rates, and the fact that air is recirculated through HEPA filters. So the point is that I think we have airborne transmission covered about as well as possible.

And so what is left is close-contact transmission which is not really affected by the ECS and contaminated surfaces to the extent that there might be fomite transmission. So that is why I think that in that particular mode of transport, that is probably the place to focus rather than further enhancements to technology.

Although, I would certainly be happy to see evidence that improving ECS would make further improvements in risk.

Mr. LARSEN. All right.  
All right, thank you.

Mr. DEFAZIO. Representative Perry?

Mr. PERRY. Well, thank you, Mr. Chairman. Thank all our guests for their time and testimony today. My conversation and question will eventually be to the president pro tem of the Los Angeles City Council.

Joe, in your testimony, you highlight the impact of the COVID-19 response on local budgets and revenue streams, particularly your experience in Los Angeles, and as you acknowledge, the economic harm was not uniform across the Nation. "Some parts of the country may be ready to move forward post-virus more quickly, growing revenues and expanding the local economy, while others take longer"—and that is a quote.

There are obvious reasons for these economic disparities that need to be addressed so that calls for State and local bailouts are put in the proper context. Certain States like California, Michigan, Minnesota, New York, and the Commonwealth of Pennsylvania, where I reside, imposed prolonged, widespread lockdowns on their economies that killed economic activity, gravely restricted their citizens' personal liberties, and eliminated their tax bases. These five Democrat-governed States shed almost one-quarter of a million jobs in December 2020 alone.

Other States, like Texas, Georgia, and Florida, among others, kept their economies open to a much greater degree, allowing businesses to safely remain open and citizens to participate in the economy in a safe manner. And not surprisingly, these States are already recovering economically. Fifteen States saw job growth in December 2020, despite the virus resurgence.

Importantly, numerous studies have demonstrated that lockdowns have no significant effect on the spread of COVID in a community relative to less restrictive approaches. This fact is demonstrated by the situation in Los Angeles, which has some of the strictest lockdowns in the Nation, and yet L.A. County has the most cases in the Nation, over 1 million infections, more than the next 2 highest counties combined.

So, given this context, can you please explain to us why the tax dollars of the constituents I represent should be used to subsidize ineffective, economically destructive restrictions on their personal liberties and create a moral hazard that will incentivize similar lockdown orders in the future?

Mr. BUSCAINO. Thank you, Representative, for your question. Let's be mindful that COVID can care less what color skin, how you pray, how you love, what size city you live in. COVID is deadly. It is a pandemic, and it is real.

Here in Los Angeles, as you mentioned, sir, we do live in a global city. It is a dense city. And that comes with challenges. The truth is that last week I attended a funeral of a 41-year-old friend, David Lopez, who died of COVID. We bonded together over Dodgers and French bulldogs. He came out of East Los Angeles to become a very successful man, raising a beautiful family. He was an asset to our city, his family, to our culture, to our workforce. He had an entire lifetime ahead. He should be here with us today, prospering in the richest country in the world.

The fact of the matter is, cities are crying for help, regardless if you live in a city of 5,000 population or 5 million population. We are on the ground zero of this pandemic.

We are proud that we are home to the largest inoculation site in the country, Dodger Stadium. We are supposed to be vaccinating 20,000 people a day, and that is not happening. Herein comes the local Federal partnership that we are thirsting for. Bring the vaccinations to the city, so that we can get back to the recovery and get the American people back to work.

Mr. PERRY. Well, thank you, sir. I appreciate your answer which, quite honestly, wasn't much of one. And while I lament the loss of your friends and my friends and everybody's friends throughout this circumstance, you can't just go on failing to acknowledge there is a difference in the approaches and the effect of those approaches and require citizens from across the country to pay for inefficient, ineffective approaches that neither save lives, nor save jobs, nor save taxpayer revenue. And I wish somebody would acknowledge that.

We understand your plight, we are concerned for you and all American citizens. Actually, we are concerned with all the world's citizens that are under this circumstance, but there is a better way of doing it, and simply being willing to pay over and over again for ineffective nonsolutions doesn't seem a solution to me.

And, with that, Mr. Chairman, I yield back.

Mr. DEFAZIO. I thank the gentleman. I would refer him to an article today—it was either the New York Times or the Washington Post, I know that is fake news, but—documenting what went on in South Dakota with Governor Noem, a former Member of Congress—I think on this committee, I can't remember—who took zero steps, and they have one of the highest death rates in America.

With that, I would turn to Representative Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman, and thank our witnesses and transportation workers who are risking their individual health and lives to keep our Nation moving during this pandemic.

Council Member Buscaino, you talk about the port, over 30 ships outside waiting to be unloaded. The current challenge facing your workers, what is being done to prevent the spread since a lot of them have been contaminated, and how is it impacting the efficiency of the ports and our greater economy?

Mr. BUSCAINO. Thank you, Representative Napolitano. Let's be mindful, as I mentioned, that 10 percent of our longshore workforce are out ill today because of COVID. Nearly 700 of our dockworkers are out sick. Coupled with the fact that there is such a high demand, this is why we see over—and you have recognized this too, ma'am—we see over 30 ships waiting to come in to the Port of Los Angeles and the Port of Long Beach.

Tests and vaccines, we need to prioritize. I am working alongside the leadership of ILWU here on the west coast. The Los Angeles City Council unanimously approved prioritizing vaccinations to our longshore workforce, our truckdrivers that come in and out of our port complex.

Mrs. NAPOLITANO. But you don't have enough vaccines, right?

Mr. BUSCAINO. We just need the vaccines, ma'am, absolutely. We stand ready, we have the infrastructure in place. The fact that we

are using transportation hubs, can you just imagine a longshore worker coming in to check in, get vaccinated, a truckdriver coming into the port, getting vaccinated. They are already here working. Let's move on the vaccinations. We just need them and we need them with urgency.

Mrs. NAPOLITANO. All right. Thank you very much.

Mr. Rivera, I introduced the Transit Worker and Pedestrian Protection Act in H.R. 2 last Congress which required buses to install bus shields to protect the drivers. What are your thoughts on it, and how necessary is the bill for the protection of the drivers?

Mr. RIVERA. Well, thank you for that question. I believe they need to build a better workstation for all the operators, including the shield, with better filters, with UV lighting so that the circulation of the air can flow a lot better and safer environment for everyone, including the operators.

Mrs. NAPOLITANO. OK. My suggestion, I don't know how many of you can speak on this, but to ask the manufacturer of the buses to incorporate what is put forth by Professor Bahnfleth, the ventilation systems, the air distribution systems, the filtration, and the air cleaners into the buses as well as the shields. Can anybody opine on that?

Mr. RIVERA. Well, is that question for me?

Mrs. NAPOLITANO. Anybody.

Mr. RIVERA. OK. Well, right now, what we have is, you know, the airflow, we get everything. I don't see them sanitizing these buses where they have these special machines where they do it on a daily basis. They do it periodically. So right now they just wipe down the buses. They sweep them. They mop them, but—

Mrs. NAPOLITANO. What would you say of having the manufacturers do the new buses as they are purchased to incorporate all of these things?

Mr. RIVERA. Yes, we would definitely be on board with something like that. And have our own workstation. They have buses like that at the airport—at Orlando Airport they had them—where they just kind of close off to the public, and we are secluded in our own workstation altogether.

Mrs. NAPOLITANO. Mr. Bahnfleth, Professor, we are looking at a virus that is mutating, and there are going to be new viruses coming forth. What do you suggest that we should be looking at for the future? In fact, they are saying that we may get control of this virus sometime this year maybe, but since there are new viruses coming, what can we do to protect our workers?

Mr. BAHNFLETH. Thank you for the question, Congresswoman. I think the thing I don't like to point out is that all of the types of control I mentioned will work on a mutation of the virus just as well as it works on the current strains.

The real question is how virulent, how infective, are these new strains going to be, and are the levels of protection that we have now that may be appropriate for the current strain of SARS-CoV-2 going to work on one that is 30 percent or 50 percent more infective, and I think we have to go back to the drawing board and look at whether further levels of protection, whether it is ventilation or filtration, are necessary in that case.

Mrs. NAPOLITANO. Well, that leads us to the N95s and whether they are effective enough or going to be effective enough in the future.

Thank you, Mr. Chair. I yield back.

Mr. DEFAZIO. I thank the Representative.

Representative Babin?

Dr. BABIN. Yes, sir, thank you, Mr. Chairman.

In the early days of the pandemic, freight rates in the trucking industry reached historic lows, and while these rates are dictated by market forces, there are Federal transparency regulations that require brokers to disclose certain documentation to the carriers that they work with.

With the goal of transparency in mind, I want to ensure that these requirements are enforced by DOT and not evaded, ignored, or too burdensome for a carrier to comply with. Currently, FMCSA has opened up a variety of regulatory dockets to gather public comments regarding this issue.

So, with that, I will direct my question to Mr. Pugh.

Mr. Pugh, I know that this might sound like an obscure issue to most folks, but could you tell us a little more about the issues that your members have had in accessing transaction records when they are working with freight brokers?

I understand that these are regulations that are supposed to provide trucking companies the right to see these documents. But from what you mentioned in your testimony, it doesn't sound like that is happening right now.

And more importantly, how does this tie into our discussion today about addressing the needs of workers during the coronavirus pandemic? Mr. Pugh?

Mr. PUGH. Yes, thank you for your question, Representative Babin, it is much appreciated. And yes, you are correct. I am sure many of you that were in Washington working last year remember the truckers all coming to Washington and—because these freight rates, well, they just went completely in the toilet, I guess, for lack of better terms. Drivers were being paid [inaudible] per mile. This brought to light, in the FMCSRs, which are the rules that all truckers must follow and you can't exempt yourself from, brokers, there is a rule in there that brokers, 371.3, that they have truckers and all people part of the transaction, are allowed to see what people are paid.

So, in essence, the trucker can ask the broker what they were paid by the shipper. That is the long and short of it. This isn't happening. Unfortunately, a lot of brokers put right in their contract that they are exempted from this regulation and a trucker can't. Those who do not, they tell you that you have to come to their office, which doesn't work very well in trucking, because I may be hauling a load from Ohio to New York, may live in Ohio, but the broker I received the load from is in California. For me to drive from Ohio to California just to look at this paperwork is really impossible. Especially on a load that pays maybe \$1,000.

We put a petition for this to FMCSA. We said that this could be done electronically. Broker carrier agreements are sent electronically, contracts are sent electronically in this age that we are in now. So there is no reason this information cannot be sent.



Dr. BABIN. OK.

Mr. PUGH. Pardon me. Just one quick thing, the one thing that brokers always say is that they sign nondisclosure agreements with their shippers. Well, they could easily have the trucker or the motor carrier sign these same nondisclosure agreements so they cannot discuss what these rates are as well.

Dr. BABIN. Thank you so very much, Mr. Pugh. And let me just also say that I commend the work that OOIDA has done throughout the pandemic, the fight for your drivers. And while many Americans, including some in this room, worked from home last year, truckers continue to crisscross this Nation to pick up and deliver items that we all need, including life-saving PPE and millions of doses of the COVID vaccines.

And we would not be moving toward reopening this country, I think, if it wasn't for the essential work of your members, and I hope that you will pass along our gratitude for their perseverance and dedication to their jobs, and I hope this committee will work with you in a serious, good-faith effort to help provide our truckers with the resources they need in a timely manner. So thank you so much.

I will yield back, Mr. Chairman.

Mr. GARAMENDI [presiding]. Thank you, Mr. Babin.

Mr. Cohen, you are next.

Mr. COHEN. Thank you, Mr. Chair. The problem with safety procedures in public transit has been going on since the coronavirus was detected in our country. I think it was as far back as March, no later than April, but I think it was March that the chairman and others, including, of course, myself, started writing the airlines and the administration urging a mask requirement.

The first couple of flights I went on in March, there was not only a no-mask requirement of the flight attendant, but they were talking right in our faces. They were talking without any regard for masks. And there were people doing the same. The airlines finally kind of came around, but the Trump administration never did. And I commend President Biden and our new administration for putting this mandate in place. It is necessary for the protection of the public.

When I got on my flight to come home after the insurrection at the Capitol on the 6th of January, I heard people getting on the plane, when offered tissues for protection, say—take it, put it back on the plate that it came out of, and say “COVID hoax.”

I heard people walking down the aisle, going, I guess we need to be 6 feet apart or we will get in trouble. And none of the people who had Trump material on wore masks in the waiting area. So I don't know who can answer for the airports, but I know Ms. Nelson can answer for the flight attendants.

Can you give me some examples of problems that the flight attendants have had with the people who refuse to wear masks, who refuse to accept [inaudible] the tissues—the cleansing and any [inaudible] about the airport. I was shocked at BNA, they made an announcement that we are supposed to wear a mask in the waiting area, but nobody got up and said a word to anybody. I could not find a seat in the waiting area without being next to somebody who was exposed to the coronavirus.

Ms. Nelson, if you could respond, and I appreciate your efforts and your work. And everything Rodney Davis said, I say double.

Ms. NELSON. Thank you, Representative Cohen. The days immediately preceding the insurrection and right after were some of the scariest times that we have ever experienced in aviation. This was a new safety and security threat that we have never experienced.

And typically when someone is acting out in an airport, swearing at other people, refusing to comply with rules, acting belligerent, and even delusional, they are denied the freedom of flight.

We were very clear that anyone who attacked our Nation's Capitol and our democracy should be denied the freedom of flight. And we were right, because what we saw in the airports was: we were not really prepared to deal with this. This was a bit of a mob mentality that took over.

We are trained to deescalate. We are actually trained to ask other passengers to help us contain any problems if we are not able to peacefully deescalate the problem, but when there are so many people acting out, we didn't have the training or the resources to deal with this on our planes, and everyone was at risk.

We had a situation on one flight—there are many, many stories, but—where the flight attendants called the pilots, begged them not to open the door because they were fearful of people entering the cockpit and taking over.

We had people who were yelling at other passengers, a group of passengers berating a Black woman and her baby on the plane, and people who were not complying.

And the mask policies were a big part of this. Enforcing the mask policies did two things. One, we understood that there was a concerted effort not to wear these masks, believe that this is part of the political effort to push back. People thought this was about their personal liberties.

I would relate this to the smoking ban when people said that they wouldn't be able to last for 5 minutes without a cigarette. They didn't get to have exemptions because it was going to put the rest of us at risk.

So we had to very, very quickly clamp down on these mask policies. We were just not prepared for what we experienced in our airports. I am sorry that you went through that. The crews that I represent went through very scary times on board.

Mr. COHEN. Sara, I am about out of time. I would like to get one other issue in for you—

Ms. NELSON. Go ahead.

Mr. COHEN [continuing]. And that is the middle seat issue. It is very discomfoting to sit next to somebody in the—what you used to call [inaudible] I guess. I don't know if it's called [inaudible] steerage—to sit next to somebody who doesn't wear a mask. Should the airlines not keep those seats open regardless of cost?

Ms. NELSON. Well, first and foremost, everyone must wear a mask, and you are absolutely right. Secondly, we can't properly socially distance on a plane, so, while a middle seat provides some additional comfort, and as Chairman DeFazio noted, controlling how many people are on board will help with the number of people who are spreading the virus.

But what some of the airlines have done, instead of blocking the middle seat, is they have put more airplanes up in the air, so that the load factors are lower overall. You are not really experiencing that on the flights to DC because oftentimes those are the ones that are the highest capacity, highest demand, but there is more capacity in the airline industry that hopefully will give us some room to work with there.

Mr. GARAMENDI. Thank you, Ms. Nelson.

Mr. Cohen, your time is expired.

Mr. COHEN. Thank you.

Mr. GARAMENDI. We now turn to Mr. Graves.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman. Mr. Chairman, first of all, there was a letter that was originally sent by Airlines for America and many other organizations indicating strong concerns, I think, with this concept that we are going to be testing all of the domestic airline passengers and just indicated that airline travel has very low transmission rates, and it suggested that this was unwarranted.

So, Mr. Chairman, I would like to ask unanimous consent that this letter from A4A, as well as Ms. Nelson's group and others, be included in the record for the hearing.

Secondly—

Mr. GARAMENDI. Without objection.

[The information follows:]

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**Letter of January 29, 2021, from Airlines for America et al., Submitted for  
the Record by Hon. Garret Graves of Louisiana**

JANUARY 29, 2021.

Mr. JEFFREY ZIENTS,  
*COVID-19 Recovery Team Coordinator,*  
*The White House, 1600 Pennsylvania Ave., NW, Washington, DC 20500.*

DEAR MR. ZIENTS:

Thank you for your work on the Executive Order *Promoting COVID-19 Safety in Domestic and International Travel*. As representatives of America's aviation, travel and tourism industries, we share President Biden's commitment to saving lives and allowing all Americans to travel and work safely. We believe the only way to achieve these goals is through data-driven, risk-based and feasible public health measures that reduce COVID-19 transmissions and allow travel and economic growth to safely resume. Our continuing partnership with relevant Federal agencies has played a critical role in developing and implementing policies that enhance the safety of flying. The aviation industry is committed to partnering with the COVID-19 response team, and we urge you to work together with us to continue these efforts and to continue providing industry an opportunity to participate meaningfully in discussions about transportation and travel restrictions.

To that end, we strongly support many aspects of the Executive Order, such as the Federal mask mandate for interstate travel and pre-departure testing for international arriving passengers. However, we are concerned by recent media reports that the Centers for Disease Control and Prevention (CDC) is considering a pre-departure testing requirement for domestic air travel. The industry remains committed to supporting risk-based, scientific approaches to contagion mitigation.

Since the beginning of this pandemic, the health and safety of workers and traveling public have been the aviation and travel industries' top priority. In April, representatives across the entire travel ecosystem partnered with public health officials to develop uniform health and safety guidance to reduce the risk of COVID-19 transmission throughout the travel process.<sup>1</sup> This science-driven, layered approach

<sup>1</sup> <https://www.ustravel.org/toolkit/industry-guidance-promoting-health-and-safety-all-travelers>

aligns with CDC's own guidance and includes recommendations on universal mask wearing, physical distancing, enhanced sanitization and more. U.S. airlines have implemented multiple layers of protection to prevent virus transmission onboard the aircraft, including strict face covering requirements, pre-flight health forms, enhanced disinfection protocols, hospital-grade filtration systems and air exchanges that remove viruses. Likewise, airports have augmented efforts to clean and sanitize their facilities, upgraded their air filtration systems, promoted physical distancing, provided facial coverings for those in need and expanded touchless technology options to reduce the likelihood of the virus being transmitted to travelers or workers in these facilities.

According to a growing body of rigorous scientific research, these health and safety protections have significantly reduced the risk of COVID-19 transmission onboard an aircraft. In November, a Harvard Aviation Public Health Initiative study found that air travel is as safe as—or substantially safer than—other routine activities, such as eating out and grocery shopping.<sup>2</sup> Similarly, US TRANSCOM<sup>3</sup> conducted 300 tests over six months with mannequins to reproduce breathing and coughing to determine how particles moved within the cabin when a mask was on or off. The study concluded that when masks are worn, there is a 0.003 percent chance that particles exhaled by a passenger can enter the breathing space of passengers sitting next to them. Therefore, it's not surprising that data published by the International Air Transport Association (IATA) shows that, of the 1.2 billion airline passengers who traveled since the beginning of 2020, only 44 cases of in-flight COVID-19 transmission have been reported. And the vast majority of cases occurred before face covering were universally required.<sup>4</sup>

Given the strong scientific evidence that the risk of COVID-19 transmission onboard an aircraft is very low, we believe that a testing requirement for domestic air travel is unwarranted. Further, public health and economic data indicate that this policy would disproportionately prevent low-income travelers and rural Americans in small communities from travel. They may have less access to testing facilities, which could cause further job loss and economic harm to the most devastated sectors of the economy, who will need air service to take part in recovery. Therefore, the costs and consequences of a testing requirement for domestic air travel would far outweigh any potential benefits.

In fact, a pre-departure testing mandate for domestic air travel would divert testing and financial resources away from more pressing public health priorities. For example, based on January 2021 data, a testing requirement for domestic air travel would necessitate a 42 percent increase in daily testing capacity nationwide.<sup>5</sup> Although testing production is expected to increase, there is no question that a mandate of this magnitude would syphon public health resources away from more vulnerable populations such as nursing homes, medical facilities and schools. Singling out air travel also would not effectively capture movement from state to state since travelers are likely to simply drive, take a bus or a train, all conveyances which do not have the measures in place that make air travel uniquely safe. Both the WHO and European CDC have noted that when community spread is as prevalent as it is now these types of restrictions and mandates simply aren't that effective. As a country we need to focus on the behaviors and activities that are driving transmissions and double down on mask wearing, social distancing and hand washing.

We look forward to continuing our partnership with COVID-19 response team and relevant Federal agencies to develop and implement risk-based, data-driven public health measures that enhance the safety of flying. We urge you to seek input from aviation and travel stakeholders before implementing any additional measures to ensure that implementation will be feasible and effective for defeating the health and economic consequences of the virus.

Again, thank you for your focus on protecting the United States from the health and economic damage inflicted by COVID-19. We look forward to continuing our

<sup>2</sup> See <https://npli.sph.harvard.edu/resources-2>.

<sup>3</sup> See <https://www.ustranscom.mil/cmd/panewsreader.cfm?ID=C0EC1D60-CB57-C6ED-90DEDA305CE7459D&yr=2020>

<sup>4</sup> See <https://www.iata.org/contentassets/a1a361594bb440b1b7ebb632355373d1/iata-cabin-safe.pdf>

<sup>5</sup> Data compares TSA throughput for January 2021 and daily reported COVID-19 tests for January 2021: <https://www.tsa.gov/coronavirus/passenger-throughput> and <https://covidtracking.com/data/charts/us-daily-tests>

work together to safely and responsibly restore domestic and international air travel.

*Air Line Pilots Association, International,  
Aerospace Industries Association,  
Airlines for America,  
Airline Passenger Experience Association,  
Airport Council International—North America,  
American Association of Airport Executives,  
American Hotel and Lodging Association,  
American Society of Travel Advisors,  
Asian American Hotel Owners Association,  
Association of Flight Attendants—CWA,  
Cargo Airlines Association,  
Global Business Travel Association,  
International Air Transport Association,  
International Flight Services Association,  
Latino Hotel Association,  
National Air Carrier Association,  
National Association of Black Hotel Owners, Operators & Developers,  
Radio Technical Commission for Aeronautics,  
Regional Air Cargo Carriers Association,  
Regional Airline Association,  
Travel Technology Association,  
Travelers United,  
U.S. Travel Association.*

Mr. GRAVES OF LOUISIANA. Thank you. I have another UC, Baton Rouge Metropolitan Airport director, which I am going to refer to his letter later, but I would like to also ask that Mike Edwards, director of Baton Rouge Metropolitan Airport, his letter, be included in the record, similar sentiment, as well, as others.

Mr. GARAMENDI. Without objection, so ordered.  
[The information follows:]

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**Letter from Mike Edwards, Director of Aviation, Baton Rouge Metropolitan Airport, Submitted for the Record by Hon. Garret Graves of Louisiana**

Congressman GARRET GRAVES,  
2402 Rayburn House Office Building,  
Washington, DC 20515.

CONGRESSMAN GRAVES,

On February 4, 2021, the full House Committee on Transportation and Infrastructure will be meeting to discuss the topic of “Protecting Transportation Workers and Passengers from COVID: Gaps in Safety, Lessons Learned, and Next Steps.” In anticipation of said hearing, I would like to raise some concerns that have been raised by the aviation industry and internally here at the Baton Rouge Metropolitan Airport (BTR). As always, your support and advice are greatly appreciated.

First, on January 31, 2021, the Transportation Security Administration (TSA) issued Security Directive (SD) 1542–21–01: Security Measures—Face Mask Requirements. (Attached). This SD covers airport operators such as BTR and went into effect February 1, 2021 at 11:59 pm EST. Most measures directed by the TSA were already in place at BTR because of our own actions, actions of the Airlines, and Governor Edwards’ Executive Orders. However, there are some areas of concern that may be difficult to ensure compliance and enforcement. We need further clarification on the SD and modification to the wording.

Section B of the SD places the requirement that the airport operator “must require that individuals in or on the airport to wear face masks. This requirement is written so broad that it renders it impractical. As you are aware, BTR is comprised of hundreds of acres of land. There is no way the current staff of BTR can patrol the entirety of airport property. Airport property is not only the terminal, but also warehouses, parking garages, private hangars, an industrial park containing private non-aeronautical businesses and tenant, and public offices (Federal, State, and Local) etc. A strict reading of the SD would require airport employees to spot check or inspect the premises of Coca-Cola or All Star Automotive to verify masks are

being worn, especially in isolated offices. This can't be the intent of the SD. It is our belief that the intent of the SD is to take action to implement President Biden's Executive Order promoting safety in public transportation, specifically traveling passengers. Of course, BTR, in partnership with the airlines and concessionaires, will continue to do its best to advise passengers as to the mask requirements, provide complimentary masks when necessary, and enforce the SD within the passenger terminal building.

Additionally, the SD goes beyond the CDC recommendations. As an example, Section D(2) provides for an exception to mask wearing, "while eating, drinking, or taking oral medication for brief periods." This language is consistent with the CDC Order. However, TSA went further to state that masks must be worn between bites and sips, while "prolonged" eating or drinking. How is this even enforceable unless the airport stations employees at restaurants, common areas, and gates?

Next, it is my understanding that discussions are taking place concerning adding COVID testing for those traveling domestically. BTR understands and does not oppose the requirement for international travel. However, a domestic testing requirement will place a great burden and obstacle that will have a significant impact on air travel. While COVID testing can enhance the safety of the traveling public, the implementation of a testing requirement is a challenge for any airport no matter the size or location. Further, there is strong scientific evidence that the risk of COVID-19 transmission onboard an aircraft is very low. As such, BTR believes that a testing requirement for domestic air travel is unwarranted at this time. Attached is a letter sent to the White House COVID-19 Recovery Team Coordinator that raised concerns about the possibility of a pre-departure testing requirement for domestic air travel.

A domestic testing mandate would impact airports by reducing passenger traffic, which is already at significantly low levels compared to pre-pandemic, even further. The public may opt to drive or not travel at all, in lieu of taking a flight, due to availability, time, risk, or cost associated with obtaining a COVID test either at home or at the destination before returning. Further, such a mandate would divert testing and financial resources away from more pressing public health priorities and vulnerable populations. An additional concern stems from the fact that some individuals travel on a weekly basis and could be required to have multiple COVID tests each week in different locales across the country. This is quite a burden to place on interstate travel. Before implementing a testing requirement, BTR urges the Biden Administration, TSA, CDC, and other relevant Federal agencies to seek input from the aviation and travel industry stakeholders before implementing any additional measures to ensure that these measures are feasible and effective. The decision to implement a domestic test requirement should be a data-driven, risk-based, and feasible approach to public health measures.

Safety is extremely important at the Baton Rouge Metropolitan Airport. It is our first priority. BTR, as with most airports, took significant efforts since the beginning of the pandemic to ensure the health and safety of our employees and the traveling public. Additional regular cleaning, sanitization, social distancing measures, and providing complimentary masks are just some of the efforts taken. However, measures that are mandated by Federal, State and Local government agencies should be reasonable, practical, feasible, enforceable, and data driven. Most importantly mandates should be narrow and clear to ensure compliance. Perhaps, these are questions and issues that can be addressed at the full committee hearing or through your role in with the Aviation Subcommittee.

Best Regards,

MIKE EDWARDS,

*Director of Aviation, Baton Rouge Metropolitan Airport, [www.flybtr.com](http://www.flybtr.com).*

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

Ms. Nelson, I would like to ask you a question. So, if you look at this suggestion that at some point you may have domestic travelers being required to, before they can get on a plane, to be COVID tested, do you believe that that is going to result in basically an inconvenience that would result in higher costs, disproportionate impact on those of lower income, and potentially even pushing some of those travelers to other modes of transportation like bus and rail that don't require testing, which ultimately would be less safe?

Ms. NELSON. I believe that that will absolutely be the result. We are not set up to do this in a way that can be convenient for everyone in order—and be effective. So it would be a cosmetic change that would hurt the airline business and actually make us less safe because of what you are talking about in pushing them to other modes of transportation.

Mr. GRAVES OF LOUISIANA. And likely so we would be making decisions that were less safe, at the same time, probably increasing the demand for PSP support, so additional taxpayer dollars going out to try and provide assistance. Is that fair to say?

Ms. NELSON. You are 100 percent correct, and as I said earlier, if this is in place, the furloughs that we have seen so far would be dwarfed by what would happen if this policy went into effect without us being able to properly make it work.

Mr. GRAVES OF LOUISIANA. OK. Thank you, Ms. Nelson.

Mr. Pugh, I would like to ask you a question. I know that some of these smaller independent operators were unable to access the Paycheck Protection Program assistance, the program under the SBA and Treasury that offered assistance directly to small businesses to cover payroll.

Last year, there was legislation that was going to require increasing the minimum insurance coverage for trucks, even though I believe it was less than 99—excuse me—less than 1 percent of the actual accidents hit the cap already, there was an effort to increase it.

Do you believe that in these times when truckers are unable to access PPP, suffering extraordinary economic injury as a result of the pandemic, that putting additional insurance requirements that, according to statistics, clearly aren't needed, would complement the economic recovery and sustainability for the trucking industry, or do you believe that that would cause harm?

Mr. PUGH. I think it would cause lots and lots of harm. Thank you for your question, Congressman. Yes, you are correct, there are all kinds of studies that show there is no correlation in safety and increased insurance.

In fact, we feel that it will have an opposite effect because most small carriers, they don't have the borrowing power as the big carriers. But they own the truck. They own the trailer. They are some of the safest people out there. By doing this, you are going to drive them out of business.

Trucking is a penny-profit business. No one is getting rich in the trucking business that owns a truck and trailer. It is a very, very tight profit margin business. These guys are already paying \$10,000 to \$20,000. If they put these increases and we have no idea even what the charges will go to, they could double, maybe more. We figure the availability for insurance will go away. There will be less carriers willing to write these policies, you know, so who knows. It eliminates competition. So, yes, this would be a detrimental effect on small business carriers and on safety for the highway, in our opinion.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Pugh. I appreciate y'all in terms of providing feedback and helping guide us as we move forward.

Last quick question here. Mr. Chairman, perhaps one of the Ph.D.s. Under President Biden's Executive order on the mask requirement, it is unclear, particularly in section B, where it makes reference to airports being required to enforce the mask mandate on airport property. For example, in my hometown airport, they own lots of open land. They actually even have tenants that have very little to do with the airport. Do you believe that enforcing mask mandates on open land when folks are not surrounded by other people or in private businesses that are not aviation-related, necessarily, makes sense and should be part of this order as strictly interpreted? If you could quickly answer.

Mr. GARAMENDI. I think that will be a yes-or-no answer, and we will move on.

Mr. BAHNFLETH. Yes.

Mr. GARAMENDI. So that was a yes. All right.

Heads up, everybody. Mr. Sires is next, then Mr. Bost, and myself and then LaMalfa, so get ready for your questions.

Mr. Sires.

Mr. SIRES. Can you hear me?

Mr. GARAMENDI. Yes, we can.

Mr. SIRES. I represent a district that is one big transportation hub. I represent Hoboken, New Jersey, which is 1 square mile, and it has about 52,000 people. Every kind of transportation system you can think of is in my district from the ferry to the buses, jitney buses that don't pay attention to the local rules. You name it, we use it, because we are, by far, the most densely populated square mile in the country.

I had the opportunity to visit one of the garages of the ATU, and the stories that I heard broke my heart, how people just don't pay attention to wearing a mask and doing the right thing. I don't know what kind of technology we can use to protect these drivers and these people that are performing such a vital service because if we didn't have transportation in my district, I mean, it will come to a standstill.

And my concern is, what actually works for these people? I know we talked about a shield. We talked about the air. We talk about it, but they are not comfortable with that. And I don't know how we make them comfortable to do their job.

Anybody want to take a shot at that?

Mr. BAHNFLETH. Well, Congressman, an important point, and I would be happy to say a couple words. I think Dr. Michaels talked about the hierarchy of controls, and then what that illustrates is that we have layers of protection, and they all add to one another. So what I would hope to see is that everyone does everything reasonable they can to reduce risk, and that is going to give us the best result.

Honestly, we are in a situation of imperfect knowledge, but we know all of these things that are being recommended do something to reduce risk, and I think it is helpful to do as much of that as we can. We need everyone to do their part.

Mr. SIRES. Does the National League of Cities, are they able to provide us with information on how many cities with public buses have protective shields installed in the buses?



Mr. BUSCAINO. Congress Member, thank you for the question. Here in Los Angeles and the L.A. Metro, we do have installation. We have installed shields in our bus fleet. As far as data is concerned with National League of Cities, we don't have that specific data now, but we will be more than happy to provide a written report for you, sir.

Mr. SIRES. Thank you.

You know, I rode Amtrak coming here this week. I have to tell you: I was one of two people in the car. And my concern is once we hopefully get this pandemic under control, how are we going to get people back into trains? That is so important, especially in this corridor that I travel in. I don't know how we get people confident to go back. It will take a long time. I think Amtrak is losing something like \$200 million a month, some ridiculous number. But, you know, you cannot do without this kind of transportation. And I think part of our job as Congress is to find a way to bring back that confidence of people to ride the train, to ride the buses. [Inaudible] The questions have been answered that I wanted to ask, but my concern is the confidence that we are going to be able to install for people to go back to using public transportation. Like I said, my district is nothing more than a transportation hub.

Mr. MICHAELS. Congressman, if I can respond, I think that the first thing the country really needs to do is to change the culture around masks. The number one effective tool is to make sure everyone is masked. And if we want people to be able to get back on trains, on buses and planes, they have to have confidence that they will be safe. And, you know, in other countries, they issue tickets like a traffic ticket if you don't wear a mask. We think it is just voluntary here, but it is not voluntary to ride the bus without paying. There are certain responsibilities we all have. And certainly masking in public is absolutely a responsibility, and I think it is irresponsible to tell people, well, masking is just voluntary. It is something you can do if you want to. It is a public health concern. You are not masking to protect yourself. I have heard people say "I don't need to wear a mask because I don't care if I get sick." That is not what it is about. You are wearing a mask because you respect other people. You want to make sure other people don't get sick. And that is what we need to be talking about. I think everybody needs to get behind that message and make it strong.

Mr. SIRES. Well, I agree with you 100 percent. Now we have people that, after two shots of the vaccine, they feel they don't have to wear the mask.

Mr. GARAMENDI. Mr. Sires, could you please wrap up? Your time has expired.

Mr. SIRES. Thank you.

Mr. RIVERA. Mr. Chairman, if I can answer his question really quick.

Mr. GARAMENDI. Yes. Go ahead quickly.

Mr. RIVERA. I think the industry needs to rebuild the buses and perhaps work with unions and help redesign them so we can have a better feeling and understanding of what needs to be done. Thank you so much. And, thank you, Congressman Sires.

Mr. GARAMENDI. Thank you.

I will now turn to Mr. Bost.

Mr. BOST. Thank you, Mr. Chairman.

You know, recently the Federal Highway Administration released results of a 2019 Jason's Law survey, which examines truck park shortages nationwide. This was an update from the FHWA's 2015 report on the same issue. And it was confirmed that the truck parking shortages are still a major problem in every State and region. In fact, some States, including Illinois, now have fewer public parking spaces than they did 5 years ago.

That being said, Mr. Pugh, as a trucker and with firsthand experience out on the road, could you talk a little bit more about the safety challenges that the parking shortages created for drivers, especially during this COVID-19 crisis?

Mr. PUGH. Yes. Thank you, Representative Bost, and thank you again to yourself and Representative Craig for going across party lines to come out with such a good bipartisan bill to help truckers get some parking. So thank you very much. We appreciate that from both you and Congresswoman Craig.

But, yes, you are correct. I have been traveling to Washington, DC, personally since 2005 attending meetings, hearings, surveys, discussions, and everything about parking. Since 2005 until now, the only thing I've seen is less parking than what there was in 2005. So the Jason's Law survey of 2019 is no surprise that there is less than there was in 2014, and this is still an issue.

Myself, personally, I can speak. I have had to park in places where my truck has been hit, where someone tried to break into my truck, where I have been harassed. I used to always carry a Collie dog with me, to give me some company but mainly for protection. I have parked in places where I have had my tire shot out.

One of the worst ones I can relate to you. You know, when you hear all of the time the trucking—the truckstop industry can handle all this. That isn't true. I was going to Boston one time, was getting sleepy, still had plenty of time, but I was getting tired. So coming into Connecticut on I-84, I started looking for a place to lay down and take a nap. This is later evening, probably 9, 10 o'clock at night. I stopped at every truckstop in Connecticut on I-85, which at the time, I think, was two or three, ran through every rest area, there was no park, places to park. Got into Mass., same instance. Before I got on the Mass. Pike, there was a couple truckstops. Nowhere to park. Finally, I got on the Mass. Turnpike, got to the first service plaza. By now, it is probably close to midnight, pulled in there to see if I could find a place to safely rest.

The truck side was full. There was some parking on the car side. And there were a couple trucks parked there back in the back. I personally backed in there and parked with those other trucks. At 4 o'clock in the morning, I was awakened by Massachusetts Highway Patrol, given a parking ticket, and told they weren't concerned that I was going to run out of hours. They sent me down the road and told me to get on out of there. So this is a real problem that continuously gets worse and worse and worse.

During COVID, Pennsylvania shut their rest areas down. We had to get the Federal Highway Administration and some involved to get the rest areas back open. There are just not enough places to park. There are so many trucks, and with ELDs and all the hours of service and flexibility, it is just—everything's maxed out.

Government has to get involved. Government, Congress, you have to help by passing something like Representative Bost's bill.

Mr. BOST. Well, thank you for that, but also, you just—and we have only got a minute, but you brought up something that is vitally important that our committee needs to know and understand, especially those that have never been in the trucking business, and that is it is the hours of service, and it is the electronic logbooks that are putting us in situations. And then you have police officers, God bless them for what they do, but maybe a local community police officer that doesn't understand that, when you say you have got to shut that truck down, you have got to shut the truck down according to Federal laws. And then the local laws will say, no, you can't park here because you are violating the law by parking here, but you don't have any more hours to go anyplace else. It is a real problem that people need to know and understand, so thank you for bringing that up.

Mr. PUGH. And if I could add, it's not only a problem with the law; it is also a problem with these shippers and receivers. Some of these huge shippers and receivers have huge parking lots, plenty of space, but they make you leave, and when they have tied you up for 4 or 5 hours waiting to load when they should have loaded you in an hour and got you down the road.

Mr. BOST. Right. That is correct.

With that, I yield back. Thank you.

Mr. GARAMENDI. Thank you, Mr. Bost.

Heads up. The next three witnesses or questioners will be Garamendi, LaMalfa, and then Hank Johnson. So I will turn to myself for the next few moments.

Like Chairman DeFazio, I have the pleasure of living on the west coast. I also have the pleasure of spending 5 hours going either east or west in an airplane. So the question of air quality on the plane is of utmost interest to those of us. And I see our friend from Hawaii here, and he gets to add another 5 hours to that trip either way. So air quality becomes very, very important. Last year, we introduced legislation on air quality. It was specifically for toxins. We now deal with viruses.

And so my question goes to Ms. Nelson—is legislation useful and necessary to mandate that the airlines provide airplanes that have systems to make their air safe from toxins as well as from viruses or other pathogens? The same question will go to Mr. Bahnfleth.

Ms. NELSON. Yes. So we do need legislation on sensors and filters to make sure that we are not circulating toxins into the cabin air, but I do want to note that the HEPA filtration on board, not all aircraft, but many aircraft and certainly on Boeing aircraft, is helpful because it does at least filter out those virus particles. Now, that is not a complete protection. We have to have all the layers of safety, but air circulation and air filtration is a key part of keeping people healthy and safe on board.

Mr. GARAMENDI. Thank you. I will look forward to your continued support of the legislation.

Mr. Bahnfleth.

Ms. NELSON. Thank you.

Mr. BAHNFLETH. Yeah. Thank you for the question. And I have to say that as a representative of the technical society, it is not

really, I think, my place to say how things should get done, but I do believe that our standards should continue to improve. And I would like to see standards like ASHRAE Standard 161 that relate specifically to aircraft air quality is adopted as the basis for design of the aircraft in the future to the extent that it is not already being used. So I believe in standards produced by consensus bodies being widely adopted.

Mr. GARAMENDI. Thank you. I would appreciate from your organization specific recommendations on HEPA filters, UV, and other kinds of filters and systems that might be used on aircraft and also on other modes of transportation. So we have talked a lot about buses and trains here. So what can be done to improve the air quality?

I will also note that, in this building, the Architect of the Capitol decided that they ought to put in windows, new windows, that we cannot open, without the proper ventilation also, but that is a problem here. So if you would do that, sir, I would appreciate it.

With that, I have completed my questions, and I am going to turn to Mr. LaMalfa. Mr. LaMalfa, if you are still there. If you are not, we will go to Mr. Stauber.

Mr. STAUBER. Thank you very much, Mr. Chair.

And I do want to thank the witnesses, and I also want to thank the industries who are testifying, our flight attendants, owner-operator truckers, and our public bus operators. And I appreciate this hearing today because I think it really has been the American worker who has proven to be more resilient than any virus could, and I have personally seen some of the best of humanity in the American worker since the beginning of this pandemic.

I agree that we must protect workers from COVID by ensuring that they have proper PPE and proper policies in place to ensure that people are safe. But protecting workers from COVID not only means protecting them from the virus; it also means protecting their jobs and their ability to make a living.

Mr. PUGH, how important is it to your industry that the businesses that drivers deliver to, the restaurants, the retailers, the supply chain partners, remain open for business and consumers who patronize these businesses?

Mr. PUGH. Yes. Thank you for the question, Representative. And, yes, you are correct. It is very important. I hate to say it is life and death, but when you are in a truck, and you are out on the road, I can speak for myself. You leave your home on Sunday or Monday morning, and you don't get back until Friday. Maybe you don't get back for multiple weeks, you know. A lot of guys—some guys can fix things, you know, microwaves and stuff like that in their truck. But, you know, you ride around in a box that is 6 by 6 or something and spend your whole time in there, it is nice to be able to get out and go in somewhere and not only wash your hands and stuff but be able to sit down in something that doesn't move and eat a good meal, get a good square meal, not something you have to heat up in a microwave.

You know, fortunately, thank God, I was here in this office, and I didn't have to go through all the things that our men and women driving trucks are going through, have been going through, and are still going through. Like, when I went back to Ohio from Missouri

this spring, we stopped in Effingham, which is a big trucking hub. None of the truckstops had their restaurants open. I had my pick-up truck, and so we actually walked to a fast food restaurant. They handed us food out the door, you know. It is cold. It was raining. That is the real thing that drivers have gone through and are still going through in some cases. A lot of places are still not opening. You can't park a tractor-trailer at just any little restaurant that may be open and—

Mr. STAUBER. Yeah. Mr. Pugh, if I may, just another question. So when you have individual Governors unilaterally shutting down their States, what does that do to the owner-operator trucker and their bottom line?

Mr. PUGH. Well, it kills their bottom line because once you shut them down, not only do they not have a place to stop or get a good meal or a safe place to be. It also shuts down freight that some of them haul, so they are not moving anything or hauling anything. They put tighter demands and stress on the other freight that is out there and that other operators are doing which drives down costs for everyone—or pay, I should say, not costs.

Mr. STAUBER. Right. Well, thank you, Mr. Pugh. You know, we currently have an economic environment that is very fragile. Every day, businesses fear that the whim of a Governor could shut them down for an indefinite amount of time, making it illegal to make a living, thereby again, laying off employees and forcing American workers on to unemployment.

In northern Minnesota, we also have the economic and personal safety of American workers in jeopardy due to protesters on the line 3 pipeline replacement project. Just earlier this week, there was a protester who put people's safety at risk when he jumped onto a piece of pipe as it was being lowered into a water trench. Also, earlier this week, more than 50 protesters climbed onto and under pipeline construction equipment, further endangering worker safety. Last month, protesters actually climbed inside portions of that pipe.

More must be done to protect worker safety. I agree that the safety of the American worker must be paramount, whether it be from COVID, from shutdowns of small businesses, or dangerous protesters.

Mr. Chair, I yield back.

Mr. DEFAZIO [presiding]. I thank the gentleman. I am going to, at this point, do something a little unusual. I am going to ask that unless senior Members have a pressing question that hasn't already been answered two or three times, to forgo your questions because we have a list that would go quite long, but we are going to have a series of two votes, which is a minimum of 2 hours. I will wait until the end of the first vote to go vote, but after that, I am not going to call the committee back into session.

Mr. JOHNSON OF SOUTH DAKOTA. Mr. Chairman, Dusty Johnson, South Dakota, sir. I would like a couple minutes to respond to something you said earlier, if I could.

Mr. DEFAZIO. Well, I just explained this problem. So, when your time is up for a question and you are up there, you can use it however you want. So, with that, let's go to Mr. Johnson—excuse me—

Hank Johnson. Actually, the rules don't preclude "Mr." We can use "Mr.," so Mr. Johnson.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman.

Mr. PUGH, I want to thank you for being here today and for your work representing small, independent trucking businesses and independent truckers. They catch a raw deal from the middleman, trying to set the rates and get a fair amount of money for the work that they do, and I am committed to working to level the playing field for you guys out there, so I look forward to working with you.

In your written testimony, you express some frustration at this committee's efforts last Congress to raise minimum trucking liability insurance standards to \$1.25 million, but you acknowledge that many carriers are already insured for \$1 million or more. How much would it cost for an average carrier to purchase insurance coverage from \$1 million to \$2 million per truck?

Mr. PUGH. Yes. Thank you for your question, and I appreciate it. Yes. I need to be clear, and I think you are correct. They want to raise it \$1.25 million; \$750,000 is the minimum now. They want to raise it to \$2 million.

Mr. JOHNSON OF GEORGIA. And my question is how much would it cost the average trucker?

Mr. PUGH. Probably—we would guess that it would probably close to double. Average truckers—

Mr. JOHNSON OF GEORGIA. How much is that?

Mr. PUGH. That would be—probably \$10,000 to \$15,000, but there is no solid way to know because we are sure that there will be insurance carriers that will drop out of this market. Commercial truck liability has been losing money for 10 years overall.

Mr. JOHNSON OF GEORGIA. Well, now, that may be true, but now, you must admit that there has been an increase in trucking wrecks and injuries and deaths caused by them, and the basic \$750,000 basement level has not been raised in decades.

Mr. PUGH. That is correct, but most drivers—

Mr. JOHNSON OF GEORGIA. So let me ask you this question. If there was no raise in [inaudible] On their families to adequately recover for their losses due to injury and death caused in trucking wrecks?

Mr. DEFAZIO. Representative Johnson, you are freezing up.

Mr. PUGH. I think I can answer some of this, Mr. Chair.

Yes, you are correct, there have been accidents that have gone up. But there have also been studies that have shown by FMCSA that limits or the average accident in trucks is \$18,000. Right now, we are right around \$18,000; 99.4 percent of all truck accidents, the limits take care of and cover. Seven hundred fifty thousand dollars is the required amount, but most carriers, due to markets, are already carrying \$1 million. So, again, it has been shown that these accidents, these catastrophic accidents, there isn't anyone who could supply enough insurance to cover them, unfortunately. But, again, right now, 99.4 percent of all accidents are covered. This raising the insurance minimums is completely driven by trial attorneys and wanting to get more money, you know, because they get 30 to 40 percent or more when those cases come.

Mr. JOHNSON OF GEORGIA. Mr. Pugh, I would like for you to allow me to move on, if I could.

Mr. PUGH. Yes.

Mr. DEFAZIO. I am not hearing Representative Johnson. I think we lost the Representative. Representative Johnson.

We will move on to Representative Fitzpatrick.

Mr. FITZPATRICK. Thank you, Mr. Chairman, for convening the hearing today.

Thank you to our panelists.

And my first question is for Ms. Nelson. I do want to share with my colleagues. As I am sure many of you have, I dealt with a lot of our Nation's labor leaders since the inception of the COVID-19 pandemic. And I can tell you that Ms. Nelson was so engaged from day one with me and my staff and so many of my colleagues looking after the people that she represents and all people working across the country, including our flight attendants, including the airlines themselves, and I want to thank her for her service.

So, Ms. Nelson, if you are still with us, I have been a strong supporter of the Payroll Support Program, and I wanted you, if you could, to share with the committee here what would have happened to the airline industry if Congress had not provided that relief. I think that is important for everyone to hear given the need for ongoing support.

Ms. NELSON. Congressman Fitzpatrick, thank you so much.

In March, if this had not been put in place, the airline industry simply would have collapsed. We would have seen many airlines going out of business. The dropoff in demand was so severe, 97 percent dropoff, that many airlines were in jeopardy of not meeting payroll within a couple weeks, if not within a couple months. So they saved the airlines and the ability to continue to provide this service for the American public and these jobs. But in addition to that, the Payroll Support Program that we put in place was specifically a workers first program and supported only those workers' jobs, made sure that there was no cuts to hourly rates, made sure that we continued service to all the communities, and we did the opposite of what a normal corporate bailout would do. We capped executive compensation and banned stock buybacks. So it was workers first all the way around. It saved jobs, kept us connected to our healthcare and all of the things that we need to continue for the rest of our working lives, Social Security contributions, contributions to our retirement and pensions, and these are things that we are not going to have to burden the rest of the public with because Congress acted in a bipartisan fashion to put this workers first program in place.

Mr. FITZPATRICK. Yeah. I will say I strongly believe PSP needs to be extended to give workers some stability during a really uncertain time. Ms. Nelson, if you could share with us what more can be done aside from extending the PSP and supporting those who work in the aviation sector.

Ms. NELSON. We can make sure, actually, that we are implementing the 2018 FAA reauthorization bill and that we are making sure that airline workers have proper access to PPE. So, for example, flight attendants fill the two-person rule in the cockpit when one of the pilots needs to come out. We also need those secondary barriers to keep us safe during this time, but we need to make sure that the flight attendants who are fulfilling that secondary person

in the cockpit are able to have an N95 mask because the pilots cannot always wear masks in the cockpit in order to properly communicate with ATC. So that is another thing that could be done, and that is a hole right now that needs to be filled.

Mr. FITZPATRICK. Thank you, Ms. Nelson. Thank you for all of your support for the workers across America. You are a champion for them.

If I could ask a question for Councilman Buscaino. Sir, what effects will we see in towns and cities across the country if we do not provide the revenue necessary to stem the loss of revenue that you have experienced?

Mr. BUSCAINO. Thank you, Congress Member, for the question. We are dipping into our reserves here in Los Angeles, something that we built up over the years since the last recession. We have also had to dip into our public works trust fund that we need to pay back, as I mentioned earlier, by July 1st, per our city charter, and this is just the city of Los Angeles.

If we don't move on a relief package for cities, towns, and villages across the country, we are going to start furloughing or laying off our essential city employees from firefighters, police officers, to sanitation workers. Again, and I appreciate the question because the cities are ground zero in this pandemic. We heavily rely on revenues, our revenues are not coming in because of stay-at-home orders. Additional aid to local governments cannot come soon enough, sir. So many of our municipalities are facing devastating consequences because of the pandemic.

Mr. FITZPATRICK. Thank you, Councilman.

Thank you, Ms. Nelson.

Thank you both for your service.

Mr. Chairman, I yield back.

Mr. DEFAZIO. OK. Now Representative Johnson.

Mr. JOHNSON OF SOUTH DAKOTA. Thanks very much, Mr. Chairman. And I think we understand how critically important accurate and fair information is when we talk about COVID-19. And so I do want to take just a couple of minutes, I think, to set the record straight with some of the comments that you made, sir, against your former colleague, Kristi Noem, my friend, and the Governor of South Dakota.

It was stated that zero steps had been taken by South Dakota to address COVID-19, and that is simply not the case. I would note that in the earliest days of the pandemic, Governor Noem and our healthcare system stepped up and made substantial investments in healthcare and in COVID response. And, in fact, today South Dakota leads the Nation in hospital bed capacity per capita.

Secondly, I would note that South Dakota has been a national leader week after week after week in vaccinations, routinely coming in as first, second, or third best in the country. The last time I checked, I believe South Dakota was fifth best per capita on vaccine deployment. For context, Oregon would be 20th. I would also note that South Dakota has a lower unemployment rate today than it did before the pandemic started.

Now, so many of these concepts, vaccinations and healthcare capability, as well as employment, have been called out by our professional panelists today as critically important to how our Nation re-



sponds in the transportation space. Now, it may well be, Mr. Chairman, that the steps that Governor Noem has taken are not exactly the ones that you would take, but I think all reasonable people should be able to acknowledge that they are not zero steps.

And so I have been told that this committee is one of strong bipartisanship and cooperation. I believe that to be true. It is one of the reasons that I am so proud to have this be one of my committee assignments. But I would just note that hyperbole and dramatic overstatement is not conducive to addressing COVID-19, it is not conducive to problem solving, and it is not conducive to the work of this Congress. And so I thank the committee for their indulgence as I make statements related, I think, to some previous hyperbole and overstatement.

With the time I have left, I have some questions for Dr. Bahnfleth. And I did appreciate, sir, your focus on science and standards. You noted in your testimony some cases of infection that contact tracing suggested happened on commercial air flights, but I want to provide some context around that data. Do we have any reliable data related to how many people have contracted COVID-19, sir, in commercial air?

Mr. BAHNFLETH. Thank you for the question, Congressman. And that data may exist, but I do not have access to it myself at this moment. I would be happy to see if we can find that for you, or someone else on the panel may know.

Mr. JOHNSON OF SOUTH DAKOTA. So you note in your testimony that there is, quote, “a significant risk of catching COVID-19 on air travel.” How could one make that statement absent any sort of a comprehensive review? And I would only note this, sir, because I think other resources that I have researched, a study that MIT did an analysis of indicated that it was, quote, “highly unlikely to get COVID-19 on commercial airline traffic.”

A Reuters source that I looked up noted that air handling in office buildings is about four times an hour. You talked a fair amount in your testimony, sir, about the importance of air handling. A modern jet aircraft turns over the air 20 or 30 times an hour. The World Health Organization, their recommendations for health facilities is that ventilation rates should be 6 to 12 times an hour. And so can you give me some sense of what data leads you to categorize the risk as you did?

Mr. BAHNFLETH. Yeah. Thank you. Happy to. I would categorize it that way because there are plenty of forensic studies on outbreaks associated with aircraft to document that it is possible to have significant transmission on an airplane. One that I mentioned but didn't go into any detail, I think there were 14 infections on that plane. I believe 12 of them were in the business-class cabin, all clustered around the index case, who was on the plane.

Mr. JOHNSON OF SOUTH DAKOTA. Sure.

Mr. BAHNFLETH. So I think that there is reason to believe that they are at risk.

Mr. JOHNSON OF SOUTH DAKOTA. Doctor, I apologize. My time has expired.

Mr. BAHNFLETH. Whether someone calls it large or small is a judgment.

Mr. JOHNSON OF SOUTH DAKOTA. Doctor, I apologize. My time has expired.

Mr. DEFAZIO. I will give him an extra 30 seconds since you had to say something else at the beginning. Just finish your statement, sir.

Mr. JOHNSON OF SOUTH DAKOTA. Mr. Chairman, thank you for your indulgence.

Mr. BAHNFLETH. It is simply that these numbers about how many out of total travelers is one way of looking at it, but the other is what makes people confident enough to go on an airplane or a bus or a train when they see what has happened in some of these incidents. And I think we have to keep working towards making them as safe as possible in every way possible.

Mr. JOHNSON OF SOUTH DAKOTA. Very good, Doc. And I would just close by noting we had 1.8 billion passengers in commercial airlines last year. And I would call out Sara Nelson, I think, for her very good testimony, trying to balance the needs of that critical infrastructure with public safety. Thank you very much, sir.

Mr. DEFAZIO. I thank the gentleman. I just inadvertently recognized two Republicans in a row, so now I am going to do two Democrats in a row. Then we will get back to regular order.

However, I will indulge as the chair just for a moment. I apologize for the hyperbole about zero, but she did make a huge point of not wearing masks, and, you know, you do have the sixth worst death rate in the country followed by North Dakota, your sister State. And the other four States have massive urban areas which are, like, just hotbeds of infection.

And then, on my State, yeah, they are doing a crappy job of vaccine distribution and other things. The unemployment department is dysfunctional. I am not going to apologize for those things, and I admit to that. They are doing better now. They are up to 20. They were down in the bottom. But, you know, we are 49th in terms of infections, and I think the same in deaths, and that is because we did a mask mandate, and Oregonians, for the most part, are compliant. Now, the only hotbeds in Oregon right now are eastern Oregon where the culture is more similar to South Dakota than it is to western Oregon, where people are ignoring the masking, and their rates are skyrocketing in these little, tiny counties. Masks work.

With that, we will turn to Representative Titus.

Ms. TITUS. Thank you, Mr. Chairman.

We have heard a lot this morning about making airlines safer and other modes of transportation, and I appreciate that, but 1 in 10 jobs in the country is based on tourism. Certainly the economy of my district is, so we need to make transportation safer. But this committee also looks at infrastructure, and let's not forget that part of our responsibility is oversight of 267,000 buildings in the Federal real estate portfolio. We need to worry about keeping them safe for the workers there as well as the clients who visit.

On January 21st, the President issued an Executive order calling for Government agencies to develop some guidance regarding air filtration. I would ask our two professors who have talked about air filtration on planes to give us some of their recommendations, what do they expect to see, what do they hope to see coming out of this

Executive order, and what other things can we do besides the air filtration system to make our public buildings safer?

Mr. BAHNFLETH. I was going to give Dr. Michaels a chance, but I will be happy to answer that question, Congresswoman.

Mr. MICHAELS. I really defer to you and ASHRAE on air filtration. So why don't you go ahead, and I can always—

Mr. BAHNFLETH. Thank you.

I think what we see happening is a recognition that filters that filter the air in buildings need to control particles that are known to have health effects, not just infectious particles as in the pandemic, but there is a huge health cost to inhaling a lot of PM2.5. And so these filter upgrades that we are talking about being good in terms of reducing infection risk are also good in terms of by having a very significant effect on other health impacts. So I foresee moving up, perhaps, as a standard to the MERV 13 in most buildings that ASHRAE is recommending now. It is already in title 24 in California.

So I expect more filtration, but the other things that we can do, I think air cleaners are really a big part of the future of sustainable indoor air quality, and that is why I was so strong on the point that we need standards. I would love to see some of these technologies that are emerging be things that we use every day so that we don't have to rely on ventilation and filtration as much as we do.

Mr. MICHAELS. If I can just add, I generally agree with everything Professor Bahnfleth has said. The investment that is required to improve ventilation and filtration, you know, is not just for COVID. I mean, we are going to be—first, we need to prepare for future pandemics, but also, certainly we are seeing this immense increase in wildfires, for example, throughout much of the country, which has led to all sorts of other toxic exposures where people who are wearing masks in public for reasons other than COVID for the first time. And so we have to think about this, how we are going to be protecting the lungs, not just of workers but everybody in the country, and this is, in some ways, a down payment for that.

Ms. TITUS. No suggestions about spacing or occupancy or anything like that in Federal buildings, distancing, shields?

Mr. BAHNFLETH. Well, certainly during the pandemic, masks and distancing are important. One would hope that we don't have to maintain that perpetually once the pandemic has subsided, but that is not HVAC. I think that Dr. Michaels is absolutely correct. Resilience with respect to quality events is important. ASHRAE actually has got a guideline committee now working on guidance related to wildfires. So that issue merges with the pandemic. What do you do when you have something that is really out of the ordinary happen, and certainly COVID-19 is one of those events. It is going to change the way we design systems, I am sure.

Ms. TITUS. We have to keep in mind the power bill too, because the U.S. Government is one of the biggest consumers of electricity out there.

Mr. BAHNFLETH. Ergo, the desire for air cleaners rather than more ventilation.

Ms. TITUS. Thank you. I yield my time back to the chairman.

Mr. DEFAZIO. I thank the gentlelady. And, again, since we are going out of order because we went out of order on that side, Representative Wilson.

OK. Representative Lowenthal. We will come back to Wilson.

Mr. LOWENTHAL. Thank you, Mr. Chair. And, first, I would like to ask unanimous consent to introduce a letter from the Pacific Maritime Association, the ILWU, the ILA, which is the International Longshoremen's Association, and the U.S. Maritime Alliance, urging the committee to protect maritime workers.

Mr. DEFAZIO. Without objection.

[The information follows:]

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**Letter of February 2, 2021, from David F. Adam, Chairman and CEO, United States Maritime Alliance, Ltd. et al., Submitted for the Record by Hon. Alan S. Lowenthal**

FEBRUARY 2, 2021.

Hon. PETER A. DEFAZIO,  
*Chairman,*

*House Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC 20510.*

DEAR MR. CHAIRMAN:

We write as the leading representatives of America's frontline longshore workers and maritime employers to seek your assistance on a matter of urgent national importance: protecting our nation's economy and supply chain by prioritizing COVID-19 vaccinations for port workers. While our organizations represent a diversity of maritime interests in varying regions of the nation, we have come together to speak with one voice on this pressing and immediate priority.

America's ports are the primary gateways for the goods and supplies Americans depend on, including food, medical supplies, personal protective equipment (PPE), sanitizer, and other items sustaining the country during this historic pandemic. Millions of jobs and a significant portion of America's GDP are directly tied to the health of our ports, which are vital to national industries including retail, manufacturing, agriculture, and more. But the reliable operation of port terminals could soon be in jeopardy due to the alarming increase in COVID-19 among frontline longshore workers nationwide. Prioritizing frontline port workers' eligibility for vaccination and ensuring adequate vaccine supply is the only sure way to safeguard the supply chain that drives our economy and connects America to the rest of the world.

Since the start of the pandemic last year, America's maritime workforce has answered the call of duty to keep our ports open for business, and our warehouses and store shelves fully stocked. From Maine to California, their dedication and resilience has been nothing short of heroic. In recent weeks, however, COVID infections among frontline port workers have reached crisis levels in many locations.

From March 2020 through January 25, 2021, the International Longshore and Warehouse Union (ILWU) and Pacific Maritime Association (PMA) reported 1,034 coronavirus infections among frontline port workers along the West Coast. Over the same period, the International Longshoremen's Association (ILA) reported 784 positive tests along the East Coast and Gulf Coast. And infection rates are rising rapidly. For example, at the Ports of Los Angeles and Long Beach, America's largest port complex, almost as many longshore workers tested positive in the first three weeks of 2021 as in the first 10 months of the pandemic, from March through December of 2020. Other port regions report similar, troubling increases.

This wave of virus infections comes as ports nationwide contend with record-breaking tide of imports from Asia that shows no sign of relenting. Our ports require as many workers as possible to accommodate this unprecedented surge. Exacerbating the challenge, the virus poses the greatest threat to older workers, who often possess the specialized skills and experience that are most needed to keep port terminals operating smoothly.

We recognize that state and local governments play a key role in administering the COVID-19 vaccination process. However, given the clear national interest in keeping our ports functioning smoothly—protecting our economy, healthcare infrastructure, and national security—we respectfully ask your assistance in taking all

possible steps to help speed the vaccination process for the men and women of our maritime workforce.

Sincerely,

DAVID F. ADAM,  
*Chairman and CEO, United States Maritime Alliance, Ltd.*  
WILLIAM E. ADAMS,  
*International President, International Longshore and Warehouse Union.*  
HAROLD J. DAGGETT,  
*President, International Longshoremen's Association.*  
JAMES C. MCKENNA,  
*President and CEO, Pacific Maritime Association.*

Mr. LOWENTHAL. Thank you. I would like to ask Council Member Buscaino. Joe, first of all, thank you for your clear testimony on the need to support our State and local partners during this crisis. It was very well stated. But I really do want to follow up on an issue that you raised and Congresswoman Napolitano raised, and that is about the tremendous rise in COVID-19 and testing positivity rates at both Ports of L.A. and Long Beach and what you can do.

You have pointed out, and I think we know that State and local leaders have stepped up along with terminal operators, labor, port officials. I want to know what have they done at the local level to bring down this. And the second part is what should we be doing in Congress and also FEMA and the administration, what further steps to ensure that the critical operations of the port continue? So what has been done, and what can we do?

Mr. BUSCAINO. Thank you, Congress Member. First and foremost, I appreciate your friendship and partnership over the years, you along with my Congress Member, Nanette Barragán. And, collectively, the both of you have elevated the importance of prioritizing vaccines for our maritime workers. We stand ready, as I mentioned earlier. We have a cruise terminal that sits vacant today, unfortunately, but can work to vaccinate our longshore workers, our truckdrivers. We stand ready for that.

Let's be mindful, colleagues, that half of our goods come through the San Pedro Bay ports. Nearly half of our goods come through both the Ports of Los Angeles and Long Beach. That is what is being threatened today. Additionally, we are thankful for President Biden in moving forward a couple days ago on agreeing to 100 percent reimbursement of FEMA, but cities and towns and villages across the country still have to front load those dollars in a time where our budgets are stretched thin.

So the importance of moving forward and supporting another COVID relief package that includes dollars for vaccines will help cities, towns, and villages across the country to urgently deploy these vaccines, very similar to what we are doing in Dodger Stadium here in Los Angeles as you know, sir, and the news broke today, in this morning's L.A. Times, as two additional sites in L.A. County, particularly in the disadvantaged impacted communities of color where we will be deploying more vaccine sites, which is great. We have the infrastructure; we just need the vaccines.

Please pass that bill so we can get the vaccines deployed to our cities, towns, and villages across the country.

Mr. LOWENTHAL. Thank you, and I yield back.

Mr. DEFAZIO. I thank the gentleman.

Now, Representative Burchett.

Mr. BURCHETT. Thank you, Mr. Chairman. It is a pleasure serving on the committee with you, sir, and I look forward to the bipartisanship I hope we have here. I actually—when I was in the State legislature, I was in the State house on the Transportation Committee, and my friend, Steve Cohen, was a senator, and we partnered together to raise the speed limit in Tennessee to 70 miles an hour, actually. I believe I asked for 85. In the art of negotiation, I took 70. But oddly enough, the week that I did that, the prior week I had brought Peyton Manning to the floor of the house of representatives, and he signed autographs for everyone. And, honestly, I think I could have passed communism that week in the State of Tennessee. So if you drive 70 miles an hour, you have Steve Cohen and Peyton Manning to thank as well.

I have one question for all the folks. And I understand that COVID has resulted in significant health and economic challenges for transportation industries. But looking forward, what do y'all think the recovery would look like for you? And how can this committee support that in any way?

Mr. PUGH. As for me and for trucking, moving forward, one thing Congress needs to do is, in working with FMCSA and probably FEMA, is we need to come up with a good way for truckers to get vaccinated, especially right now with there being the two-step vaccine. Truckers leave home. They are gone, you know. They don't know when they are going to be back, so it makes it tough to get that second one. There are [inaudible] or places like St. Christopher's Fund who set up flu vaccines in the past. We urge Congress to maybe work with some of them, work with some of these to set up places either in rest areas or truckstops or something like that. Hopefully this Johnson & Johnson shot will come available soon. It is my understanding that is a one shot. And as far as the trucking community, for those who want vaccinated, that would be the best thing for them to use.

Mr. BUSCAINO. If I can add, Congress Member. On behalf of cities, towns, and villages across the country, we encourage our colleagues in Congress to pass the COVID Relief Act. Move on a long-term infrastructure bill that was promised by the previous administration but failed to do so. What better way to put Americans back to work in a time of a recession, in a time of pandemic, than to pass a long-term infrastructure bipartisan bill. Thank you.

Ms. NELSON. Absolutely. We need that relief. And the continuation of the payroll support is so critical, not only for our financial security and to keep the airlines intact and people in their jobs connected to their safety and security credentials so that we can lift the economy again, but also so that people are staying on top of their bills, paying their taxes, and contributing to the economy in a way that supports our towns and cities is so critical. So I appreciate the bipartisan support from this committee so much, and I can't overstate how critical that is.

I will also just reemphasize that a Federal plan to have vaccine distribution in our workplaces is going to be a much more effective program for crewmembers and other airline workers than trying to have this done through the States and have people haphazardly try to get appointments, so that would be very helpful. Thank you.

Mr. BURCHETT. Ma'am, I would hope during anything that we do with the airlines that we would put some caveats in there that were not put in during the banking bailout. And I would hope that the—for lack of a better word, the bigshots in the airline would not be able to receive that money. It would go to the working folks like yourself and some of your colleagues.

Ms. NELSON. So that is what we have done. And I have to say that being 80 percent unionized in the airline industry was very helpful because we had the power to make them sit down with us last March. They had to agree with us before they could come to you for a bailout, and it was truly workers first. It required that it only go to the workers. And on top of that, we capped their pay and banned stock buybacks. So this was the first ever workers first program that also puts these executives in check, and thank you so much for supporting that.

Mr. BURCHETT. Yes, ma'am. And, also, from the trucking industry, I know Pilot Oil is headquartered in Knoxville, Tennessee, and they are all over the country, I guess, the largest diesel fuel movers in the country, and I will bring that up with them about the vaccinations. Mr. Haslam is a great citizen of our community, and I will bring that up with him. I spoke with him earlier today. I will speak with him later today and to bring that up with him as maybe a suggestion, so thank y'all.

Mr. Chairman, thank you again, brother, and I yield back the 18 seconds remaining of my time.

Mr. DEFAZIO. I thank the gentleman.

Is Representative Wilson back? Nope.

OK. Representative Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

I want to thank all the witnesses.

So, together with Congresswoman Pressley, we represent the Port of Boston, and we represent Logan Airport. So President Nelson, we appreciate your remarks on the airline industry. And, also, Mr. Buscaino, we appreciate your concern about the port, the maritime ports, and I associate myself with Mr. Lowenthal's remarks.

The way that the Trump administration configured this COVID response was really that each State could sort of do their own thing, and that, in my opinion, has not been helpful. In my own State, for instance, on the list for vaccines, some people are in, some people are out. So we are going through a process right now where the postal workers who visit every home in America and business in America 6 days a week, they are not being vaccinated. They are not priority, and yet other workers are.

So I was just wondering if there is something we could do, especially with Chairman DeFazio, to just unify the response here in a way that addresses the airline industry and the ports that are more global in nature? And is there a way that we might be able to send a message to these States, all 50 of them, that people in the transportation industry should be covered because of the nature of the risk that they face. Just like we are fighting this fight on behalf of the postal workers, is there a way that we do a resolution that would send a message to these Governors that we recognize the special vulnerability and the special role that our transportation workers embrace each and every day. So I am not sure

if any of our witnesses would like to expound on that or share their own thoughts, but I would appreciate it. Thank you.

Mr. RIVERA. If I may, Ismael Rivera from Orlando. With that being said, we were asking by providing \$39.3 billion for the transit preservation and service of PPE and quickly try to implement all essential workers to include bus operators to get the vaccine. But just like you stated, we deal with passengers coming on a bus every day, all day long, and they too, like postal workers, take things back home and visit every household in America, and they could possibly pass it on. So that would be my recommendation.

Mr. LYNCH. Thank you, Ismael.

Mr. BUSCAINO. If I may, Joe Buscaino here. From the east coast to the west coast, when we talk about the supply chain, the goods moving that comes through the Port of Los Angeles and Long Beach, they hit every congressional district. So common guidance moving forward from the Federal Government would be helpful on protections for vaccines and transportation workers. It is a global supply chain that goes across all State lines. That will be very helpful.

I would also recognize my colleague, Congress Member Lowenthal. I would take a page out of his playbook, and my Congress Member, Nanette Barragán, to motivate and encourage the Federal Government to prioritize the vaccinations for maritime frontline workers. Thank you.

Mr. MICHAELS. Congressman, if I could add to that as well. In addition to obviously giving the States and local communities more funding to do this vaccination because they are desperately underfunded, I think we have to recognize that workers involved in interstate or global transportation and commerce don't necessarily stay in one location for very long. And saying to Massachusetts, for example, that every seafarer who stops in the Port of Boston should be vaccinated based on Massachusetts' allocation may not be just. And so I think that you have heard from several of us is there probably needs to be a special overall program in ports and airports and other places that reaches out and vaccinates transportation workers in an efficient way in the limited time they are in that port or in that hub to get them vaccinated. And that is probably—that vaccination allocation has to be taken off the top and used by the Federal Government.

Ms. NELSON. I will just add on to that very quickly, and thank you so much, Congressman Lynch, for your support on this. But there are flight attendants who have finally gotten their date to go get their vaccine. It happens to be the date that they are working, and there is no way to get off work, so they have to let that time pass by. So the Federal plan would be better, but we also appreciate your efforts with the States to get them to prioritize that. That is all helpful.

Mr. DEFAZIO. The time has run out. Thank you, Congressman Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. Thank you.

Mr. DEFAZIO. Next on the list is Congress Member Guest.

Mr. GUEST. Thank you, Mr. Chairman.

Mr. Pugh, in my home State of Mississippi, the trucking industry is extremely important to our local economy where 1 in 12 jobs is



directly linked to the trucking industry. We have over 5,800 trucking companies, primarily small, locally owned and operated businesses. Those businesses were among those unable to access PPP and other resources that you described in your testimony.

In your testimony, you discussed the limited amount of PPEs and the necessary resources your industry was afforded during the early stages of the pandemic as haulers across our country carried the needed supplies to frontline workers who themselves were left without. You also mentioned the challenge your industry now faces with access to testing and vaccine. On pages 8 and 9 of your testimony, you say “truckers face distinct challenges when it comes to accessing testing for COVID-19. Most of the time, our members are out on the road, away from home, often for hundreds of nights a year. It is not easy for them to drop into their doctor’s office for a COVID test if they are feeling sick . . . Similarly, truckers are now concerned about how they will access vaccinations while continuing to work. For professional drivers, who often spend several consecutive weeks or even months on the road to make ends meet, accessing vaccinations can be logistically difficult and economically disruptive. Few truckers know precisely where they will be from week to week.”

Mr. Pugh, I would ask you if you could, one, expand on these issues that you talk about in your testimony and then also answer for me how we, as the Federal Government, can help smaller trucking companies best address getting vaccines out to our constantly moving haulers.

Mr. PUGH. Yes, thank you for your question. Yes, that is correct. Trucking is probably one of the, if not the most, transit profession there is. Guys not only don’t know where they will be week to week; they don’t know where they will be sometimes day from day. Truckers are around different people at different times. A lot of times you don’t even know who you are around.

So that is why in the early stages of this would have been—it was so important for truckers to be able to get this PPE so they don’t spread because by the time they did find out they had it, they might have been five States away 3 days ago, and who knows how many paths they crossed then. And there is no way to even figure that out.

The other big issue in the early stages of this was if a trucker did get COVID, one, like you said, it was very hard for them to get tested; two, and if he did test positive, what did he do? I mean, are we going to trap a guy in a truck for 2 weeks to make him quarantine where there is no food, maybe no restroom, no nothing? You can’t do that. It is impossible. And maybe he is too sick to drive home.

So these are things that we have to think about federally because I don’t think as States—we have this patchwork of States all over. Going forward, like I said earlier, we need to work with, whether it is truckstop chains, with the States’ rest areas, transportation, or whatever, to set up places where drivers can stop and get these vaccinations that they need to be safe, to be healthy. Like I said, truckers can’t just stop anywhere. This Johnson & Johnson vaccine would be great.

And one thing I would like to remind people, I am not saying a trucker is a frontline worker, but they are right there behind the frontline workers, supplying them with all the things that they need. So truckers don't stop. So they should be moved, elevated up to be right behind these frontline workers to get this vaccination.

Mr. GUEST. Thank you. And Mr. Pugh and Mr. Chairman, I yield back.

Mr. STANTON [presiding]. Thank you very much, Congress Member Guest.

I am the next person to ask questions, and I want to address my questions to President Sara Nelson. President Nelson, you gave some very powerful testimony at the very beginning of today's hearing, and I didn't want to lose sight of that.

You told the important and tragic story of a flight attendant who, because of furloughs as a result of the lapsing of the PSP program, because of furloughs, she didn't get furloughed, but she had to work extra, and she had to move her base of operations from Phoenix, Arizona, which is in my district—I am the former mayor of Phoenix—to Philadelphia. And so she had to spend a lot more time on planes, putting herself at risk.

And, tragically, as you mentioned, she died from COVID last week. So, first, on behalf of myself and all members of this committee, please pass on our deepest sympathies and condolences to the family of that hero, that flight attendant that passed away because of COVID.

But I wanted you to maybe talk a little bit more about that, because we think of the PSP program as a program to help the American economy, to help American workers. It is particularly critically important American industry, the airline industry. We think of it as a way to—it affects so many employees, and we want to support those employees to the best of our ability.

But you brought up another angle on it that many of us don't think about—frankly I hadn't thought about enough—and that is, if we let this lapse again, not only are many employees going to lose their jobs and be furloughed, but many will be put in positions of greater risk to their own safety, and maybe you could just take it from there and expound upon that, how the support for the PSP program is not just about the economy, but it is about people's health as well. President Nelson?

Ms. NELSON. Yes. I really appreciate that. You got me a little choked up too. This is very hard. Because when you get into a time of cost-cutting—and we had the lapse in the Payroll Support Program starting October 1st—we saw a great turn to cost-cutting so that the airlines can try to cut as many costs because they are still losing—major airlines are still losing \$30 million a day. So what that does is it puts stress and strain on the workers on the front lines, and you see that through all kinds of public health decisions that have that cost-cutting strain.

And then you have business decisions, like the one in Phoenix, to downsize the base because there wasn't enough demand there, and that pushes workers out to other stations.

You also have situations where the furloughs cause a ripple effect across the workforce, and in order to keep a job, it means moving your family several States away, or commuting more because

you can't take your kids out of school or move them away from their communities or from your family base that makes everything work because you have got parents or aunts or uncles who help out.

So this, absolutely, the stress and strain of not having the payroll support for the workers who remain on the job puts their health at greater risk and makes them have to actually shoulder a greater burden of cost when they have to make these decisions to move to other States to keep their job. So there is a ripple effect that hurts the entire workforce and puts them at greater risk for their personal health and what they bring home to their families.

Mr. STANTON. Well, we owe you a debt of gratitude for bringing tragic stories like that to the American people's attention, because we need to continue to build support for PSP, and your particular involvement, your leadership, I think, has helped build confidence, on both sides of the aisle, that support for that critically important program is essential, not just for the American economy but for the safety of the workforce involved.

And we know that the current round will end soon. American Airlines has already announced they are looking at furloughs shortly after it would lapse. And so we look forward to working closely with you to make sure that we continue to ensure that this industry stays strong, but more importantly, the people who work in the industry stay safe.

Ms. NELSON. Thank you. And I just want to add one other point—

Mr. STANTON. Please.

Ms. NELSON [continuing]. On that because it will lapse on March 31st, but airlines schedule 2 months in advance. So the uncertainty is beginning now. The mental health strain and stress on the workers who don't know what this is going to mean for them if Congress doesn't act soon to extend this, they are feeling that right now. They are feeling that uncertainty right now, and we have an increase in mental health issues and calls to our EAP, and we have people who have taken their lives.

So the extent to which this affects people on the front lines and the timing of getting this in place right now is so critically important for health, not just with COVID but for every other reason as well.

Mr. STANTON. All right. Thank you, President Nelson, for that clarion call, critically important.

I will yield back the rest of my time and now go to Congress Member Van Drew.

Mr. VAN DREW. Thank you, Chairman. I am honored to join all of you today on this House Committee on Transportation and Infrastructure, and I look forward to working with you. I did want to mention before I start some other points how much I feel for the small trucking companies. These are men and women who work so hard, day in, day out, breaking their back, transporting the goods and services and everything we need across this country.

Without them, we would be nowhere, and they need to be lauded sometimes and thanked for what they do. They may not be considered a frontline worker, but they are darn close to it, and the challenges they have aren't only COVID. They have challenges, health

challenges, life challenges, in the kind of work that they do and the kind of existence they have to have. So I am proud to know some of them, and I am proud of what they do.

South Jersey, where I am from, has a tremendous need for infrastructure improvements—from roads, bridges, airports, to coastal resilience projects. My district is also home to the William J. Hughes FAA Technical Center and the U.S. Coast Guard's Training Center, Cape May, the accession point for all enlisted—all enlisted—that are going into the Coast Guard. Both facilities are authorized through this committee.

I look forward to working with my colleagues to modernize the infrastructure of south Jersey and the United States, both for the FAA and the Coast Guard.

For this hearing, I wanted to specifically focus on how COVID affects air travel. COVID presents safety concerns for both passengers and air travel workers and threatens tens of thousands of good jobs and lifestyles. The solution to this problem is to embrace the American spirit of innovation and adapt to change.

So I want to take this opportunity to advocate for my own legislation, the Health Smart Air Travel Act. My bill creates a program to develop and standardize technologies to mitigate COVID in airports and passenger aircraft.

This bill has broad industry support, including Airlines for America, the Coalition of Airline Pilots Associations, the National Air Carrier Association, the Aerospace Industries Association, Airports Council International, and U.S. Travel Association.

The Health Smart Travel Act is bold. It is innovative. It is active. Our country needs to adapt and to overcome COVID. It will create a safer air travel environment for workers and for passengers across the United States, and I sure hope this committee takes it under very serious consideration.

I direct my questions to Ms. Nelson and Dr. Bahnfleth, and I think I know the answers, but I would like to hear them again.

Does COVID itself create a need to adapt a new novel, different air travel infrastructure with new technology?

Ms. NELSON. Congressman, I will just say yes, and it requires innovation from this country. We have led on aviation around the world since its inception, and we look forward to working with you to make sure that anything that is put in place takes into consideration how it will affect the workforce.

Mr. VAN DREW. And I appreciate your support for the bill as well.

Ms. NELSON. Thank you.

Mr. BAHNFLETH. Yeah. Thank you, Congressman.

I absolutely support the need for innovation, but at the same time, noting that there is a lot of existing technology that isn't utilized yet and also that air travel safety starts on the ground. And so it is ground facilities, it is the planes, it is the transportation that gets you to the airport. So I think we really need to look at this comprehensively.

Mr. VAN DREW. Thank you. Should the Federal Government work with stakeholders to stimulate the development and implementation of such technologies and identify best practices to set national standards? And the reason I ask these questions, because—

and it was just alluded to a moment ago by Ms. Nelson—America is—she didn't quite say it this way, but I am going to say it this way—America has always been number one. We are number one in everything, we should be number one in everything. We need to be number one with this, and we really need to go forward and remedy this situation.

And it is complicated. It is complicated when people are waiting to board an aircraft. It is complicated in the aircraft. It is a situation that I don't have to tell any of you doesn't lend itself easily to a cure. But I ask real quickly, do you think we should work together to identify best practices to set national standards?

Mr. STANTON. All right. We are out of time. That is a yes or no question.

Ms. NELSON. Yes.

Mr. STANTON. Yes, all right, thank you very much.

Mr. VAN DREW. And if I could have the response for the record, I would appreciate it.

Mr. STANTON. Thank you very much, Congress Member.

The next will be Congress Member Wilson.

Ms. WILSON. Thank you so much, Mr. Chair, thank you so much, and thank you to our witnesses for your testimonies today. It is imperative to me that we recognize and thank transportation workers across our country, across the Nation. In the face of a devastating pandemic, they have been at the forefront of efforts to keep our economy going, and we thank them.

Congress must ensure that our transportation workers are empowered to safely perform their duties. So I am committed to working with my colleagues on both sides of the aisle to achieve this goal. With that, I will begin my questions.

Mr. Rivera and Ms. Nelson, I want to personally commend you and your fellow transportation workers for their service during this devastating pandemic. In your testimonies, you highlighted the dangers that transportation workers face enforcing mask mandates, including physical violence and verbal altercations. This has been apparent in my own community when a Miami-Dade busdriver was spat on by a passenger.

It is impossible to effectively manage this pandemic if workers feel unsafe enforcing COVID protocols. From your viewpoint—and I am speaking to both of you—what steps should be taken by Congress and other Government entities so that transportation workers feel empowered to enforce safety protocols?

Mr. RIVERA. Well, thank you for that question. And you are correct, that did happen in Miami. I was aware of that as well. We would say that here in Orlando—I can only speak for Orlando and other ATU agencies that I am aware of—we need the resources so that they can support us like in the airlines before, make constant announcements over and over. And not only that, but implement even at the local level. I can give an example. Speaking to an officer here in Orlando, he stated that before he can enforce and arrest anybody for not wearing a mask, he would turn in his badge.

I tend to disagree. So, if certain individuals can't do their job and help us implement it, then we have a lot on our hands. So I would say, give us all the resources, including law enforcement, to go out

there and hope that they implement and strictly enforce these to make our job a lot easier. Thank you.

Ms. NELSON. Absolutely. I want to echo that. And we need to make sure that when we are calling when we have problems, that law enforcement is responding, but we can start with directives from the FAA, from DOT, for signage everywhere, for announcements in the airports. After 9/11, we had Janet Reno saying over and over again in the airports, if you see something, say something. And everyone got the word.

So we need to have that coming from leadership, and we are so glad that we have this leadership now from President Biden, from Administrator Dickson, and now from Secretary Buttigieg. But we also need to have this echoed in our airports and very clear for everyone everywhere, and then instructions to law enforcement that they must take this seriously too and conclude the chain, so that people know that there are severe consequences if they are interfering with the workers' ability to do our jobs to keep everyone safe, and certainly if they are committing physical violence, that needs to have harsh repercussions.

Ms. WILSON. Thank you. And Janet Reno is from Miami too, so thank you. Acknowledgment.

Ms. NELSON. Celebrate Miami.

Ms. WILSON. Would you both support legislation that would expand or strengthen OSHA's role in protecting transportation workers from hazards like COVID-19 or workplace violence?

Ms. NELSON. Let me just say yes.

Mr. RIVERA. Yes.

Ms. WILSON. OK. Mr. Michaels, as you noted in your remarks, an infection plan cannot be imposed by fiat. It must be continuously evaluated with the input and collaboration of the workers. If not, the plan is less likely to succeed.

In my opening statement, I highlighted the importance of transportation workers feeling empowered to effectively perform their duties. Please highlight some examples of the implementation of an effective infection plan, either at the State and local levels or internationally with workers' buy-in that Congress should use as a model?

Mr. MICHAELS. Congresswoman Wilson, you made a very important point, and there are plenty of examples around the country of unions that have gotten together with their employers and worked out a plan so that we are all in this together, we are going to make sure that they work. And I can—you know, I can send some of those examples in.

I know we don't have that much time, but I wanted to also return to your last point, that, you know, the reason I think OSHA needs to play a larger role in this happening is that the transportation safety agencies—Federal Motor Carrier Safety Administration, Federal Railroad Administration, et cetera—don't really have the ability to either regulate or enforce these protections against COVID-19.

The FAA has limited ones, and they actually agreed to let OSHA take those on, that President Nelson talked about a few minutes ago in terms of the protections from blood-borne pathogens and dealing with Ebola. So I think what this committee needs to do is

really encourage those agencies to think about how they can issue regulations and enforce them jointly with OSHA, which has a great deal more authority in this area.

Ms. WILSON. OK. Thank you so much.

Mr. Buscaino—I hope I pronounced your name correctly.

Mr. BUSCAINO. Buscaino. Buscaino, ma'am. Now you are half Italian. See that. Fantastic.

Ms. WILSON. Thank you for your testimony—

Mr. BUSCAINO. Yes, ma'am.

Ms. WILSON [continuing]. Highlighting the challenges that cities face as the first line of defense in dealing with the pandemic. There is a balance that cities find between—

Mr. DEFAZIO [presiding]. Excuse me.

Ms. WILSON [continuing]. Protecting essential workers and sustaining their economies. In my district, the Port of Miami is an important economic driver for south Florida. And its most effective measures, in addition to other safety [inaudible] we need to vaccinate port workers, busdrivers, flight attendants, essential transit—

Mr. DEFAZIO. I am trying. The gentlelady is way over her time. Thank you.

Ms. WILSON. OK. Thank you.

Mr. DEFAZIO. Thank you.

Ms. WILSON. I yield back.

Mr. BUSCAINO. Congress Member, we would be more than happy to answer questions offline.

Ms. WILSON. Thank you.

Mr. BUSCAINO. You are welcome, ma'am.

Mr. DEFAZIO. Representative Steel?

Mrs. STEEL. Thank you very much. Chairman DeFazio, Ranking Member Graves, and members of the committee, it is an honor to serve with you on the Transportation and Infrastructure Committee. I look forward to working with you to ensure that our constituents have a reliable mode of transportation and modern infrastructure and both safe and clean waterways.

As a former chairwoman of the Orange County Board of Supervisors—by the way, we have 3.2 million residents living in Orange County—I helped manage our local freeways, buses, and wastewater infrastructure. During the height of COVID-19, I worked with State and local officials to make sure that our communities and transit systems had the resources they needed to keep people safe and healthy, like hand sanitizers on public transit.

I also know how important it is during these uncertain times to support small businesses in preventing further increases to unemployment.

I have a unique point of view on this committee as I come from a background dealing with the pandemic and transportation issues on a local level, and I am excited to keep this dialogue going.

I just have one question for Mr. Pugh. You mentioned in your testimony that Congress could temporarily suspend the Federal diesel tax. What would happen to the trucking industry during the pandemic if Congress increased the Federal diesel tax, and how would that affect distributing items to our local community, that local community has been suffering so much for almost a year now?

Mr. PUGH. Yes, ma'am. We would like to see the diesel tax cut during this. When the rates dropped and everything happened, we recommended a temporary doing away with that for the time so that we gave truckers a break. OOIDA, I mean, as far as supporting an increase in diesel tax, has always been in favor of that when it is needed because that is the fairest, most equitable way to fund for highways.

We understand that the Highway Trust Fund is going broke, and the money has to be increased, and, you know, we would like to see it via fuel tax, not via some of these other things that we see, such as tolling, the VMTs, and some other issues like that.

Again, fuel tax is already set up. It works. It is collected at the pumps. So it is a very good system, and it is fair and equitable. If it was to be increased either here after COVID is dying off or in the future, the only thing we ask, that it is raised fair and equitably between diesel and gasoline.

Mrs. STEEL. On a separate note, which States besides Missouri denied truckers to eat hot meals at the rest stop? Is this still an ongoing issue?

Mr. PUGH. Yes, it is still a current issue. I would venture to say there is probably more States than less that didn't allow this. I can have my staff—I don't know the exact number of States, but I can have my staff follow up with you on this and this issue and some of our concerns with that. But I mean, we were pretty much told by DOT here in Missouri that they were not going to allow this, and those are due to—because truckstops don't want this to happen.

Mrs. STEEL. Thank you very much.

Thank you, Mr. Chairman.

Mr. DEFAZIO. I thank the gentlelady.

Representative García?

Mr. GARCÍA OF ILLINOIS. Thank you, Mr. Chairman. Staying true to your suggestion, I will skip the opening remarks.

Mr. Rivera and Ms. Nelson, given the job responsibilities that you already have, is it reasonable to ask you and other frontline workers to also enforce the mask mandate? And what additional resources are needed to ensure that passengers and workers are safe in our transit systems?

Mr. RIVERA. Well, good afternoon, Mr. Congressman. I would say, my recommendation would give the resources so that we have those officers or additional, perhaps, supervisors who can ride, you know, we have a big great area, have more supervision on routes so that when we call dispatch, and we have some confrontation or any issues on the buses, that, you know, the company is always coming back and saying, it is due to lack of funding.

So—but it puts us in the front line, and again, we are not the police officers. I have to look at my surroundings. I have to look at my rearview mirror to see if customers have their masks on. And it just gets a little stressful driving that bus down the road.

So giving the resources to the authorities so that they can implement and perhaps get more involved in supervision, police, whatever they need to be doing to enforce this mandate.

Ms. NELSON. We find that any new policies are best met when people understand clearly what is expected of them and what the



consequences are if they don't comply. So, as we step this up and we have law enforcement responding, that is very helpful, but we always say in aviation that the best way to keep us safe and secure is to keep problems on the ground.

So it is very important to have clear signage in the airports, communications to passengers when they start at the ticket-buying process, and then communications all the way through their travel experience, right up to the airplane door. That would include also the consequences for not complying with that.

When we have all of that backing and then we have, on the back end, a response from law enforcement that is very swift and sure, people get the message, and people get the message and it helps deter any issues where we are caught in the middle of trying to enforce this on board without any backing. So thank you very much for the question and the backing.

Mr. GARCÍA OF ILLINOIS. Thank you, Ms. Nelson.

Dr. Michaels, on vaccines, there have been a lot of different approaches across the country to getting frontline workers vaccinated against COVID. I know that many of the transportation workers in my district are worried about getting COVID at work and then bringing it home to their families, which is why I am glad to see the CDC has recommended that transportation workers be among the first people to access the vaccine everywhere, putting transit workers at the same level as grocery store and teachers.

Everyone on this committee understands a decision without a healthy transportation workforce, we will never get out of this pandemic.

Dr. Michaels, can you please speak to the reasoning behind the CDC's decision to prioritize transportation workers and the need to ensure that frontline workers are among the first people vaccinated, briefly?

Mr. MICHAELS. Congressman, that is a really important question. The CDC, as well as several other organizations—the National Academy of Sciences—have all said frontline workers need to be prioritized because, first of all, they are the ones who need to go outside to get to work. They can't stay at home, like some of us, and do their work on Zoom.

They are at much greater risk of exposure. They can then expose others. They can bring the disease home to their families and to their communities. Many of them live in multigenerational homes and, therefore, exposing older people who are at great risk.

The challenge we have right now is the States—many States haven't figured out how to do this. States have said, well, we are prioritizing grocery store workers, transportation workers, but they still have to line up the same way, which means they have got to be able to get on the computer systems or phone systems to get into appointments. They have got to get, as you heard from President Nelson, time off to get the appointments.

They have to be fast typists. If you go on these programs when there are limited times they are open, if you are not there at the right time getting the information in quickly, you are just shut out.

So I think what needs to happen is States have to step in and say, it is not just that we are saying these workers—meat-packing workers, farm workers, grocery store workers, transportation work-

ers, busdrivers—it is not just that they are in the front of the line, but we have to go and find them. We have to make sure we get the vaccine to them where they are, maybe at work, and then we should involve their employers and their unions, or in their communities.

Because right now, it is not working. You know, the people who can get vaccines are White, middle-class, upper-class people who know how to work the computer system. And this is a real problem.

Mr. GARCÍA OF ILLINOIS. Thank you, Dr. Michaels.

Mr. Chairman, I was going to ask another question about insurance and trucking, but I have run out of time. I yield back.

Mr. DEFAZIO. I am sorry. The gentleman's time has expired.

Representative Pappas?

OK. He may not be on right now.

Representative Lamb?

Not on?

Representative Bordeaux?

Representative Kahele? Turn on your mic. There you go.

Mr. KAHELE. All right, show time. Thank you, Chair, and it is an honor to be on the Transportation and Infrastructure Committee and to join you in the 117th Congress.

You know, we started off this hearing and this hearing room was pretty full, and I can see now why seniority has its privileges. And, you know, I have decided to sit here through almost 3 hours of this hearing because I not only sit here representing the Second Congressional District in Hawaii, but I also sit here representing 810 Hawaiian Airlines employees who all received warning involuntary furlough notices just a few days ago, of which 647 flight attendants and their families and 99 pilots and their families both received those same involuntary notices. American Airlines will be issuing 13,000 involuntary furlough notices beginning tomorrow. And so this is something that I am deeply concerned about.

My question is for Sara Nelson of the Association of Flight Attendants, and I mahalo her for being here today and for selecting her choice of background, and reminding the Nation that COVID-19 is a deadly pandemic that has taken over 400,000 lives, of which is Mr. Paul Frishkorn, the first flight attendant in the Nation to die from COVID. And we send our thoughts and prayers to his family.

My question is in regard to the Payroll Support Program because although we have discussed a lot of things today, this is what is most urgently on my mind. In 55 days, on the 1st of April, thousands of airline employees across this Nation will lose their jobs, will be involuntarily furloughed.

We saw how the country and the Congress supported the airline industry with \$25 billion last March, and the result of not extending the PSP past the 1st of October resulted in 32,000 of those airline employees being furloughed.

Congress in the 116th Congress appropriated \$15 billion but not until December, and that PSP will expire on the 31st of March, in 55 days. So my question is for Ms. Nelson. The number we have come up with is something that is being debated here in Congress, and there are colleagues of mine that do not want to extend up to \$15 billion of PSP to the airline industry.

So my question is, what would be the ramifications of not meeting that number of \$15 billion? How did the industry come up with that number, and how important is it for Congress to extend that \$15 billion PSP in this next package and do it as quickly as possible?

Because, like you said, thousands of families and pilots and airline workers and frontline workers are experiencing anxiety and all the stress that they have as they await this potential involuntary furlough notice. So we need to avoid that. We need to act with a sense of urgency, and we need to get this done before the 31st of March. So I ask my question to Ms. Nelson.

Ms. NELSON. Representative Kahele, first of all, welcome, congratulations. So glad that you are on the Transportation and Infrastructure Committee and the Aviation Subcommittee with your expertise.

It is urgent that we get this done, and it is urgent that we get this done before March 1st because people are going to be making life-changing decisions based on whether or not they have a job and whether or not there are furloughs, because there is a ripple effect for the people who are still at work trying to make ends meet, having to move to other locations to keep their job and the like.

And the furlough numbers only start to tell the harm. It is also unpaid leaves that are forced on people to keep their healthcare.

But what is also the ramification, the ramification is that Congress has to come up with more funds to support these workers. Because the Payroll Support Program pays a portion of the payroll. It is down from the \$25 billion for 6 months that we had in March. We are talking about now \$15 billion to continue that funding—or actually \$14 billion because \$1 billion is for the contractors, for 6 months this time.

And if we don't supply this support for these workers, what we are going to do is push them to the unemployment lines. Then we will be talking about trying to provide support for COBRA benefits, and we are going to be talking about the problems that this creates because we have lost that tax revenue for our cities and our locals, and that is going to have a ramification for our jobs in sanitation and education and postal workers and everything else.

So then we are going to have to try to make up for the lost contributions to Social Security and the strain that that will put. This program has to continue for the people that this directly affects and the stress and strain that they are under right now, and the transportation system that we count on and the infrastructure that remains in place when we have this program.

But we also need to do this because if we don't do this, we are going to have a bigger bill for Americans to pay later. This is the best use of Americans' tax dollars to keep these people in their jobs with continued benefits, and it is the only workers first program in all of COVID relief.

Mr. KAHELE. Thank you, Chair.

Mr. DEFAZIO. I thank the lady and the gentleman.

Ms. NELSON. Mahalo.

Mr. DEFAZIO. There was just a little blurb on Reuters. Apparently, the White House Press Secretary enumerated the overarching priorities of President Biden in terms of COVID relief

package. She was not detailed. And no one should take—you know, Congress is an independent entity. So we are going to accomplish his goals and some of our own.

And for some reason, the Reuters reporter, David Shepardson, if he is listening, I have not endorsed. I have been very vocal on the need for an extension of PSP, as well as aid to transit, as well as aid to private bus companies, as well as aid to the airports, as well as aid to contractors, as well as aid to concessionaires at airports except for the national chains. So, with that, I have clarified the record. We will move on.

Representative Strickland?

Nope. You are on, we can see you, but we are not hearing you. Hello? Unmute. Unmute.

OK. We will come back to her.

Representative Strickland, you are muted. Muted.

Well, so are having an audio problem then, so we will move on.

Representative Malinowski?

We will move on to Representative—

Ms. STRICKLAND. Am I muted now?

Mr. DEFAZIO. OK. Start over, start the clock over. You were not audible. Thank you.

Ms. STRICKLAND. Sorry about that. Hi, this is Representative Strickland, representing Washington State's 10th Congressional District. Thank you, Chair DeFazio and Ranking Member Graves, for allowing me to be here today.

And as a former mayor and a former board member of two regional transportation organizations, I know how vital transportation is to our economy, and I know that these transportation agencies don't work without the dedicated employees. And we must make sure that they are protected during and after this pandemic.

So I will talk about three things today—the need for local funding, equity, and what we can do with a national mandate.

So I would like to start directly with Council Member Buscaino, who is a city council member. Could you please talk about how direct assistance and 100 percent—

Mr. DEFAZIO. Can you hear me? Hello? Keep going. Keep going.

Ms. STRICKLAND. OK. So this is for the council member. Could you please tell us how direct assistance to cities and 100 percent FEMA cost-sharing will affect essential workers in your community and across the country?

Mr. BUSCAINO. Thank you, Congress Member. I speak on behalf, of course, of the National League of Cities, and one of your mayors, Mayor Victoria Woodards, is one of our officers, a second vice president, representing Tacoma. And I appreciate the question.

We are ecstatic and pleased as cities, towns, and villages to have that 100 percent reimbursement from FEMA. If we didn't, cities would be faced with furloughing of the cities' essential workers, such as sanitation workers, public works workers, those who pave our streets and patch our potholes.

For us, knowing that we would get that reimbursement, we would avoid 6 months' worth of layoffs and furloughs. And keep in mind, cities, towns, and villages, we don't print money. We are forced to balance budgets every single fiscal year, and that is, you know, what we need to do moving forward.

Without a COVID relief package, we are going to be dipping into reserves that we already have been, and cities, towns, and villages already aren't seeing the revenue streams coming in. We heavily rely on tourism and trade, particularly here in the southern California region. Both tourism and trade equate to one in nine jobs.

And when we can't get the ships unloaded quick enough, when we are not—it poses an economic issue. When we are not filling our hotel rooms, that poses an economic issue for cities, towns, and villages, because we can't move on our transit occupancy tax, or TOT tax. So then we are forced to turn to layoffs and/or furloughing our most city-essential workers like police, fire, sanitation.

Ms. STRICKLAND. Well, thank you very much.

I now want to switch to the conversation about equity, and I want to make clear that the virus is ravaging marginalized communities and disproportionately affecting communities of color. And according to findings by the Urban Institute, more than half of all Black, Native American, and Latino workers have essential or non-essential jobs that have to be done in person, and they often have to use public transit to get there.

There is a separate finding that also says that one in six Asian-American workers fear receiving substandard healthcare because of their race if they become seriously ill.

So for both Dr. Michaels and the council member and anyone else who wants to answer, what safeguards do you recommend we put in place to protect workers of color in underserved communities? Thank you.

Mr. BUSCAINO. Well, I feel we need to pay them more. The Heroes Pay that you are seeing cities advance, that \$4 more an hour, for at least 160 days, they are clearly essential workers. And I say those who are on the front lines, those people of color who are doing—factory workers, janitors who are cleaning our hospitals, even more so our grocery workers—they need to be paid more.

In addition, we are seeing inequities in the vaccine deployment. A recent New York Times article proved that there are more affluent communities in Los Angeles County who are getting vaccinated at a higher rate than communities of color. This is why we have partnered with our counties as well as the Federal Government to now expand our vaccination sites in disadvantaged communities, and we are proud of that. And this is what cities are thirsting for and demanding in every part of the country.

Mr. MICHAELS. And I would add, beyond vaccinations, what is badly needed is a very strong workplace safety standard put out by OSHA, but I don't think it should just be the one that OSHA may be working on now. Congress needs to pass a law—and that was something that the House passed in the last session, needs to revisit—to expand it.

OSHA doesn't cover all workers. There are millions of public sector workers in much of the country, not Washington State but much of the country, who have no OSHA coverage. And transportation workers also are in sort of OSHA-free zones.

So Congress needs to essentially pass a law requiring the Federal Government to issue strong enforceable standards to cover all workers.

Ms. STRICKLAND. Thank you.

Mr. BUSCAINO. Can I recognize, Mr. Chairman? I do want to recognize this committee who is—we have a number of former local elected officials like Congress Member Strickland and others. You understand where we are coming from, and local leaders make great national leaders, for the record. Thank you.

Ms. STRICKLAND. Thank you.

Ms. NEWMAN [presiding]. Well, thank you all for your remarks today. Much appreciated your—all of the witnesses have been incredibly articulate.

I now recognize myself, Congresswoman Marie Newman, for 5 minutes.

So today little bit of a long day, so I have a couple of comments and then a very easy question for our witnesses. And I would agree with all of our witnesses truly on safety issues, safe parking for trucks, safety on buses, safety of our workers, furloughs issues, and credentials issues, air quality, and our cost issues and our economy. I am largely in agreement with all of you.

And interestingly—because I have done my monthly round of calls with ATU and CWA, all of our Federal and local transportation agencies, as well as some of our private employer partners, so very familiar—interestingly, just in the last week with all of these issues, including safe parking for independent truckers.

So, at the end of the day, I just have one question for all six of our witnesses. So, in addition to all of the, I would say, proactive, reactive, and remedy ideas that you have shared today, which I largely agree with, would you also agree that at the root of all this, in addition to what you have said, is getting vaccinations to as many people as we can, as quickly as we can, and, therefore, supporting our cities, counties, and States, critically important? And then I will just ask all of you to say yes or no. So I will let the witnesses speak. We will start with Ms. Nelson.

Ms. NELSON. Yes. The problem is the pandemic. We've got to get rid of it.

Ms. NEWMAN. Thank you. And then now go to Mr. Pugh.

Mr. PUGH. Yes. We have to be able to take care of these people and get them the vaccines they need to get rid of the pandemic.

Ms. NEWMAN. Thank you, sir. And then Mr. Rivera?

Mr. RIVERA. Yes. We need the vaccines as quickly as possible, and we are easy to locate. Thank you.

Ms. NEWMAN. Great. Thank you. And Professor?

Mr. MICHAELS. Yes. We need to make sure that the cities and States and counties have enough funding and support to get these vaccines out to the people who need them most.

Ms. NEWMAN. Great. And then I believe it is Councilman Buscaino.

Mr. BUSCAINO. Yes, ma'am. Vaccines, as soon as possible, let's deploy. We stand ready as cities, towns, and villages, yes, ma'am.

Ms. NEWMAN. So let's just be on record that largely all of these incredibly knowledgeable witnesses and this body writ large agrees that the most important thing is to get money to cities, towns, States, and counties so that we can distribute this vaccine more widely.

And those are my comments for today, and I am going to go to recognizing Mr. Payne for 5 minutes.

Mr. PAYNE. Thank you, Madam Chair.

Professor Michaels, a permanent national vaccine distribution program depends on the central transportation workers remaining healthy and being able to conduct their jobs safely.

While I am pleased to see the Biden administration take steps to protect workers with transportation mask mandates, what other actions could be done to protect the health and safety of vaccine distribution personnel?

Mr. MICHAELS. Thank you for that question, Congressman Payne. You know, it is the same issues that need to be protecting every sort of worker out there on the front lines. We know how to stop exposure to the virus that causes COVID-19. And you need, before you are vaccinated and even after you are vaccinated, you need to take a lot of steps.

Masking is fundamentally important, distance is important, filtration and ventilation, disinfection. You know, this should be what everybody in the country is doing right now.

Vaccines, people who get the vaccine everywhere are the same people who are moving buses, who are moving airplanes, that all that need that protection, and that is what we have to be focused on. The whole country has to make this the number one priority because only by making sure all of these workers are safe can we stop the pandemic and get the economy back to running again in a normal way.

Mr. PAYNE. Thank you.

Ms. Nelson, our vaccine distribution system could not function without vaccines being shipped by aviation workers across the Nation. In your testimony, you describe the need for a Federal vaccine prioritization program that prioritizes frontline aviation workers. How would vaccine prioritization for frontline airline workers help to ensure a smooth operation of the vaccine distribution system?

Ms. NELSON. Well, first of all, keeping us in our jobs. We are part of the infrastructure that helps get the planes up in the air to get the vaccine distributed across the country to anyone who has those orders on file. So we are a part of making that happen.

But, secondly, having a Federal program, where we can have transportation workers vaccinated and certainly crewmembers who are crossing State lines, will help to cut down the number of people who are most likely to be coming into contact with other people and spreading the virus.

So we are starting to contain, starting to do contact tracing by doing that, and taking the priorities of the people who are most likely to come in contact with other people, either contracting the virus or spreading the virus ourselves.

Mr. PAYNE. Thank you very much.

Professor Michaels, unfortunately, there has been at least one incident of an employee that handles vaccines purposely allowing a batch to spoil. While this was an isolated incident and there have been no such reported incidents involving transportation workers, there is a potential for this threat to distribution networks as well.

How would vetting these vaccination distribution workers protect other workers and the distribution system as a whole?

Mr. MICHAELS. Well, Congressman, I am not a law enforcement expert, but this is clearly a law enforcement issue. These vaccines

are lifesaving drugs. There is—you know, there is no question that destroying a lot of 50 or 500 of these means they are putting people at much greater risk for illness.

And this is a significant law enforcement question, and I think we need to have Federal law enforcement step in, in these situations, and that will obviously protect this country. We need this badly.

Mr. PAYNE. Thank you.

Madam Chair, I yield back.

Ms. NEWMAN. Thank you, Mr. Payne. So now I would like to recognize Ms. Bourdeaux for 5 minutes.

Ms. BOURDEAUX. Thank you so much, and I know it has been a long day. Thanks to all of you for testifying about how we keep our transportation workers safe.

In my district, which is the northeastern suburbs of Atlanta, we have a very modest transit system, but nonetheless, we have lost transit workers to COVID. I know the ATU lost over 120 of its members since the start of the pandemic.

In my district, a busdriver with the Gwinnett County Transit service died of this disease back in July of 2020, and his family believes that he contracted the disease while working because that was the only time he was really in contact with the public at large.

After his death, ATU Local 732 advocated strongly for hazard pay, sick leave for transit employees, and a no mask/no ride policy to protect the transit workers and passengers. I am pleased to say that because of the CARES Act that Congress passed, the Gwinnett County Transit was able to implement a number of very important changes—retooling the buses and how they operated.

That being said, we now face new challenges as we go into a new era of dealing with COVID. We have new strains and, you know, new concerns about how we protect our transportation workers. And in this case, one of the key areas of concern for me is the transit workers. So just a question for Mr. Rivera. Greatly appreciate you being here.

How do we protect our transit workers? And in particular, this is a very small transit agency. It is not one of the big ones that I know a lot of you all here are involved in. What do we need to make sure it is included in the next COVID relief package to help them deal with the new strains of the disease and to continue to protect them in the days ahead?

Mr. RIVERA. Well, thank you for that question. Again, I will say we too are a big tourist area, and we get individuals coming from all over. We need to protect by getting us the vaccines. Make it a priority. We can easily be located. Just come to the hubs and have law enforcement monitor it, give the vaccines.

I also had COVID, and it is scary that I go to work at 3:30 in the morning, and I don't know whether I will come back home to my family. I don't know who is carrying this virus on the bus, co-workers. I don't know.

Pass this bill and help us get all the resources that we need. We need to redesign these buses and protect everyone, from the air filters to the vents, whatever it needs to be done to protect not only the operators, but all essential employees as well as the passengers that take the buses every day, day in, day out. Thank you.



Ms. BOURDEAUX. Thank you so much, and I yield back the balance of my time.

Ms. NEWMAN. Thank you, Ms. Bourdeaux, and today I thank all of our witnesses. It was a bit of a long day, and you all answered admirably. We all learned things today. Your ideas are excellent, and we appreciate all the great work that you are doing out there.

I would like to make one final comment before I close, and that is, I encourage all of our colleagues—Democrat, Independent, Republican—to think about what the root cause of everything is. It is the pandemic. And that if we can get more vaccinations out as quickly as we can, it only makes sense to support our cities, towns, States, and counties.

So let's make sure that any bill we move forward has the remedies that our witnesses have suggested, along with support and funding.

And, finally, I will close. I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing.

I also ask unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

The committee stands adjourned. Thank you, everyone.

[Whereupon, at 3:04 p.m., the committee was adjourned.]



## APPENDIX

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### QUESTIONS FROM HON. SALUD O. CARBAJAL TO SARA NELSON, INTERNATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL—CIO

*Question 1.* First, thank you and your colleagues for all your work to keep America running during this pandemic. I know these have been challenging times and in your testimony you mention “the recovery of our nation’s health and our economy are inextricably linked.” I couldn’t agree more.

Can you speak further on how Congress can support workers during these times? What are some of the resources that would be most beneficial?

*ANSWER.* We very much appreciate efforts by lawmakers to assist Flight Attendants and other aviation workers during this pandemic. The payroll support program has been a lifeline to individual workers—and to ensure this vital industry is in place to help us recover. The lapse in funding from October 2020–December 2020 resulted in deep cuts of personnel both with involuntary furloughs and voluntary furloughs. We have begun the process of recalling people to training, but COVID protocols and uncertainty beyond March when the funding lapses means return to service and certifications will take months and already may mean staffing shortages in the summer. It is critical that the Administration and Congress continue this program beyond the March 2021 end date in order to ensure all workers are recalled and able to begin the process of requalification and security clearance process. Without this certainty for planning at the airlines, we will not have the people, planes, and routes in place to aid in the recovery as demand continues to return.

#### *Communications*

1. We encourage all members of Congress to use your own platform, and coordinate with state governments whenever possible, to help provide good information to the public about the status of the pandemic and how we must work together to end it.
2. Continue to back up and promote the federal mask mandate in transportation. Model use of the masks, lift up the seemingly effortless ways in which children have adapted to masks, and promote in both serious and fun ways the use of masks worn over our mouths and noses.
3. Lift up the FAA zero tolerance policy for passengers who are interfering with crewmember duties or assaulting crew or other passengers. Encourage airports and airlines to communicate consequences for refusing crew instructions to wear masks or comply with other safety regulations. Encourage positive confirmation at every point of ticket sale, check-in, arrival at airport, in the gate area, in jetbridges and with repeated announcements in the gate and on the plane.

#### *Sick Leave, Health, and Vaccine Access*

1. Flight Attendants have been on the frontlines of COVID–19 since before most Americans had even heard of the virus. However, we are not getting priority access to the vaccine—and the discrepancy across states is vast. Anything lawmakers can do to promote access to the vaccine for crewmembers would be helpful—including promoting clinics at airports in coordination with public health officials, airports, airlines, and unions.
2. Encourage airlines to continue to work with us on liberal sick leave policies so that workers are not reporting to work sick—and paid sick leave is provided to quarantine and/or time off to get vaccinated or recover from any side effects of the vaccine.
3. No airline should apply a disciplinary notation for use of sick leave. Over the past year we have had positive response from management on this issue but we are starting to see back tracking.
4. Take every step available to ensure all frontline workers have access to proper PPE—including ramping up production of this equipment in the United States.

5. Encourage DOT to implement the 10 hour minimum rest rule for Flight Attendants. The reduced flight schedule has resulted in longer days and shorter nights. More fatigue as our jobs are more stressful too. This implementation is already more than two years behind the directive from Congress. DOT must act now to put it in place.

QUESTIONS FROM HON. SETH MOULTON TO SARA NELSON, INTERNATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL—CIO

*Question 1.* Ms. Nelson, one day when I flew down to Washington to vote on Covid relief legislation early in the pandemic, half the flight attendants were wearing masks and the other half were not; same for the passengers. As they were leaning over us with drinks and snacks, I remember thinking, “this is crazy!” So I asked, and they said mask use was optional. Optional! For airline employees exhaling the same air as all of us passengers and their colleagues in a cramped, self-contained aluminum tube 30,000 feet in the air! Do you think wearing a mask should be a political statement? Does it make your job more difficult if wearing a mask is a political statement? Does it make your job more dangerous if wearing a mask is a political statement?

*ANSWER.* The conflicting messages from leaders across the country about the pandemic and the actions needed to mitigate, slow spread and ultimately eradicate the threat has been the greatest challenge. These are the areas where government can act to support Flight Attendants during current challenges—and in most cases the Administration has the ability to move on these issues, but backing from Congress is extremely helpful to encourage expeditious action and potentially mandate action as needed.

Since a few days prior to January 6th we are experiencing a new kind of threat on our planes. Flight Attendants are skilled in de-escalation, and most events do not rise to the level of physical aggression with a single “unruly” passenger. However, we are now experiencing hostilities in greater numbers and we don’t have regular travelers to help demonstrate the rules and act as helpers simply by showing others what to do through their routine behavior. More aggressive passengers and fewer helpers is creating an increasingly hostile environment for Flight Attendants at work. We are often the target of aggression as we simply do our jobs with reminding people about basic safety requirements and proper use of masks to keep everyone safe.

A patchwork of policies across airlines does not help. We need consistent guidelines:

1. Pause alcohol sales on the plane and in airports—alcohol is a major contributor to aggressive or violent incidents.
2. If alcohol sales are not stopped, take every step to mitigate problems. Stop “to go” alcohol practices in the airports and communicate clearly with signage that boarding will be denied for anyone who appears to be intoxicated, open containers of alcohol may not be carried on to the plane, and passengers can only drink alcohol served by a worker in the airport or a flight attendant on the plane. Encourage servers in the airports to remain vigilant to the traffic light system and stop serving passengers who are expressing “yellow” behaviors.
3. Enlist local law enforcement in the coordinated effort to hold bad actors accountable. Coordinate actions across airports, airlines, FAA, TSA, FBI, and local law enforcement.
4. Encourage DOJ to conduct criminal prosecution of assaults and violent behavior.
5. Crewmembers should finally have access to mandatory self defense training (currently a voluntary program) as intended by Congressional action after 9/11. The training should be included in initial training and recurrent training to create muscle memory and make it possible for Flight Attendants to respond without hesitation in the event of an attack.
6. Flight Attendant staffing is at FAA minimums across the industry. Our jobs are harder than ever and airlines should be encouraged to supplement minimum staffing in order to maintain safety and security. As a longer term fix, we believe staffing minimums should be reviewed in light of the new conditions in the aircraft cabin—both structural and added responsibilities for crew.

We encourage Congress to act on coordinated loss of flying privileges.

Airlines have been banning passengers from flying on individual airlines following a serious event. But this information should be shared across the industry, and applied across the board. Passengers should be banned from all airlines for a period of time depending on the severity of their actions—and denied the use of alternate security programs such as precheck or global entry.

QUESTIONS FROM HON. SETH MOULTON TO ISMAEL RIVERA, BUS OPERATOR, LYNX,  
AND MEMBER, AMALGAMATED TRANSIT UNION LOCAL 1596, ORLANDO, FLORIDA

*Question 1.* Mr. Rivera, last April, I led a bipartisan letter with my fellow committee members Malinowski and Fitzpatrick, as well as Representative Bacon, to then-Acting Administrator Jane Williams. We requested that FTA guidance regarding PPE and safety protections for transit workers be made mandatory. Under the previous administration, not only did FTA guidance remain optional but mask use was politicized. The Trump White House blocked a CDC order in September that would have provided a coordinated national approach and made mask use mandatory in transportation. I understand you contracted COVID-19, and you shared that 124 members of the Amalgamated Transit Union have died from the virus. I'm sorry for this unnecessary loss, but glad to see you have recovered and hope your family remained safe during that time. When did LYNX begin requiring mask use by passengers and workers, and was that before or after you contracted COVID-19? How might have outcomes been different for transportation workers if the Trump administration provided stronger federal executive leadership in April or even September?

*ANSWER.* ATU pleaded with the Trump-led FTA to protect the lives of transit workers and passengers during the early days of the pandemic. For weeks, the agency included a Q&A statement on its website which noted that "The CDC does not recommend that people who are well wear a facemask to protect themselves from respiratory diseases, including COVID-19." This was not helpful and defied common sense in the context of the public transportation environment. It was unconscionable and immoral to send transit employees to work without PPE during the health crisis. Our members provide essential public services, making sure that people can get to the doctor, the pharmacy, and the grocery store. But they cannot be expected to do so while putting their lives in danger. We also urged the FTA to institute a mask mandate, a request which was ignored. Obviously, had the Trump Administration acted, lives would have been saved. ATU has lost more than 170 members to COVID.

*Question 2.* One day when I flew down to Washington to vote on Covid relief legislation early in the pandemic, half the flight attendants were wearing masks and the other half were not; same for the passengers. As they were leaning over us with drinks and snacks, I remember thinking, "this is crazy!" So I asked, and they said mask use was optional. Optional! For airline employees exhaling the same air as all of us passengers and their colleagues in a cramped, self-contained aluminum tube 30,000 feet in the air! Do you think wearing a mask should be a political statement? Does it make your job more difficult if wearing a mask is a political statement? Does it make your job more dangerous if wearing a mask is a political statement?

*ANSWER.* In addition to driving a bus, ATU members also now serve as the "mask police." Far too often during these politically charged times, we have been brutally attacked for simply enforcing the rules and trying to stop the spread of the virus.

A baseball bat beating in California, a two-by-four attack in Texas, and a bone-breaking sucker punch in New York are just a few violent incidents that underscore another danger for transit workers in a coronavirus world—and they all happened in one month. Since the pandemic began, there have been hundreds of COVID-related violent encounters between bus drivers and angry passengers who refuse to wear masks or follow social distancing protocols.

At the beginning of the pandemic, transit systems were boarding from the back and waiving fares. But regular fare collection and front door boarding resumed again in the summer of 2020, bringing passengers and drivers within a few feet of one another, exposing us to the virus and angry people.

When someone boards one of our buses without a mask, we are faced with a tough choice: say nothing and risk that an infected rider will spread the virus, or tell the passenger to put on a mask and risk a violent reaction. When you confront someone, it can escalate quickly. He could spit on you, he could throw something at you, or he could hurt another passenger. But what if that person is sick and contaminates everyone on this bus? And you could have prevented that?

Last May, a St. Louis man boarded a bus without a mask. After the female driver informed him that he could only ride the bus with a face covering on, the man fired a 9 mm pistol at the driver. She was saved only by the polycarbonate shields that were installed as part of the COVID response. In Austin, TX, a man threatened a bus driver with broken scissors after being told to wear a mask. In Springfield, MA, a PVRTA bus driver was assaulted after asking a passenger to wear a face covering. The suspect punched the woman driver in the back of the head and then assaulted another person who tried to help. Knoxville, TN police arrested a man after he threatened a bus driver with a box cutter after she asked him to put on a face mask

before boarding. In Staten Island, NY, a man was arrested on assault charges for throwing hot coffee onto an MTA bus driver's face when he was asked to put on a face covering.

In Boston, a teenager recently attacked an MBTA bus driver after he was asked to put a mask on or get off the bus. He then began coughing on the driver, claiming he had COVID and attacked the driver with a block that's put under the bus wheels when it is parked. Here in Florida, a homeless woman recently boarded a Miami bus and began coughing on passengers. The driver told her she needed to wear a mask. The woman then spat on the driver.

Once a passenger gets on the bus with a mask, it's just the beginning for me. While driving down the road, I am constantly checking the mirror, making sure that riders are keeping their masks on. They often pull the face coverings off, and that's when the real tension begins. I'm a bus driver, not a police officer. I do not need political debates on board my vehicle, but that's the way things are right now. When people don't listen, we need to call in the issue to the company so they can send help.

*Question 3.* Last Congress, I led widely-supported, bipartisan letters to provide emergency funding for transit and Amtrak, restore frequency in Amtrak's long-distance routes, halt furloughs, and provide much-needed PPE and other protective measures ahead of each relief bill. We provided, however, \$2 billion in relief for Amtrak and \$39 billion for transit operators over the course of 2020, well below the amounts the industry requested. In your testimony, you highlighted the need for an additional \$39.3 billion for transit agencies. This relief would both support our transportation workers and ensure essential workers can continue to get to the front lines of the pandemic. Without additional federal relief for transit agencies, how do you expect the level of service provided in our transit systems, such as LYNX, to change, and what might this mean for frontline transportation workers?

*ANSWER.* We are of course incredibly grateful to the U.S. Congress for providing the resources necessary for the transit industry to survive the public health crisis. The emergency operating aid has preserved essential service for the millions of people who rely on transit and kept hundreds of thousands of transit workers off the unemployment line during these very difficult times.

However, even if more people choose to get vaccinated and our economy comes back to life, transit will still be in need of emergency operating aid for the foreseeable future. Dedicated sales taxes from bars and restaurants have dried up, leaving the agencies with no local transit operating assistance. Choice riders are understandably hesitant to get back on transit vehicles due to safety concerns. It will likely take years for ridership levels and fare box revenue to recover, and we will need significant levels of federal operating aid to survive. Without continued operating assistance, service levels at Lynx and at systems across the country will be significantly reduced. Transit dependent riders, especially in communities of color, will be the victims of these harsh cuts. Hundreds of thousands of transit workers would face layoffs.

QUESTION FROM HON. SALUD O. CARBAJAL TO HON. JOE BUSCAINO, PRESIDENT PRO TEMPORE, LOS ANGELES CITY COUNCIL, TESTIFYING ON BEHALF OF THE NATIONAL LEAGUE OF CITIES

*Question 1.* In your testimony, you talk about the need for a directed formula funding that cities can use to support local communities during COVID. Last year when we passed H.R. 2, I worked to make sure that more local areas could get more direct transportation funding.

Councilmember, can you walk us through how much faster the funding goes out and gets to the people we're trying to support when we partner with local governments?

*ANSWER.* America's local governments are responsible for 80% of the road network in our country, and we are the closest level of government to the people. The Surface Transportation Block Grant (STBG) is the primary formula program to ensure that Congress is responsive to meeting the most pressing needs in the communities where people are driving, walking, and riding today. STBG is the program where Congress can show their constituents the most value in the upcoming reauthorization by increasing the suballocation to local governments. In the FAST Act, Congress grew the local share, and in H.R. 2, we were glad to see Congress include an increase once again. *The nation's cities ask that you prioritize STBG and planning in the coming reauthorization of the FAST Act as the key way in which you can support the changing demands on transportation and show the value of Congressional investment at home.*

Since H.R. 2, the pandemic that has shown the value of our local transportation networks—from sidewalks and roads where we could get out and stretch our legs but also with local deliveries that have been a lifeline. The freight connections are now only as good as our local delivery road networks. As we emerge from COVID-19, the demands on our transportation system are going to change and likely the shifts will be more localized and require good planning and regional thinking rather than a top-down approach. A Congressional program like STBG will serve us well for a post-COVID-19 transportation investment—it's targeted, flexible to respond to local needs, and works collaboratively. I ask that every member consider prioritizing STBG for the next reauthorization.

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