INDUSTRY AND LABOR PERSPECTIVES: A FURTHER LOOK AT NORTH AMERICAN SUPPLY CHAIN CHALLENGES

(117–35)

REMOTE HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

NOVEMBER 17, 2021

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U.S. House of Representatives
Washington, DC 20515

Peter A. DeFazio
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Sam Graves
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NOVEMBER 15, 2021

SUMMARY OF SUBJECT MATTER

TO: Members of Congress, Committee on Transportation and Infrastructure
FROM: Staff, Committee on Transportation and Infrastructure
RE: Hearing on "Industry and Labor Perspectives: A Further Look at North American Supply Chain Challenges."

PURPOSE

The Committee on Transportation and Infrastructure will hold a hearing on Wednesday, November 17, 2021, at 10:30 a.m. EST to examine North American supply chain challenges. The hearing will take place in 2167 Rayburn House Office Building and via Zoom. The Committee will hear testimony from the following representatives of the transportation industry and its workforce: Mario Cordero of the Port of Long Beach on behalf of the American Association of Port Authorities, Chris Spear of the American Trucking Associations, Ian Jefferies of the Association of American Railroads, Anne Reinke of the Transportation Intermediaries Association, David Correll of the Massachusetts Institute of Technology Center for Transportation and Logistics, and Greg Regan of the Transportation Trades Department, AFL–CIO.

BACKGROUND

COVID–19 AND THE SUPPLY CHAIN

The COVID–19 pandemic has disrupted many aspects of the global supply chain. In response to several COVID–19 outbreaks across factories in Asia in 2019–2020, factories shut down.[1] Shipping companies also cut schedules, anticipating that with reduced levels of activity due to outbreaks and quarantine, overall demand would drop.[2] However, shipping capacity proved to be key as Americans increased their demands for consumer goods in 2021.[3] The surge in consumer goods, particularly moving from Asia into West Coast ports by ship and through the rest of the country via truck and rail, inundated the system. The Ports of Los Angeles and Long Beach have experienced significant cargo volume increases, and have been at times unable to process incoming shipping containers as they arrived, resulting in cargo logjams

[1] Simina Mistreanu, Forbes, "China's Factories Are Reeling from Forced Coronavirus Closures." February 23, 2020. https://www.forbes.com/sites/siminamistreanu/2020/02/23/chinas-factories-are-reeling-from-forced-coronavirus-closures/?sh=21d514eb73f2. Accessed November 11, 2021.

[2] United Nations on Trade and Development, "COVID–19 cuts global maritime trade, transforms industry." November 12, 2020. https://unctad.org/news/covid-19-cuts-global-maritime-trade-transforms-industry. Accessed November 11, 2021.

[3] New York Times. "How the Supply Chain Broke, and Why it Won't Be Fixed Anytime Soon." https://www.nytimes.com/2021/10/22/business/shortages-supply-chain.html. Accessed October 23, 2021

off shore and within the port complex. COVID–19 has exposed fragilities in transportation networks, with disruption in one part of the supply chain having a ripple effect across all parts of the supply chain, from manufacturers to suppliers and distributors.[4] What has followed since has resulted in container and other equipment shortages, port and rail congestion, and shipping delays. The lack of available space onboard vessels, trains, trucks, in distribution warehouses, and at ports has impacted industries and frustrated consumers across the country and increased prices on some goods and commodities.[5]

Online retail has fundamentally changed how products are purchased and distributed. According to the U.S. Census Bureau, e-commerce sales have grown from just over five percent of total retail sales in the first quarter of 2012 to over 13 percent of total retail sales in the second quarter of 2021.[6] E-commerce accounted for $791.7 billion in 2020, a 32.4% increase from 2019.[7] As a result of this trend, the demands for freight movements by truck, and the need for more timely and efficient deliveries, have grown significantly. This has also prompted changes to supply chains and increased the focus on first-mile and last-mile delivery of freight that impacts both urban and rural areas.[8]

Cross-modal freight tonnage has recovered from the beginning of the COVID–19 pandemic. The Bureau of Transportation Statistics (BTS) measures the amount of freight carried by the transportation industry using an index called the Freight Transportation Services Index (FTSI). In September 2021, the FTSI shows a seasonally-adjusted mark of 135.8 in September 2021, which is below the all-time high of 142 in April 2019, but significantly above the COVID–19 low of 125.3 in April 2020. The FTSI, which declined from the April 2021 level, is a good predictor of changes in the economic growth rate. Shipments of raw materials and intermediate goods occur before consumers and other businesses buy the products made from them. So, freight activity is seen as an early indicator of economic growth or decline. When more freight is being shipped, that generally signals a future increase in economic activity. When less freight is demanded, that points to decreasing economic activity.[9]

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[4] *Id.*

[5] *Id.*

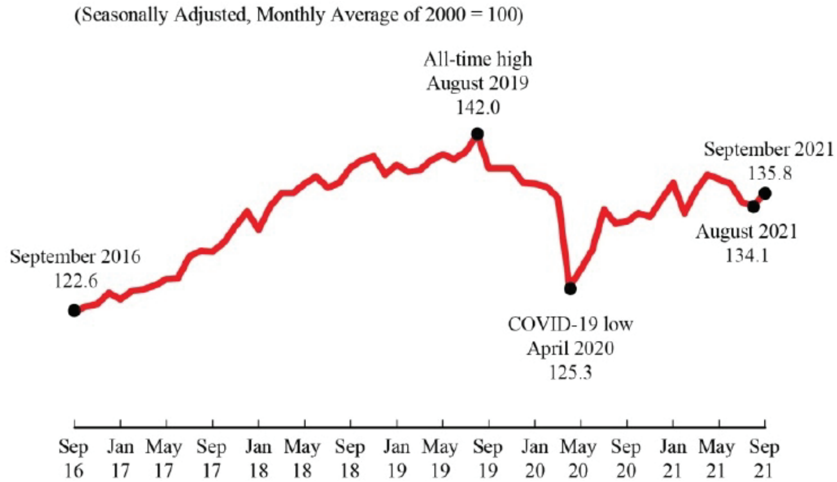
[6] U.S. Census Bureau, Quarterly Retail E-Commerce Sales, 3rd Quarter 2019 (https://www.census.gov/retail/mrts/www/data/pdf/ec__current.pdf).

[7] Digital Commerce 360, "US E-Commerce Grows 32.4% in 2020," (https://www.digitalcommerce360.com/article/us-ecommerce-sales/).

[8] Shelagh Dolan, Business Insider. "The challenges of last mile delivery logistics and the tech solutions cutting costs in the final mile," January 21, 2021. https://www.businessinsider.com/last-mile-delivery-shipping-explained

[9] BTS Technical Brief. "What the Transportation Services Index, Dow Transportation Index, and Cass Freight Index Tell Us." August. 2019. https://www.bts.gov/sites/bts.dot.gov/files/docs/explore-topics-and-geography/topics/transportation-and-economy/226881/what-tsi-dow-transportation-index-cass-freight-index-tell-us.pdf. Accessed November 10, 2021.

Freight Transportation Services Index, September 2016–September 2021



Source: September 2021 Freight Transportation Services Index (TSI), BTS 67–21

MARITIME INDUSTRY OVERVIEW AND CURRENT CHALLENGES

The COVID–19 pandemic triggered an unprecedented shift in consumer spending as Americans shifted spending from services to goods, exposing gaps in the supply chain and container processing capacity across the country and worldwide.[10] In response to several coronavirus outbreaks across factories in Asia during the initial months of the COVID–19 pandemic, factories shut down.[11] Shipping companies then cut schedules, anticipating reduced demand resulting from further COVID–19 restrictions. As a result, almost every ship and container has been deployed into the market since Fall 2020.[12] October 2021 saw a record-breaking total of 100 container ships sitting idle awaiting dock availability at the Ports of LA and Long Beach.[13] These delays are expected to continue well into 2022.[14]

According to Maersk, the world's largest container shipping corporation, its East (Asia)-West (North America) trade has been the most impacted route in the market.[15] Currently, for every three containers that China exports to the U.S. West Coast, only one is imported back, exacerbating the trade imbalance.[16] This uneven recovery has caused container shortages where they are needed most. As a result, global container rates jumped nearly 290 percent[17], from an average of $1,377 per

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[10] The Journal of Commerce. "ONE's Nixon says US port productivity gaps mean congestion for months." https://www.joc.com/port-news/us-ports/tpm21-one%E2%80%99s-nixon-says-us-port-productivity-gaps-mean-congestion-months__20210302.html.

[11] Simina Mistreanu, Forbes, "China's Factories Are Reeling from Forced Coronavirus Closures." February 23, 2020. https://www.forbes.com/sites/siminamistreanu/2020/02/23/chinas-factories-are-reeling-from-forced-coronavirus-closures/?sh=21d514eb73f2. Accessed November 11, 2021.

[12] The New York Times. "I've Never Seen Anything Like This: Chaos Strikes Global Shipping." https://www.nytimes.com/2021/03/06/business/global-shipping.html. Accessed June 7, 2021.

[13] NBC News. "As 100 ships idle offshore, California communities see rise in toxic pollutants." October 29, 2021. https://www.nbcnews.com/business/100-ships-idle-offshore-california-communities-see-rise-toxic-pollutan-rcna3984.

[14] https://www.reuters.com/business/global-economy-asian-factories-stagnate-chinas-slowdown-supply-constraints-hit-2021-10-01/

[15] Financial Times. "How coronavirus is changing global shipping routes." https://www.youtube.com/watch?v=MvG8c8v5Nfw

[16] Reuters. "Boxed out: China's exports pinched by global run on shipping containers." https://www.reuters.com/article/us-global-shipping-container/boxed-out-chinas-exports-pinched-by-global-run-on-shipping-containers-idUSKBN28K0UA.

[17] Bloomberg. "Container Shipping Rates Drift Lower After a Record-Setting Climb." https://www.bloomberg.com/news/newsletters/2021-10-11/supply-chain-latest-container-shipping-rates-are-drifting-lower.

40-foot container in March 2020 to $9,195.41 in November 2021.[18] Despite these higher numbers, the price per container has fallen since mid-October including a drop of 4.9 percent the first week of November 2021.[19]

Beyond the lack of capacity on vessels and getting containers from the vessels into port, containers face additional backlogs once offloaded and moved to marine terminals. Due to the sheer number of containers and cargo transiting through ports, marine terminals are at capacity-limiting movement into, out of, and within the port.[20] As containers are stacked higher and higher, the ability to access containers is affected further extending delays and bottlenecks.

Port accessibility continues to be a significant issue affecting truckers and other transporters in the supply chain. For example, the lack of appointments due to congestion and demand to enter terminal gates to repossess import containers for U.S.-based exporters has severely affected how port distribution centers are accepting containers.[21] Containers are filling terminals and storage locations, making it difficult for truckers to return containers to a terminal, or move them geographically out of a given zone.[22] Recently, some containers have been kept sitting idle for up to 30 days, representing a significant opportunity cost.[23]

TRUCKING INDUSTRY OVERVIEW AND CURRENT CHALLENGES

Freight moves by truck on more than four million miles of public roads (including 223,000 miles on the National Highway System) and 616,000 bridges.[24] The trucking industry is made up by over 996,000 trucking companies and more than 3.3 million commercial drivers.[25]

Trucks carried 10.2 billion tons of freight in 2020, and trucking accounts for approximately 80.4 percent of all freight tonnage by value and 72.5 percent by weight.[26] According to the BTS, long-haul freight truck traffic is projected to increase "dramatically" on the National Highway System over the next three decades, from 311 million miles per day in 2015 to 488 million miles per day by 2045.[27]

Truck freight tonnage continues to steadily recover. According to the American Trucking Associations' Seasonally-Adjusted (SA) For-Hire Truck Tonnage Index, September 2021 marked a 2.4% increase from August 2021.[28] The September 2021 SA Index was also a 1.7% year-over-year increase from September 2020, indicating steady growth.[29]

Current supply chain challenges have amplified longstanding issues in truck freight delivery. These include a lack of truck parking, congestion at freight bottlenecks, and poor conditions at intermodal connectors. The increasing cost and shortage of equipment, such as chassis, has hindered the capacity of the trucking industry to move freight.[30] Port inefficiencies, such as poor information sharing and a lack of available, interoperable chassis, also limit how frequently and swiftly trucks can pick up loads, contributing to delays in loading and unloading at shipping facilities, a form of "detention time."[31]

Detention time is time spent at shipping and receiving facilities beyond that which is legitimately needed for loading and unloading, as specified by contracts.

[18] Drewry Supply Chain Advisors. "World Container Index—09 Nov." https://www.drewry.co.uk/supply-chain-advisors/supply-chain-expertise/world-container-index-assessed-by-drewry. Accessed November 8, 2021.

[19] *Id.*

[20] https://www.cnn.com/2021/10/18/business/container-port-record-backlog/index.html

[21] Agriculture Transportation Coalition. "Overview: The Current Export Crisis." https://soyagrainsalliance.org/wp-content/uploads/2021/02/AgTC-The-Current-Export-Crisis__02-12-21.pdf.

[22] The Journal of Commerce. "Import deluge fills LA–LB terminals to capacity." https://www.joc.com/port-news/us-ports/import-deluge-fills-la-lb-terminals-capacity__20201209.html.

[23] The Journal of Commerce. "FMC reviewing whether ag export booking rejections violate Shipping Act." https://www.joc.com/print/3647481.

[24] U.S. Department of Transportation, National Freight Strategic Plan, September 2020, page. 6. https://www.transportation.gov/sites/dot.gov/files/2020-09/NFSP__fullplan__508.pdf. Accessed November 11, 2021.

[25] American Trucking Associations, Economics and Industry Data, https://www.trucking.org/economics-and-industry-data.

[26] American Trucking Associations, Economics and Industry Data, https://www.trucking.org/economics-and-industry-data.

[27] Bureau of Transportation Statistics, "Freight Transportation System Extent and Use" (https://data.transportation.gov/stories/s/Freight-Transportation-System-Extent-Use/r3vy-npqd).

[28] American Trucking Associations, "Index 1.7% Above September 2020," (https://www.trucking.org/news-insights/ata-truck-tonnage-index-increased-24-september).

[29] *Id.*

[30] American Trucking Associations, Comments in the Federal Register, "America's Supply Chains and the Transportation Industrial Base," Docket No. DOT–OST–2021–0106, p. 5.

[31] *Id.* p. 6–7.

Contracts between shippers, receivers, and motor carriers generally define limits on loading and unloading time at 2 hours.[32] Any time beyond that is detention time.[33] Loading and unloading times can vary based on the type of cargo, operations at the facility, congestion at a facility, and other factors.[34]

Excessive detention time creates both safety and financial issues for truckers.[35] A U.S. Department of Transportation Inspector General study estimated that a 15-minute increase in average dwell time—the total time spent by a truck at a facility—increases the average expected crash rate by 6.2 percent.[36] The same study found that detention time is associated with reductions in annual earnings of $1.1 billion to $1.3 billion for for-hire commercial drivers in the truckload sector, and that detention reduces net income by $250.6 million to $302.9 million annually for motor carriers in that sector.[37] There is no accurate, industry-wide data on detention time, especially during the pandemic. The bipartisan infrastructure framework, recently passed as the Senate Amendment to H.R. 3684, the Infrastructure Investment and Jobs Act, directed FMCSA to enter into a contract with the Transportation Research Board to conduct a study on driver compensation—one factor that will be studied is payment for detention time.[38]

The COVID–19 crisis has renewed a focus on workforce challenges in the trucking industry, including claims of a truck driver shortage.

As truck freight tonnage has risen in recent decades, the industry has faced increasing workforce challenges.[39] For the past several years, larger motor carriers have identified a difficulty in attracting truck drivers, with recent American Trucking Associations (ATA) estimates showing a shortage of 80,000 drivers, a 30% increase over pre-pandemic estimates.[40]

Currently, 49 states and the District of Columbia allow 18 to 20 year old truck drivers to operate commercial vehicles for intrastate commerce only and do not allow them to operate vehicles in interstate commerce.[41] ATA and others support changing federal rules to allow drivers to operate in interstate commerce at 18 years old.[42] However, current federal rules prohibit a driver from operating interstate until 21 years old, largely because crash data indicate that the typical driver under the age of 21 is approximately three times more likely to be the cause of a fatal crash.[43] Under Section 5404 of the FAST Act, Congress authorized a pilot program for individuals between the ages of 18 and 21 to drive commercial vehicles across state lines, but only for those with commercial motor vehicle training in the Armed Services. On September 4, 2020, FMCSA published a Notice of Proposed Rulemaking soliciting comments on a broader proposed pilot program for drivers ages 18–21 to operate in interstate commerce. The military pilot remains ongoing, while the agency has not taken further action to establish a broader pilot. The recently passed Senate amendment to H.R. 3684, the Infrastructure Investment and Jobs Act, directs DOT to establish, within 60 days, an apprenticeship pilot program for CDL drivers under the age of 21.

Other segments of the industry cite driver retention as the workforce challenge most plaguing the industry, highlighting driver wages and working conditions as ob-

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[32] U.S. DOT Office of Inspector General, "Estimates Show Commercial Driver Detention Increases Crash Risks and Costs, but Current Data Limit Further Analysis," p. 3 (Jan 2018).

[33] U.S. Government Accountability Office (GAO), Commercial Motor Carriers: More Could Be Done to Determine Impact of Excessive Loading and Unloading Wait Times on Hours of Service Violations, GAO–11–198, January 2011.

[34] *Id.*

[35] Owner-Operators Independent Drivers Association, Comments in the Federal Register, "America's Supply Chains and the Transportation Industrial Base," Docket No. DOT–OST–2021–0106, p. 2.

[36] U.S. DOT Office of Inspector General, "Estimates Show Commercial Driver Detention Increases Crash Risks and Costs, but Current Data Limit Further Analysis," p. 6 (Jan 2018).

[37] U.S. DOT Office of Inspector General, "Estimates Show Commercial Driver Detention Increases Crash Risks and Costs, but Current Data Limit Further Analysis," p. 6 (Jan 2018).

[38] Senate Amendment to HR. 3684, Sec. 23022

[39] New York Times, "The Biggest Kink in America's Supply Chain: Not Enough Truckers," November 9, 2021. https://www.nytimes.com/2021/11/09/us/politics/trucker-shortage-supply-chain.html

[40] American Trucking Associations, "ATA Chief Economist Pegs Driver Shortage at Historic High," October 25, 2021, (https://www.trucking.org/news-insights/ata-chief-economist-pegs-driver-shortage-historic-high).

[41] American Trucking Associations, Comments in the Federal Register, "America's Supply Chains and the Transportation Industrial Base," Docket No. DOT–OST–2021–0106, p. 19

[42] American Trucking Associations, Comments in the Federal Register, "America's Supply Chains and the Transportation Industrial Base," Docket No. DOT–OST–2021–0106, p. 19

[43] Centers for Disease Control, "Teen Drivers: Get the Facts." Accessed November 8, 2021. https://www.cdc.gov/transportationsafety/teen__drivers/teendrivers__factsheet.html#:~:text=The%20risk%20of%20motor%20vehicle,be%20in%20a%20fatal%20crash.

stacles to attracting and retaining qualified drivers.[44] These groups point to U.S. Department of Labor analysis of trucking industry turnover rates,[45] as well as FMCSA estimates that over 400,000 commercial driver's licenses (CDLs) are issued each year.[46] Most truck drivers today are paid by the mile or by the load, not by the time it takes to make a delivery. Drivers are also subject to hours-of-service limits, limiting the time they are legally allowed to operate.[47] Supply chain delays that are outside of the control of drivers—such as congestion at ports and excessive detention time at shipper and receiver facilities—affect how much a driver can earn.

RAIL INDUSTRY OVERVIEW AND CURRENT CHALLENGES

In 2019, railroads carried nearly one-third of the nation's freight.[48] While freight rail carloads have declined over the last twenty years, intermodal rail freight traffic has increased over the same timeframe.[49] Rail intermodal is the long-haul movement of shipping containers and truck trailers by rail, combined with a truck or water movement at one or both ends.[50] Class I railroads have reduced their workforce. In 2015, the Class I workforce average was 169,478 workers. By 2019 and pre-COVID, some 29,000 jobs were eliminated, a 17 percent decrease.[51] In 2020, railroads eliminated another 20,000 jobs, a 14 percent decrease from the prior year.[52]

More than 40 percent of freight rail carloads and intermodal units is based on international trade.[53] Further, this market accounts for approximately 35 percent of U.S. rail revenue and more than a quarter of U.S. rail tonnage.[54] During this same six-month period in 2021, the Class I railroad workforce averaged 114,909 workers, compared to 144,346 workers during the same six-month period in 2019. Some weeks in late 2020 and the first half of 2021, U.S. railroads were handling more than 300,000 containers and trailers per week.[55] To right size the imbalance of volumes and staffing levels, railroads have attempted to re-hire some furloughed workers and train new employees, though according to shippers and the Surface Transportation Board, they have been unsuccessful at hiring or retaining an adequate workforce following the reduction in forces described above.[56]

In addition to suppressed workforce levels and previously planned cuts to yard capacity, freight railroads are encountering an imbalance between incoming and outgoing freight that constrains terminal fluidity.[57] Certain rail terminals are not designed for long-term storage of significant numbers of containers and two of the largest U.S. railroads temporarily restricted shipments to Chicago this past summer in order to clear space.[58] Extreme weather events, including wildfires in the western United States and hurricanes in the Gulf Coast have further constrained the national railroad system in the last year.[59]

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[44] Todd Spencer, Owner-Operator Independent Drivers Association, Testimony to House Committee on Transportation and Infrastructure, (June 12, 2019) (https://docs.house.gov/meetings/PW/PW12/20190612/109600/HHRG-116-PW12-Wstate-SpencerT-20190612.pdf).

[45] U.S. Department of Labor, "Is the U.S. labor market for truck drivers broken?", March 2019, (https://www.bls.gov/opub/mlr/2019/article/is-the-us-labor-market-for-truck-drivers-broken.htm).

[46] FreightWaves, "OOIDA urges Biden administration to bust driver shortage 'myth'," August 2021, (https://www.freightwaves.com/news/ooida-urges-biden-administration-to-bust-driver-shortage-myth).

[47] https://www.fmcsa.dot.gov/regulations/hours-of-service

[48] U.S. Department of Transportation, Pocket Guide to Transportation 2019, Page 3.

[49] U.S. Department of Transportation, Pocket Guide to Transportation 2021, Page 7.

[50] Federal Highway Administration, Background and Definitions—The Role of the National Highway System Connectors—FHWA Freight Management and Operations (dot.gov)

[51] Surface Transportation Board, Economic Data, Employment Data, Accessed November 5, 2021, https://www.stb.gov/reports-data/economic-data/employment-data/

[52] *Id.*

[53] Comments of the Association of American Railroads to the U.S. Department of Transportation's Notice of Request for Information published in the Federal Register on September 16, 2021 (Docket N. DOT–OST–2021–0106). Page 3.

[54] *Id.*

[55] https://www.aar.org/supply-chain

[56] Paul Ziobro, The Wall Street Journal. "Shortage of Railroad Workers Threatens Recovery." July 22, 2021. https://www.wsj.com/articles/shortage-of-railroad-workers-threatens-recovery-11626953584

[57] Comments of the Association of American Railroads to the U.S. Department of Transportation's Notice of Request for Information published in the Federal Register on September 16, 2021 (Docket N. DOT–OST–2021–0106). Page 9.

[58] David Lynch, The Washington Post. "From Ports to Rail Yards, Global Supply Lines Struggle Amid Virus Outbreaks In The Developing World." July 26, 2021. https://www.washingtonpost.com/business/2021/07/27/supply-chains-freight-rail-ports/

[59] Steff Chavez, *Financial Times*. "Wildfires and 'Violent' Weather Leave Railroad Giant Facing $100m Bill." September 16, 2021. https://www.ft.com/content/8f5c8360-19eb-437a-b55c-4c393ffa0ba5

CONCLUSION

This hearing will explore ideas, improvements, and solutions to alleviate the current supply chain challenges. On February 24, 2021, the Biden administration issued Executive Order 4017, "America's Supply Chains" and convened a Supply Chain Taskforce to help support and improve America's supply chain.[60] Similarly, the recently passed Senate Amendment to H.R. 3684, the Infrastructure Investment and Jobs Act, includes $27.75 billion in competitive grant programs that are eligible to fund highway and intermodal freight improvements and port infrastructure projects, in addition to hundreds of billions of dollars for investments in roads, bridges, and rail. These funds can support projects critical to maintaining, improving, and increasing the resiliency of the nation's supply chain.[61]

WITNESS LIST

- Mr. Mario Cordero, Executive Director, Port of Long Beach, *on behalf of the American Association of Port Authorities*
- Mr. Chris Spear, President and Chief Executive Officer, American Trucking Associations
- Mr. Ian Jefferies, President and Chief Executive Officer, Association of American Railroads
- Ms. Anne Reinke, President and Chief Executive Officer, Transportation Intermediaries Association
- Mr. David Correll, Lecturer, Massachusetts Institute of Technology Center for Transportation and Logistics
- Mr. Greg Regan, President, Transportation Trades Department, AFL–CIO

[60] https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/

[61] https://www.congress.gov/bill/117th-congress/house-bill/3684/text

INDUSTRY AND LABOR PERSPECTIVES: A FURTHER LOOK AT NORTH AMERICAN SUPPLY CHAIN CHALLENGES

WEDNESDAY, NOVEMBER 17, 2021

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

The committee met, pursuant to call, at 11:06 a.m. in room 2167 Rayburn House Office Building and via Zoom, Hon. Peter A. DeFazio (Chair of the committee) presiding.

Members present in person: Mr. Larsen of Washington, Mr. Garamendi, Mr. Lynch, Mr. Carbajal, Mr. Stanton, Ms. Strickland, Mr. Graves of Missouri, Mr. Crawford, Mr. Rodney Davis, Dr. Babin, Mr. Rouzer, Mr. Westerman, Mr. Mast, Miss González-Colón, Mr. Stauber, Mr. Burchett, Dr. Van Drew, Mr. Guest, and Ms. Malliotakis.

Members present remotely: Mr. DeFazio, Ms. Norton, Ms. Johnson of Texas, Mr. Sires, Mr. Johnson of Georgia, Mr. Carson, Ms. Titus, Ms. Wilson of Florida, Mr. Payne, Mr. Lowenthal, Mr. DeSaulnier, Mr. Malinowski, Mr. Allred, Ms. Davids of Kansas, Mr. García of Illinois, Mr. Delgado, Mr. Lamb, Mr. Auchincloss, Ms. Bourdeaux, Mr. Kahele, Ms. Williams of Georgia, Mr. Massie, Mr. Perry, Mr. Graves of Louisiana, Mr. Bost, Mr. Weber of Texas, Mr. LaMalfa, Mr. Fitzpatrick, Mr. Balderson, Mr. Johnson of South Dakota, Ms. Van Duyne, Mr. Gimenez, and Mrs. Steel.

Mr. DEFAZIO. The committee will come to order.

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

Without objection, so ordered.

As a reminder, please keep your microphone muted, unless speaking. Should I hear background noise, I will yell at you and tell you to mute.

To insert a document into the record, please email it to DocumentsT&I@mail.house.gov.

Now, with that, I recognize myself for my opening statement.

Supply chain challenges stemming from new freight shipment patterns in a world impacted by COVID–19 continue to hamper business and consumers. Americans are buying more items from overseas, instead of spending money on vacations, events, and other things regarding services.

So, no one knows whether these are temporary or permanent changes, as we dig out from under the pandemic.

Now, some will try to blame the Biden administration for these woes. But let's remember, nearly every part of the supply chain is dominated by private businesses. Shipping conglomerates, marine terminal operators, rail, trucking, warehouse operators are non-Federal entities, ports.

And private businesses are enjoying robust profits across the freight sector. They are responsible for their business decisions on whether to pursue capital and labor investments needed to accommodate freight demand. That is why I am eager to hear from today's witnesses on what they are doing to overcome the freight chokepoints we have been experiencing for months.

We held a hearing in the Coast Guard and Maritime Transportation Subcommittee in June on this issue, but the freight challenges remain, and are projected to continue until next year.

At the same time as these challenges persist, the freight industries—ocean carriers, railroads, marine terminal operators, trucking companies, et cetera—continue to earn robust profits: in 2020, more than $800 billion, collectively. So, congestion, apparently, is not bad for the bottom line, just bad for the American consumer, in terms of availability and price inflation.

I have served on this committee 35 years, pretty much evenly split between the majority and the minority. During those years, for the most part, this committee has searched for resolution of real problems, not politically driven, opportunistic, finger-pointing. Yes, America has a crisis in its supply chain, delaying delivery of needed materials from manufacturing, and driving up the cost of consumer goods. The solutions are, for the most part, not simple, nor short term. It will require real work, Federal investment, policy changes, and, hopefully, bipartisan cooperation by this committee and others of jurisdiction.

I call the problem the 3Ds: dependence, driven by Wall Street, and decades of so-called free trade policy at the behest of corporate profits to escape environmental laws, regulation, labor rights, and other things.

We have become incredibly dependent upon goods and materials and supplies from overseas.

And then, two, disinvestment. Again, driven by Wall Street and corporate executives, oriented toward short-term profits—think Hunter Harrison, so-called Precision Scheduled Railroading, a disaster for shippers, but great for the bottom line. Oh, it also impinges on safety. But otherwise, it is a great idea. And also, disinvestment has been driven by mindless opposition to needed critical Federal investment in our transportation sectors.

All of the above weaken United States capability to meet critical needs in a time of crisis. N95s, anybody?

And then three, deregulation, leading to massive mergers, lack of real competition across many sectors of the economy, leading to oligopolistic practices in supply and pricing. The Federal Maritime Commission snoozed while there were massive, foreign-dominated mergers in ocean freight. The Federal Railroad Administration stood by as freight service and safety deteriorated under co-called Precision Scheduled Railroading.

Since April 20th, consumer goods consumption is up. From April 20 to now, 32 percent. That is 15 percent more than pre-pandemic levels. Last month, we ran a $100 billion trade deficit, $100 billion of trade deficit because of our dependence on imports. Ocean shipping costs, up 500 percent in 12 months. The west coast is inundated with foreign imports. Disinvestment in port infrastructure by the Federal Government, lack of investment in our highways and bridges, congestion caused by that, no truck parking, the list goes on and on because of Federal neglect and the reluctance to make needed Federal investments.

Now, we will hear a lot about the shortage of truckdrivers. For years, I have talked about detention time. You get to the warehouse, and they say, "Oh, why don't you go get in that line over there?" Five hours later, six hours later, maybe you have gotten unloaded, maybe you are out of duty time now. That is your tough luck. It is no skin off their back, it doesn't cost them anything to make you sit there. In the old days, it did. If they made you sit for hours on end, they had to pay you. But right now, this is what you would call an external diseconomy; they put the cost on the truckdrivers, and I have been trying to pursue this issue for quite some time.

We are getting some interesting statistics about this. The DOT inspector general says that truckdrivers lost between $1 and $1.3 billion in earnings because of detention time. We will hear from Dr. Correll, who says that in the 11 hours of driving allowed, the average truckdriver drives 6½ hours. That is a pretty damn inefficient system. If we could make the system efficient, if we could put consequences on those places where truckdrivers have to unload—and we will hear more about that from Dr. Correll—that would solve a lot of problems.

Similarly, J.B. Hunt senior vice president of corporate safety, security, and driver personnel, Greer Woodruff, said the driver issue comes down relative to supply and demand. "I happen to believe we have plenty of drivers. We don't use them very well." When asked how it could be more efficient, he said expedite loading and unloading times, allow drop-and-hook, add flexible appointment times and appointment times to allow for efficient transit and rest time, work with shippers to accommodate onsite parking, and provide consistency in loads and lanes, all of which would squeeze more time out of a driver and add capacity to the market.

So, the President has tried to jawbone the private sector, and that would include labor, the ports, the marine terminal operators, and others who are involved in this. But ultimately, they are independent decisionmakers. He has also, just Monday, signed the Infrastructure Investment and Jobs Act, $17 billion for long-overdue investment in our ports. And that, along with the money that we finally freed up last year, the Harbor Maintenance Trust Fund, will begin to deal with the issues of access to our ports, and more throughput through our ports.

That bill also includes tens of billions of dollars in bridges, chokepoints, highways that will, again, mitigate congestion, and make drivers be able to work more efficiently.

Hopefully, this hearing will move beyond political partisan talking points, and begin to identify and work on real solutions, real long-term solutions.

[Mr. DeFazio's prepared statement follows:]

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

Supply chain challenges stemming from new freight shipment patterns in a world impacted by COVID–19 continue to hamper businesses and consumers. Americans are buying more items from overseas instead of spending money on vacations, events, and other experiences. And no one knows if these changes are temporary or permanent as we dig out from under the pandemic.

While some try to blame the Biden administration for these woes, let's all remember the supply chain is dominated by private businesses who are enjoying robust profits across the freight sector. They are responsible for their business decisions on whether to pursue capital and labor investments needed to accommodate freight demand. That's why I am eager to hear from our witnesses today about what they are doing to overcome the freight chokepoints we've been experiencing for months.

We held a hearing in the Coast Guard and Maritime Transportation Subcommittee in June on this issue, but the freight challenges remain and are projected to continue into next year. At the same time as these challenges persist, the freight industries—ocean carriers, railroads and trucking companies—continued to earn robust profits in 2020, earning more than $800 billion collectively. It seems like congestion isn't terrible for big business.

Let's start this hearing by stipulating some facts:

- The freight industry is trying to meet record demand for consumer goods, particularly moving from Asia into West Coast ports by ship and through the rest of the country via truck and rail.
- Ocean shipping rates have increased by over 500 percent since this surge in demand began last year, taking a toll on companies and consumers.
- The freight network is now inundated, and disruption in one part of the supply chain has a ripple effect across all parts of the chain, from manufacturers to suppliers and distributors.
- Some of the current issues the supply chain is facing have been exacerbated by "just in time" practices being unable to withstand the changes in demand over the last two years.
- U.S. port congestion is not new. Ports need serious capital investments to keep up with the rest of the world, as well as better data sharing capabilities across the supply chain.
- Railroads are struggling to move these containers too. Since 2015, Class I railroads have slashed their workforce by almost 30 percent and closed several rail yards. In 2020 Class I railroads reinvested $6.3 billion less in their capital programs than they did in 2015 and Wall Street pushed operating ratios and stock buybacks ever higher.
- Trucking companies have been struggling for a decade to retain truckers, a direct result of real wages and working conditions that are obstacles to attracting and retaining qualified drivers.

I am astonished that our supply chain industry representatives are still calling the time we're in unprecedented. I thought business metrics were done on a quarterly basis—I thought businesses were nimble and able to turn on a dime, it's what I hear from colleagues all the time on why we should reduce regulations on companies, but we're eight quarters in and it appears to me that businesses are still waiting for it to be 2019 again.

The freight network requires continued investment in capital, private and public, and a skilled workforce that is adequately compensated with reasonable working conditions. I am grateful to the men and women in our transportation workforce who have remained on the job despite the pandemic.

Today my colleagues on the other side will offer up a litany of reasons why this is the Democrats' fault. They will offer solutions that encourage low wages and abysmal working conditions. I expect to hear that vaccine mandates, unemployment benefits, federal spending, and climate emission reductions are worsening freight congestion. None of that is true.

The simple answer is the private sector needs to be more nimble, focus less on quarterly profits to appease Wall Street bigwigs, and retain the resilience to meet surges in demand. The transportation sector needs to invest more of their robust profits back into their capital programs and should refrain from burdening employees with impossible productivity metrics and unreasonable working conditions that further the labor shortage.

Thinking about the big picture, I think this debate is another clear example of the downside to unfettered free trade, where the U.S. is now dependent on Asian nations for manufacturing. We wouldn't have these levels of port congestion challenges if we made more products here in the U.S.

I look forward to hearing from our witnesses about how they are working together to address the short-term supply chain challenges. I have no doubt that a number of them will use the opportunity today to press for perennial priorities they have long sought, pandemic or supply-chain challenges or not. For our part, Congress recently passed the Infrastructure Investment and Jobs Act signed on Monday by President Biden. We're doing our part to make billions of dollars in long-term investments in our freight supply chain, and I hope to hear from witnesses how they will amplify those investments for future generations.

Mr. DEFAZIO. With that I would recognize Ranking Member Graves.

Mr. GRAVES OF MISSOURI. Thank you, and I want to thank our witnesses for testifying today. And I am very interested to hear what members of the panel have to say about the bottlenecks in our Nation's supply chain, because it is truly a crisis.

Thanksgiving stands to be the most expensive ever. And if you are not getting ahead of your holiday shopping now, you are likely going to find limited options the closer that we get to Christmas. The general public, quite frankly, is extremely concerned by this.

And every person that is going to be testifying today represents essential workers who are feeling the impacts of this crisis firsthand. The companies and workers that you represent kept our economy running during COVID–19, during the pandemic, and we all appreciate that work, and it is ongoing. But the pandemic made us recognize that an efficient supply chain could benefit from increased redundancies and capacities.

There isn't one simple solution, and that is a fact. As the chairman pointed out, this is a very complex problem, and there are many factors that contribute to the high cost of moving goods throughout the Nation's supply chain.

But having said that, the policies that the President, the Speaker, and Leader Schumer are pursuing are not only missing the mark, but they are making matters worse. The radical agenda that they continue to pursue through budget reconciliation and administrative actions, it increases energy and transportation costs, it discourages work, and it drives up already skyrocketing inflation. And all of this is exacerbating the problem; it is not fixing it.

For example, the President's press conference on October 13th demonstrated both a lack of understanding of this complex issue, and the fact that his administration has no real plan to solve it. I was personally offended by his call for the private sector to step up, while his administration does very little but compound the problem, specifically calling out terminal operators, railways, trucking companies, shippers, and other retailers. The companies and workers are not here to provide cover to bail out the administration's bad policies. The 100 containerships sitting outside the Ports of Los Angeles and Long Beach, they aren't just magically going to go away.

I also think we need to hear from those folks who aren't here today, most notably the users of the system: importers, the exporters, retail, agriculture, and the administration officials that oversee it, including the newly announced infrastructure czar.

Republican Members, we have already heard from many groups and individuals who want to share their ideas on how to improve this situation. In fact, just 2 weeks ago we convened a roundtable meeting to hear what issues the stakeholders themselves are facing.

So, I look forward to hearing from today's witnesses on their ideas, even if it is highlighting how this administration can simply do no harm or, in this case, do no more harm.

Do no more harm to our supply chain by straining the workforce through the application of a vaccine mandate. Do no more harm to our supply chain by turning a blind eye to State and local regulations that are interfering with interstate commerce. Do no more harm to our supply chain by encouraging regulations that upend the independent contracting model that so many in our supply chain work through. Do no more harm by pushing environmental regulations that stop warehouses from being built, or goods being moved by truck. Do no more harm to our supply chain by pushing policies that disincentivize work and vocational jobs.

I do look forward to hearing from our panelists today, and with that, I yield back the balance.

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

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, for holding this hearing, and thank you to our witnesses for being here today.

I am very interested to hear what the members of our panel have to say about the bottlenecks in our Nation's supply chain, because it truly is a crisis. Thanksgiving stands to be the most expensive ever, and if you're not getting ahead of your holiday shopping now, you'll likely find limited options the closer we get to Christmas. The general public, quite frankly, is extremely concerned.

Every person testifying today represents essential workers who are feeling the impacts of this crisis firsthand. The companies and workers you represent kept our economy running during the COVID–19 pandemic, and we appreciate your work.

The pandemic made us recognize that an efficient supply chain could benefit from increased redundancies and capacity.

There won't be one simple solution to this complex problem. There are many factors that contribute to the high cost of moving goods throughout our Nation's supply chain. But the policies the President, Speaker Pelosi, and Leader Schumer are pursuing are not only missing the mark—they're making matters even worse.

The radical agenda they continue to pursue through budget reconciliation and administrative actions increase energy and transportation costs, discourage work, and drive up already skyrocketing inflation—and all of this is exacerbating the problem, not fixing it.

For example, the President's press conference on October 13th demonstrated both a lack of understanding of this complex issue, and the fact that his Administration has no real plan to solve it. I was personally offended by his call for the private sector to "step up" while his Administration does little but compound the problem, specifically calling out "terminal operators, railways, trucking companies, shippers, and other retailers." Your companies and workers are not here to provide cover or bail out this Administration's bad policies. The 100 container ships sitting outside of the Ports of Los Angeles and Long Beach won't just magically go away.

I also think we need to hear from those who aren't here today. Most notably, the users of the system, importers, exporters, retail, agriculture, and the Administration officials who oversee it, including the newly announced 'infrastructure czar.'

Republican members have already heard from many groups and individuals who want to share their ideas about how to improve this situation. In fact, two weeks ago, we convened a roundtable meeting to hear what issues stakeholders are facing.

We look forward to hearing from today's witnesses about their ideas, even if it's highlighting how this Administration can simply "do no harm"—or in this case, "to do no *more* harm."

Do no more harm to our supply chain by straining the workforce through the application of a vaccine mandate.

Do no more harm to our supply chain by turning a blind eye to state and local regulations that are interfering with interstate commerce.

Do no more harm to our supply chain by encouraging regulations that upend the independent contracting model that so many in our supply chain work through.

Do no more harm by pushing environmental regulations that stop warehouses from being built, or goods moving by truck.

Do no more harm to our supply chain by pushing policies that disincentivize work and vocational jobs.

I look forward to hearing from the panelists today, and I yield back the balance of my time.

Mr. DEFAZIO. I wish that whoever is in charge wouldn't mute me. I can mute myself when necessary, thank you. I think I am back on, I don't see my video. Hold on. There, if you—because then, when you mute me, I have trouble getting my video back on. The video will not go on. There. OK. Again, whoever is in charge, please don't mute me. I can mute myself. Thank you.

I would now like to welcome the witnesses on our panel: Mario Cordero, executive director, Port of Long Beach, on behalf of the American Association of Port Authorities; Chris Spear, president and chief executive officer, American Trucking Associations; Ian Jefferies, president and chief executive officer, Association of American Railroads; Anne Reinke, president and chief executive officer, Transportation Intermediaries Association; David Correll, lecturer, Massachusetts Institute of Technology Center for Transportation Logistics; and Greg Regan, president, Transportation Trades Department, AFL–CIO.

Thanks to all of you for taking the time to join us today. We look forward to your testimony.

Without objection, our witnesses' full statements will be included in the record. And since your written testimony is made part of the record, the committee asks that you limit your oral testimony to 5 minutes. And, if possible, don't just read something, but actually maybe react to other panelists, or something I said, or Mr. Graves said, if you would like.

So, I would now recognize Representative Lowenthal for a short introduction of Mr. Cordero.

Mr. LOWENTHAL. Thank you, Chairman DeFazio. I am honored to introduce my friend, Mario Cordero, who is recognized as an international maritime industry leader.

Mario is the executive director of the Port of Long Beach, which is located in my district, and he has held this position since 2017. I have had the privilege of working with Mario to make sure that the Port of Long Beach is a clean, efficient, and dynamic fixture of our community since he first joined the Board of Harbor Commissioners in Long Beach in 2003.

I would like to also just point out that President Obama appointed Mario to the Federal Maritime Commission in 2011, and he was appointed as the Chair of the Commission from 2013 to 2017.

There are few people more qualified to speak on port issues, and I look forward to his full testimony. Thank you, Mr. Chair, and I yield back.

Mr. DEFAZIO. OK, thank you, Representative Lowenthal.

And with that I would now recognize Mario Cordero for 5 minutes.

TESTIMONY OF MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES; CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS; IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS; ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION; DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS; AND GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Mr. CORDERO. Good morning, Chairman DeFazio, Ranking Member Graves, and members of the committee. My name is Mario Cordero, I am the executive director of the Port of Long Beach, and chairman of the board of the American Association of Port Authorities, a unified voice for the seaport industry in the Americas.

I would like to thank the Committee on Transportation and Infrastructure for holding this hearing and soliciting input from stakeholders in the supply chain regarding the challenges we face and the critical investments needed.

I am speaking today on behalf of AAPA, and in my role as executive director of the Port of Long Beach, but also as a stakeholder in the White House Supply Chain Disruptions Task Force.

Before I begin, I would like to first acknowledge the work of the committee in crafting and passing the bipartisan Infrastructure Investment and Jobs Act by infusing an unprecedented $17 billion to improve infrastructure. We can take real action to make our supply chain resilient.

AAPA represents 130 public port authorities in the United States, Canada, the Caribbean, and Latin America. For more than a century, the AAPA membership has empowered port authorities and their maritime industry partners to serve global customers and create economic and social value for their communities.

As the second busiest container seaport in the United States, the Port of Long Beach handles trade valued at more than $200 billion annually, and supports 2.6 million jobs across the Nation. Together, with the Port of Los Angeles, the San Pedro Bay Port Complex moves more than 40 percent of our Nation's waterborne goods, making it the Nation's largest and most strategic port complex.

The port has been at the forefront of seeking a framework for extending hours of operation in the supply chain, with the goal of 24/7, a framework I first referenced back in 2018, in recognition of the cargo forecast at that time. Transitioning to 24/7 operation will not only address supply chain backlogs, but will also reduce truck congestion and move goods quicker through the complex. Essentially, it is not only good for the environment, but it does reduce costs throughout the supply chain.

Our International Longshore and Warehouse Union partners and essential workforce have kept the cargo moving as the entire supply chain workforce. The supply chain workers are to be commended for their tireless work to keep America moving.

While the ships anchored off the coast of Long Beach and Los Angeles have garnered attention, U.S. ports are not the only ones facing the congestion. In October, there were 180 container vessels anchored and waiting to dock off the coast of China. Shipping is a global industry, with the onset of the pandemic causing major disruption in shipping and manufacturing, from which the global economy is still in a recovery mode.

With the backing of the Biden administration, we are working with marine terminal operators to expand their hours of operation. When I met with President Joe Biden in the White House in October, I learned that he too held a vision of a 24/7 supply chain. I was very encouraged to hear his support for this bold concept.

The Ports of Long Beach and Los Angeles are not the only ports addressing backlogs. The Georgia Ports Authority recently announced that they would convert five existing inland facilities into container yards to ease congestion. This project is possible, thanks to the cooperation with the White House and the Department of Transportation, who announced that ports would be able to repurpose unspent grant funds from past projects to address supply chain congestion. The Georgia Ports Authority will spend $8 million from past grants for this project, and it is my hope that other ports will be able to take advantage of this opportunity, as well.

I am hopeful that 24/7 operations will help mitigate the current surge, setting a framework for how we do things differently in the future. The San Pedro Bay Port Complex is on track to move 20 million TEUs in containers in this year. According to the current forecast, this number will only increase in the coming years, thus requiring transformational change in the Nation's most important supply chain region.

We need to build for the future. Federal attention must not stop when the number of vessels at anchorage does return to zero. We must make U.S. ports a national priority. For the decade spanning 2018 through 2028, the AAPA identified $20 billion in multimodal and rail access needs for U.S. ports. The Infrastructure Investment and Jobs Act, along with the accompanying surface transportation reauthorization, takes significant steps towards making up this gap. The set-aside of $5 billion for multimodal projects within the supplemental funding of the RAISE program will direct much-needed funds towards the kind of projects that get cargo moving more efficiently.

I will note to the committee that the maritime ports create $5.4 trillion in economic activity, annually, representing 26 percent of our Nation's GDP.

I want to thank U.S. Transportation Secretary Buttigieg for working closely with the California State Transportation Secretary David Kim to prioritize Federal funding for projects that will help alleviate freight bottlenecks in the country's largest port complex.

U.S. ports welcome the opportunity to pursue Federal funds for emission reduction and clean energy projects authorized by the Infrastructure Investment and Jobs Act. The ports would benefit from the funding to address climate change and energy resiliency in the Build Back Better Act, and urges Congress to advance that legislation. I applaud Congress for including in the legislation $3.5 billion for new grant programs to invest in electric equipment at the ports, and these investments will help ports move cargo faster, improving the health of port communities.

The Port of Long Beach and AAPA appreciates the support of this committee, Congress, and the administration for working with all of the stakeholders to create a more resilient supply chain. The U.S. maritime industry will continue to evolve and adapt for more efficient and a greener tomorrow.

Thank you so much to the committee, and I welcome your questions in this hearing. And again, I appreciate your engagement in this very important subject matter.

[Mr. Cordero's prepared statement follows:]

Prepared Statement of Mario Cordero, Executive Director, Port of Long Beach, on behalf of the American Association of Port Authorities

Good morning Chairman DeFazio, Ranking Member Graves, and members of the Committee.

My name is Mario Cordero, and I am the Executive Director of the Port of Long Beach (Port) and the Chairman of the Board of the American Association of Port Authorities (AAPA), the unified voice of the seaport industry in the Americas. I would like to thank the Committee on Transportation and Infrastructure for holding this hearing and soliciting input from stakeholders in the supply chain regarding the challenges we face and the critical investments needed.

I am speaking to you today on behalf of AAPA and in my role as Executive Director of the Port of Long Beach, but also as a stakeholder in the White House Supply Chain Disruption Task Force. Before I begin, I would first like to acknowledge the work of this Committee in crafting and passing the bipartisan Infrastructure Investment & Jobs Act. By infusing an unprecedented $17 billion to improve infrastructure at coastal ports, inland ports, waterways, and land ports of entry along the border, we can take real action to make our supply chain resilient.

AAPA represents more than 130 public port authorities in the U.S., Canada, the Caribbean and Latin America. For more than a century, AAPA membership has empowered port authorities and their maritime industry partners to serve global customers and create economic and social value for their communities.

The Port of Long Beach is the premier U.S. gateway for trans-Pacific trade and a trailblazer in innovative goods movement, safety, environmental stewardship and sustainability. As the second-busiest container seaport in the United States, the Port of Long Beach handles trade valued at more than $200 billion annually and supports 2.6 million jobs across the nation. The Port of Long Beach is one of the few U.S. ports that can welcome today's largest vessels, serving 175 shipping lines with connections to 217 seaports around the world. Together with the Port of Los Angeles, the San Pedro Bay Ports Complex moves more than 40% of our nation's waterborne goods, making this the nation's largest and most strategic Port complex.

In recognition of this Committee's role in authorizing U.S. Army Corps of Engineers projects, I would like to note that the Port recently received a signed Chief's Report for our deep draft navigation study. I look forward to working with the Committee in seeing this project authorized for construction in the forthcoming Water Resources Development Act of 2022.

Goods moving through the Port of Long Beach originate in or are destined for every congressional district in the United States. In 2020, the Port handled more than 8.1 million container units, achieving the best year in its history. This year, we project to surpass that record and move nearly 9 million container units.

The Port has been at the forefront of seeking a framework for extending hours of operation in the supply chain, with the goal of 24–7, a framework I first referenced back in January 2018, in recognition of the cargo forecast at that time. Transitioning to 24–7 operations will not only help address supply chain backlogs, but will also reduce truck congestion and move goods quicker through the complex. With Southern California highways already congested, implementing policies that enable greater access for trucks outside of the normal workday will reduce emissions from idling and enable truck drivers to get to their destination quicker. Efficiency is not only good for the environment, but reduces costs throughout the supply chain.

As I speak with you today, we have approximately 70 container ships off the southern California coast, waiting to get into a berth at Long Beach or at our neighbor, Los Angeles. The record was reached in late October with 80 container ships at anchor or in drift areas. For those who live and work in Long Beach, this recent phenomenon is a stunning change of scenery. The normal number for container ships at anchor in the ports complex is zero.

Thanks to our supply chain essential workforce, the Port of Long Beach has not shut down for a single day during the pandemic. Our International Longshore & Warehouse Union (ILWU) partners have kept the cargo moving, as have the marine terminal operators, truck drivers, rail workers, ship crews, tugboat crews, and the entire supply chain workforce. Supply chain workers are to be commended for their tireless work to keep America moving.

While ships anchored off the coast of Long Beach and Los Angeles have garnered attention, U.S. ports are not the only ones facing record congestion. As of October 22nd, there were 180 container vessels anchored and waiting to dock off the coast of China. Following a major typhoon in July, there were 361 vessels in China anchored and waiting to dock.[1]

Shipping is a global industry. Backlogs overseas delay shipments in the United States. The onset of the pandemic caused major disruption in shipping and manufacturing from which the global economy is still in a recovery mode.

As you will hear today, there are many reasons for the backlog in our nation's supply chain. The surge in demand for consumer goods has created bottlenecks at multiple points. Just as some of our coastal ports are congested, so too are rail intermodal terminals in America's heartland. To alleviate supply chain congestion, we need to address shortages at each stage in the supply chain, which is why I am pleased to be speaking alongside representatives from the truck and rail industries today.[2]

During a recent briefing and tour of the Port with Congressman Darrell Issa (R–CA) and Congressman Lou Correa (D–CA), Congressman Issa framed the dilemma we are in quite simply as a "200-car pileup." You can focus all you want on the end of the pileup, but to get to the true cause or causes of it, you need to look closely at the first vehicles at the front of the crash and the conditions in which they were driving.

My focus today will be to share with you some of the challenges we are facing in our nation's supply chain pileup, what the Port of Long Beach is doing in the short-term to resolve congestion and in the long-term to prevent it from happening again, and to discuss ways the U.S. government could help us solve this crisis to make the U.S. supply chain stronger and more competitive. Essentially, we need transformational change.

SHORT-TERM SOLUTIONS

The Port of Long Beach has six container terminals which can handle 140–150,000 twenty-foot equivalent units (TEUs). Despite our ability to handle this level of cargo, current cargo demands are causing our terminals to run out of space. Currently, ships waiting to dock at the Port of Long Beach are carrying approximately 530,000 container units. Compounding the challenge is that terminals are being utilized for temporary container storage, something that no port terminal is designed to handle. Together with the Port of Los Angeles, we are working to create more capacity at our terminals and move cargo as quickly as possible by implementing new measures to encourage the timely movement of containers.

First, the ports of Long Beach and Los Angeles have begun implementing a surcharge for containers left too long on the terminals. In the case of containers scheduled to move by truck, ocean carriers will be charged for every container dwelling nine days or more. For containers moving by rail, ocean carriers will be charged if the container has dwelled for six days or more.

Second, beginning on November first, the ports intend to charge ocean liner companies with cargo in those two categories $100 per container, increasing in $100 increments per container per day.

And third, with the backing of the Biden Administration, we are working with our marine terminal operators to expand their hours of operation. When I met with President Biden in the White House in October, I learned that he too held a vision for a 24–7 supply chain. I was very encouraged to hear his support for this bold concept.

[1] https://www.hellenicshippingnews.com/2021-port-congestion-report/
[2] https://www.freightwaves.com/news/us-class-i-railroads-to-feds-dont-blame-us

A few weeks before my meeting with President Biden, the Total Terminals International (TTI) terminal in the Port of Long Beach agreed to a pilot project to explore a framework for 24–7 operations. We have been working with other supply chain partners to encourage them to use the new hours at the TTI terminal.

Truckers and cargo owners are slowly warming to the expanded hours; however, there is still ample opportunity for more deliveries during the late shift from 3 a.m. to 7 a.m. and labor is available and on call.

U.S. Transportation Secretary Buttigieg and U.S. Envoy John Porcari have been instrumental in bringing large retail companies to the table to move and unload containers during these extended hours.

Other terminals are “flexing gates.” This means they are opening earlier and staying open later. Some are adding Friday night and weekend gates.

The collaboration and commitments made by the Biden-Harris Administration, ports, terminal operators, labor, retailers, warehouses and cities are moving the needle in the right direction. We all come to the table with drive, determination, expertise and commitment to solving this crisis. The White House Supply Chain Disruption Task Force will report our trials, errors, and successes on a biweekly basis. This transparent process brings greater awareness to policy makers and the public about the importance, complexity and fragility of this vital component of our nation’s economy.

Meanwhile, the Port’s Short Term Overflow Resource—known as STOR—has been successful. This 64-acre facility in the Port is working to provide container transfer and temporary storage during this cargo surge. Today, it has fourteen thousand containers at the site. We are in the process of securing an additional 5 acres to provide more temporary relief.

We also appreciate the California Governor’s Office of Business and Economic Development (GoBiz), under the leadership of Dee Dee Myers, actively working with port terminals and trucking companies to identify public and private land that can be used for temporary storage during this surge.

The Ports of Long Beach and Los Angeles are not the only American ports addressing backlogs. The Georgia Ports Authority recently announced it would convert five existing inland facilities into container yards to ease congestion. By getting containers off the dock and into these new facilities, space will clear up to unload further container ships more efficiently. This project is possible thanks to cooperation with the White House and Department of Transportation, who announced that ports would be able to repurpose unspent grant funds from past projects to address supply chain congestion. The Georgia Ports Authority will spend $8 million from past grants for this project, and it is my hope that other ports will be able to take advantage of this opportunity as well.

Port of Long Beach terminals are also ramping up on-dock rail operations, a priority component to further cargo velocity and diminish congestion in our transportation highways. We grew from about 20 percent of cargo moving by rail on Port property earlier in the year, to about 27 percent in the summer.

Along those lines, the Port of Long Beach and the Utah Inland Port Authority are expecting to increase rail-hauled cargo. This will be done with the development of more cost-effective and innovative strategies aimed at moving goods quickly, safely and efficiently between Long Beach and Utah.

I am hopeful that 24–7 operations will help mitigate this current surge, setting a framework for how we do things differently in the future. The San Pedro Bay Complex is forecasted to move 20 million TEUs in the coming years, thus requiring transformational change in the nation’s most important supply chain region.

24–7 operations cannot be implemented overnight. The Port of Long Beach has taken the first step, and we look forward to other links in the supply chain joining us.

MID- TO LONG-TERM SOLUTIONS

In 1995, the Port of Long Beach developed a comprehensive master plan to identify critical infrastructure improvements needed to ensure that Port operations could handle cargo forecasts. The Port Master Plan has been amended a dozen times to incorporate specific projects. In 2019, the Port updated the full plan to reflect new laws, regulations and policies adopted over the last three decades. Because of these proactive efforts, several major infrastructure investments came online in the last year and a half and have served as tremendous assets in helping the Port to address global congestion. The first was the replacement of the Gerald Desmond Bridge in 2020. Imagine that up until then, 15% of the cargo moved by truck in the U.S. travelled across a dilapidating bridge with only two lanes and no emergency shoulders.

The new bridge, named the Long Beach International Gateway, has four lanes plus shoulders, allowing little to no disruption on this important supply chain artery.

The second project, which came online in June 2021, is the completion of the electrified Long Beach Container Terminal (LBCT), which immediately added one million TEUs of capacity to the Port.

These two projects cost more than $3 billion, but the return on investment was immediately realized. Without these investments, I assure you we would have more supply chain bottlenecks and vessels at anchorage. We also recognize that there is more work to be done and more investments to be made to modernize the flow of goods through the Port. The Port of Long Beach plans on investing more than $1 billion in on-dock rail projects alone, which will help us move about 35% of our cargo via rail by 2030. Pier B will increase use of on-dock railyards by 157,000 TEUs annually. This project will result in the faster movement of goods and will eliminate approximately 224,000 annual truck trips, resulting in less congestion and better air quality.

While we institute short- and mid-term solutions, we need to look at the big picture and build for the future. Federal attention must not stop when the number of vessels at anchorage returns to zero. We must make U.S. ports a national priority all the time, not just in crisis. Every single American relies on seaports every day, and investing in this infrastructure will benefit American businesses and consumers in every state.

For the decade spanning 2018 through 2028, AAPA identified $20 billion in multimodal and rail access needs at U.S. ports. The Infrastructure Investment and Jobs Act, along with the accompanying Surface Transportation Reauthorization, takes significant steps towards making up this gap. In particular, the ports industry is pleased to see the cap on multimodal projects raised for the Infrastructure for Rebuilding America (INFRA) grant program. Additionally, the set-aside of $5 billion for multimodal projects within the supplemental funding for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program will direct much needed funds towards the kind of projects that get cargo moving more efficiently from ships to rail and trucks. I applaud this Committee and Congress for taking these steps to increase parity between funding for port infrastructure needs and those of other modes of transportation. I look forward to working with this Committee and the Department of Transportation to ensure that port multimodal projects are funded adequately through the INFRA, RAISE, and Consolidated Rail and Infrastructure Safety Improvements (CRISI) grant programs, all of which received billions of dollars in funding through the Infrastructure Investment and Jobs Act.

Maritime ports create $5.4 trillion in economic activity annually, representing 26% of our Nation's GDP. Ports are responsible for 30.8 million direct, induced, and indirect jobs. Ports exist to facilitate an integrated, end-to-end supply chain. We optimize goods movement. We build and invest. Ports serve as an engine for economic prosperity in our local communities and provide access to markets across the globe for communities nationwide. But, we cannot do it alone. We need the U.S. federal government to be our partners.

I want to thank U.S. Transportation Secretary Buttigieg for working closely with California State Transportation Secretary David Kim to prioritize federal funding for projects that will help alleviate freight bottlenecks in the country's largest and most financially important port complex.

The U.S. Department of Transportation (USDOT) is going to create a playbook for states on how to use grant and loan programs to support the movement of goods. I applaud USDOT and the White House for committing to opening the competitive grant process for $240 million through the Port Infrastructure Development Program (PIDP) within 45 days and an additional $475 million from the Infrastructure Investment and Jobs Act within 90 days. USDOT will develop and issue revised guidance on State Freight Plans that incorporates best worldwide freight planning practices. Freight plans will include supply chain cargo flows, an inventory of commercial ports, the impacts of e-commerce on freight infrastructure, and an assessment of truck parking facilities. These more holistic plans will help the federal and state governments be more strategic in directing funding and resources to the greatest economic development needs in the supply chain.

Greening U.S. Ports While Remaining Competitive

The Port of Long Beach is on track for a greener future, creating the world's most modern, efficient and sustainable seaport. The Ports of Long Beach and Los Angeles were at the forefront of environmental stewardship with their adoption of its Clean Air Action Plan (CAAP or Plan) in 2006, which was updated in 2010 and again in

2017. The Plan yielded reductions of 88% diesel particulate matter, 97% sulfur oxides, 58% nitrogen oxides, and 19% greenhouse gas emissions.

Programs, such as the Diesel Emissions Reduction Act (DERA) have been instrumental in implementation of our forward-thinking environmental initiatives.

As part of its industry-leading $4 billion capital improvement program, the Port is building some of the most modern, efficient, and sustainable marine facilities in the world to accommodate bigger ships, while generating thousands of new jobs. The Port has made great strides in reducing harmful air emissions from port-related operations, improving water quality in the harbor, protecting marine wildlife, and implementing environmentally sustainable practices throughout the Port.

The Port of Long Beach is investing in renewable energy and terminal improvements with the goal of transitioning terminal cargo-handling equipment to zero emissions by 2030 and on-road drayage trucks by 2035, at a cost of more than $14 billion.

The Port is undertaking energy initiatives that will provide reliability, resiliency, and economic competitiveness to the Port of Long Beach, the San Pedro Bay Ports Complex and its marine terminal tenants. Renewable energy technologies, other self-generation systems, controls, and energy storage will allow the Port to isolate operations from the local energy grid during times of emergency or outage. The entire Port community will benefit from the Port's reduced demand for grid power, a lowered carbon footprint, and improved air quality as the equipment we use changes from diesel- to electricity-powered.

The Port is committed to reducing congestion and air emissions that are harmful to our neighbors and the region. As I previously mentioned, we see on-dock rail capabilities as providing a critical environmental benefit by enabling more containers to be loaded directly onto rail and thereby reducing the number of trucks required to serve the Port, furthering the efficient movement of cargo.

The Port will pursue federal funds for emission reduction and clean energy projects authorized in the Infrastructure Investment in Jobs Act. The Port would benefit from funding to address climate change and energy resiliency in the Build Back Better Act and urges Congress to advance that legislation. I applaud Congress for including in that legislation $3.5 billion for a new grant program to invest in electric equipment at ports. A recent survey of AAPA members revealed a need of $50 billion for port electrification projects the next ten years. These include purchasing electric cargo-handling equipment, shore power projects, electric grid improvements, and hydrogen fuel production. All of these investments will help ports move cargo faster while improving the health of port communities. As ports around the world shift towards electric equipment, it is critical we not fall behind. Unless we re-shore crane and cargo-handling equipment manufacturing, we will continue subsidizing machine yards in Europe and Southeast Asia. I respectfully request that this Committee continue working with the ports and manufacturing industries to re-shore the manufacture of this equipment. Federal funding for electric equipment at ports will spur a new market of American-made machinery.

To create greater efficiencies and improve air quality and the health of our planet, we need to make significant investments in the supply chain workforce.

The Port of Long Beach is committed to creating and supporting programs that advance the development of a skilled workforce in international trade, goods movement and related professions, such as advanced technology, engineering, and environmental sciences. We have forged fruitful partnerships with the Long Beach Unified School District, Long Beach City College, and California State University, Long Beach, creating a workforce pipeline to port-related industries. Additionally, the Port of Long Beach Academy of Global Logistics at Cabrillo and Jordan high schools combines academic curriculum with industry-relevant training and information to support academic and career development.

Together with the Port of Los Angeles, and the ILWU, the Port of Long Beach is about to embark on building a $150 million Workforce Training Campus, where port workers throughout the U.S. will be able to get hands-on training in a simulated terminal environment. Receiving substantial hours of training in a safe environment that does not disrupt port operations will result in safer operations and greater efficiencies at our ports. We also hope to test new green innovations in this space to help prepare labor to use and repair these new technologies. Investments in supply chain workforce training are vital to our success to maintain a competitive edge and protect our environment.

The Port of Long Beach and AAPA appreciate the support of this Committee, Congress, and the Administration for working with all stakeholders to create a more resilient supply chain.

The pandemic has tested every aspect of our lives in ways that we could have never imagined, but the U.S. maritime industry will continue to evolve and adapt for a more efficient and greener tomorrow.

Mr. Chairman, Ranking Member, and members of the Committee, I would be more than happy to answer any questions you may have.

Mr. DEFAZIO. Thank you, Mr. Cordero.

Now on to Mr. Spear, the American Trucking Associations.

Mr. SPEAR. Chairman DeFazio, Ranking Member Graves, and members of this committee, good morning.

Our Nation's supply chain is made up of a complex series of contributing factors, including modes and intermodal connectors, sourcing, and talent pools governed by several jurisdictions of laws and regulations. Most recently, we witnessed a chronic slow return to work across all segments of the economy, trucking included, compounded by the growing backlog of ships at ports, container displacement, chassis and yard shortages, chip and sensor shortages, trade and tariffs, immigration, and cross-border enforcement, the Colonial Pipeline hack, the Suez Canal blockage, decaying infrastructure, an increasing number of natural disasters, all topped off with a global pandemic.

This is the 25th time ATA has testified on these factors in the last 5 years. Again, it's in my written testimony, so let me just zero in on two supply chain factors that remain ATA front-burner priorities.

First is infrastructure. This issue has been and remains a tier 1 priority for our members in industry. It has always been about what is best for the country. This is about real people getting the job done when it matters most, and this pandemic has been no exception. For trucking, that is nearly 8 million people, 1 in 18 jobs in America, where a truckdriver is the top job in 29 States.

Roads and bridges aren't political theater. They're our shop floor. That is what we have been telling Congress for the last 5 years, so it shouldn't surprise anyone on this committee as to why we supported this bipartisan infrastructure bill, and why we will remain very vocal about why it is the most important, historic, immediate, and impactful decision that directly addresses our Nation's ailing supply chain.

The Infrastructure Investment and Jobs Act became law because a majority in Congress decided to put the country ahead of themselves. My members repeatedly asked, begged for this to happen. Here is why. Since the pandemic began, truckers continued to serve America, moving 72.5 percent of the Nation's freight tonnage, and serving more than 80 percent of U.S. communities that exclusively rely on trucks—milk, eggs, bread, fuel, PPE, test kits, and now the vaccine itself.

So, as you turn to oversight, it is going to be critical that discretionary moneys address congestion in the top bottlenecks and intermodal connectors, of which 70 percent are State and local jurisdiction, and that funding be provided, as the chairman said, for truck parking, like in the House-passed bill, which costs the average driver $5,500 in direct compensation, annually.

Second, the slow return to post-pandemic work. Matching talent with consumer demand has long been a headwind for our industry. Truckers entered COVID–19 short 61,500 drivers, now at 80,000 short as we exit the pandemic. These annually reported numbers are sound and accurate. They reflect what any one of you would experience waiting for service at a restaurant, standing in longer lines at a grocery store checkout, or even flying and experiencing the added delays and cancellations, not from weather, but from airline crews unable to keep up with a surge in travel.

Pay has increased substantially, especially in the most challenging sectors of our industry. Long-haul earnings, for instance, are up 24.3 percent since the beginning of 2019, and increasing at five times their historic average, which is nearly 10 percent, year over year. Yet the shortage and the retention of talent remains, elevating other contributing factors, including lifestyle changes, more time with family, work flexibility choices that only independent contractors enjoy, time lost from severe congestion, and detention time, and the added layers of mandates, including requiring our workforce to vaccinate for a job that has one of the lowest risk and exposure rates in the country.

Apprenticeships that train younger talent to safely and responsibly operate this equipment will help, thanks to the language from the bipartisan DRIVE Safe Act included in the IIJA. But we need to do more: urban hiring, including more minorities and women, more veterans and exiting military personnel, harmonizing CDL testing requirements and, of course, taking care of our current workforce, including retirement incentives and stronger health and wellness programs, all things our industry is not just doing, but committed to doing better.

Now, I recognize the divisive environment we all find ourselves. So, let me close with this. Stop blaming everyone for the things you don't do, and start taking credit for the things you should do.

Thank you, Mr. Chairman.

[Mr. Spear's prepared statement follows:]

Prepared Statement of Chris Spear, President and Chief Executive Officer, American Trucking Associations

Chairman DeFazio, Ranking Member Graves, and Members of the Committee, on behalf of the American Trucking Associations (ATA)[1], thank you for providing me with the opportunity to testify before you today.

ATA is an 88-year-old federation and the largest national trade organization representing the 7.65 million men and women working in the trucking industry. ATA is a fifty-state federation that encompasses 34,000 motor carriers and their affiliated suppliers. ATA represents every sector of the industry, from Less-than-Truckload to Truckload, agriculture and livestock transporters to auto haulers and movers, and from the large motor carriers to owner-operators as well as mom-and-pop one-truck operations. ATA member companies have overcome tremendous challenges over the past twenty months and continue to adjust as inefficiencies intensify disruptions in international and domestic supply chains.

Despite mounting challenges, the trucking industry continues to play a critical role in sustaining our nation's economy. Trucks deliver critical foodstuffs to store shelves, personal protective equipment (PPE) to our nation's first responders, and gasoline to every community nationwide. We enable flexible multimodal supply chains by moving goods the last mile from maritime, rail, air, and intermodal facili-

[1] American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of 50 affiliated state trucking associations and industry-related conferences and councils, ATA is the voice of the industry America depends on most to move our nation's freight. Follow ATA on Twitter or on Facebook. Trucking Moves America Forward.

ties. Truck drivers perform an indispensable service, and their work moving goods across the country is vital to our economy and way of life.

The trucking industry moves over 70 percent of the nation's freight tonnage every year[2], and more than 80 percent of U.S. communities rely exclusively on trucking to meet their freight transportation needs. Over the next decade, trucks will be tasked with moving 2.4 billion more tons of freight than they do today, and will continue to deliver the vast majority of goods to American communities.[3] The trucking industry is also one of the country's leading employers, including over 3.6 million drivers.[4] Trucking accounts for one out of every eighteen American jobs, and "truck driver" is the top job in 29 states.[5]

As evidenced by the response to the COVID–19 pandemic, and as highlighted by the current challenges facing our supply chains, trucking is the dynamic linchpin of the U.S. economy. When trucks are not operating efficiently, those slowdowns reverberate throughout the supply chain, and our supply chain partners feel the secondary impact on both the front- and back-ends. The supply chain is inherently interconnected and multimodal, and the supply chain issues we are witnessing today are a result of years of inaction that allowed small problems to metastasize into nationwide disruptions.

This hearing presents a unique opportunity for key supply chain stakeholders to highlight major headwinds for freight transportation, and for this Committee to consider targeted solutions that improve the safety, efficiency, and resiliency of the supply chain during this ongoing national recovery. Deteriorating roads and bridges, severe congestion, freight bottlenecks, and unprecedented backlogs of cargo at our U.S. ports and inland terminals all place significant strains on the trucking industry and our supply chain partners, and absent short-term and long-term remedies, these problems could permanently inflate the cost of moving goods.

Also, in spite of the dangers posed by the pandemic, America's truckers proudly answered the call to deliver necessities across the country around-the-clock without interruption. Truckers perform their duties irrespective of the challenges brought on by public health emergencies, dilapidated and failing infrastructure, rising equipment costs, and intrusive regulatory burdens that make it difficult for companies to operate. But we need your help to ensure we can continue to deliver for the American people.

As the Committee examines the nation's supply chain challenges, I ask that you please consider four key areas: 1) infrastructure investment, 2) workforce development, 3) challenges created by equipment and labor shortages at U.S. maritime ports, inland storage facilities, and distribution centers, and 4) potential consequences of an employer-based vaccine mandate. I will address each of these areas in detail in my testimony, as they are critical to ensuring the economic vitality and competitiveness of the American trucking industry and broader supply chain.

Thank you for holding today's hearing to consider these critical issues. I look forward to working with you to share information and inform potential opportunities to alleviate these supply chain disruptions and protect the safe and efficient movement of our nation's goods.

Key Issues for the Commercial Trucking Industry:

1) Infrastructure Investment:

Well-maintained, reliable, and efficient infrastructure is crucial to the delivery of our nation's freight—both international and domestic—and is vital to our country's economic and social well-being. That is why ATA applauds the November 5th House passage of the Infrastructure Investment and Jobs Act (IIJA), a broadly bipartisan bill that will provide important investments to maintain and improve our core interstate system. Importantly, this bill also targets additional funding for intermodal freight connectors and projects of national significance that are critical for supply chain continuity. ATA strongly and vocally supported this important legislation, and we are pleased that Congress has finally moved to ensure that the roads and bridges that carry the nation's economy are safe, reliable, and prepared for future growth.

Enactment of the IIJA is all the more important in the context of the escalating problems that plague our supply chain and the nation's highway infrastructure. Highway congestion, for example, adds nearly $75 billion to the cost of freight trans-

[2] U.S. Census Bureau Commodity Flow Survey, 2017.
[3] *Freight Transportation Forecast 2020 to 2031*. American Trucking Associations, 2020.
[4] *American Trucking Trends 2020*. American Trucking Associations.
[5] https://www.marketwatch.com/story/keep-on-truckin-in-a-majority-of-states-its-the-most-popular-job-2015-02-09

portation each year.[6] In 2016, truck drivers sat in traffic for nearly 1.2 billion hours, equivalent to more than 425,000 drivers sitting idle for a year.[7] This caused the trucking industry to consume an additional 6.87 billion gallons of fuel in 2016, representing approximately 13% of the industry's fuel consumption, and resulting in 67.3 million metric tons of excess carbon dioxide (CO2) emissions.[8]

Congestion serves as a brake on economic growth and job creation nationwide. A first-world economy cannot survive a developing-world infrastructure system. As such, the federal government has an obligation to ensure that necessary resources are available to address this self-imposed and completely solvable situation. More specifically, ATA recommends that at least $5 billion in federal-aid highway funds should be set aside annually to address highway bottlenecks in key freight corridors that drastically impede the efficient movement of goods. Furthermore, given the importance of the National Highway System—and especially the Interstate System—to the supply chain, a greater share of federal investment should be directed toward the maintenance and improvement of these highways.

Another barrier to supply chain efficiency is the poor state of freight intermodal connectors—those roads that connect ports, rail yards, airports and other intermodal facilities to the National Highway System. While they are an essential part of the freight distribution system, many are neglected and are not given the attention they deserve given their importance to the nation's economy. Just 9% of intermodal connectors are in good or very good condition, 35% are in fair condition, 19% are in mediocre condition, and 37% are in poor condition.[9] Not only do poor roads damage both vehicles and the freight they carry, but the Federal Highway Administration (FHWA) found a correlation between poor roads and vehicle speed. Average speed on a connector in poor condition was 22% lower than on a connector in fair or better condition.[10] FHWA further found that congestion on freight intermodal connectors causes 1,059,238 hours of truck delay annually and 12,181,234 hours of automobile delay.[11] Congestion on freight intermodal connectors adds nearly $71 million to freight transportation costs each year.[12]

One possible reason connectors are neglected is that the vast majority of these roads—70%—are under the jurisdiction of a local or county government.[13] Yet, these roads are serving critical regional, national, and international needs well beyond the geographic boundaries of the jurisdictions that have responsibility for them, and these broader benefits may not be factored into the local jurisdictions' spending decisions.

While intermodal connectors are eligible for federal funding under formula programs, it is clear that simple eligibility does not yield the results our country and the supply chain need. ATA supports a set-aside of funding for freight intermodal connectors to ensure that these critical arteries are given the attention and resources they deserve.

Additionally, we advise against federal policies that are likely to prevent or hamstring state and local agencies' efforts to expand highway capacity. This includes conditioning the expenditure of federal funds for new capacity on a showing that alternatives, such as operational strategies or investment in alternative transportation modes, are definitively ruled out. The National Environmental Policy Act (NEPA) process already requires the consideration of alternatives, and layering additional requirements onto the existing process would be unnecessary, costly, and cumbersome. We also urge any policies that seek to eliminate or downgrade highways in the name of equity or environmental justice fully take into consideration the impacts of these approaches on supply chain efficiency.

While the IIJA did not set aside funding for either highway bottleneck elimination or intermodal connectors, these projects are eligible for funding under several of the discretionary programs, including the Nationally Significant Freight and Highway Projects Program, the Bridge Investment Program, the National Infrastructure Project Assistance Program, and the Local and Regional Project Assistance Program. Congress should provide the necessary oversight to ensure that the resources available from these important programs are used primarily for projects that im-

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[6] *Cost of Congestion to the Trucking Industry: 2018 Update*. American Transportation Research Institute, Oct. 2018.

[7] *Ibid*.

[8] *Fixing the 12% Case Study: Atlanta, GA*. American Transportation Research Institute, Feb. 2019.

[9] *Freight Intermodal Connectors Study*. Federal Highway Administration, April 2017.

[10] *Ibid*.

[11] *Ibid*.

[12] *An Analysis of the Operational Costs of Trucking: 2018 Update*. American Transportation Research Institute, Oct. 2018. Estimates average truck operational cost of $66.65 per hour.

[13] *Ibid*.

prove transportation safety and mobility, and that address infrastructure deficiencies that contribute to supply chain inefficiencies. These programs should not be used to advance parochial agendas that are outside of their Congressionally-mandated scope.

A further barrier to supply chain efficiency is the shortage of truck parking, which has been well documented for decades. In 2015, the FHWA's Jason's Law report recognized the shortage of truck parking capacity as a serious highway safety concern. The FHWA found that more than 75 percent of truck drivers and almost 66 percent of logistics personnel "regularly [experienced] problems with finding safe parking locations when rest was needed." Due to inaction at the federal, state, and local level, the truck parking shortage has only worsened since 2016. In 2019, the FHWA found that the percentage of drivers who regularly experienced difficulty finding truck parking had skyrocketed from 75 percent to 98 percent. The truck parking shortage is not just a safety and compliance issue; it is also an economic issue for drivers and fleets. Time spent looking for available truck parking costs the average driver about $5,500 in direct lost compensation—or a 12% cut in annual pay. Truck drivers give up an average of 56 minutes of available drive time per day by parking early rather than risk being unable to find parking down the road. The result is declining industry productivity and further depletion of the driver pool, both of which contribute to supply chain inefficiencies.

Federal investment in the expansion of trucking parking capacity is key to addressing this problem. ATA thanks the committee for including $1 billion in its surface transportation bill for truck parking capacity expansion. Unfortunately, the IIJA did not include dedicated funding for truck parking. We encourage Congress to seek other opportunities to address this critical problem.

Underpinning all of these recommendations is the need for a long-term, stable revenue source. Without one, states will find it difficult to commit to funding crucial and expensive projects. The fuel tax has, for at least a century, provided that stable income. However, a failure to increase the rate of the federal fuel tax since 1993 has caused the value of the revenue generated to be significantly reduced due to inflation. While the fuel tax will likely have to be replaced or supplemented at some point, it will be a viable revenue source for at least the next decade, and the rate of tax should be raised and indexed to inflation. In the meantime, the Administration should work with Congress, the states, and the private sector to find a viable replacement for the fuel tax that can provide stable highway funding for the foreseeable future. The IIJA included funding for national, state, and local pilot programs to explore new revenue sources. ATA looks forward to working with USDOT and grant recipients to implement a robust and comprehensive research and testing program.

2) Workforce Development:

The trucking industry, which serves as the linchpin of our nation's economy and supply chain, has faced an escalating driver shortage over the past years. The driver shortage is the result of many concurrent factors, but the COVID–19 pandemic exacerbated the trucking industry's already-dire labor constraints. The COVID–19 pandemic brought with it the temporary closures of state DMV's and truck driver training schools, which dried up the already-fragile pipeline of new drivers entering the trucking industry. This pipeline is still slow and inefficient today. As a result, companies working throughout the nation's supply chain are facing higher transportation costs, leading to increased prices for consumers on everything from electronics to food. The driver shortage is a looming threat that, if unaddressed, could destabilize the continuity of trucking operations with a ripple effects across the supply chain that will be felt by everyday Americans.

According to statistics released within the last month, the trucking industry is currently short 80,000 drivers.[14] That deficit will only continue to grow unless Congress and regulators modernize regulations that govern who can drive in interstate commerce and make targeted investments in programs to attract a new, diverse generation of drivers and supply chain workers to the transportation industry. Without substantial action, by 2030 and at current trends, the driver shortage could grow to 160,000.[15] Overall, nearly one million new drivers will need to be trained and hired in the next decade to keep pace with increasing consumer demand and an aging workforce.[16]

The trucking industry offers fulfilling careers with family-sustaining salaries—all without the debt that often accompanies a college degree—but obsolete regulatory

[14] *Driver Shortage Update 2021*. American Trucking Associations. October 25, 2021.
[15] *Ibid*.
[16] *Ibid*.

barriers prevent the trucking industry from offering these pathways to recent high school graduates who may otherwise want to pursue a career in trucking. The Bureau of Labor Statistics (BLS) reported a mean salary of $47,130 for truck drivers in a May 2020 report.[17] Additionally, an industry survey shows the average truck driver earns over $54,000 per year, plus benefits like health insurance, a retirement plan (e.g., 401(k)), and paid time off.[18] Since 2014, private fleet drivers have seen their pay rise from $73,000 to more than $86,000, or a gain of nearly 18%.[19] In addition to rising pay, many fleets offer generous signing bonuses and other expanded benefits packages to attract and keep drivers. We want to welcome more individuals into the trucking industry, but we need Congress' help to open up career pathways that are currently closed to qualified people due to outdated regulatory barriers.

To that end, ATA is pleased that the IIJA included important workforce development programs that we believe will create new career pathways into trucking. ATA is particularly enthusiastic about three provisions, including a pilot program (based on the DRIVE Safe Act, H.R.1745) that will allow highly-trained younger drivers to operate in interstate commerce, the establishment of an advisory board to promote the recruitment and retention of women in the trucking workforce (based on the Promoting Women in Trucking Workforce Act, H.R.1341), and the authorization of a program to promote and improve job opportunities for a diverse transportation workforce (based on the Promoting Service in Transportation Act, H.R.3310).

The DRIVE Safe Act pilot program will allow the U.S. Department of Transportation to collect the data to show what 49 states and the District of Columbia already recognize: that 18-to-20-year-olds can be trained to operate safely in interstate commerce and *help* meet the critical need for 80,000 new truck drivers nationwide. Currently, federal regulations require an individual to be 21 years of age in order to operate a commercial vehicle across state lines or transport interstate freight. This, despite the fact that a driver—today—can obtain their commercial driver's license (CDL) between the ages of 18–20 and operate solely within state lines in 49 states and the District of Columbia. This pilot program will enable 3,000 drivers to operate in interstate commerce once they have successfully completed a rigorous training program. Ultimately, the data generated from this pilot program will demonstrate that young drivers can add critically-needed resilience and capacity to national supply chains if they receive the appropriate training in trucks equipped with the latest safety technology. To qualify to operate in interstate commerce under the pilot program, drivers must complete 400 hours of training using leading safety equipment, including 240 hours with an experienced mentor, on top of the current minimum requirements to obtain a CDL for drivers of all ages. The capacity that can be unlocked by bringing safe, trained, younger drivers into the workforce is critically important to ensuring the supply chain continuity that has eluded us for so long. Make no mistake, this pilot program is not a step toward allowing untrained individuals to operate a CMV, but rather a data-driven innovation designed to identify those individuals who can, with the correct amount of training, safely operate a CMV in interstate commerce.

The IIJA provisions based on the Promoting Women in Trucking Workforce Act and the Promoting Service in Transportation Act are also important tools for our nation's supply chains to attract a younger and more diverse workforce. Although women currently make up 47% of the workforce, only 7% of truck drivers are women[20] and only roughly 26% of all transportation and warehousing jobs are held by women.[21] For too long, blue-collar professions like trucking have been stigmatized, and the disproportionate emphasis on four-year colleges at the expense of vocational schools and the skilled trades has discouraged too many potential drivers from getting behind the wheel. ATA supports both of these important legislative efforts and applauds their inclusion in the IIJA.

The inclusion of these workforce provisions in the IIJA will take significant steps in establishing new career pathways into the trucking industry. Broadening and diversifying the talent pools from which the trucking industry recruits will help to alleviate a significant pressure point imperiling the supply chain.

As this Committee and Congress consider additional measures to address the current supply chain disruptions, the truck driver shortage and workforce development

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[17] Heavy and Tractor-trailer Truck Drivers : Occupational Outlook Handbook: : U.S. Bureau of Labor Statistics (bls.gov)

[18] ATA Driver Compensation Study (2017); American Trucking Associations. https://www.atabusinesssolutions.com/ATAStore/ProductDetails/productid/3852684.

[19] Id.

[20] *American Trucking Trends 2020*. American Trucking Associations.

[21] *Monthly Employment in the Transportation and Warehousing Sector. USDOT Bureau of Transportation Statistics. September 2021.*

should be major focal points of any future action. Given that the current shortage of truck drivers stands at 80,000, an immediate option for consideration should be an emergency funding authorization of workforce training dollars for job opportunities in essential critical infrastructure workforces, like the trucking industry. By subsidizing CDL training and testing, Congress can help qualified individuals overcome the financial barriers to entry and assist in an immediate infusion of trained drivers to allay current supply chain pressures. Similarly, ATA supports the enactment of the JOBS Act (H.R.2037), which would make CDL Training and Truck Driving Schools more likely to be eligible to receive federal Pell Grant funding, enabling workers to obtain the necessary credentials to join the trucking workforce without incurring significant debt. That all being said, ATA believes that any legislative proposals to expand the trucking workforce must be supported by the appropriate safety standards and performance criteria.

ATA also appreciates and supports the steps government agencies have taken to address driver recruitment bottlenecks, such as issuing emergency waivers and declarations during the pandemic, and we believe some of those should be made permanent.

For example, permanent waivers on certain requirements for Commercial Learners Permits (CLP) and Third-Party Testing could assist in easing the current delays associated with the testing of drivers who wish to obtain their CDL. These delays existed prior to the COVID–19 public health crisis and have only been exacerbated by the pandemic. ATA anticipates that the existing backlog of testing appointments will steadily increase in the future and encourages the Federal Motor Carrier Safety Administration (FMCSA) to harmonize state licensing procedures, including, for example, state of domicile requirements and Third-Party Testing.

FMCSA has mandated that an individual's state of domicile must accept the results of a CDL *skills* test that was administered out-of-state; however, the rule does not require the state of domicile to also accept the results of an out-of-state *knowledge* test. As a result, driver candidates who obtain training out-of-state are required to travel back to their state of domicile to obtain their credentials, creating an unnecessary burden. It has become all the more important to allow trainees to test, train, and receive their relevant credentials—be it a CLP or a CDL—without having to travel back and forth to their state of domicile during the pandemic, and there's no safety justification that would warrant returning to that requirement as we recover from the public health crisis.

Finally, I would be remiss if I did not address a piece of legislation that would be extremely harmful to the trucking industry and hurt the very workers it purports to help: the Protecting the Right to Organize (PRO) Act (H.R.842). The PRO Act, which I know many of you support, includes a provision that would effectively bar the trucking industry from utilizing the independent contractor business model. The trucking industry, American consumers, and the integrity of the nation's supply chain depend on independent contractors, and the implementation of a restrictive national test to limit independent contractor status would jeopardize the livelihoods of over 350,000 owner-operators, destabilizing America's supply chain and irreparably harming the U.S. economy.

The involvement of independent contractors in trucking promotes efficiency and an increased ability to meet customer demand, which has been acutely necessary during heightened delivery periods like the COVID–19 pandemic, and annually during the peak holiday season. Americans choose to work as independent contractors because of the economic opportunity it provides and the empowerment to select the conditions (e.g., hours and routes) that suit their lifestyles. Accordingly, the Americans who choose to become owner-operators in trucking should be respected and supported in their endeavors, not driven out of business because of the authoritarian view that employee status is better for them.

3) Port Productivity Challenges:

As media and policymakers focus on the backlog of imported cargo at U.S. maritime ports, particularly on the West Coast, it is an opportunity to examine the long-term trends in port practices that reduce the resilience of supply chains. Volumes are surging at a time when labor and equipment shortages leave inland distributors unable to accommodate the demand. Inabilities to process cargo at ports, dray import and export containers between ports and inland distribution facilities, and transport inland goods efficiently between production facilities and warehouses all create challenges for the overall supply chain. Ultimately, there is an incentive misalignment between major players in the supply chain, and in order to move cargo efficiently at ports, all supply chain partners should, at a minimum, share that mutual goal.

The entire supply chain would benefit from steps to incentivize communication between supply chain partners, realign financial incentives by modernizing regulations related to detention and demurrage charges by ocean carriers and marine terminal operators, and address the chassis and equipment shortage.

Improving Communication

Private sector supply chain partners need to continue improving their communication to avoid supply chain breakdowns in the face of peak season demands, a lack of carrier capacity, limited equipment availability, and ongoing labor supply challenges. Congress and federal regulators must understand the full context of the current and potential bottlenecks in order to respond accordingly with effective and meaningful relief.

For instance, a port remaining open 24/7 will do little to increase the flexibility of the supply chain if the port does not have adequate equipment available to move containers, or is slow to process the trucks that serve the facilities, or if inland warehouses are full or only staffed to open their shipping docks for limited hours. Solutions should focus on addressing the constraints specific to those port facilities, not merely increasing the amount of time a driver can operate in order to overcome the inefficiencies.

In addition to the delays and limited hours of operation at inland facilities complicating the carriage of goods to and from ports, the ports themselves struggle with disjointed information sharing. ATA members working in intermodal freight, report that information systems and notifications vary substantially between facilities. Each terminal within a larger port often has its own information sharing system, an inefficient state of affairs for truck drivers and supply chain participants that would otherwise benefit from more global availability of information. For example, truckers working at ports often must return containers or chassis at one terminal then pick up new equipment at a different terminal, a process complicated by the fact that most terminals within a port operate on different appointment systems. Short notice of constantly-changing windows of availability for cargo and equipment pickup and drop-off at each terminal only increases the level of miscommunication.

Modernizing Incentives at Ports

Too often, the delays for pickup and return of equipment and cargo for the movement of goods at ports are due to circumstances beyond motor carriers' control. Part of the challenge is in obtaining the necessary equipment, particularly chassis, to move containers to warehouses. Additionally, labor shortages at those inland facilities can slow the loading and unloading of goods. Federal hours of service regulations do not account for or accommodate labor challenges, so the time a driver spends waiting on a chassis to move goods from the port, or missing the delivery window at an inland facility because of delays at the port is unrecoverable. Drivers and equipment are critical resources for the overall supply chain, and ensuring effective utilization of both is critical to alleviating the current port backlog and strengthening long-term efficiency.

The answer to these myriad challenges is not increasing the amount of time a driver can be on-duty, but rather restoring financial incentives for ocean carriers and marine terminal operators to work with shippers and carriers to move goods efficiently. Steamship lines and marine terminal operators should not benefit from unreasonable demurrage charges when cargo is not made available to carriers and shippers in a timely manner, and they should not be able to levy unfair charges for the late return of containers when there is no space for the carrier or shipper to return the equipment or when terminals are not open.

If drivers are unable to return a container and obtain the proper chassis, they cannot pick up their next container, slowing operations and contributing to the buildup of containers at the port. In addition to improving port information sharing and restoring fairness to the financial incentives for moving cargo, there is a critical need to incentivize better chassis management and to secure more chassis and equipment to move more containers at ports.

Pass the Ocean Shipping Reform Act of 2021 (H.R.4996)

The Federal Maritime Commission (FMC) has extensively studied the issue of unjust and unreasonable practices relating to detention and demurrage charges levied on motor carriers and shippers by ocean carriers and marine terminal operators. Last year the FMC issued an Interpretive Rule on detention and demurrage that outlined how these charges should be used to help properly incentivize the efficient movement of freight. Unfortunately, the rule has not brought the changes that were intended and motor carriers working at ports still receive bills for detention and demurrage that can be in violation of the regulation. These companies are all too often then forced to spend time and resources protesting these unfair penalties. If these protests are unsuccessful, then they must weigh the risks of pursuing litigation or arbitration with large, global shipping lines to recover their losses.

Due to consolidation, there are now fewer than a dozen major steamship lines, and those that are remaining have organized into three alliances, shrinking the marketplace even further. For truckers and shippers who must do business with the ocean carriers to transport freight, there often is little recourse when they believe they have been treated unfairly on detention and demurrage, chassis charges, or a host of other issues.

ATA is pleased to support the Ocean Shipping Reform Act of 2021, introduced earlier this year by Representatives John Garamendi (D–CA) and Dusty Johnson (R–SD) to end these unfair practices and ensure that all parties are properly focused on the efficient movement of freight. The legislation would require ocean shippers to certify that all detention and demurrage charges comply with the FMC regulation and place the burden of proof on the ocean carriers. Importantly for truckers who do not contract with the ocean carriers but are the ones who receive these bills, it would also require FMC to examine whether these charges should be billed to any party other than the shipper. The consolidation we have seen in recent years means that the maritime marketplace has changed significantly, and it is time that the law was updated to reflect this. We urge the Committee to take up this legislation as soon as possible.

Equipment Availability

There is virtually zero availability of chassis, which is a critical chokepoint for U.S. ports at this time. Trucking companies and intermodal equipment providers that purchase this equipment rely on both domestic and foreign suppliers. Recent trade actions, including Section 301 tariffs imposed during the Trump Administration and an antidumping and countervailing duty ruling from the Department of Commerce and the U.S. International Trade Commission (USITC) earlier this year, limit chassis availability from global sources. ATA is concerned that the combination of the tariffs and duties only increases the cost of chassis without providing a sizeable increase in domestic production to meet the demands of the U.S. intermodal marketplace. Without increased chassis availability, motor carriers will continue to struggle to meet consumer demand in an efficient and timely manner.

A lack of interoperability for chassis in certain locations further strains the motor carriers and shippers moving products through our ports. Many ocean carriers require motor carriers to use chassis from their preferred intermodal equipment provider in order to pick up a container from that shipping line. This is true even for merchant haulage where the shipper contracts directly with the motor carrier for land transportation rather than with the ocean carrier. This could require a motor carrier to return one chassis and pick up another one just to pick up a container from a specific ocean shipping line. This inefficient system that allows ocean carriers to sideline competition also prevents motor carriers from choosing their own chassis provider, adding time and expense that is eventually passed on to consumers.

Finally, the supply chain challenges that make it harder to move freight efficiently are compounded by the inability to receive new trucks and the necessary parts to maintain fleets. These shortages are making it harder to keep trucks on the road and placing the economy at risk of an even greater capacity shortage. Semiconductor shortages are slowing delivery of new equipment because OEMs are being forced to idle plants as they wait to build up sufficient stock to produce trucks. Fleets are cannibalizing older equipment to keep their assets moving as best they can. These shortages will continue to challenge those companies working in the supply chain, and we encourage the members of this Committee to consider these industry concerns.

4) Vaccine Mandate

Supply chain issues are not just the result of inefficiencies at ports, failing infrastructure throughout the nation, and regulations standing in the way of progress, but also the result of unintended consequences from unwise policy decisions. As we made clear in our comments [https://ata.msgfocus.com/c/1UbQ1tbTx1oURLRQe6lyDbjMy] to the Administration on the OSHA vaccine or testing mandate, while ATA has promoted voluntary vaccinations amongst the trucking industry, we are adamantly opposed to misguided mandates on the trucking workforce.

The Occupational Safety and Health Administration's (OSHA) COVID–19 Emergency Temporary Standard (ETS) specifically exempts employees who exclusively work outdoors or remotely and have minimal contact with others indoors. And as you know, commercial truck drivers spend the vast majority of their workday alone in the cab and outside. All indications thus far from the Department of Labor suggest this exemption applies to the commercial truck driver population. We are also thankful that OSHA stated in its rule that employers who are both government contractors subject to a separate requirement under contracting provisions will not also have to meet the requirements of the OSHA rule.

While we are pleased the rule exempts a large part of the trucking industry and doesn't overlay with the federal contractor requirements, it does not, however, take into account that trucking is not a one-size-fits-all industry, and we continue to believe OSHA is using extraordinary authority unwisely, applying it across all industries at an arbitrary threshold of 100 employees that fails to factor in actual risks.

As mentioned above, there are labor shortages causing inefficiencies at ports, inland warehouses, and distribution facilities. America's trucking industry is built on a deregulated model with hundreds of thousands of licensed motor carriers of all shapes and sizes. Setting an arbitrary threshold for vaccine mandates based on company size puts the companies above that threshold at a disadvantage where their drivers and workers can simply leave for jobs at companies where they will not be subject to a mandate. Trucking workforce data gathered by ATA indicates that an employer-based vaccination mandate based on the arbitrary threshold of 100 employees could mean the loss of up to 37% of drivers for covered companies to retirements, attrition to smaller carriers, or conversion to independent contractor owner-operators. Federal regulations should not play favorites among competitive industries, but this proposal does exactly that.

ATA strongly supports efforts to provide access to vaccination and COVID–19 testing broadly throughout the country. To that end our members working in the supply chain play a major role in ensuring distribution of vaccines and medicines nationwide. More broadly, truckers ensure that institutions and families across the country have access to necessities—milk, eggs, bread, produce, fuel, and the COVID–19 vaccine itself—despite the ongoing challenges to daily life. Truckers in fleets of all sizes play a role in meeting that demand and transporting the goods we all need.

While this Committee considers ways to support resiliency in our nation's supply chains, ATA requests that members be aware of the following necessary provisions that ATA explained to the Administration should have also been included to protect the supply chain:

(1) A specific written exemption for truck drivers akin to that provided by Canada for its drivers or alternatively deferring coverage of truck drivers under a vaccine or testing protocol to the traditional regulating agency with transportation expertise—the Federal Motor Carrier Safety Administration (FMCSA)—rather than OSHA; and

(2) A reasonable implementation timeline of not less than 90 days.

Without these two changes at least, there is almost no way that the vaccine mandate doesn't further deteriorate our supply chain situation. This mandate is wholly unnecessary based on our data also. While much of the country was sequestered in their homes over the past eighteen months, the trucking industry served its essential function, and did so successfully with safety standards developed by public health experts. In fact, ATA surveyed its members and provided data to the Administration showing that our drivers were well below the infection and mortality rates of the general population. We support the Administration's goals of increased vaccination rates and clear health guidelines to enhance protections for all Americans. We have urged trucking industry employees to get vaccinated and will continue to do so. We will also continue to work with federal authorities to increase voluntary vaccination rates for our sector.

Unfortunately, however, the OSHA rule together with the federal contractor vaccination mandate, will have significant unintended consequences. Because the rule does not take into account the effects on the trucking industry, ATA has been forced to take action against the ETS to protect the industry. Because of its one-size-fits-all approach and short implementation timeline as well as logistical impossibility of administering testing on our incredibly mobile workforce, the rule inherently fails to balance the risks of a single standard for all industries against the broad impact that such a rule will have in exacerbating challenges to the supply chain and economy. Even if the ultimate goal is something we all agree on—increasing vaccination protections and defeating the COVID–19 pandemic—it is vital that public health measures first do no harm. This one will make the supply chain difficulties worse if it is not revisited substantially and that is why ATA felt compelled to bring a legal challenge in spite of our overall support for the Administration's goals.

CONCLUSION:

Chairman DeFazio, Ranking Member Graves, and Members of the Committee, thank you again for the opportunity to testify before the Committee at a moment when the challenges facing our nation's supply chains are significant and complex. The members of the American Trucking Associations are working ceaselessly to move goods across this country, and I appreciate the opportunity to present you with insights on steps that can be taken to meet those challenges help improve the nation's movement of goods.

The entire ATA federation stands ready to work hand-in-hand with Congress and the Biden Administration to address the issues we are discussing today. Thank you.

Mr. DEFAZIO. I thank the gentleman for his strong statement.

Now to Mr. Jefferies, Ian Jefferies.

Mr. JEFFERIES. Chairman DeFazio, Ranking Member Graves, members of the committee, thank you for the opportunity to be here today representing America's freight railroads.

While the past 2 years have been extremely challenging for all of us, I am immensely proud of the continued resolve of railroads, and their constant movement of goods, and doing it in a safe manner throughout the pandemic. It is a testament to our employees' commitment and dedication, and a result of sustained private investment, which has resulted in railroads having the highest rated infrastructure in the country, according to the American Society of Civil Engineers.

Speaking of investment, our industry applauds the passage of the Infrastructure Investment and Jobs Act, a historic downpayment on the Nation's future that will make critical investments and pay dividends for years to come. Railroads are especially appreciative of the $845 million per year for highway-rail grade crossing safety and elimination projects, along with commonsense improvements to the Federal permitting process to increase timeliness and predictability for getting projects approved and money put to work.

If I can leave you with one point today, though, it is this: the Nation's railroads have been, are, and will continue to operate 24/7. Day and night, we are moving carload traffic, bulk freight, and intermodal containers throughout the country, collaborating with all of our supply chain partners to deliver the goods customers and communities rely on.

Over the past 1½ years, railroads have taken several steps to keep goods moving and maximize fluidity, particularly in intermodal terminals. These facilities were never intended to be used for storage, so it is a top priority to maintain fluidity and keep goods moving, not store them. For instance, railroads have rerouted traffic away from congested hubs, reopened dormant intermodal yards, and, where possible, increased storage and capacity in existing yards to offload more containers.

Railroads are also providing incentives to our trucking partners to use off-peak hours and weekends for pickups to maintain the flow of goods out of the yards. At the local level, railroads are bypassing constrained local truck movements by interchanging goods directly between railroads, shifting from rubber tire interchange to steel wheel interchange to alleviate crosstown drayage.

On the employment side, while properly sourced for demand in some regions, railroads are also hiring across crafts and other markets, where appropriate.

In short, railroads are pulling multiple levers to maintain fluidity. In the first 6 months of 2021, railroads moved more intermodal containers than they had in any other 6-month period in their history. Even today, railroads have capacity, and are open to taking on additional business, especially in the international intermodal space.

Yet, as we know full well, today's supply chain challenges are multifaceted. Largely, this is the result of a fundamental shift that has occurred in the economy since the onset of the pandemic. While the services portion of the economy has substantially dropped off, the goods portion of the economy has dramatically increased.

And beyond the unprecedented change in demand, well-documented labor shortages in critical segments of the supply chain, including trucking, warehousing, and other industries, a lack of available chassis, and extremely limited warehouse space—3.6 percent vacancy rate in warehouses, nationwide—has hampered the integrated supply chain, and delayed on-time deliveries.

Recent steps taken by partners in the supply chain, such as the mentioned shift to 24/7 operations at the Ports of L.A. and Long Beach, and the activity at the Port of Savannah, as well, to increase throughput and capacity, are all encouraging steps. But I think it is clear there are no quick fixes, and we in the supply chain are all in this together until the challenge is met and overcome.

From the policy perspective, lawmakers and regulators should be focused on how to safely maximize goods movement and meet demand today and into the future. This starts with encouraging innovation and deployment of safety and capacity-enhancing technologies. We must make the most efficient use of the infrastructure we have, while also expanding where possible.

In the rail space, one example is automated track inspection, a data-driven technology that allows for more track to be inspected, while keeping lines open. The result? A higher level of safety, while no loss to fluidity. We should continue to look for innovative ideas like this to make the most of our infrastructure.

Policymakers would also be wise to reject efforts to mandate forced access, or competitive switching, as some call it, at the Surface Transportation Board, which would only add complexity and slow down goods movement. Thank you to the 90-plus Members of the House who wrote in opposition of this recently. The last thing we should be doing right now is knowingly enacting policies that will gum up the works and adversely affect fluidity.

Now, in closing, while our Nation is currently facing complex challenges, freight railroads will continue to work with our partners to keep goods moving today and into the future.

Thank you for the efforts across the industries represented today, and thank you for the efforts of our employees throughout the pandemic. Without them, the economies, frankly, would not have continued to function. Thank you, and I am happy to answer any questions you might have.

[Mr. Jefferies' prepared statement follows:]

Prepared Statement of Ian Jefferies, President and Chief Executive Officer, Association of American Railroads

INTRODUCTION

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify. AAR's members account for the vast majority of America's freight railroad mileage, employees, revenue, and traffic. Together with their Mexican and Canadian counterparts, U.S. freight railroads form an integrated, continent-wide network that provides the world's best rail service.

Freight supply chains are complex systems driven by global and domestic stakeholders. While their operations are constantly facing pressures, unprecedented events have arisen in the past 18 months that have led to significant supply chain dislocations. America's freight railroads are doing their part though—through significant investments in their private infrastructure and equipment, development and implementation of innovative technologies, cooperation with their customers and supply chain partners, and operational enhancements—to maintain network fluidity and ensure sufficient capacity to deliver the goods upon which our economy depends.

RAILROADS' ROLE IN SUPPLY CHAINS

An international freight shipment involves railroads and other stakeholders taking timely, appropriate actions to keep the system working in a precisely coordinated sequence. Railroads provide a 24/7 critical link in that supply chain, serving as the middle mover from the port to a rail terminal, with our partners in the trucking, warehouse, and port communities at either end.

For example, movement of a container from a manufacturer in Asia to a retailer in the eastern United States will require the efforts of numerous entities, such as steamship lines; truckers; railroads; ports; drayage providers; owners of truck chassis, shipping containers, and warehouses; as well as manufacturers, wholesalers, and retailers of goods. A railroad's role in this supply chain begins after the manufacturer delivers the container to a port in Asia, a 3- to 5-week trip across the Pacific Ocean on a steamship occurs, and the container is unloaded at a West Coast port and made available for pickup.

Railroads then begin the movement of this freight in one of three ways: loading the container onto a railcar at the port; loading the container onto a railcar at a nearby intermodal rail facility after it has been moved there on a chassis via short-distance truck transportation (drayage); or loading the container onto a railcar at an intermodal rail facility following transport by truck drayage to an inland warehouse where the freight was transferred into a larger "domestic container" and then transported by truck drayage again to that intermodal rail facility. The train carrying the container then heads inland. As no single railroad stretches across the country, the container must be "interchanged" with a second railroad. This exchange could also include another truck drayage between the terminals of those respective railroads.

The rail journey then concludes at a rail intermodal terminal on the East Coast near the container's final destination where it is lifted off its railcar and either placed directly onto a chassis or on the ground depending on the terminal design and operation (wheeled or grounded). Railroads provide some "free time" to store the container at the intermodal terminal while awaiting pick-up and transportation to a nearby warehouse or directly to a retail outlet for unloading. In normal times, the container is moved out of the intermodal terminal within a matter of hours to a few days. Once transferred to its final destination and unloaded, the empty container is picked up again by drayage trucks and generally either returned to a rail intermodal facility or to a nearby port, where it re-enters the supply chain.

GLOBAL SUPPLY CHAINS HAVE SEEN HUGE DISLOCATIONS OVER THE PAST 18 MONTHS

The COVID–19 pandemic has impacted global manufacturing capabilities and caused major fluctuations in consumer consumption patterns. At the outset of the pandemic in March and April 2020, consumer spending plummeted, and retailers' inventories rose sharply. Soon thereafter the economy recovered, but consumer spending had shifted significantly, resulting in increased demand for goods while service-sector industries—e.g., travel, restaurants—suffered enormously. By June 2020, consumer spending on goods was higher than in January 2020 (Figure 1) and continued trending higher. Few firms saw these spending patterns coming; even fewer were prepared for them. Retailers tried, but were unable, to catch up. In fact, by spring 2021, inventories had fallen to record lows, which they remain close to today (Figure 2).

Figure 1

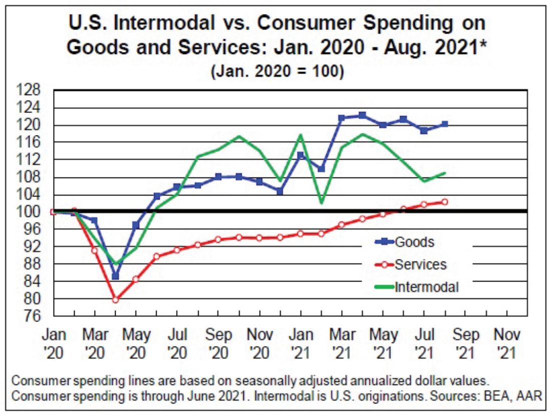
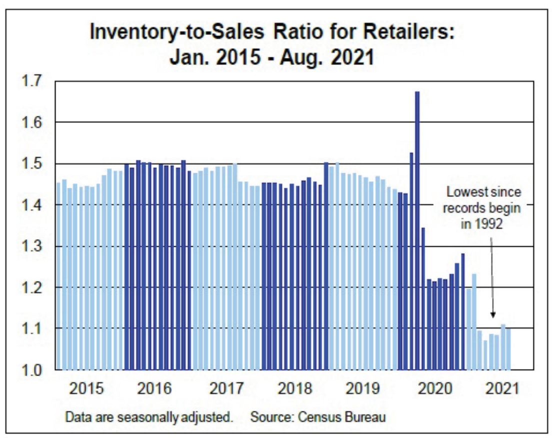
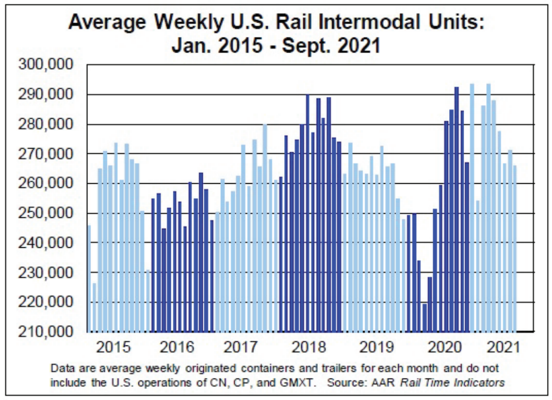


Figure 2



Similarly, rail intermodal volumes fell between 12 and 17 percent on a year-over-year basis between March and May 2020, and volumes were expected to remain low for months. Instead, intermodal volumes rose sharply in the summer of 2020, surpassing 2019 levels by August and breaking the all-time monthly record for intermodal traffic in November 2020. That record was then broken again in January and April 2021 (Figure 3). In many weeks in late 2020 and the first half of 2021, U.S. railroads were handling close to 300,000 containers and trailers, levels that no one expected when the pandemic began. Intermodal volume in the first six months of 2021 was far higher than ever recorded before for the same period, and the rail industry saw a year-over-year increase in intermodal traffic for 12 months.

Figure 3



Roughly half of rail intermodal volume is either imports or exports, and these significant gains in intermodal volumes were paralleled at our nation's ports. To handle these increased volumes and avoid bottlenecks, all stakeholders needed to do their part to maintain a safe, efficient flow of freight. However, when that has not happened in recent months, such as when goods suppliers and receivers make decisions to overextend their capacity by ordering additional freight when warehouses are full or they lack sufficient labor to handle such goods, the supply chain has become dislocated. Some examples of continuing challenges experienced by rail customers and other supply chain participants include:

- Labor shortages at ports, trucking firms, warehouses, manufacturers, and retailers;
- A shortage of drayage and long-haul truck capacity, chassis, and warehouse space; and
- Container and container ship availability concerns that are driving firms to purchase large quantities of goods that may not actually be needed for months.

Additionally, some events have occurred that have exacerbated pandemic-related challenges to the functioning of supply chains, such as:

- Pre-existing trade disputes with other nations;
- Extreme weather events, including wildfires, hurricanes, and severe flooding and storms; and
- A nearly week-long blockage of the Suez Canal in March 2021.

IMPACTS OF SUPPLY CHAINS DISLOCATIONS ON THE RAIL INDUSTRY

For railroads, by far the single most problematic supply chain development in recent months has been the inability of many rail customers to effectively process the flow of traffic—especially intermodal containers—into and out of rail terminals. For example, when a container arrives at a destination rail terminal, it cannot be picked up unless a driver, drayage truck, and chassis are available and a destination warehouse or receiver facility has workers and space. Often appointment times are needed at these warehouses or receiver facilities, and if the driver, chassis, and drayage cannot meet that appointment time, it could take days to arrange another. As a result, containers are remaining at rail facilities for longer periods—referred to as "container dwell."

That is a significant problem because rail intermodal terminals are focused on throughput and are neither designed for, nor physically capable of, long-term storage of significant numbers of containers. There is some flex within the rail system to absorb and accommodate limited spikes and volatility, but the recent massive imbalances are not sustainable and create severe problems that reverberate throughout the supply chain. For example, traffic on rail mainlines backs up because there is no room at rail terminals for new shipments. This limits the ability of railroads to serve their customers and supplies of containers and chassis then become imbalanced because they are not being moved to high demand areas. Moreover, the physical act of moving containers within a terminal requires railroads to expend resources that would be much better used moving goods to their destination. When these and other related problems become entrenched, as they are today, it becomes extraordinarily difficult to "reset" the system to its normal level of throughput and reliability.

RAILROADS' EFFORTS TO ADDRESS CHALLENGES AND WORK WITH SUPPLY CHAIN PARTNERS

Railroads have worked diligently to ensure that supply chains remain fluid and that they are able to meet present and future freight transportation demand. First, railroads have and will continue to operate 24 hours per day and 7 days per week and would welcome freight transportation customers and other supply chain partners to do the same. Substantial supply chain capacity could be generated immediately from this change, and this would permit transportation providers to "catch up" when backups occur. Railroads appreciate that some supply chain participants have recently taken steps in this direction.

Second, railroads are partnering with their customers to find constructive ways to modify their operations and maintain network fluidity. Some of these changes, where possible, include:

- Increasing coordination between railroads to better manage the flow of traffic and with the trucking industry to take shipments as soon as warehousing capacity is available;
- Offering incentives to customers for weekend or off-hour in-gating at facilities near ports and for out-gating a container when they in-gate a container at other facilities;
- Re-routing traffic away from busier terminals to less crowded terminals;
- Reopening closed terminals to create additional storage capacity;
- Increasing available storage capacity and staging space in and outside of terminals;
- Creating additional railroad-to-railroad interchanges to limit demand on truck drayage; and
- Mounting containers onto any chassis brought in to help reduce dead-miles for truckers.

Third, railroads typically make available a variety of online tools, apps, and other technologies that provide their customers with full visibility regarding a shipment's journey over rail networks. This allows for customers to trace shipments in real time, more efficiently prioritize retrieval of containers, and minimize time spent in rail facilities.

Fourth, railroads can incentivize customers to pick up freight in a timely manner through charging progressively higher storage fees after a reasonable initial period of "free time." These fees help railroads maintain service reliability, efficient use of rail capacity and assets, and fluidity on the rail network. And ultimately storage fees function to ensure railroads can do what they are in business to do—move goods.

Fifth, AAR publicly releases aggregated data on a weekly basis about the commodities and intermodal volume that move by rail throughout the United States, Canada, and Mexico. This publication includes detailed information at the commodity level, offers year-over-year comparisons for weekly, monthly, and year-to-date durations, and provides needed insight into ongoing rail traffic levels for supply chain partners, rail customers, and governmental entities.

Sixth, freight railroads have invested more than $740 billion of private capital since 1980—an average of over $25 billion in recent years—into their infrastructure and equipment to make rail operations safer, more resilient, and more efficient. The American Society of Civil Engineers has recognized the impact of these investments by awarding the rail network its highest grade for any type of infrastructure in its last two report cards.

Finally, railroads rely on and greatly respect the skill and professionalism of their employees as they steadfastly work to address today's supply chain challenges and keep our economy moving. Railroads are confident that they have the right assets and headcount to manage the network at current and increased traffic levels and are hiring to address attrition and meet needed operational capacity. As is the case with other industries, it can be challenging today to fill open positions, but members are working hard to meet those needs.

Railroads will continue to evaluate business needs and adjust asset levels to ensure there is sufficient capacity to serve their customers and keep supply chains moving. In fact, a report recently released by the Northwestern University Transportation Center found that railroads showed significant agility to respond during rises in intermodal traffic throughout the COVID–19 pandemic. Furthermore, due to recent lower intermodal volumes, railroads currently have additional capacity to meet any short-term increases or shifts in demand for freight transportation and stand ready to serve their customers.

HOW CONGRESS CAN BE HELPFUL IN ALLEVIATING SUPPLY CHAIN CHALLENGES

Congress should encourage the use of innovative technologies to enhance safety and operational efficiency and focus on performance-based policies that are supported by evidence. Most importantly, policymakers should avoid undermining railroads' ongoing efforts and collaboration with stakeholders to keep the national rail network fluid, especially when supply chains are already facing severe challenges. Discussed below are several legislative and regulatory proposals that could impact the functionality of our nation's supply chains.

H.R. 3684, the Infrastructure Investment and Jobs Act (IIJA)

Railroads thank Congress for enacting IIJA. This bipartisan legislation will modernize the nation's public infrastructure and further the efficiency of our freight transportation systems and supply chains. By authorizing and making significant investments through the Infrastructure for Rebuilding America (INFRA), Rebuilding American Infrastructure with Sustainability and Equity (RAISE), Port Infrastructure Development, Consolidated Rail Infrastructure and Safety Improvements (CRISI), and Railroad Crossing Elimination grant programs, projects will be constructed that increase the fluidity of our supply chains, such as improving first and last mile intermodal connections; advancing projects of national and regional significance, including multimodal connection infrastructure projects; and enabling the public sector to partner with industry on mutually beneficial projects, such as the CREATE program in Chicago.

Surface Transportation Board (STB), "Forced Switching," and Cost-Benefit Analysis

Congress should ensure that the STB maintains the balanced economic regulatory system set forth in the Staggers Act. If the STB were permitted to unwisely expand rail regulation, the quality of rail service would be diminished and the efficiency of the entire supply chain would suffer.

One problematic proposal being considered by the STB is "forced switching," which would allow the STB to order one railroad to switch traffic with another railroad even without a finding of anti-competitive conduct. As this proposal would force one railroad to provide its infrastructure and other assets for the benefit of another railroad, this would create a disincentive to make new investments in customer-specific infrastructure. Additionally, as switches can add time and complexity to rail movements, the STB's proposal would disrupt traffic patterns, potentially produce congestion in rail yards, and undermine efficient rail service. While there is no good time for bad regulations, now is the worst time to introduce inefficiencies into the supply chain.

Congress should instead direct the STB to institute a rulemaking based upon AAR's petition to incorporate cost-benefit analysis into its rulemaking processes. Meaningful cost-benefit analysis requires agencies to be informed by the most up-to-date, reliable information and to evaluate whether additional rules will achieve positive outcomes and at what cost prior to adopting new regulations. A formal cost-benefit analysis would ensure future supply chain fluidity, as impacts on the supply chain would be formally accounted for when the STB considers new regulations.

Federal Railroad Administration (FRA), Automated Track Inspection, and Two-Person Crews

Railroads urge Congress to direct the FRA and other modal administrations at the Department of Transportation (DOT) to be more forward-looking in their rulemaking processes and approaches to the development, testing, and incorporation of new safety technologies. Achieving maximum benefits from new technologies will require a modern performance-based regulatory framework that does not hinder innovation, encourages railroads to keep investing in new technologies, and maintains FRA oversight to ensure the protection of rail employees, customers, and the public at large.

As part of these efforts, Congress should ensure that FRA regulations do not "lock in" existing technologies and processes and stifle the incorporation of new safety technologies. A current problematic example of this at the FRA is with automated track inspections (ATI), which are conducted using track geometry technology installed in freight cars or on locomotives that move at-speed in revenue service and without the need to set-aside track time to conduct visual inspections. These automated systems gather massive amounts of data and analyze it for patterns and warning signs, empowering a shift from reactive to preventative track maintenance. During testing, ATI has overwhelmingly shown its safety benefits. Indeed, in some instances, ATI testing of track has resulted in more than a 90 percent reduction in unprotected main track defects. Congress should ensure that the FRA remains a cooperative partner with railroads in either encouraging the further testing of ATI through timely review and approval of waivers and test programs or taking steps to further enable the use of this safety technology, such as by updating half-century-old track inspection regulations. Either way supply chains will benefit from the efficiency gains.

Additionally, Congress should ensure the FRA uses current data to establish the need for any new regulation and validates that safety benefits exceed the cost of its implementation. A problematic proposal being considered by the FRA is a requirement that a minimum of two crew members operate in freight locomotive cabs indefinitely. There are no data showing that a two-person crew mandate would enhance safety. Moreover, this mandate could stifle the adoption of new technologies that would enhance the safety and efficiency of the rail network in the long-term. In opposing this rule, railroads are not seeking the ability to utilize one-person crews haphazardly, but rather they want to work with rail labor under the existing collective bargaining framework—as they have for decades—to identify when conditions would allow for a reduction in the number of crewmembers without jeopardizing safety.

Environmental Reviews and Permitting

Congress should ensure that environmental regulations do not function to inhibit the expansion, development, or construction of rail facilities that would meet supply chain needs and our customers' freight transportation demand. A primary example is the National Environmental Policy Act (NEPA). Federal agencies should promulgate regulations that allow for careful, thorough consideration of the environmental impacts of proposed projects but in a time-limited manner that does not cause unnecessary delay. Such an approach would expedite projects that enhance supply chain fluidity but would not prevent comprehensive, effective environmental reviews from taking place. Additionally, DOT should ensure that its modal administrations are applying environmental review standards and procedures consistently to ensure equal treatment between the various modes of transportation. Moreover, DOT could more efficiently utilize categorical exclusions which would ensure federal resources are better focused on those actions requiring an Environmental Assessment and Environmental Impact Statements. Further, expressly allowing modal administrations to apply the categorical exclusions of other modal administrations or federal agencies would promote flexibility and efficiency in the environmental review process and consistency within DOT.

Railroads appreciate that Congress included project permitting provisions in IIJA, such as One Federal Decision, which consolidates decision-making and expedites deadlines, and the Federal Permitting Reform and Jobs Act, which makes the Federal Permitting Improvement Steering Council permanent and establishes a goal of two years for reviews. These provisions will ensure that federal dollars and railroads' private investments for infrastructure projects will go farther and that the construction of projects on the rail network to enhance supply chain efficiency and meet the nation's current and future freight transportation demand will not be unnecessarily delayed.

CONCLUSION

Returning fluidity to rail networks will take time and require enhanced cooperation by all parties to determine which actions are needed to improve supply chain performance. This is not a new way of operating for railroads; they work closely with their customers, transportation partners, policymakers, and others on an ongoing basis to understand and meet expected service needs. Railroads will continue to work with these entities to find ways to solve these problems as quickly as possible.

Mr. DEFAZIO. Thank you, Mr. Jefferies, a very succinct statement.

Ms. Reinke?

Ms. REINKE. Chairman DeFazio, Ranking Member Graves, and members of the House Transportation and Infrastructure Committee, thank you for inviting me to speak with you today regarding disruptions in the supply chain. My name is Anne Reinke, I am the president and CEO of the Transportation Intermediaries Association, or TIA.

I am honored to be here today to represent our more than 1,800 member companies. Our members act as the central connection between the shipper and the carrier, matching the shipper's freight with a carrier who will ultimately move the product, regardless of mode.

From our members' perspective, today's supply chain disruptions are the result of a perfect storm caused by a host of issues that have resulted in the gridlock we are experiencing. On the supply side, there are shortages in almost every link of the chain, from labor to equipment to warehousing space. And on the demand side, freight is moving about 11 percent higher than the already elevated normal, or more than 50 percent greater than the previous peak in 2005. Capacity simply cannot be added as fast to keep up.

The chairman mentioned the three D's. I think the solution results in the three I's: investment, innovation, and interaction among stakeholders in the supply chain. We think the Government can incentivize investment in efficiency. And for industry, we think that they can prioritize forging relationships and deploying innovative technologies to amplify capacity.

Supply chain stakeholders have been working for decades to increase its overall efficiency to meet public demands, as e-commerce has proliferated. These just-in-time delivery efforts produce significant efficiencies and worked extremely well in a relatively stable economy. However, efficiencies can also result in a lack of slack in the system. When there is a significant event like a global pandemic that disrupts the normal flow of goods, those freight networks have little slack and, therefore, limited ability to adjust to market conditions. That is what we face today.

There is no single silver bullet to cure all the supply chain challenges. However, there are several ways to help the movement of goods that could yield benefits over time.

First, while we are in an unprecedented era, it is critical to understand that the market can and will adjust, but it does take time. One way to handle this is for shippers to rely more heavily on brokers, as they exist to provide more flexibility through their relationships and technology. Brokers can be capacity amplifiers.

Second, wherever possible, infrastructure funding should support the supply chain. TIA applauds the Congress for the passage of the Infrastructure Investment and Jobs Act, and the historic investment in our Nation's transportation and infrastructure projects and needs. In the long term, the Federal Government can be a key partner in helping build a more resilient supply chain, nationwide. Programs that support freight, ports, and congestion reduction, like those in the IIJA, will help to bolster safety and throughput, and address our Nation's congested roads and aging bridges.

The private infrastructure investment of our world-class freight railroads should also continue to be incentivized to address the current surge in intermodal freight. As part of our investment, we must focus on innovation. TIA members are industry leaders in the technology space to keep up with an ever-evolving and growing marketplace. These solutions include maximum freight visibility with real-time data, automation in the back-end office, and utilizing artificial intelligence. 3PLs are one segment of the supply chain, and we welcome additional data or technology efforts from other sectors.

Third, the Government can examine existing or pending regulations, and determine whether they encourage productivity and access to workforce, or deter both. The AB5 law and regulation, and the California Air Resources Board regulations may be exacerbating the supply chain situation by narrowing the pool of available drivers, equipment, and companies. TIA is aware some of these laws in mind are not implemented yet, but the effects to capacity are already being felt by brokers and motor carriers.

States should balance their priorities with the need to move freight safely and efficiently. That is why we are concerned about the PRO Act and its nationwide implications. In other words, the Government can encourage or inhibit investment through its actions on grants and regulations.

Finally, TIA continues to push for a motor carrier safety rating process that uses data, rather than an outdated and underresourced physical audit system. This antiquated system has led to the FMCSA rating only 10 percent of trucking companies, with the other 90 percent being unrated, compromising both safety and capacity. This untenable situation can be fixed, however: H.R. 3042, the Motor Carrier Safety Selection Standard Act of 2021, would promote a broader pool of safe-rated motor carriers. TIA would urge the committee to move this legislation forward as quickly as possible.

I appreciate the opportunity to testify before the committee today to provide the perspective of the 3PL industry and offer some potential solutions. I would be happy to answer any questions.

[Ms. Reinke's prepared statement follows:]

Prepared Statement of Anne Reinke, President and Chief Executive Officer, Transportation Intermediaries Association

Chairman DeFazio, Ranking Member Graves, and members of the House Transportation and Infrastructure Committee, thank you for the opportunity to speak with you today regarding concerns and disruptions in the supply chain that directly impact the free-flowing movement of freight in the U.S. and its impact on the American consumer. I appreciate the opportunity to give the perspective of our members today and provide some potential pragmatic solutions that could help alleviate the disruptions.

My name is Anne Reinke; I am the President & CEO of the Transportation Intermediaries Association (TIA). I am honored to be here today to represent our more than 1,800 member companies. TIA is the professional organization of the $214 billion third-party logistics industry. Our members essentially serve as the central connection between shipper and carrier, matching our shipper's (customer) freight with the carrier who will ultimately move the product, regardless of mode. TIA members utilize the latest technology to efficiently plan global freight transportation across all modes, gain real-time visibility of inventory-in-transit and proactively manage delays specific to ocean/port and inland truck/rail capacity challenges. Additionally, TIA members increase collaboration between all modes of transportation and recognize the incredibly hard work and dedication that trucking companies, railroads, ocean liners, and airlines play in the supply chain. TIA is the largest organization exclusively representing transportation intermediaries of all disciplines doing business in domestic and international commerce.

Our members have a unique perspective and view into the supply chain across all modes, because their entire goal is to help get goods efficiently from one place to another. From our members' perspective, the supply chain disruptions that we see today are the result of a perfect storm. The supply chain crisis is not the cause of one or even a small number of defined issues, but rather a host of issues that resulted in the failures we are all experiencing. On the supply side, irrespective of the mode of transportation, there is a labor shortage in all areas of the supply chain (plant employees, drivers, train operators and warehouse employees), a chip shortage, a lack of available chassis, and a lack of warehouse and container storage. And on the demand side, freight is moving at historic peaks, as the pandemic spurred a focus on the goods economy in the absence of a service economy. Capacity simply cannot be added as fast to keep up, though we know all our partners in the supply chain are doing as much as they can as fast as they can. We also have to remember that the supply chain challenges are not confined to the U.S., it is a global phenomenon.

Now more than ever, freight transportation intermediaries are the vital point of connection between freight that needs to be hauled and the trucking and rail operators that need to move it. There's no silver bullet solution on the horizon, even with millions of dollars pouring into transportation and logistics technology. Such technology is being put to use in building new platforms and systems to try to solve the cascading crises that have mounted over the past two years. Instead, the keys to solving this ongoing supply chain crisis lie in having the government incentivize investment and efficiency, and for industry stakeholders to prioritize forging relationships and deploying innovative technology. All industry stakeholders must find new avenues for working together and making more efficient use of existing capacity, equipment, labor, technology, and warehousing space.

To that end, TIA applauds the U.S. House of Representatives and the U.S. Senate for the passage of the Infrastructure Investment and Jobs Act (IIJA) and the historic investment in our nation's transportation and infrastructure projects and needs. Specifically, three provisions relating to TIA membership, including a section that clarifies the role of "dispatch services" in the supply chain, a full review of the FMCSA Consumer Complaint Database, and a pilot program for 18- to 20-year-old drivers. Importantly, the bill also includes a transformational investment in funding and grants for infrastructure to support ports and the freight network.

ABOUT TIA:

TIA members include more than 1,800 motor carrier property brokers, surface freight forwarders, international ocean transportation intermediaries (ocean freight forwarders and NVOCCs), air forwarders, customs brokers, warehouse operators, logistics management companies, and intermodal marketing companies. TIA members handle the purchase of more than $100 billion worth of transportation each year and employ more than 130,000 people across the country.

TIA is also the U.S. member of the International Federation of Freight Forwarders Associations(FIATA), the worldwide trade association of transportation intermediaries representing approximately 50,000 companies in virtually every trading country.

Transportation intermediaries or third-party logistics professionals act somewhat as the "travel agents" for freight; however, given the wide varieties of freight, specific needs of each shipper, and the diverse issues applicable to any one load means that third-party logistics professionals must have expertise far beyond what a traditional "travel agent" must possess. Using hard-won relationships and advanced technologies, these companies serve tens of thousands of shippers and carriers, bringing together the transportation needs of the cargo interests with the corresponding capacity and special equipment offered by rail, motor, air, and ocean carriers.

Transportation intermediaries are companies whose expertise is providing mode and carrier-neutral transportation arrangements for shippers with specific needs and requirements and matching those with the ability and expertise of the underlying operating carriers.

SUPPLY CHAIN CRISIS:

Stakeholders to the supply chain have been working for decades to increase its overall efficiency as the public now expects consistency and transparency in the delivery of products, or "just in time delivery", due in large part to the e-commerce utilized by companies like Amazon and consumer demand. This resulted in eliminating "excess" inventory, optimizing networks and transportation modes, increasing labor productivity, and reducing overall labor costs. These efforts produced significant supply chain efficiencies and worked extremely well in a relatively stable economy and transportation network.

However, efficiencies can also result in a lack of "slack" in the system. When there is a significant event like a global pandemic that disrupts the normal flow of goods, the supply chain networks have little slack and therefore limited ability to adjust to market conditions. All resources (trucks, rail assets, labor, and infrastructure) are already assigned to the normal network and shifting them in a different direction takes time. Historically, we have seen these kinds of market dislocations in 2014 with the polar vortex in the Midwest and during various hurricane seasons. However, the global nature and sheer magnitude of the COVID–19 global pandemic has exacerbated this issue to its breaking point.

Furthermore, the demand for freight takes this disruption to another level. Generally, after minor events, the demand grows for freight, but not at this rate. At its peak after the opening of the economy, the demand for freight was 11% higher or more than 50% greater than the previous peak in 2005. The costs to move freight throughout the supply chain is drastically on the rise because of these disruptions, which directly impact everyone throughout the supply chain and ultimately the end consumers. We are seeing this firsthand as prices jumped 6.2% in October, which is the biggest inflation surge in more than 30 years.

There are certainly several key factors causing challenges—a lack of truck drivers and other critical workforce, a lack of equipment availability (chassis) due to shortages and increased dwell time, and delays in permitted facilities that provide necessary warehousing space. It is important to remember that all these issues are only part of the links in a complex supply chain and have been affected by a variety of reasons.

POTENTIAL SOLUTIONS:

While there is no single solution or action that will immediately alleviate the supply chain disruption there are several issues that could be addressed that would help the movement of goods. First, while we are in unprecedented times, it's critical to understand that the market can and will adjust, but it takes time. There are some ways that the government can help to expedite the process in the short and long term, but I would caution any significant government intervention that could have the perverse outcome of slowing the market response. One way to handle this is for shippers to rely more heavily on the spot market and brokers, as they exist to provide more flexibility in the supply chain for situations like these. Brokers can use their technology and relationships to find critical capacity for shippers, when the demand for freight movements exceed the freight moving under contract. Our members are reporting that the request for brokers is more than twice the amount than normal. Our members stand ready to assist in any way possible to alleviate the crisis.

An immediate way that the government can help the supply chain is to help free up productivity and access to the markets, as well as support access to drivers. For example, there are current state laws that could further impede the efficient movement of goods and should be rolled back or suspended during this crisis. Some TIA members doing business in California are concerned that the AB 5 law, which essentially bars independent contractors from operating in the state, will further exacerbate the supply chain situation by narrowing the pool of available drivers and companies. For example, at the ports themselves, the majority of dray carriers operating at the ports are independent contractors. TIA is aware that the law is working its way through the legal system and is currently under a legal stay until the Supreme Court decides its fate, but the effects to the capacity can already be felt by brokers and motor carriers. This California law attacks the independent contractor model and is upsetting a highly fluid and competitive marketplace and inhibiting to every available company and driver. When almost 90% of all trucking companies are small fleets of fewer than five trucks and the economy is in the middle of a crisis, this law seems short sighted and imprudent. As a side note, many of these fleets in addition to the larger ones were willing and ready to enter the worst hot zones of the pandemic to ensure that essential goods were delivered.

TIA supports all trucking companies and works tirelessly through our Association and members to ensure that the conditions of truck drivers continue to improve and create a win-win-win value proposition for all parties involved. A diversified and decentralized freight system that can adapt to market changes rapidly is the key to our economic health, growth and national security. You can look at the Colonial Pipeline data breach, if only 100 motor carriers existed in the supply chain one hack could severely impair our supply chain. With nearly 300,000 for-hire trucking companies with an average size of five or fewer trucks, redundancies are built in the system. The PRO Act, which would change the way independent contractors are classified at the federal level would make this a national issue and have devastating effects on the transportation market.

In the same vein, certain state environmental regulations are also acting as a chokehold to port access. Let me be clear, TIA is a firm believer in reducing the carbon footprint and becoming a green industry. TIA works closely with the Environmental Protection Agency (EPA) SmartWay program to incentivize our members to utilize clean trucking companies, but regulations must be right-sized, discrete, and not a deterrent to the efficient movement of freight. For example, several of the California Air Resources Board (CARB) laws directly impact the way our members conduct their business and capacity in the State. Specifically, our members have to navigate CARB's Truck and Bus Regulation, the Tractor-Trailer Greenhouse Gas Regulation, and the Transport Refrigeration Unit Airborne Toxic Control Measure (TRU ATCM) regulation. Additionally, there is a proposed regulation the Advanced Clean Fleets regulation that seeks to achieve the goal of zero-emission trucks and buses in the state of California by 2045 everywhere.

These regulations promulgated from CARB would hold our members accountable for motor carrier emissions compliance for all freight arranged in the State of California. The scope of the requirement is so broad that it requires our members to check compliance of specific trucks and is beyond the scope of how the industry works. These regulations have led directly to several members not doing business in the State anymore, and the same can be said for motor carriers as well, who may not have the resources to install all these green technologies. These regulations have led to a situation where a carrier may haul the freight to the state line and refuse to enter the state, which in turn requires another carrier to finish the load that is willing to operate in the state of California. These regulations can be promulgated on interstate commerce based on a federal waiver under the Clean Air Act that was given to the State of California. In the long term, TIA would implore Congress to remove this waiver, but in the short term, TIA would urge the State of California and Governor Newsom to temporarily suspend the AB 5 law and these environmental regulations to alleviate the disruption.

Third, wherever possible infrastructure funding should support the supply chain. This is an area where, long term, the federal government can be a key partner in helping to build a more resilient supply chain nationwide. The IIJA is an important investment in that endeavor. Key programs to support freight, ports and congestion reduction will help to bolster throughput. TIA also appreciates President Biden's recent announcement to help unlock grant funding at the ports. This should be true for the entire supply chain. While the pinch point is currently at the ports, the supply chain must work fluidly at every point. Our members must help move freight from point A to B and use all modes of transportation to make that happen efficiently. Today, our nation's outdated infrastructure system relies on congested roads and aging bridges that have a direct impact on freight efficiently and safely moving forward. We also have world class freight rail networks and their private investment in their infrastructure should continue to be incentivized, to help mitigate the current congestion in intermodal lanes.

Third, we must focus on innovation. TIA members continue to be industry leaders in the technology space as they must constantly innovate to address an ever evolving and growing industry. For example, our members utilize the latest technology to facilitate the movement of freight from one point to another. These solutions include maximum freight visibility with real-time data, automation in the back-end office, and utilizing artificial intelligence. However, as one segment of the supply chain network, there is only so much they can do. Additional data or technology may be necessary across other sectors. We are interested to learn more about the Administration's recent announcement to focus on building a data framework to help move goods more efficiently. This framework may be useful if it reflects the actual nature of how freight is moved and where and how data is shared. As the government considers this step, the 3PL industry should be an integral part of that discussion.

Finally, TIA has been for many years concerned about the motor carrier safety rating process and its effects on the marketplace, capacity and most importantly safety. The Federal Motor Carrier Safety Administration (FMCSA) is still using an outdated physical audit system to rate motor carriers for safety. This antiquated system has led to 90% of trucking companies being "unrated." This system creates confusion and conflicting information in the carrier selection and vetting process that leads directly to a backlog and time constraints on our member's operations. This lack of clarity is causing several thousand small motor carriers from being utilized and ultimately decreases the capacity of available trucking companies to our members. TIA members and the industry need a new system that is built on fair and reliable data which will expedite the process of selecting a motor carrier and give industry stakeholders like ours more certainty on the carriers they utilize and ensure that only the safest carriers are selected.

TIA has fully endorsed and supported H.R. 3042. The "Motor Carrier Safety Selection Standard Act of 2021," sponsored by Congressman Moulton (D-6th/MA) and Congressman Gallagher (R-8th/WI). H.R. 3042 would ask the FMCSA to begin the process of developing a new Safety Fitness Determination (SFD) process to change the way carriers are rated. TIA applauds Congressmen Moulton and Gallagher for their leadership on this legislation and would ask the Committee to markup this legislation as soon as possible to move it forward.

CONCLUSION:

I appreciate the opportunity to testify before the Committee today to provide the perspective of the 3PL industry and offer some potential solutions. I would be happy to answer any questions.

Mr. DEFAZIO. Thank you, Ms. Reinke, 4:59, right on point there, thank you.

Dr. Correll?

Mr. CORRELL. Chairman DeFazio, Ranking Member Graves, and all the members of this committee, thank you for convening this important session, and thank you for including me in it.

My name is David Correll. I am a research scientist and lecturer at the Massachusetts Institute of Technology Center for Transportation and Logistics, where I study the working conditions, the quality of life, and the utilization of American truckdrivers.

So far, my teams and I have analyzed the working hours and pickup and delivery experiences of around 4,000 American over-the-road truckdrivers in snapshots from 2016 to 2020. We have also analyzed thousands of freight pickup and delivery appointments using data provided to us by shipper and broker companies, and we supplement this analysis with frequent conversations with truckdrivers, their management, as well as the shippers and the receivers who hire these drivers' services.

The observations that I want to bring to into this committee's conversation are, one, that my analysis suggests that the existing population of American long-haul truckdrivers are seriously underutilized, and have been so since at least 2016, when the data shared with me begins; two, that this chronic underutilization problem does not seem to be a function of what the drivers themselves do or don't do, but rather an unfortunate consequence of our conventions for scheduling and processing their pickup and delivery appointments; and three, that large, new datasets like the ones I have been fortunate enough to analyze, ones that cross firm boundaries, are critical when coming up with solutions for improving our American supply chains.

Based on our analysis of the electronic working records of truckdrivers, I estimate, as Chairman DeFazio noted in his introduction, that American long-haul, full-truckload truckdrivers spend, on average, 6.5 hours of every working day driving. Yet, according to Federal safety regulations, they are allowed to drive for 11 hours per day. This, of course, implies that 40 percent of America's trucking capacity is left on the table every day. This is, of course, especially troubling during times of perceived shortage and crisis, like we find ourselves now.

I also observe across many thousands of pickup and delivery appointments from all over the country that the detention of truckdrivers varies in predictable cycles, based on the time of day of their arrival. Drivers who arrive during typical first-shift warehouse appointments—say, 5 or 6 a.m. to 2 or 3 p.m.—are processed much more quickly, on average, than drivers who arrive outside of these first-shift hours. This is true across all datasets provided to our lab from multiple different sources.

This leads me to first conclude, if you will allow me a brief computing analogy, that what we are facing is sort of a software problem, not necessarily a hardware problem, at the warehouses and distribution centers where the truckdrivers show up. That is, our existing warehouses and distribution centers do show the capacity to get trucks loaded and unloaded relatively quickly, but they do so only from around 6 a.m. to 2 p.m. on the weekdays, which represents one-third or less of every working day.

I submit to this committee that America's current supply chain problems are simply too big to commit only one-third of our weekdays to our best efforts at unclogging them.

I would also like to address the patterns I observed when analyzing behavior of the system by day of week. I observed that long-haul truckdrivers who stay with their employers do most of their driving on Tuesdays, Wednesdays, and Thursdays of every week. They drive, on average, fewer hours on weekends. This is, in itself, not wholly surprising. However, I have compared these patterns in both soft markets, where drivers' time is valued less in the marketplace, and tight markets, where they have a price incentive to drive more. This comparison test allows us to study what changes in pay actually incentivize American drivers to do.

In my observation, it turns out that when truckdrivers are paid more, they drive more, but that they can usually only find those extra hours on the weekends. The increase in pay does not result in statistically significant increases in driving hours on weekdays. Why is this the case? I interpret this result as further evidence that, as we currently have our American supply chains programmed and scheduled, there is simply no available extra truck driving capacity in the American system during the workweek. The days that drivers show the ability to offer additional surge capacity are on the weekends. Unfortunately, I have also observed in the data and in anecdotal conversations that there are far fewer freight appointments available to American truckdrivers on weekends.

To conclude my comments, I hope that I have brought to this committee the perspective of chronic American truckdriver underutilization, which I believe to be generally underappreciated, but fundamental to any meaningful effort to come up with a solution. In fact, by my calculations, adding only 18 valuable driving minutes back to every existing truckdriver's day could be enough to overcome what many of us feel is a driver shortage.

I hope I have conveyed the idea that solutions to the truckdriver shortage are most readily found in the scheduling practices of the shippers and receivers they visit, not behind the wheel or in the cab of the truck itself.

And I hope that I have given some evidence to this committee of the potential for large, aggregated boundary-crossing datasets, like the ones I analyzed, to help us scientifically identify where the problems in our American supply chain lie.

I look forward to being as helpful to this body as I can be. Thank you.

[Mr. Correll's prepared statement follows:]

Prepared Statement of David HC Correll, Ph.D., Research Scientist and Lecturer, Massachusetts Institute of Technology Center for Transportation and Logistics

My name is Dr. David Correll. I am a Research Scientist at the Massachusetts Institute of Technology Center for Transportation and Logistics (MIT CTL). MIT CTL is an entity at the Massachusetts Institute of Technology that is focused on delivering high-quality supply chain management education and applied and impactful research on questions of logistics, transportation, planning.

At MIT CTL, I co-direct a research group called the MIT FreightLab, which studies freight transportation, with a particular emphasis on American trucking. In our lab, I lead a project called the Driver Initiative, which looks to uncover new insights and identify specific opportunities to improve the effectiveness, efficiency, and quality of life of American over-the-road (OTR) truck drivers by analyzing data from their daily work logs (Electronic Logging Devices "ELDs"), as well as the systems that schedule and monitor their pickups and dropoffs (Transportation Management Systems "TMSs").

So far, my student teams and I have analyzed the working hours and pickup and delivery experiences of approximately 4,000 OTR truck drivers employed by one mid-sized and one large national carrier in snapshots from 2016 to 2020. We have also analyzed thousands of freight pickup and delivery appointments using data provided to us by shipper and broker companies. We supplement this analytical work with frequent conversations with truck drivers, their management, as well as the shippers and receivers who hire these drivers' services.

This research program, along with ongoing conversations with logistics and transportations professionals, leads me to a few conclusions I am honored to share with your committee today.

Chronic Under-Utilization of the American Driver

First, I believe that the American truck driver is chronically under-utilized, and has been since at least 2016 when our data begins. Based on our analysis of electronic working records, I estimate that American long-haul, full-truckload truck drivers spend, on average, 6.5 hours per working day driving their vehicles. Yet, according to hours of service regulations, they are allowed to drive for a maximum of 11 hours per day. This implies that 40% of America's trucking capacity is left on the table every day. [1] This result is especially troubling in times of perceived shortage and crisis like we find ourselves today.

To put my argument in the context of the 'driver shortage', the American Trucking Association estimates the national driver deficit at 80,000 drivers. By my calculation, this represents about 4.4% (conservatively) of the US Census Bureau's estimation of 1.8 million employee Class-8 freight truck drivers in the United States [2]. Adding 4.5% back to a long-haul truck drivers' working day of 6.5 hours would mean adding only 18 minutes. Seen this way, an 18-minute improvement to the daily average utilization of America's existing cadre of truck drivers could be equivalent in effect to recruiting new ones and then similarly squandering their time too. My research leads me to see the current situation not so much as a headcount shortage of drivers, but rather an endemic undervaluing of our American truck drivers' time.

Detention's Daily Cycles

My analysis suggests that American truck drivers' daily driving time is reduced by the systems and infrastructure that they are subject to when they are loaded and unloaded. This same notion is frequently referred to in the industry as driver detention. I observe across many thousands of recorded pickup and delivery appointments from all over the country that detention of truck drivers varies in predictable cycles based on the time of day of their arrival. Drivers who arrive during typical first-shift appointments (5 or 6 am to 2 or 3pm) are processed much more quickly on average than drivers who arrive outside of these hours. This is true across data sets provided to our lab for analysis by trucking companies, shippers, and brokers, and covers all types of freight appointments ('live loads' and 'drop-and-hooks') and types of customers. [3,4,5,6] This leads me personally to believe that the detention problem is—to use an analogy—a software problem not a hardware problem. That is, the warehouses and distribution centers that we have show the capacity to get trucks loaded and unloaded quickly—but they commit to staffing policies and plans that realize this potential for only one-third or less of every working day. I submit to this committee that America's current supply chain problems are too big to commit only one-third of our weekdays to our best efforts at unclogging them.

LONG-HAUL TRUCK DRIVERS' WEEKLY CYCLES

Another issue that I study is truck driver retention. That is, how can truck drivers' electronic logs predict if a driver will quit? This work is ongoing and preliminary but offers a few insights already that I think may be relevant to this committee's decision making. Long-haul truck drivers who stay with their employers tend to do most of their driving on Tuesdays, Wednesdays, and Thursdays of every week. They drive on average, fewer hours on weekends. This is, in itself, not wholly surprising. However, I have compared these patterns in both soft (low price per mile for the driver) and tight (high price per mile for the driver) markets. This comparison test allows us to study what changes in pay actually incentivize America's truck drivers to do.

In my data, it turns out that when drivers are paid more, they drive more on weekends, but the same amount on weekdays. The drivers' average hours per day driving do not change on the money-making days Tuesdays, Wednesdays, Thursdays. On these days they reach the national average of 6.5 hours per day or slightly more. However, higher prices do seem to incent drivers to drive slightly, but significantly, more on Fridays, Saturdays, and Sundays [7]. Why is this the case? I interpret this result as evidence that there is no available extra truck driver capacity in the American system during the workweek, when facilities are open but operating under staffing policies that de facto limit drivers to only 6.5 hours daily driving. The only days that drivers show the ability to offer additional surge capacity are on the weekends. Unfortunately, I have also observed anecdotally that many warehouses and distribution centers do not offer weekend freight appointments, or if they do, it is in limited capacity.

CONCLUSIONS

My research leads me to see the issue of America's truck drivers not as a crisis of head count, but rather of working hours. American supply chains do not make effective use of the drivers we have, and thereby reduces national competitiveness, contributes to the industry's very high turnover rate, and makes doing a critical job at times very unpleasant and less lucrative than it could be. I don't think that we can afford to let any crisis go to waste, especially not this one. I encourage this committee to consider measures to get more out of our existing cadre of American truck drivers.

RECOMMENDATIONS

Below are two programs I recommend as starting points for addressing the issues outlined in my testimony:

1. Governmental leadership in coordinating, analyzing, and distributing data on detention times at American shippers and receivers. This extant data is typically siloed and difficult for any one group to collect and to collate. Leadership from Washington could facilitate overcoming these data collection obstacles.
2. Governmental support for a standardized system of evaluation of American shippers and receivers that measures both (1) detention time, and (2) working conditions for visiting truck drivers. Standardizing such an evaluation would allow carriers to more accurately price services to underperforming shippers and receivers, and thereby unlock more market pressure to reduce national detention times.

References

[1] "Is There a Truck Driver Shortage or a Utilization Crisis?" David HC Correll MIT CTL blog October 21 2019https://medium.com/mitsupplychain/is-there-a-truck-driver-shortage-or-a-capacity-crisis-73a7d7a5bcb

[2] US Bureau of Labor Statistics May 2020 National Employment and Wage Estimates https://www.bls.gov/oes/current/oes__nat.htm

[3] "Application of Linear Models, Random Forest, and Gradient Boosting Methods to Identify Key Factors and Predict Truck Dwell Time for a Global 3PL Company", By Sireethorn Benjatanont and Dylan Tantuico, supervised by David HC Correll and Christopher Mejia Argueta. MIT Working paper July 2020

[4] "Utilization of the American Truck Driver", Mei QingZhang and Adam. Buttgenbach, supervised by David HC Correll. MIT Working paper July 2020

[5] "Diving Deep into the Determinants of Driver Dwell", Leora Reyhan Sauter, Michelle CatherineRoy, supervised by David HC Correll and Christopher Caplice. MIT Working Paper June 2021

[6] "Optimizing Fleet Utilization by Adjusting Customer Delivery Appointment Times", Colleen Copley and Charles Lu, supervised by David HC Correll. MIT Working Paper July 2020

[7] "Two Quasi-Experiments Concerning Working Conditions of American Truck Drivers" by David Correll, Christopher Caplice, and Bobby Martens. MIT Working Paper March 2021

Mr. DEFAZIO. Thank you, Doctor.

With that we turn to Greg Regan.

Mr. REGAN. Thank you, Chairman DeFazio and Ranking Member Graves, for inviting me to testify today.

Before I begin, I want to take the opportunity to acknowledge the anniversary of Larry Willis' untimely passing, which occurred 1 year ago this month. His leadership at TTD, the friendship and mentorship he gave me and our whole staff, are severely missed by all of us as we reflect back on his memory. Attending Monday's signing ceremony for the Infrastructure Investment and Jobs Act was a reminder of Larry's unflinching optimism that we can still get big things done in this country. It is easy for any of us to fall into the trappings of cynicism these days. But Larry never did. TTD and the entire labor movement are better off because of it.

Now to the matter at hand. I am speaking to you today on behalf of TTD's 33 affiliated unions, whose members have a front-row seat to the very serious challenges facing America's supply chain. They include the workers directly engaged in freight transportation at railroads, at ports, and in trucking, as well as those who work in industries like manufacturing, that have been hamstrung by their inability to get materials in a timely manner.

I must be perfectly clear on two points.

First, we cannot solve this problem by scapegoating individuals who had nothing to do with its origins. Cynical attempts to place the blame on President Biden, for example, have no rooting in truth, and do nothing to alleviate the empty shelves your constituents are seeing back home.

Second, there are some policymakers and pundits using this opportunity to place the blame on hard-working Americans, to undermine their collective bargaining rights, demean their work, further deteriorate safety and working conditions, or to eliminate their jobs altogether. Even on this panel, there are those who believe that the solution is to continue the use of perverse misclassification employment models, and to undermine the right of workers to form and join unions. Placing blame for this crisis on the shoulders of working people is unacceptable. These are the very people who are laboring day and night to tackle this crisis, and it is upon their shoulders that we will find long-term solutions.

We know that the major contributing factors to this crisis are a combination of a sudden spike in freight volume, coupled with shortsighted industry practices that left our system inelastic and incapable of meeting soaring demand. Unfortunately, while the drastic spike in demand was unpredictable, the results, in many ways, were inevitable.

For years, the Class I railroads have pursued an operating model known as Precision Scheduled Railroading, or PSR. Through the PSR model, the railroads all but ensured that their operations would not be able to rapidly respond to economic shocks or rapid changes in the flow of traffic, like those we are now seeing.

The real-world impact of the freight railroad business model is that they slashed 20 percent of their workforce in just the 5 years prior to the pandemic, and levels have continued to decline, even as businesses have rebounded and carloads have returned to near 2019 levels. Greater and more reliable freight rail service was obviously needed. The railroads only dug in further to their profit-at-all-costs, skeleton crew operations. Other freight railroad actions to eke out every last dime, including the mothballing of locomotives, left them even less prepared, less capable, and less safe.

Some claim a shortage of employees in the supply chain as a major factor in this crisis. Such claims imply that workers needed to perform the job do not exist today in this market. This is simply not the case. COVID has awoken many Americans to the real failures of our labor market. Many employers simply fail to provide the incentives, including good wages, benefits, and working conditions that will attract and retain skilled workers. This is certainly true in rail, where our unions report mid-career employees walking away from formerly good jobs and secure retirements, due to eroding and deteriorating workplace conditions.

We see a similar result in trucking, where enormous turnover rates and abusive practices like intentional misclassification are commonplace.

As Congress works to solve these ongoing challenges and prevent future interruptions, we call on you to work closely with supply chain employees and their union representatives across the Nation to develop real solutions. Proposed solutions must consider and address the impact that a reduced rail workforce and degradation in service quality have had on supply chain disruptions, let alone whether current railroad operations are consistent with statutory common carrier obligations.

Solutions must also include robust and well-directed investments in our Nation's freight infrastructure. To that end, we strongly applaud the enactment of the Infrastructure Investment and Jobs Act, which provides $2.2 billion for a port infrastructure development program, offering a lifeline to the almost half of all U.S. ports who state that better rail access could increase throughput capacity by over 25 percent.

Congress should also consider novel approaches to supply chain challenges that would create jobs and economic activity. For example, the expansion of waterborne transportation alternatives through our marine highways may ease the supply chain bottleneck, particularly at major ports.

Finally, we once again call on you to reject ill-conceived efforts to hijack the crisis to attack supply chain workers. The pursuit of a more efficient supply chain cannot be an excuse to eliminate or deconstruct critical regulatory safeguards, such as fatigue protections, or to water down carefully crafted training and qualification requirements.

Thank you again, and I look forward to the——

[Audio interruption.]

Mr. REGAN [continuing]. Opportunity to answer your questions.

[Mr. Regan's prepared statement follows:]

Prepared Statement of Gregory R. Regan, President, Transportation Trades Department, AFL–CIO

On behalf of the Transportation Trades Department, AFL–CIO (TTD) and our 33 affiliated unions, I first want to thank Chairman DeFazio and Ranking Member Graves for inviting me to testify before the Committee today on the extremely timely issue of supply chain challenges and congestion. The employees represented by TTD-affiliated unions have had a front-row seat to the serious challenges facing America's supply chain—including the workers directly engaged in freight transportation at railroads and ports, and who work in industries that have been hamstrung by the inability to procure key materials in a timely manner.

THE STATE OF THE SUPPLY CHAIN

The fact that these disruptions have resulted in enormous economic, financial, and environmental costs is clear. Despite no shortage of finger-pointing and oversimplifying, we must acknowledge that the root cause of our supply chain bottlenecks is multivariate. Principally, we know that year to date, overall cargo volume through the Port of LA Long Beach, for example, has increased by a massive 26% compared to 2020, driven in part by a sharp uptick in consumer demand for durable goods.[1] This remarkable rise in cargo volumes has stressed every component of the freight transportation network, frequently to the breaking point. By way of example, earlier this year, Union Pacific found itself unable to clear backlogs, and stopped running desperately needed trains between the West Coast and its Global IV gateway in Chicago. Burlington Northern Santa Fe similarly began rationing service over its LA–LB to Chicago routes. Still, today, dozens of cargo ships remain anchored off the port, currently unable to dock due to lack of capacity at port terminals. Terminal operators at both LA–LB and the Port of Savannah are attempting to repurpose additional facilities to store overflow containers, as storage at the port has been exhausted.

It is not surprising that this historic increase in cargo volumes and demand would result in supply chain challenges. There are few if any industries that would be positioned to handle this level of new demand without difficulties. This is particularly true with one as complex and interconnected as freight transportation. Ultimately, there is no actor, decision, or policy that is individually responsible for the scenario the nation finds itself in. However, as we seek to move past these supply chain bottlenecks, Congress and the administration must acknowledge and examine conditions that increased the severity of the crisis, alongside efforts to alleviate the backlogs of today and tomorrow.

I must also take this opportunity to be perfectly clear on one point. There are many in Congress and in the industries our members serve who are cynically using this opportunity to scapegoat hard-working Americans, undermine their collective bargaining rights, and further deteriorate safety and working conditions for supply chain employees. Putting any amount of blame for this crisis on the shoulders of your constituents—the American workers who drive this economy through thick and thin—is unacceptable. We reject this misguided placement of blame out of hand and urge all policy makers to do the same.

UNEXPECTED CONDITIONS, INEVITABLE RESULTS

The supply chain crisis has put a spotlight on components of the freight network that were particularly ill-prepared for the demand shock of the last year. Recently, 160 House Republicans signed on to a letter which stated that "The current supply chain crisis exposes how close to its limit our transportation system operates. There is little redundant capacity."[2] TTD could not agree more strongly with this analysis.

[1] https://www.portoflosangeles.org/business/statistics/container-statistics
https://www.clevelandfed.org/en/newsroom-and-events/publications/economic-commentary/2021-economic-commentaries/ec-202116-durable-goods-spending-during-covid19-pandemic.aspx

[2] https://republicans-transportation.house.gov/uploadedfiles/2021-10-20__supply__chain__crisis__letter.pdf

There is nowhere where this lack of redundant capacity is and was more acute than at Class I railroads.

As TTD has testified before this Committee several times previously, for years the Class I railroads have pursued an operating model known as precision scheduled railroading, or PSR. PSR operations seek to maximize operating ratios—a railroad's expenses as a percentage of revenue—to appease shareholders and increase returns. Fundamentally, a PSR railroad abandons the traditional operating model of a service industry that responds to the variable demand of its customers. Instead, it operates on a regimented schedule more akin to passenger rail. After eliminating on-demand response, flexibility in the construction of train consists, and the availability of service, railroads then jettison capital assets like locomotives and cars and slash jobs across the network.

In doing so, Class I railroads all but ensured their operations would not be able to rapidly respond to economic shocks or rapid changes in the flow of traffic, like those the nation is currently experiencing. This is evident in the hollowing out of the industry that has taken place in recent years. During the five-year period between 2014 and 2019, Class I railroads eliminated a staggering 20% of their overall workforce. I might add that many of these freight rail employees have specialized skills and training—many require certification—that are not easily replicated in the broad US workforce.

Throughout the pandemic, employment dropped further as freight volumes collapsed. However, freight rail has enjoyed a "v-shaped" recovery—carloads have nearly returned to 2019 levels. Yet, Class I carriers today employ fewer employees than they did pre-pandemic, and amid the supply chain crisis, employment continued to decrease in August and September of this year. Further, in the first three quarters of FYI '21, an analysis of four Class I railroads shows a shocking –19.5% decrease in employee service hours compared to FY '19, while handling only 3.2% fewer carloads. At a time when more, and more reliable, freight rail service was badly needed, railroads have only dug further into profit-first skeleton crew operations. We are unequivocal—these reductions have resulted in a rail network that is less prepared, less capable, and less safe.

Not only do railroads lack the personnel to respond nimbly to the supply chain crisis, but they frequently also lack equipment. In its 2020 financial disclosures, Union Pacific stated that it had reduced its active locomotive fleet by 24% and only managed to keep 58% of its remaining locomotives in service. Other carriers have similarly eliminated equipment, and TTD unions report that equipment not in use is often not kept in a state of good repair, meaning that it cannot quickly be put into service when needed. As a result, when a surge of force was required to resolve congestion issues, railroads were left without the institutional flexibility required to do so quickly.

Service that has run between LA–LB, Chicago, and other hubs bears evidence of PSR, as railroads continued to prioritize shareholder returns over high-quality operations during the worst moments of the supply chain crisis. We are aware of at least one Class I that restricted many of its trains, including those serving the West Coast, to traveling at a speed of 40 M.P.H despite operating over track rated for much higher speeds. These limitations are unrelated to safety or operational requirements, but instead exist to extract further revenue by reducing fuel costs, even if doing so further exacerbates delays and supply chain chokepoints.

While drastic spikes in demand were always likely to result in significant operational challenges, the lack of elasticity among freight railroads has worsened and extended supply chain challenges. Rail labor is not alone in identifying the industry as an ongoing chokepoint in the supply chain crisis. Surface Transportation Board Chairman Marty Oberman penned a letter on preparedness to railroad CEOs stating his concern about "the extent to which these service issues may be related to or exacerbated by a broader trend of rail labor reductions that has been occurring over the past several years." In additional remarks, he added that "operating the railroads with that many fewer employees makes it difficult to avoid cuts in service, provide more reliable service, and reduce poor on-time performance that does not compete well with truck."

While rail carriers will cite that some metrics have improved, many of these improvements are recent—for example, rail dwell times at West Coast ports didn't begin a sustained decrease until August.[3] Further, despite these efforts intermodal rail volumes have actually decreased year over year, with U.S. intermodal volumes for September 6.7% lower than September 2020, as shippers look elsewhere to move

[3] https://www.pmsaship.com/wp-content/uploads/2021/10/West-Coast-Trade-Report-October-2021.pdf

cargo.[4] It is clear that challenges persist, and have persisted longer than they needed to.

GOOD JOBS ATTRACT STRONG WORKFORCES

Today, Class I's are acknowledging the need to hire additional employees to meet demand, and we strongly encourage them to do so. However, in a tight labor market,[5] rail employers are pointing to so-called "labor shortages" as an explanation for ongoing difficulties in staffing. TTD rejects any characterization that the rail industry is suddenly experiencing a shortage beyond its control, given the calculated elimination of tens of thousands of jobs over the past decade. If the existing rail workforce is inadequate to handle current freight demand, and we believe that it is, this is the result of intentional decision-making by Class I carriers as they've embraced the PSR model. They must be held accountable during this supply chain crisis for decisions that have contracted our freight rail capacity and left our economy in a worse state as a result.

Not only have carriers drastically cut headcount, but they have also fostered workplace conditions that have degraded the quality of railroad employment. TTD unions have increasingly reported on the phenomenon of mid-career rail employees resigning from well-paying jobs and giving up stable retirements due to an unwillingness to continue to work in unsafe conditions where the perpetual threat of furlough looms large. According to data provided by the Railroad Retirement Board, even when adjusting for retirements, approximately 7,200 employees left the rail industry during the pandemic. The bulk of these individuals were employed by Class I railroads. While targeted hiring campaigns and incentive programs to boost ranks are certainly welcomed, an ongoing exodus of highly-skilled and experienced employees is liable to undermine any forward progress.

More generally, we do not believe that a shortage of employees in the supply chain is a factor in current conditions. A workforce shortage implies that the workers needed to perform a job do not exist in the market. What we have today in our economy is the failure of employers to respond to market conditions and provide the incentives—wages, benefits, working conditions, that will attract the workforce they need. In addition to rail, proponents of the shortage explanation frequently cite trucking as an example of an industry where total employment is lacking despite best efforts. Yet, the 90% turnover rate for long-haul truckers speaks to a similar market response from drivers who are disinterested in long hours, low wages, and a difficult working environment.[6] As an example, port truck drivers working for XPO Logistics recently won a settlement of nearly $30M after successfully arguing that they had been willfully misclassified under federal labor law, to deny them fair wages, benefits, and bargaining rights.[7] The mistreatment faced by XPO drivers, operating in a key node of the supply chain, was hardly unique. The failure of an employer to incentivize its future workforce is not synonymous with a labor shortage, and the solutions are not interchangeable.

A PATH FORWARD

As Congress and the administration continue to work to solve the ongoing challenges, and prevent future interruptions of this magnitude, we call on you to work closely with supply chain employees and their union representatives across the nation to develop long and short-term solutions to the supply chain crisis.

This must include considerations of the impacts of the drastic reduction in the rail workforce and degradation in service quality, how these factors have contributed to supply chain disruptions, and even if the manner in which railroads have chosen to operate is consistent with statutory common carrier obligations. We encourage the pursuit of long-term structural changes that will reverse the current path of the industry and return to the prioritization of long-term viability, high-quality service, and the creation and support of thousands of good jobs.

Solutions must also include robust and well-directed investments in our nation's freight infrastructure. To this end, TTD strongly applauds the enactment of the generational Infrastructure Investment and Jobs Act (IIJA). We thank President Biden and Vice President Harris for their leadership, Chairman DeFazio for his un-

[4] https://www.freightwaves.com/news/us-intermodal-rail-traffic-softens-in-september-on-supply-chain-woes

[5] https://fred.stlouisfed.org/graph/?g=E9Bs

[6] https://www.ccjdigital.com/economic-trends/article/15064753/driver-turnover-rate-holding-steady

[7] https://teamster.org/2021/10/xpo-drivers-achieve-nearly-30-million-in-settlements-after-company-misclassified-its-workers/

ceasing commitment to a revolutionary modernization of our nation's infrastructure, and the members of Congress who understood the importance and impact of passing the IIJA.

As policymakers and the private sector consider strategies to expedite the flow of goods at major ports, the $2.2 billion the bill contains for the Port Infrastructure Development Program offers a lifeline to the nearly half of U.S. ports that state that better rail access could increase throughput capacity by over 25%.[8] To achieve the greatest economic impact for IIJA, it is essential that the legislation is implemented in a way that sustains good-paying jobs while acting as an economic force multiplier throughout the supply chain.

Congress should also consider novel approaches to supply chain challenges that would create jobs and economic activity. For example, the expansion of waterborne transportation alternatives through our Marine Highways may alleviate symptoms of a supply chain bottleneck, particularly at major ports. Short sea shipping is the practice of commercial waterborne transportation utilizing America's Marine Highways and is a practical alternative to moving freight from major ports to its destination. Typically, cargos arrive at large U.S. ports aboard massive deep-sea vessels, are unloaded, and then transferred to trucks and rail carriers. A fully developed short sea shipping sector, utilizing smaller cargo vessels, would supplement and complement services provided by rail and truck transportation and would provide shippers with an additional alternative to direct goods to their final destination. In addition, being able to use our waterways more consistently would create benefits for the U.S. maritime industry by creating good jobs aboard vessels and at ports and shipyards, while reducing port congestion.

We also call on you to reject ill-conceived efforts to hijack the crisis to attack supply chain workers and their industries. The pursuit of a more efficient supply chain cannot be an excuse to eliminate or deconstruct critical regulatory safeguards, such as fatigue protections, or to water down carefully crafted training and qualification requirements. In particular, we strenuously oppose legislation that seeks to amend long-standing labor law to deny collective bargaining rights. Transportation labor views any such efforts as an unwarranted and deeply misguided assault on employees in the supply chain who continue to work tirelessly to keep the economy and the flow of commerce moving.

TTD thanks the Committee for the opportunity to testify today on the significant challenges facing our supply chain. We look forward to continuing to work together to alleviate current congestion and to foster more resilient freight transportation industries well into the future.

Mr. DEFAZIO. Eleanor, please mute. I think it is you. No, you are muted. Who is it?

OK, whoever is not muted, thank you.

Thank you, Mr. Regan. Now we will move to questions. I first recognize myself.

Dr. Correll, I had read your written testimony, and the 18 minutes was something novel that I didn't see, or maybe I missed in the written testimony. Could you go over that again?

I mean, 18 minutes would do what for our efficiency, and backlog, and need for drivers?

Mr. CORRELL. Yes, sir. Thank you for the question. So, the origin of that calculation is to take the number that my colleagues at the ATA bring up for the estimate of the size of the truckdriver shortage. So, when we look at that, you know, how many is it this year, they just came out with a new number of 80,000 truckdrivers short.

Where I come up with my calculations to say, all right, well, how many truckdrivers do we have? And so, according to the U.S. Census data, we have 1.8 million. Well, 80,000 is around 4½ percent of 1.8 million. How do we add 4½ percent back to our existing population of drivers, instead of bringing in a new headcount? If we do that, it is only 18 minutes.

[8] https://aapa.files.cms-plus.com/PDFs/State%20of%20Freight%20III.pdf

So, the idea of that calculation is to look at the estimate of the shortage, and look at a solution that is not raising headcount, but raising utilization.

Mr. DEFAZIO. That is a pretty extraordinary figure.

Both to you and to maybe Mr. Spear and Ms. Reinke, the issue of detention time. We used to penalize the warehouses if they made people sit. Right now, that is no cost to them. You sit, you run out of time, you sit. You know, you drive out of service, or whatever. How can we rectify that?

Mr. SPEAR. That is——

Mr. DEFAZIO. Briefly.

Mr. SPEAR. I will go first with that, Mr. Chairman. It is a relationship that we have to improve with those that we are picking up from. There are instances that we have had where our drivers aren't even allowed to park on their property, unless it is within a defined period of time. And if they are later in traffic, and they get there and miss their window, then they have to wait longer. If they do get on the property, they are not even allowed to use the restroom. Our drivers are treated deplorably in many instances. It is a relationship that we just have to improve.

These folks are moving 72.5 percent of the domestic freight in this country, and they are heroes. They have been doing it throughout the pandemic. When everybody ran for cover, these folks got in their trucks, and got the job done. They restocked the shelves, and now they are moving the vaccine. So, for them to be treated like this, to wait indefinitely, is a serious problem, and it is measurable, and it is impactful on us. That time reduces the clock that they can drive.

So, it is—the 6 hours, or what was mentioned earlier, is a figure that comes from that. It also comes from congestion, which the IIJA is going to, obviously, alleviate. So, there are improvements in that, that that number should go up as we spend less time in traffic.

Detention is still an issue. That is not in the IIJA, and it is just something that we are going to have to work with folks in our supply chain to resolve, because it is just untenable. It is not sustainable to have drivers wait that long and run their clocks down. It is not productive for the entire economy.

Mr. DEFAZIO. OK, thank you.

Ms. Reinke, from a broker's perspective?

Ms. REINKE. Yes, I couldn't agree with Mr. Spear more. It is a relationship issue. Our members, our brokers want to maintain good relationships with their motor carrier customers because, otherwise, if they don't, those guys don't—guys and gals—don't come back to them. And we are only as good as the relationships we have with our shippers, on the one hand, and the motor carriers on the other. So, it doesn't do any good to have the carriers waiting outside.

Now, obviously, there is a warehouse labor shortage, as you know; that is certainly what we are seeing. We want to work together to devise a solution. We are in absolute agreement.

Mr. DEFAZIO. OK, thank you. How about from an economist's perspective, Mr. Cordero?

Mr. CORRELL. For me, or for Mr. Cordero?

Mr. DEFAZIO. No, sorry, for you, Mr. Correll, yes.

Mr. CORRELL. No problem, thank you. So, from someone who analyzes data perspective, I think there is a great opportunity here, and I would like to represent it just briefly by way of analogy. If I go to a restaurant in New York City, I can look at the New York Board of Health food safety grade as a letter grade outside that restaurant, and know what I am working with, or what I am getting into by going to that restaurant.

I think that aggregating and collecting data on detention time at our shippers, and also collecting data on their experience, and the dignity with which they are treated at the facilities, like Mr. Spear brought up, creating that kind of dataset would be very valuable in one obvious way that we could make public, some of these issues that I think we are all acknowledging we see.

But the second way is that it could unlock market potential to improve it, because, without that kind of aggregated dataset, our carrier community can't accurately price in expected detention or expected poor treatment of their drivers at facilities. If we aggregated those rankings, similar to the way we do with restaurants, we could communicate to the carrier community, "This is what you are getting if you do business there, and price it as you need to, to make it worth your time." I think it would be a very helpful innovation, using the data.

Mr. DEFAZIO. Interesting. So, I wonder who we would get to do that.

Ms. Reinke, would brokers be an appropriate place to aggregate and publicize that?

Ms. REINKE. Well, to the extent we have visibility into that data, sure, we, you know——

Mr. DEFAZIO. Well, I mean, you are dispatching loads. The drivers could—you could ask them, "What was your experience, how long did you wait, how were you treated," and aggregate it.

Ms. REINKE. Right. I mean, data is the coin of the realm. And typically, you are right, brokers have access to a lot of data, across—from the beginning of the transaction, the middle of the transaction, to the end of the transaction. So, yes.

Mr. DEFAZIO. OK, anybody else have any ideas on that? This has really been something I have been working on for more than 15 years, detention time issues.

Mr. CORRELL. Just a technical note, if it is helpful to you, Chairman DeFazio.

So, when I do this for the companies that share their data with me, one of the things that I can do is give them a quick letter grade—A, B, C, D—on all of their customers for detention. That tends to be valuable, from a management perspective.

The problem of trying to do it—so, a carrier can do it with places they have already visited, but they won't have any data for somewhere they have never visited. And so, if they ask another company and say, what was your experience at this place, each company codes it in their own unique way, which is not readable across all the different companies. So, if I am going to Company XYZ in Des Moines, Iowa, my naming convention will not be readable to all the other companies that might use their own naming conventions.

So, that is somewhere I think Federal leadership could help, giving a standardized, unique identifying code to all of our shippers and warehouses, so we have a way to know exactly who we are talking about when we share these ratings.

Mr. DEFAZIO. OK, interesting. Sort of a private-sector solution to a private-sector problem. So, thank you.

OK, my time has expired. I would now recognize Ranking Member Graves.

Mr. CRAWFORD. Thank you, Mr. Chairman——

Mr. DEFAZIO. Oh, sorry, Ranking Member Crawford, I am sorry.

Mr. CRAWFORD. That is no problem. Thank you. Just real quick, I have a letter here from the Agricultural Transportation Working Group submitted in response to the U.S. Department of Transportation's request for information that will be used to prepare a report for President Biden on supply chains for the industrial base. I would ask unanimous consent to have that entered into the record.

Mr. DEFAZIO. Without objection.

[The information follows:]

Letter of October 18, 2021, to Hon. Pete Buttigieg, Secretary, U.S. Department of Transportation, from the Agricultural Transportation Working Group, Submitted for the Record by Hon. Eric A. "Rick" Crawford

SUBMITTED ELECTRONICALLY.
OCTOBER 18, 2021.

The Honorable PETE BUTTIGIEG,
U.S. Department of Transportation,
1200 New Jersey Avenue SE, West Building, Ground Floor (W12–140), Washington, DC 20590–0001.

RE: Docket No. DOT–OST–2021–0106

DEAR SECRETARY BUTTIGIEG:

The associations that make up the Agricultural Transportation Working Group (ATWG) submit this statement in response to the U.S. Department of Transportation's (USDOT) request for information that will be used to prepare a report for President Biden on supply chains for the industrial base.

The undersigned agricultural producer, commodity, agribusiness and food-related national organizations respectfully request the Biden administration's support to advance transportation infrastructure and policies for truck, rail, waterways and ports that will enhance the efficient and cost-effective transport of agricultural and food products. The farmers, ranchers, food and beverage manufacturers, processors, package suppliers, farm supply dealers and agricultural product marketers that comprise our collective memberships are dedicated to providing safe, abundant, affordable and sustainably produced human and animal food, fiber and other agricultural products that directly benefit U.S. and global consumers and contribute significantly to U.S. economic growth and trade. Importantly, they also support and sustain millions of American jobs, many in rural communities.

The COVID–19 pandemic and subsequent surge in consumer demand has resulted in major supply chain disruptions, including in the food and agricultural supply chain. The disruptions are ongoing, and the work performed by President Biden's Supply Chain Disruptions Task Force that is co-chaired by the Secretaries of Transportation, Agriculture and Commerce is important to support resilient, diverse, and secure supply chains. Such supply chains are buttressed by strong transportation infrastructure and flexible policy and are needed to ensure America's farmers, ranchers, commodity handlers, processors and food manufacturers can reliably deliver high-quality, cost-effective products to domestic and global consumers.

More needs to be done to institutionalize the lessons that are being learned from the pandemic to ensure resiliency of the food and agricultural supply chain. We respectfully offer for your consideration the following recommendations:

LABOR

Presently, inadequate labor availability is the largest supply chain constraint facing the U.S. agricultural industry. ATWG members are unable to fill open positions throughout the production, transportation, warehousing, and processing phases of the supply chain. These shortages are directly impacting our members' ability to meet consumer demands. Not only does a labor shortage make it difficult to keep pace with open positions, but it also makes it more challenging to add shifts to keep pace with increasing demand for agricultural products. The lack of access to labor threatens operations and supply chain resiliency and leads to lost productivity and higher prices for food and agricultural products along the supply chain.

During the pandemic, as agriculture continued to operate while also prioritizing the health and safety of their employees, the shortages of personal protective equipment, disinfectants, and other COVID–19 mitigation tools created challenges. In planning for the next crisis, the U.S. government should ensure that the food supply chain continues to be deemed essential and receives priority access to necessary supplies in future response plans. Furthermore, the U.S. government should consider efforts to create national stockpiles of supplies, such as respirators and face masks which are required for application of certain pesticides.

Specifically, within DOT's jurisdiction, policies to increase trucking productivity would be helpful as would harmonizing the federal truck driving age limit with the state age limit to provide a more accessible pathway into the trucking industry for drivers aged 18–20.

Another specific concern is how a forthcoming Emergency Temporary Standard (ETS) regarding vaccines is implemented. We support the use of vaccines to fight the spread of COVID–19, but as announced, the ETS could cause serious labor disruptions for agribusinesses. We encourage the administration to continue to recognize the critical infrastructure status of the food and agriculture sector and provide flexibility for agricultural employers to avoid the negative effects a vaccine mandate would have on the efficiency and reliability of the agricultural supply chain. We would like to partner in developing solutions and educational programs that will expand the number of vaccinated workers without introducing additional risks to the agricultural supply chain.

CLIMATE POLICY

The ability for the U.S. food and agricultural sector to continue as the world's largest hinges on the availability of cropland to produce raw agricultural commodities. The production of raw agricultural commodities is the beginning and most important part of the food and agricultural supply chain. An abundant, affordable, sustainable, and wholesome supply of raw agricultural commodities is a prerequisite for the remaining steps in the food and agricultural supply chain.

Due to the inherent linkage between the first step in the food and agricultural supply chain, the production of raw agricultural commodities, and the climate change policies that are under consideration, the ATWG urges the Transportation, Agriculture and Commerce Departments to assess their climate change policies and supply chain policies in tandem. Policies that idle cropland and reduce U.S. agricultural output result in less U.S. agricultural market share and harm rural economies.

As an alternative to cropland idling climate change polices, the ATWG urges the U.S. Department of Agriculture (USDA) to prioritize federal resources toward working land programs to achieve large environmental and economic benefits by incentivizing broader adoption of best management farming and ranching practices across potentially hundreds of millions of our nation's best acres for agricultural production.

TRANSPORTATION POLICY AND INFRASTRUCTURE

The ATWG recommends strengthening U.S. freight transportation policy and infrastructure to help ensure there are many efficient ways for agricultural commodities and products to flow throughout the agricultural supply chain. The ATWG believes the U.S. freight transportation system can be strengthened through the following ways:

1. Adopt solutions to better balance the needs of ocean carriers with the needs of our agricultural exports.
2. Increase federal investment to modernize U.S. inland waterways locks and dams—particularly those on the Upper Mississippi River and Illinois River (UMR–IR) System—and fully utilizing the Harbor Maintenance Trust Fund for its intended purpose of dredging U.S. ports and harbors.

3. Foster increased competition among freight railroads and other transportation modes, provide a better method for challenging unreasonable rail rates and require railroad carriers to provide increased access to railroad service data to enhance agricultural supply chain operations.
4. Increase motor carrier capacity through regulatory reform and legislative change and investing strategically in rural roads and bridges through collaboration with states.

Container Shipping

We are supportive of efforts to better balance the needs of ocean carriers with the needs of our agricultural exports. Concerns over ocean carriers and terminals practices at U.S. ports include ignoring the Federal Maritime Commission's existing demurrage and detention guidelines, making containers unavailable to carry agricultural export cargo, cancelling or refusing export container bookings and a persistent lack of timely notice of changes to U.S. shippers.

The lingering effects of the COVID–19 pandemic's shock to global trade have resulted in a backlog of container ships waiting to unload outside the West Coast's most critical shipping ports. Ongoing congestion and related logistical obstacles threaten U.S. farmers' and ranchers' ability to meet much-welcome increases in foreign demand for our products.

Elevated imports and exports have caused considerable congestion both on water and land as the ports fill with the extra containers. To avoid congestion and to get containers back to Asia as quickly as possible so that they can be refilled with more import goods, there has been an increase in the shipment of empty containers out of the West Coast ports. Some consider it more efficient to ship empty containers, rather than waiting for export goods to be loaded, which has led to a significant decline in the number of containers available to agricultural exporters.

Across California's three major ports, the shipment of empty containers jumped 56% from an average of 1.16 million TEUs (20-foot equivalent units) in the first quarters of 2018–2020 to 1.81 million TEUs in the first quarter of 2021. Compared to the first quarter of 2020 alone, the first quarter of 2021 represents an 80% increase in empty export container units. At the Port of Los Angeles, in 2021, through July, nearly 75% of all exported containers were empty. Accessibility to export containers has been further limited by record shipping costs and harmful surcharges. With these factors combined, the ability for farmers and ranchers to fulfill oversees contracts has been significantly impacted, with some estimations nearing $1.5 billion in lost agricultural exports.

All these harmful patterns are contributing to supply chain dysfunction, increased costs for U.S. agricultural exporters and preventing U.S. shippers from capturing export opportunities. The ocean shipping industry has vastly changed in recent years, increasingly to the detriment of U.S. exporters.

Inland Waterways

A modern, efficient inland waterways transportation system (locks and dams) is critical to U.S. agriculture and the entire U.S. economy. Our nation's inland water navigation system is a low-cost and environmentally sustainable way to get crop inputs, such as fertilizer and farm supplies, to farmers and for delivering harvests, such as grains and other crops, to domestic and international markets. In 2020, the United States exported 29 percent of its grains and oilseeds. Of this quantity, more than half transited the Mississippi River System, while 29 percent moved through the Columbia-Snake River System in the Pacific Northwest, and 5 percent was shipped through the Texas Gulf. U.S. agricultural exports traditionally contribute a nearly $15–$20 billion surplus to the U.S. balance of trade, as well as provide upwards of 20 percent of U.S. farm income.

Unfortunately, most locks on the UMR–IR System were built in the 1930's and have long surpassed their projected 50-year design life. These locks were built when 600-foot locks were the standard. Today, a full barge tow is 1,200-feet so upgrading this aging infrastructure is a necessity and will strengthen U.S. agricultural competitiveness and the resilience of the country's supply chain. A 2016 study by the University of Tennessee and funded by USDA, looked at two locks along the UMR–IR and found that unscheduled outages would result in the loss of 12,500 jobs and reduce economic activity by $4.2 billion.

Another significant study issued in August 2019 and conducted by Agribusiness Consulting (formerly Informa Economics) under a contract with the USDA Agricultural Marketing Service, entitled "Importance of Inland Waterways to U.S. Agriculture", quantified both the critical connection between the inland waterways and the competitiveness of American agriculture in global markets, as well as the economic costs of delaying renovation of America's river transport network.

Among other things, the study found that the inland waterways system saves between $7 billion to $9 billion annually over the cost of shipping by other modes (values based on all goods currently being moved on the water compared to the same volume transported by rail). It also found that every dollar of waterways activity output results in $1.89 in additional U.S. economic activity directly related to the waterways.

Most significantly, the study found that compared to the status quo, increasing investment in the inland waterways system by $6.3 billion over a 10-year period (through 2029) and $400 million per year thereafter through 2045 cumulatively would grow the waterways' contribution to U.S. gross domestic product by 20 percent (to $64 billion) and increase waterways-related employment by 19 percent, to 472,000 jobs. The study says this option would more than offset the cost of completing all the proposed projects and would increase the market value of U.S. corn and soybeans by $39 billion. Conversely, reduced investment would decrease the market value of those commodities by $58 billion.

In addition to the economic and competitiveness enhancing benefits of the inland waterways transportation system, the environmental and energy efficiency qualities must also be recognized. According to a 2017 study by the Texas A&M Transportation Institute prepared for the National Waterways Foundation, barge transportation produces the least amount of CO2 emissions compared to rail (30% more) & truck (1,000% more). Further, a 15-barge tow can carry the same amount of cargo as 1,050 semi-trucks or 216 railcars. Barge transportation is the most fuel-efficient form of surface transportation and policymakers should prioritize the modernization of U.S. locks and dams in any infrastructure bill as well as the annual appropriations process.

Specifically, the ATWG urges support for the funding and construction of the top 15 lock and dam projects identified by the Army Corps of Engineers in the 2020 Capital Investment Strategy (CIS). The CIS outlines a scenario where all 15 projects could be constructed in 10 years at a cost of $7 billion. This includes seven additional 1,200-foot locks on the Upper Mississippi River and Illinois Waterway as part of the Navigation Ecosystem Sustainability Program (NESP). Lock and Dam 25 on the Upper Mississippi River is part of NESP, and the top ranked new construction start on this list of 15 priority projects. The ATWG urges USDA to continue to reinforce with Congress and the Office of Management and Budget, the importance of funding and constructing the NESP locks and dams to bring U.S. inland waterways transportation into the 21st century.

Rail Competition and Service

Rail transportation remains an important mode for transporting agricultural products, even though its modal share has declined significantly. While truck and water transportation are often viewed as potential competitors to rail, they have significant limitations that prevent them from providing effective competition on all but a narrow range of movements. Water transportation cannot compete with rail except for traffic moving between an origin and destination on a navigable waterway. Truck transportation is significantly less efficient than rail, making it uncompetitive except for short distances. Today, four railroads haul more than 90 percent of all freight rail traffic and rail rates[1] have crossed a threshold that can make truck transportation the only viable option for many shippers.

Rail carrier implementation of large cost-cutting initiatives, such as so-called precision scheduled railroading (PSR), have disrupted rail service to many agricultural shippers. PSR focuses on removing network capacity in rail carrier operations to increase their operating-ratio profits. The loss of this capacity generally results in poor service for shipping and receiving customers and removes substantial rail network elasticity. This can turn an upward change in demand or a weather event into a severe and long-lasting disruption to service. The removal of capacity through PSR may make the rail carriers slightly more profitable but it comes at a high cost for rail customers in the agricultural sector.

The ATWG believes it is necessary to seek all available options to increase competition among freight railroads and other transportation modes and provide shippers and receivers with increased access to railroad service information to enable informed business and capital investment planning.

[1] Rail rates to ship anhydrous ammonia, which is a key ingredient for 75% of the essential fertilizers utilized by farmers, have increased over 200% in the past 20 years.

The Surface Transportation Board (STB) can increase competition among railroads by finalizing a long-pending proceeding on reciprocal (also referred to as "competitive") switching. Competitive switching will enable shippers and receivers that are captive to one rail carrier, but are near a second rail carrier, to gain access to the second carrier via a short distance switch.

For shippers and receivers that are not close to a second rail carrier to benefit from competitive switching, there is a rulemaking underway at STB—known as the Final Offer Rate Review—that the ATWG hopes will result in a more streamlined, simplified, and less costly process for challenging unreasonable rail rates.

Lastly, greater access to rail carrier data is needed by shippers and receivers to help optimize their supply chain operations. The ATWG commends STB for requesting information on first-mile/last-mile rail service, which is an often overlooked, but extremely important area in the agricultural supply chain.

While STB has jurisdiction over disputes related to railroad service and rates, there are some areas where the USDOT can help. The DOT has delegated authority to the rail industry via the Association of American Railroads (AAR) Tank Car Committee (TCC). For many years, shippers have been trying to work with AAR and DOT to reform the processes of the TCC. Historically, TCC has imposed measures on shippers that raise serious concerns about the extent of TCC authority. While this is a complicated issue, to date, DOT has not responded to a shipper-industry petition filed in 2016 on this matter.[2] In recent years, regulatory actions imposed or initiated by the TCC, without a cost-benefit analysis, have raised shipping costs for the fertilizer industry by millions of dollars. DOT can and should make an effort to reform the AAR Tank Car Committee.

Motor Carrier Freight Transportation Efficiency

The ATWG believes supply chain resiliency can be enhanced by strengthening the motor carrier freight transportation sector through streamlined and cost-effective regulatory and/or legislative policy. To increase transportation capacity and efficiency of this sector, the ATWG recommends the following regulatory and legislative policies:

1. Adoption of policies to mitigate the ongoing truck driver shortage, such as removing the commercial driver's license (CDL) restrictions on drivers aged 18–20 that creates an obstacle to recruiting a new generation of drivers into the industry. There are 49 U.S. states that allow 18-year-olds to obtain a CDL, but federal law prohibits them from driving across state lines until they are 21. The ATWG is supportive of pathways that include additional training to bring more drivers aged 18–20 into the industry.
2. With the challenges facing supply chains and a shortage of drivers, we continue to see bottlenecks, supply constraints and increased costs when moving goods across the country. As we saw in the early days of the pandemic, much of the agriculture supply chain relies on just-in-time delivery. This is also extremely important when considering the need for animal feed, farm supplies to arrive at the appropriate time during planting season as well as completing harvest before crops spoil or the season ends. It is also critical that we can safely transport our live animals and insects to their destinations without delay.

   We recommend that USDA and USDOT continue to coordinate to ensure agricultural haulers and the rest of the trucking industry have the flexibilities needed to provide timely delivery of essential products. Flexibilities such as relief from Hours-of-Service requirements have been critical over the last 18 months. Our industry has proven that we can maintain a high level of safety while also efficiently delivering wholesome and affordable food to the American consumer.
3. Adoption of a 10% axle tolerance for dry bulk shipments. This bipartisan policy, supported by Rep. Anthony Brown (D-Md.) and Rep. Mike Gallagher (R-Wis.), was included in H.R. 3684, the INVEST in America Act.

   Load shifts during transport can result in tickets for drivers because a portion of the truck becomes heavier than allowed under current law, even though the overall truck weight is below the federal truck weight limit of 80,000 pounds. The ATWG supports this policy already adopted by 38 states on state/county roads that authorizes an axle weight tolerance to account for this shifting during transport.
4. Adoption of a pilot program to achieve economic and environmental efficiencies through a modest increase in federal truck weight limits.

[2] Petition No. P–1678; Docket No. PHMSA 2016–0093

Lower Interstate Highway System truck weight limits relative to state road truck weight limits are a barrier to economic and environmental efficiency. The 80,000-lbs. gross vehicle weight (GVW) limit on Interstate Highways has been in place since 1982 despite major advancements in vehicle safety and paving technology.

If a state's truck weight limit for its roads is 91,000 pounds and the Interstate Highway weight limit is 80,000 pounds, and the route includes an Interstate Highway then the driver's utilized freight limit is only 80,000 pounds. This can prevent trucks from utilizing the best shipping route if it includes Interstate Highways, which are our nation's safest and best built and maintained roads. A tractor-trailer combination loaded to 80,000 pounds carries approximately 50,000 pounds of freight. At 91,000 pounds, the tractor-trailer combination carries about 60,000 pounds of freight, amounting to about a 20 percent increase in freight efficiency and an associated reduction in its carbon footprint.

The ATWG urges authorization of an opt-in pilot program to modestly increase truck weight limits by allowing 91,000-lb., six-axle vehicles on federal Interstate Highways in 10 states. This configuration complies with the federal bridge formula and is shown to have better braking capacity than 80,000-lb., five-axle trucks.

In March 2020, Congress provided states with the option to determine truck weight limits for 120 days through Section 22003 of the CARES Act and the ensuing trucking efficiencies were gained safely.

5. Maintaining the existing minimum financial liability coverage level for motor carriers.

Efforts to increase liability insurance for motor carriers beyond the current $750,000 level will increase freight costs without any known safety benefits. Annual premiums for each truck are already significant at about $5,000 per year. Whereas the minimum automobile liability insurance for most states is less than $100,000, which is inequitable to the $750,000 minimum for truck financial liability. Raising the minimum financial liability coverage level for motor carriers will increase the already inequitable difference between coverage for automobiles and motor carriers.

6. Support necessary reforms to modernize the Farm-Related Restricted CDL program, which has currently been adopted by 24 states. The Farm-Related Restricted Commercial Driver's License (CDL) or more commonly referred to as the "Seasonal Ag CDL" program has been an essential seasonal program for farm-related service industries since 1992. These industries have a very strong transportation safety record and it has not been diminished since these federal regulations have been in place. The Seasonal Ag CDL program has helped promote economic growth for America's agricultural industries serving the essential needs of farmers during the busy planting and harvesting seasons. Due to challenging weather events, the increase in crop production diversification, technological advances and weight increases in light duty pickup trucks and agricultural equipment over the past several decades, it is necessary to modernize the federal regulations providing the framework for these state administered programs. The temporary shutdown of the state Department of Motor Vehicles offices throughout the nation during the height of the COVID–19 pandemic also caused major disruptions for farm-related service industries and their rural communities.

More flexibility is needed and can be provided by expanding the total days allowed to utilize Farm-Related Restricted CDL drivers by up to 270 days to accommodate for the longer seasons, which can fluctuate from year to year due to climate change as well as more diversified crop production. Individual states would maintain the ability to set the seasons these days could be utilized by the industry. The new 12-month seasons restart should occur each calendar year on January 1 to prevent any overlap of seasons from the previous year and the requirement for an in-person seasonal renewal should be eliminated.

Concluding Statement

The ATWG commends the Departments of Transportation, Agriculture and Commerce for seeking ways to support resilient, diverse, and secure supply chains to help ensure U.S. economic prosperity and national security. Such supply chains are needed to ensure America's farmers, ranchers, commodity handlers, processors and food manufacturers can reliably deliver high-quality, cost-effective products to domestic and global consumers.

The ATWG's most pressing recommendation is to address labor availability, which is among the largest supply chain constraints facing the agricultural sector. The lack of access to labor threatens operations and supply chain resiliency and leads to lost productivity and higher prices for food and agricultural products along the supply chain. Specifically, within DOT's jurisdiction, policies to increase trucking productivity would be helpful as would harmonizing the federal truck driving age limit with the state age limit to provide a more accessible pathway into the trucking industry for drivers aged 18–20.

Further, the ATWG recommends USDA agencies collaborate on their climate change and supply chain polices due to their inherent linkage to the production of raw agricultural commodities—the first step in the food and agricultural supply chain and the most likely step to be impacted by climate change policies. As an alternative to cropland idling climate change polices, the ATWG urges USDA to prioritize federal resources toward working land programs to achieve large environmental and economic benefits by incentivizing broader adoption of best management farming and ranching practices.

The ATWG supports strengthening U.S. freight transportation policy and infrastructure to help ensure there are many efficient ways for agricultural commodities and products to flow throughout the agricultural supply chain. The ATWG believes the U.S. freight transportation system can be strengthened through the following ways:

1, Adopt solutions to better balance the needs of ocean carriers with the needs of our agricultural exports.
2, Increase federal investment to modernize U.S. inland waterways locks and dams—particularly those on the UMR–IR System—and fully utilizing the Harbor Maintenance Trust Fund for its intended purpose of dredging U.S. ports and harbors.
3, Foster increased competition among freight railroads and other transportation modes, provide a better method for challenging unreasonable rail rates and require railroad carriers to provide increased access to railroad service data to enhance agricultural supply chain operations.
4, Increase motor carrier capacity through regulatory reform and legislative change.

Thank you for this opportunity to provide information that will be used to prepare a report for President Biden on supply chains for the industrial base. We believe our responses provide ideas to support supply chain policies that will allow U.S. farmers, ranchers, commodity handlers, processors, and food manufacturers to reliably deliver high-quality, cost-effective products to domestic and global consumers.

We look forward to working with you to support U.S. agriculture's adoption of resilient, diverse, and secure supply chain practices.

Sincerely,

AGRICULTURAL TRANSPORTATION WORKING GROUP:

AGRICULTURAL AND FOOD TRANSPORTERS CONFERENCE.
AGRICULTURAL RETAILERS ASSOCIATION.
AGRICULTURE TRANSPORTATION COALITION.
AMCOT.
AMERICAN BEEKEEPING FEDERATION.
AMERICAN FARM BUREAU FEDERATION.
AMERICAN FEED INDUSTRY ASSOCIATION.
AMERICAN FROZEN FOOD INSTITUTE.
AMERICAN PULSE ASSOCIATION.
AMERICAN SEED TRADE ASSOCIATION.
AMERICAN SHEEP INDUSTRY ASSOCIATION.
AMERICAN SOYBEAN ASSOCIATION.
CORN REFINERS ASSOCIATION.
FARM CREDIT COUNCIL.
FRESH PRODUCE ASSOCIATION OF THE AMERICAS.
GROWTH ENERGY.
HARDWOOD FEDERATION.
INSTITUTE OF SHORTENING AND EDIBLE OILS.
INTERNATIONAL DAIRY FOODS ASSOCIATION.
LIVESTOCK MARKETING ASSOCIATION.
NATIONAL AQUACULTURE ASSOCIATION.
NATIONAL ASSOCIATION OF WHEAT GROWERS.
NATIONAL BARLEY GROWERS ASSOCIATION.
NATIONAL CATTLEMEN'S BEEF ASSOCIATION.
NATIONAL CORN GROWERS ASSOCIATION.
NATIONAL COTTON COUNCIL.
NATIONAL COUNCIL OF FARMER COOPERATIVES.
NATIONAL GRAIN AND FEED ASSOCIATION.
NATIONAL GRANGE.
NATIONAL GROCERS ASSOCIATION.
NATIONAL MILK PRODUCERS FEDERATION.
NATIONAL OILSEED PROCESSORS ASSOCIATION.
NATIONAL POTATO COUNCIL.
NATIONAL SORGHUM PRODUCERS.
NATIONAL SUNFLOWER ASSOCIATION.
NORTH AMERICAN MILLERS' ASSOCIATION.
NORTH AMERICAN RENDERERS ASSOCIATION.

Pet Food Institute.
Specialty Soya & Grains Alliance.
The Fertilizer Institute.
United Dairymen of Arizona.
United Fresh Produce Association.
United States Cattlemen's Association.
USA Dry Pea & Lentil Council.
USA Rice.
U.S. Canola Association.
US Dry Bean Council.
U.S. Pea & Lentil Trade Association.
U.S. Poultry & Egg Association.
Waterways Council, Inc.
WineAmerica.

Mr. CRAWFORD. Thank you, Mr. Chairman. Let me start with Mr. Cordero.

I read last week there were nearly 60,000 shipping containers sitting at the Ports of Los Angeles and Long Beach. That is enough containers to stretch the entire State of Arkansas on Interstate 40, just for perspective. You say that these ports have recently implemented a container excess dwell fee that increases in $100 increments per container per day, starting on day 9 for trucking companies, day 6 for rail companies.

Since the implementation of the container excess dwell fee, how much money has been collected from the carriers?

Mr. CORDERO. Well, thank you, Ranking Member, for your question.

With regard to the fee that is in question, we have not moved forward to collect a fee as of yet. But I will say this. I think it is a fair representation to make that, as a result of that collaboration with our stakeholders, and this button that we needed to press to get them to the table—I am referring to the carriers—we have had very good collaboration, in terms of being able to reduce loaded import containers that have been at these terminals 9 days or more, just to get the context here.

Mr. CRAWFORD. So, by letting them know that we are going to fine you, then you have started to move containers. Is that what I am hearing from you?

Mr. CORDERO. Yes. So, I think we have some——

Mr. CRAWFORD. OK. So how would you spend the money that you collect on these fines? How would that be spent?

Mr. CORDERO. Well, number one, this actually was not meant as a revenue enhancer, by no means. What the——

Mr. CRAWFORD. OK, because you stated earlier in your testimony that there were billions of dollars authorized in the so-called bipartisan transportation infrastructure bill. So, certainly, you don't need any more money. So, it sounds to me like what we are trying to do here is just sort of leverage a little bit of authority to move things along a little more swiftly. Is that the case?

Mr. CORDERO. Well, I think, again, it is fair to say that the carriers have responded, and we haven't had a reduction at the port complex here, as much as——

Mr. CRAWFORD. OK.

Mr. CORDERO [continuing]. Percentile, with regard to those containers that were——

Mr. CRAWFORD. Let's talk about that with the carriers. I would like to move—I appreciate your comments. I would like to move to Mr. Spear, president of the American Trucking Associations.

It is safe to say you interact with truckers on a pretty regular basis. Is that not correct, Mr. Spear?

Mr. SPEAR. Almost daily, Congressman.

Mr. CRAWFORD. Excellent. So, what kind of costs do you anticipate, with the implementation of fees like this, that Mr. Cordero just described?

Mr. SPEAR. Well, it is just another layer that we are going to have to bear. I don't think that is a good solution.

It is just one chokepoint of many, and if you can stay open 24/7, you just got to have more people putting in the time at those ports to move those containers. And so——

Mr. CRAWFORD. On that score, Mr. Spear, let me ask you this. I didn't mean to interrupt you, but my time is limited. But on that score, as I said, you talk to trucking companies and truckers on the daily. Are you telling us that there is not a shortage of truckdrivers, as has been suggested by some?

Mr. SPEAR. There is a shortage, and a shortage across every sector of the economy. We are not exempt from that. We have had a shortage coming into the pandemic. It is nothing new to us.

Mr. CRAWFORD. OK.

Mr. SPEAR. It is space at the yards. If you got that many containers empty and full, you don't have enough room to move them. So, staging these outside the ports and other open areas, it is probably a wise move right now. It is just not enough room to move this stuff. So, it is just so condensed into a fine area that the throughput is really causing the problem. So, penalizing people isn't going to speed it up, in my opinion.

Mr. CRAWFORD. So, assessing fines and fees associated with that is probably just going to be exacerbating the problem with inflation, is that what you would suggest?

Mr. SPEAR. I don't think it does anything, Congressman. I really don't. You need space. You need throughput. You need more hours being put in to move these boxes, either on a rail or onto the chassis. We have got a chassis shortage. You have got container displacement.

Mr. CRAWFORD. Yes.

Mr. SPEAR. The problems are plenty, but you need more room. And it is just bottlenecked there. So, fining people for it is not going to speed it up, in my view.

Mr. CRAWFORD. OK. In the time that I have remaining, Mr. Correll, can you describe your last visit to a trucking terminal, or to a port?

Mr. CORRELL. Well, thank you, sir. I have never been to a port. My last visit to a trucking terminal would be, just by memory, probably about a year ago.

Mr. CRAWFORD. A year ago? What about a rail yard?

Mr. CORRELL. Never, sir.

Mr. CRAWFORD. So, to a large degree, your analysis is in the abstract, so you don't really interact with the relevant stakeholders regarding the issues that we are discussing. Is that correct?

Mr. CORRELL. No, I wouldn't agree with that, sir. I frequently communicate with truckdrivers, their management. But as far as physical visits to the locations you mentioned, you are right, I have not been there in quite a while.

Mr. CRAWFORD. All right, thank you. I yield back.

Mr. DEFAZIO. OK, I thank the gentleman. I can't see who is next in the queue, I wasn't given a list. And I believe——

Ms. NORTON. It is me, Mr. Chairman.

Mr. DEFAZIO. OK, all right, Eleanor. Eleanor, you are recognized.

Ms. NORTON. Thank you, Mr. Chairman, for this important hearing on the supply chain dilemma we face. My first question is to Mr. Spear.

Mr. Spear, your testimony calls for increased workforce recruitment among 18- to 20-year-old truckdrivers to address the shortage. But I am also interested in hearing your thoughts on workforce retention among the existing pool of commercial drivers, in light of this 90-percent turnover rate, because that could happen to 18- to 20-year-olds, too, if you were given that, as requested.

Drivers are paid by the mile, which means they are not compensated for hours in long lines. In light of recent challenges in the supply chain, does the trucking industry plan to improve worker conditions and driver pay in order to incentivize driver retention?

Mr. SPEAR. Yes, Congresswoman. The number that you cited, the 90 percent, is accurate. But I want to qualify that, because it is really limited to the hardest segment of our industry, which is the long haul. And this is the long haul, where you are gone 3 or 4 weeks at a time. You have got a wife or a husband. You have got kids at home. That is a long time to be away. And so, the retention rate at the long-haul segment of our industry is actually going to be much, much higher than elsewhere in the industry. But that is the number that is high, and everybody likes to cite it. But I do want to qualify that. And it is a problem, but that is the hardest sector, and that is why. It is lifestyle issues, more time with family——

Ms. NORTON. And it is where the supply chain problem is.

Mr. SPEAR. Well, it is certainly compounding the problem, but it has always been a problem. This was a problem before the supply chain was in focus, even before the pandemic.

So, pay has gone up higher in this segment than any other segment within our industry. And they are still not coming back. So, it does suggest to us, Congresswoman, that there are other problems at play here.

There are lifestyle issues. We have got to do a better job of taking care of our own, especially with healthcare and wellness programs, but retirement incentives, keeping them in the saddle longer, knowing that, if they retire here, they are going to do well.

Look, this is a good-paying job. And on the long haul, you can probably earn more than anywhere else in the industry, because you are away so much. But we have got drivers earning $75,000 to $100,000 a year with full benefits in that segment, without a college degree and all the debt that comes with it. So, they are good-paying jobs. It could be higher, but there are a lot of other factors I am telling you that we have got to focus in on: the wellness programs, the healthcare, the retirement incentives. These are all things that we have got to do if we are going to bring that retention rate down in the long-haul segment.

Ms. NORTON. That is helpful to hear.

Mr. Cordero, the Port of Long Beach has expanded its hours as much as possible, 24 hours, 7 days a week. That is all you can do. Yet the trucking industry still struggles to make use of these expanded hours to pick up loaded containers because of the shortage of space inundated with empty containers.

Could you elaborate on the restrictions that limit when and where these empty shipping containers can be returned to ports?

What can be done in the short term to return empty containers more quickly, and free, therefore, crucial transportation equipment needed to pick up loaded cargo, Mr. Cordero?

Mr. CORDERO. Well, thank you, Madam Congressmember. Let me make three points.

Let's all recognize that, as has been stated, we are in a national crisis with the supply chain. And in fact, it is a global crisis. So, I think—I wanted to make one point—is that the fragility of the supply chain has come up now, because of this unprecedented and unforeseen event that we have, the health pandemic. So, my point is that, even in normal times, the issues that we are discussing this morning are the issues that we were discussing in normal times, in terms of——

[Audio malfunction.]

Mr. CORDERO [continuing]. And the truckdrivers. So, to your question, I think what the Port of Long Beach has done, we have now allocated almost 100 acres of space here, within the port, to stage containers to help with this scenario.

And number two, I thoroughly support what Mr. Spear was representing with regard to the plight of the truckdrivers because, again, in normal times—in normal times—we have truckdrivers waiting 2 hours to get into a terminal. We cannot tolerate that model any longer. Thus, the reason for the 24/7 framework discussion, to distribute the volume.

And let me say this. The 20 million containers, TEU containers at this port complex, is expected to move now for year 2021. That is not a surprising amount. That was forecasted back in 2010. What is surprising is the event that now has brought these issues to surface.

So, I think, again, there is a lot of legitimacy here with regard to what you are hearing about the truck driving industry and the truckdrivers. So, we do need to find ways for them to be able to increase their earnings, make more truck turn times, and have gates available to them so that, again, we could have more fluidity, in terms of how we move this cargo, at least as it relates to the trucking sector component.

Ms. NORTON. Thank you.

Mr. DEFAZIO. I thank the gentleman, I thank the gentlelady.

At this point, two things. I am going to enter into the record, with unanimous consent, an OOIDA Foundation statement on flaws in the driver shortage narrative.

Without objection, so ordered.

[The information follows:]

Statement of the OOIDA Foundation, Submitted for the Record by Hon. Peter A. DeFazio

OOIDA FOUNDATION STATEMENT ON FLAWS IN DRIVER SHORTAGE NARRATIVE

Numerous media outlets in recent months have sought to cover various issues impacting the trucking industry, including the notion of a chronic and persistent driver shortage. Much of the discussion surrounding this issue stems from several statements released by the American Trucking Association (ATA) suggesting that the industry is short about 80,000 drivers and could surpass 160,000 drivers by 2030. A careful review of the facts however paints a completely different picture, one that is marked by retention issues and, at times, an unattractive working environment due in large part to long hours and inadequate compensation.

ATA's stance on the driver shortage issue centers upon their own analysis. As far as the OOIDA Foundation (OOFI) can determine, this is the only report which attempts to substantiate the belief of a shortage. Thus it is imperative to examine these reports in order to verify ATA's claims. This is easier said than done as ATA provides no substantial methodology for how they arrive at their figures. Instead, we are left with a few vague paragraphs, making it utterly impossible for OOFI, or any outside researcher, to validate or invalidate ATA's conclusions. Thus in response, OOFI has collected information from various articles and reports emanating outside of OOFI speaking on the notion of a driver shortage. It is important to note that the data presented below is hardly exhaustive. We conclude through this evidence that there is no shortage of drivers, but rather there is a high turnover rate in particular segments of the industry.

BASIC ECONOMICS: IS THERE REALLY A TRUCK DRIVER SHORTAGE?

In May 2021, Greg Rosalsky, a writer and reporter at NPR's *Planet Money*, published an article emphasizing how basic economics can shed light on the supposed driver shortage. The following was taken directly from Mr. Rosalsky's article:[1]

> "The lobbying organization for the nation's big trucking employers, the American Trucking Associations (ATA), has been making this argument since the 1980s, yet store shelves somehow remained stocked. In a capitalist system, where you can pay people to do basically anything, how is it even possible to have a worker shortage for multiple decades?
>
> In a 2019 study published by the U.S. Bureau of Labor Statistics, economists Stephen V. Burks and Kristen Monaco investigated claims by industry leaders that the trucking labor market was somehow "broken" enough to create a decades-long shortage. Standard economics says if you don't have enough workers, you raise wages and within a reasonable amount of time, presto, no more shortage. Is trucking somehow different? A thorough investigation led them to conclude that the trucking labor market is not different. It is not broken. Yes, they say, the trucking labor market is "tight"—meaning that companies are competing to fill open jobs—but it functions in the same way as any other labor market."

ATA, as well as other large truck lobbying organizations, have been claiming a driver shortage for decades. In 2000, the Truckload Carriers Association petitioned the Federal Motor Carrier Safety Administration (FMCSA) to lower the federal Commercial Driver's License (CDL) age requirement to 18, citing a driver shortage as the primary reason for their effort. In the nearly 20 years since the petition, there has never been a significant disruption in the delivery of goods by truck due to a lack of drivers and hundreds of thousands of new CDLs have been issued each year. Over this time, driver compensation has remained relatively stagnant, failing to increase at a rate that even reflects inflation.[2]

The authors of the Bureau of Labor Statistics (BLS) report concluded that the view of a long-standing shortage of drivers is puzzling considering empirical labor economics. They found that "the market for truck drivers works about as well as that for other blue-collar occupations, and that, broadly speaking, we should expect that if wages rise when the labor market for truck drivers is too tight, the potential

[1] https://www.npr.org/sections/money/2021/05/25/999784202/is-there-really-a-truck-driver-shortage

[2] https://trucksafety.org/letter-opposing-wheel-act-drive-safe-act/

for any long-term shortages will be ameliorated.[3]" In fact, according to the report, driver employment is actually stable.

The true issue is not a driver shortage but driver retention, which is why the Secretary of the Department of Transportation Pete Buttigieg hosted a roundtable in July on truck driver recruitment and retention.[4]

> "According to the ATA's own statistics, the average annual turnover rate for long-haul truckers at big trucking companies has been greater than 90% for decades. That means, for example, if a company has ten truckers, nine will be gone within a year; or, equivalently, three of their driver positions have to each be refilled three times in a single year because so many new drivers leave within a few months.[5]"

The BLS report found that truck driver employment was associated with driver compensation, and that the current supply of drivers is more than adequate to respond to the overall growth in demand. The chart below helps to demonstrate this correlation by depicting a more significant increase or decrease in the number of truck drivers in comparison to the percentage of wage increases starting in April 2020. Again, the authors of the BLS report concluded that though the market tends to be tight, it imposes no constraints on entry into (or exit from) the occupation. "There is thus no reason to think that, given sufficient time, driver supply should fail to respond to price signals in the standard way."

OOFI suggests that if large trucking companies would spend more resources addressing the most serious issues from the perspective of the driver, then perhaps they might be able to improve driver retention. Every year the American Transportation Research Institute (ATRI) releases the top critical issues in trucking. In their report, ATRI highlights the stark contrast between those issues which drivers face and those issues which motor carriers face.

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[3] https://www.bls.gov/opub/mlr/2019/article/is-the-us-labor-market-for-truck-drivers-broken.htm?mod=article__inline

[4] https://www.transportation.gov/briefing-room/secretary-pete-buttigieg-and-secretary-marty-walsh-host-roundtable-trucking-industry

[5] https://www.npr.org/sections/money/2021/05/25/999784202/is-there-really-a-truck-driver-shortage

Table 1: Comparison of Commercial Driver Issues and Motor Carrier Issues

Rank	Commercial Drivers	Motor Carriers
1	Driver Compensation (tie)/Truck Parking (tie).	Driver Shortage.
2	Detention/Delay at Customer Facilities	Driver Retention.
3	Fuel Prices	Lawsuit Abuse Reform.
4	Driver Training Standards	CSA.
5	Hours-of-Service Rules	Driver Compensation.
6	ELD Mandate	Insurance Cost/Availability.
7	Driver Distraction	Diesel Technician Shortage.
8	Transportation Infrastructure/Congestion/ Funding.	Transportation Infrastructure/Congestion/ Funding.
9	Speed Limiters	Driver Distraction.
10	CSA	Detention/Delay at Customer Facilities.

EMPLOYMENT: THERE IS NO TRUCK DRIVER SHORTAGE

In November 2021, Quartz, a news outlet focused upon global economics, noted that "the assertion that the US is suffering from the latest round of a 16-year truck driver shortage is misleading at best.[6]" Stating that the real shortage is a lack of good trucking jobs that can attract and retain workers in a tight market. According to figures released by FMCSA and the American Association of Motor Vehicle Administrators (AAMVA), states issue more than 450,000 new commercial driver's licenses every year.[7]

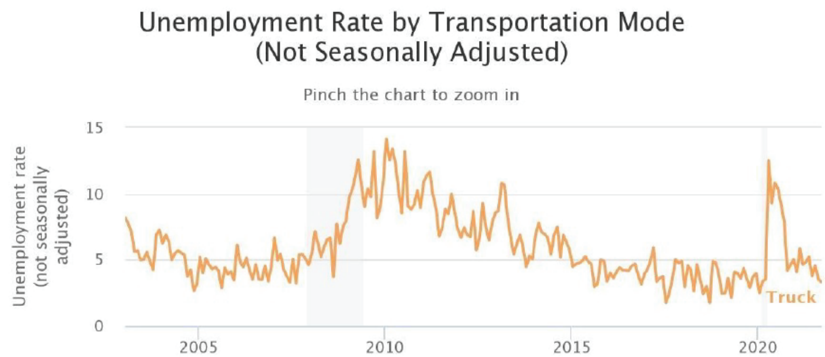
The Department of Transportation (DOT) published a press release in July 2021 explaining that the states were issuing an average of 50,000 CDLs per month during the first half of 2021. This figure was 14 percent higher than the monthly average in 2019 and 60 percent higher than the 2020 monthly average. Moreover, FMCSA granted operating authority to 92,000 motor carriers in the first six months of 2021, an increase of 88 percent over the same time period in 2020 and 60 percent more than the same time period in 2019. This is further supported in the Bureau of Transportation Statistics' (BTS) release concerning the unemployment rate for the truck transportation industry[8] as shown in the chart below.[9] All of these figures in combination with ATA's turnover statistics clearly indicate a driver surplus, not a shortage.

[6] https://qz.com/2086977/there-is-no-truck-driver-shortage-in-the-us/

[7] FMCSA, *Regulatory Evaluation of Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators Final Rule*, Federal Motor Carrier Safety Administration (Nov 2016), pg. 39

[8] *Truck transportation* (NAICS 484) includes industries providing over-the-road transportation of cargo using motor vehicles, such as trucks and tractor trailers. It does not include support activities for road transportation, freight transportation arrangement services, the Postal Service (covered in NAICS 491), or courier services.

[9] https://data.bts.gov/stories/s/Unemployment-Rates-U-S-Transportation-Sector-or-Oc/28xr-p3t9



FROM THE INDUSTRY'S PERSPECTIVE: WE PROBABLY HAVE MORE DRIVERS THAN WE DID BEFORE THE PANDEMIC

In June 2019, FMCSA released an information collection request (ICR) concerning the estimated burden truck drivers and motor carriers incur to comply with the Agency's reporting and recordkeeping requirements to maintain driver qualification (DQ) files. The Agency ultimately decided to increase its estimated burden primarily because "the number of CMV drivers and the frequency of their hiring have increased since the Agency's 2016 estimate of this burden.[10]" FMCSA further stated that, "The increase in burden hours is primarily the result of a larger driver population and a higher driver turnover rate, both of which affect the volume of documents produced and filed in DQ files."

OOFI agrees with FMCSA's assessment, as well as many other stakeholders in the trucking industry, such as FTR's Vice President of Trucking Avery Vise, Convoy's director of economic research Aaron Terrazas, and J.B. Hunt's Senior Vice President of Corporate Safety, Security, and Driver Personnel Greer Woodruff. Each of these stakeholders provided comments in a recent article in *Commercial Carrier Journal*.[11] We have presented excerpts below:

> "FTR Vice President of Trucking Avery Vise noted that in terms of sheer driver population, "we probably have more than we did before the pandemic" based on the recovery of headcount in payroll employment along with a surge in new for-hire carriers dating back to July 2020.
>
> Aaron Terrazas, director of economic research at digital freight network Convoy, said he also doesn't subscribe to the idea that there is a chronic undersupply of drivers, because almost all relevant labor and payroll data suggests "trucking industry employment across the board is close to, or right at, or slightly above, pre-pandemic levels."
>
> Similarly, J.B. Hunt Senior Vice President Corporate Safety, Security and Driver Personnel Greer Woodruff said the driver issue always comes down relative to supply and demand, and that it's always seeking equilibrium. "As long as there's demand that's outpacing supply then there's an associated cost to the supply chain," he said. "I happen to believe we have plenty of drivers. We don't use them very well."

When asked how the trucking industry could improve its efficiency, Woodruff explained that carriers could add capacity without adding drivers or trucks by simply expediting loading and unloading times, allowing drop-and-hook, adding flexible appointment times and appointment times that allow for efficient transit and rest time; working with shippers to accommodate onsite parking; and providing consistency in loads and lanes—all of which should squeeze more drive time out of a driver and add capacity into the market.[12]

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[10] https://www.govinfo.gov/content/pkg/FR-2019-06-10/pdf/2019-12169.pdf
[11] https://www.ccjdigital.com/business/article/15114726/driver-shortage-more-about-excess-freight-than-drivers
[12] Ibid

INEFFICIENCY: PROBLEMS IN THE SUPPLY CHAIN ARE DUE TO EXCESSIVE DETENTION NOT A SHORTAGE OF DRIVERS

The inefficiency which the supply chain faces today is not due to a lack of drivers, but because of increased detention time. Detention time, or in particular the period that a driver is not paid while he or she waits to be loaded or unloaded, is an issue of primary concern for the trucking industry. In a recent survey conducted by OOFI, over 900 respondents expressed their professional opinions and experiences with detention, many of whom felt that detention time not only impacted their financial livelihood but that it also negatively impacted safety on the roadways. As one member stated, “this is one of the biggest issues affecting hours of service and safety. Drivers encountering unexpected long detention, feel forced to drive faster, harder, and longer to make up for perceived lost time.”

Depending on a motor carrier’s type of operation, a driver may drive up to either 60 hours in seven days or 70 hours in eight days. Every moment a shipper or receiver holds up a driver at dock, waiting to load or unload, can wreak havoc on his or her HOS, meaning that their available drive time is greatly limited. According to the survey results, a majority of both those who operate under the 60 hour/7 day rule and those who operate under the 70 hour/8 day rule spend between 12 and 20 hours each week waiting to load and unload their truck. In other words, those complying with the 60-hour rule spend approximately 20% to 33% of their possible compensated drive time in detention, while those complying with the 70-hour rule spend 17% to 29% of their drive time in detention.

Anyone wanting to increase the efficiency of the overall supply chain must first begin with detention time, not driver shortage. FreightWaves recently interviewed multiple company executives from trucking companies servicing major ports in California who dispute the idea of a driver shortage, saying that they were actually shedding drivers because of the lack of consistent work due to port congestion bottlenecks, equipment, and efficiency issues.[13] One of the executives, Miguel Silva, president of Intermodal Logistics at the Port of Oakland, said, “I have customers calling me daily, telling me to name my price, that money is no object, but to please, just pull their containers. I wish it was that simple.” Another executive told FreightWaves that his drivers sometimes wait four to six hours to maybe pull one container per truck each day. Prior to the congestion crisis, his drivers averaged three to four “turns” each day.

WRONG SOLUTIONS: UNDER-21 POLICES ARE NOT THE ANSWER

ATA and other large carriers have pushed to lower the federal CDL driving age requirement from 21 to 18 in an attempt to solve the supposed driver shortage problem. However, this is the wrong solution for a problem which does even exist. J.B. Hunt’s Greer Woodruff stated that, based on past risk profiles, lowering the driving age is a legitimate safety concern, saying, “I don’t necessarily see that solving the problem.[14]”

Instead, Woodruff suggested a different solution by noting that the overall industry is averaging between 6.4 and 6.5 hours of actual driving time out of a possible 11-hours. “If you could move that needle to just 8.45, that’s a 30% increase in capacity without adding any drivers or trucks, and that’s meaningful. That’s over 1,000 drivers and trucks that would be available to the supply chain if we could find out how to harness that.[15]”

Mr. DEFAZIO. And I am now going to yield the chair to Representative Strickland, who will continue to recognize Members for their questions for the panel. Thank you.

Ms. STRICKLAND [presiding]. Thank you, Mr. Chair. I now recognize Representative Massie for 5 minutes.

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[13] https://www.freightwaves.com/news/truckers-tired-of-taking-blame-for-congestion-crisis-at-california-ports?utm__source=sfmc&utm__medium=email&utm__campaign=FW__Daily__11__3__21&utm__term=Truckers+tired+of+taking+blame+for+congestion+crisis+at+California+ports&utm__id=72965&sfmc__id=190812

[14] https://www.ccjdigital.com/business/article/15114726/driver-shortage-more-about-excess-freight-than-drivers

[15] Ibid.

Mr. MASSIE. Thank you, Madam Chairwoman.

Mr. Correll, since you are from my alma mater, MIT, I have to ask you at least the first question. Can you tell us—I know it is very complicated, but could you give us the biggest single factor contributing to our supply chain issues right now?

Mr. CORRELL. Thank you, sir, and honored to have a conversation with an alum.

I apologize for dodging the question a bit, but I—the framing that I hope to bring to the conversation is the one that I have heard in the comments from the previous speakers, is that it is a complicated mess of issues.

So, I guess, the most helpful thing I can do is to perhaps offer a framing that at least expresses how I would answer that question, or how I see the biggest issue, and I think what it is is that we tend to frame this, to use a television analogy, kind of like it is a detective show. Like, if we just analyzed this issue consistently enough, or cleverly enough, we are going to ID the one culprit.

But I apologize for the maybe off-color reference, but I don't think it is a detective show. I think it is a reality weight loss show. We are all just sort of now living with the consequences and the prioritizations that we have made in America over years, and over the pandemic. And the only way that we can do better is to reprioritize in a way that respects truckdrivers' time, respects truckdrivers' dignity, harmonizes our systems.

So, that was a long way of saying that I think the biggest problem is the framing, and the framing is to look for single culprits when, in fact, it is a mix of causes.

Mr. MASSIE. Well, let me try another oversimplified question. If we could do one thing in Congress to alleviate the supply chain issues that we are seeing right now, policy-wise, what do you think that could be? Or two or three things.

Mr. CORRELL. Sure, thank you. To put it broadly, I think that we should make the supply chain and logistics sector a high-tech place to work again. So, we are talking a lot about improving efficiency and utilization. And, in many workplaces, that just means having access to the latest tools. I think, oftentimes, our schedulers, our drivers, our warehouse workers don't always have access to those kinds of tools.

The other advantage of that, I think, is that, as a lifelong employee myself, one way that employers show me that they respect my time and my efforts is by giving me a state-of-the-art workplace that makes the most of the time I give to them. And so, I think, if the Government could help us make our warehouses and our supply chains, and particularly the interface, where trucks come to warehouses, where they gate-in and gate-out, more sophisticated, and high-tech, and more respectful of their time and dignity, that would be the most beneficial move I can imagine.

Mr. MASSIE. All right. Well, thank you very much. We will start by trying not to get in the way of private industry, where they implement those things.

Mr. Regan, is it true the AFL–CIO is suing the Biden administration to expand the OSHA vaccine mandate to cover more businesses?

Mr. REGAN. Yes, that is correct.

Mr. MASSIE. Why would you do that?

Mr. REGAN. Well, the broader AFL–CIO wants to make sure that every worker has the protections of an OSHA protection. This was, again, about the ETS, not about a vaccine mandate. This was about the OSHA ETS.

Mr. MASSIE. Some people think it is because employers are leaving larger, union-based companies that have 100 or more employees, where those shops are more likely to be unionized than, say, a small shop. Isn't it true that the AFL–CIO could lose membership because of this mandate, if it applies only to 100 or more?

Isn't that part of the motivation for making sure that everybody has to suffer under these mandates, if the companies 100 or more are going to suffer under them?

Mr. REGAN. That was certainly not part of the intention of the lawsuit.

Mr. MASSIE. Does the AFL–CIO have a formal policy of supporting religious and medical exemptions, when your members apply for those?

Mr. REGAN. We have a formal policy, of course, of making sure that our collective bargaining agreements for all of our unions are being honored in the process of implementing these mandates and making sure that people are properly protected. That is our obligation, is through the collective bargaining process.

Mr. MASSIE. Does the AFL–CIO support the concept of natural immunity, or the notion that somebody who has already had COVID and recovered, maybe because they worked through the pandemic when others didn't, shouldn't be required to get the vaccine?

Mr. REGAN. That issue has not come up. We support everybody getting vaccinated, and we support making sure that workers are not harmed in the process.

Mr. MASSIE. So, given that there is little to no benefit to getting vaccinated if you have already had COVID and developed a natural immunity, do you support your workers when they apply for medical exemptions based on natural immunity?

Mr. REGAN. I don't have the medical expertise to determine whether that is accurate or not.

But again, this issue and the issue we are dealing with right now is not about the vaccine mandate. We are dealing with workforce conditions and dealing with problems with our infrastructure.

Mr. MASSIE. All right, my time has expired. Thank you, Madam Chairwoman.

Ms. STRICKLAND. Thank you. I now recognize Representative Johnson from Texas for 5 minutes.

[Pause.]

Ms. JOHNSON OF TEXAS. Can you hear me?

Ms. STRICKLAND. We can now, thank you.

Ms. JOHNSON OF TEXAS. Well, thank you very much. I would like to ask all of the witnesses, or whomever will respond.

As chairperson of the House Committee on Science, Space, and Technology, I am really curious to know whether—the State of Texas has been developing several critical components to develop spaceports. Do any of you know if there is timely, impactful strategy to aid in the development of these?

We have probably the largest moving of goods from both California and Texas in the country. And so, we know that we are a major, major trade and good movement area.

So, whoever wants to start, I would appreciate it.

[Pause.]

Mr. CORRELL. I am sorry——

Ms. STRICKLAND. Any of our witnesses? Thank you.

Mr. CORRELL. I am afraid I didn't follow the question. Was it about port policy recommendations for Texas?

Ms. JOHNSON OF TEXAS. Spaceports. We are so large, and very congested in our major urban areas, that there is some talk and plan for the spaceports for the—delivering goods. And I wondered if anyone on the panel has any plan or hearing of a plan to support this type of transportation.

Mr. CORDERO. So, Congresswoman, are you referring to additional space outside the port authority, like land, so that we could stage these containers? Is that what you are referring to?

Ms. JOHNSON OF TEXAS. Yes.

Mr. CORDERO. OK, so thank you, and that is a very good question.

So, let me answer that question by simply indicating that I think it is fair to say that ports across the Nation—the question of what we call inland port connectivity, which basically means taking the containers out of the port complex, and moving them to, like, an inland area. And I think that subject is very apropos, or that question is very apropos, given the situation that we are in at the current time.

In my comments, I made reference to the fact that the Port of Savannah, the Georgia Port Authority, is moving in that direction. For the Ports of Long Beach and Los Angeles, we are having discussions with regard to the inland port connectivity.

So again, it is very key that, as we continue to advance reform in the supply chain, of what I call transformational change in the supply chain, it must include space outside the immediate port authority to move these containers through distribution and warehouse regions.

So, again, I think that is a subject matter that is very much in California being discussed.

So, I think I may have answered your question. I can follow up with an answer, if you have more specificity on this issue. Thank you so much.

Ms. JOHNSON OF TEXAS. Well, thank you. We have a very large inland port in my district. I am from a very large trade area.

Is there anyone else on the panel who would like to comment?

Mr. SPEAR. Yes, I would just——

Mr. JEFFERIES. Certainly, Congresswoman——

Mr. SPEAR [continuing]. Mr. Cordero's comments, that that was what I was alluding to earlier about getting those containers, both full and empty, out of the condensed space of the port, and into other open areas, where we can logistically move them more quickly. So, I think that is exactly what you are alluding to. I think that is a very good interim solution that will improve the throughput.

Your State, obviously, not just your district, your State, in Texas, has 7 of the top 100 bottlenecks in the country. So, you are very familiar with congestion. And it was there long before this pandemic. So, it has compounded now, as a result of that, and we need to get innovative about how we reposition and move freight more efficiently. So, more space, clearly, is a solution for that, at least in the interim, possibly even long-term.

Mr. JEFFERIES. Congresswoman, I would certainly reiterate those points from the rail perspective. Rail is a vital part of Texas, and certainly there are a colossal amount of goods moving by rail in and throughout Texas. And we feel that rail is really well positioned. When you have on-dock rail, you can put upwards of 200-plus containers, and get them out of the port, out of that immediate congestion inland, into a yard where perhaps it is closer to final destination, and our trucking partners can take the final leg of the trip there.

So, that is absolutely spot on, something we are supportive of, something we are very active in, including the State of Texas and throughout the country, and something we need to keep a focus on, moving forward. So, absolutely, great question.

Ms. JOHNSON OF TEXAS. Thank you. Anyone else?

Ms. REINKE. I would just say, Congresswoman, anything that expands capacity is something that would benefit the supply chain and our members. So, thank you.

Ms. JOHNSON OF TEXAS. Thank you very much, Madam Chair, and I will yield back.

Ms. STRICKLAND. Thank you.

And as a reminder to those of us here in this room, we are required to wear masks, unless we are sipping a beverage or speaking. So please adhere to that.

I now recognize Representative Davis for 5 minutes.

Mr. RODNEY DAVIS. Well, thank you, Madam Chair.

First off, I am really intrigued by the Rock 'Em Sock 'Em Robots that are behind you in your frame, Ms. Reinke. Are you going to bring those in for a hearing in person at some point?

Ms. REINKE. Sure, at your request. Yes, sir.

Mr. RODNEY DAVIS. We might be able to solve some problems here in Congress, with a couple of games of Rock 'Em Sock 'Em Robots, right?

Well, bring it in for us, we would love to mess around with it.

Ms. REINKE. I will get it out of eyeshot for the next time.

Mr. RODNEY DAVIS. Oh no, no. Keep it there. We enjoy it. But my questions are first going to be for Mr. Spear.

Mr. Spear, there have been complaints that dwell time, the amount of time that equipment is out on the street before being returned for another move, for containers and chassis, is actually increasing. If dwell times today in the Los Angeles-Long Beach Basin are two to three times the historical levels, which is what has been reported, how does that reduce freight fluidity?

Mr. SPEAR. Well, it is complicating it. And again, a lot of this, too, is the condensed space in the ports, where it is bottlenecking. You have a flood of these containers coming in. We have container displacement, full and empty. We talked about that.

But we also have a chassis shortage. And chassis choice is a big issue for our industry. We are actually litigating in that space, to make certain that motor carriers have the ability to have choice in that, and not be pushed into a particular product that they have to use. So, more choice is something that we are arguing for, and I think we will prevail on that front.

But coming into this pandemic, and now with the supply chain wait, this is a chokepoint, and it is occurring right at the port. So, the chassis shortage is really a problem that is increasing our ability—or inability, I guess—to improve on turn times.

Mr. RODNEY DAVIS. Well, what can be done to ensure that equipment is returned more quickly, so that we can reduce these dwell times and increase the fluidity?

I mean is the ports' push to get containers off the terminal, and stage empty containers at off-dock locations helping with equipment availability?

Mr. SPEAR. Well, certainly, given our motor carriers, the choice of their own equipment would help. That would certainly increase the amount of equipment out there to be used.

And second, I think giving access to these ports with independent contractors, they have been pushed out. Owner-operators aren't allowed in. So, this is a problem. And so, we have got to suspend some of these rules, I would say, permanently. But in a time of crisis, as has been widely discussed during this hearing, it seems appropriate that we alleviate some of that, and get the drivers that can come in that have been barred from operating in these areas. So, that would certainly help, in terms of increasing turn times.

Mr. RODNEY DAVIS. Well, I appreciate your testimony, Mr. Spear, and, actually, the testimony of everybody on this panel. It is very interesting to note that the administration talked about addressing the supply chain issues at our ports, the two in particular that I mentioned earlier, but we are just not seeing the actions that I think are going to solve the problem.

I think we can come up with some better ideas. I have talked about utilizing TRANSCOM, based at Scott Air Force Base in Illinois. They can move battalions of weaponry across the globe to a war zone; I think they might be able to help solve some of the problems at the Port of Long Beach and the Port of Los Angeles, just to name a few.

But I do want to let the witnesses know, especially Mr. Jefferies, I was being called earlier, when I was asking questions, by my colleague, Garret Graves. And I tried to remain as stoic as you did when I was doing the exact same thing to you during your testimony earlier today. So congrats, my friend, and I don't have any questions for anyone else. I am going to yield back the balance of my time.

Ms. STRICKLAND. Thank you. I now call on Representative Larsen for 5 minutes.

Mr. LARSEN. Thank you. Mr. Spear, based on Representative Davis' questions, do you have any ideas about increasing production of chassis as a solution? And how would that occur?

Mr. SPEAR. Well, this is a complicated matter, as we have, obviously, had trade from countries like China provide that equipment. That has existed for quite a long time now. With the tariffs in place, that production has now had to shift to the U.S., and that was occurring right before the pandemic had hit, and all these problems we are describing within the supply chain. So, it is a compounding problem. It is a shift in production, back to the U.S., and building that capacity here, domestically. If that is the case, that is what is going to have to happen.

So, like many things beyond chassis, we have got a chip shortage. Microchips, obviously, are not just for cars, but they are also for trucks. And they are both less profitable in cars and trucks than they are in the phones that we have, or our iPads, and so on. They are more profitable in that hand-held equipment than they are in a car or a truck. And so, productivity and the economics of supply and sourcing are causing a problem. It is just another illustration, no different than the chassis themselves.

So, repositioning and shifting production back to the U.S. is something that—if that has got to happen, it is what it is going to take to get the chassis available that we are going to need to meet the demand.

Mr. LARSEN. Yes, thank you.

Mr. Cordero, your testimony mentions that some terminals at the Port of Long Beach are exploring that framework for 24/7 operations. You mentioned this earlier, I think, in response to earlier questions. But can you expand a little bit on what is the status of that framework?

And can other ports use this framework? I have got, nearby, the Ports of Seattle and Tacoma.

Mr. CORDERO. Thank you for your question, Congressmember.

Number one, the Port of Long Beach has a pilot project with one of our terminals, Total Terminals International. It is a 24/7 pilot project. And what we are doing right now is we are having a robust conversation with many of the stakeholders, the beneficial cargo owners, the truckers, and the railroads. As one witness has already indicated, the railroads are totally in on the 24/7 movement. But the whole point is it is a beginning of a framework.

Like I indicated, we need transformational change in major container gateways. And, of course, here in southern California, and your ports, Tacoma, Seattle, up in the Northwest—but for southern California, again, when you move 20 million containers, that number is not going to get any less after this crisis is over.

Mr. LARSEN. Yes.

Mr. CORDERO. I think the whole purpose is, again, this is a great time and—to use a cliche—crisis brings opportunities, and we have an opportunity to transform our model, how we operate here, in terms of the movement of container cargo.

Mr. LARSEN. And presumably longshore is part of that conversation.

Mr. CORDERO. They are, and I could represent to you that longshore labor is ready. They are supportive, and it is just a question of, again, taking—you just can't flip a switch and change this model today. But the good news, there is a lot of conversation in terms of that being the objective.

Mr. LARSEN. Yes. On a recent study of ports in Washington State and in California—including your port, I think—found that, during the period of 2016 to 2020, ports in British Columbia received $372 million in direct Canadian Federal funding, compared to $45 million in Washington, and $179 million in California.

Are the Federal funding mechanisms for ports meeting current demand, and how will the infrastructure bill close that gap?

Mr. CORDERO. Well, first of all, it is welcome news for port authorities to have an infrastructure bill that—again, in the best interest of the Nation, something we needed for decades. And it is even more comforting that we have $17 billion earmarked for ports and waterways. So, it is a very good step in the direction that we need to take.

As you reference, our competitors, whether it is Asia, whether it is Canada, whether it is Mexico, not only have a lot more infrastructure investment, but, more specifically, a national freight policy, which—again, this is another matter I wanted to bring to the attention of the committee, how important that would be.

So, suffice it to say that again, $17 billion is welcome news, but going forward, we can't stop when this crisis is over. We need to continue to invest in our port and maritime industry, because we all know how essential this operation is, to the point where what—why we are having this hearing, is because of the impact it has had, not only to our commercial——

Mr. LARSEN. Yes, thank you.

Mr. CORDERO [continuing]. Exporters——

Mr. LARSEN. It is——

Mr. CORDERO [continuing]. And the economy.

Mr. LARSEN. Yes, and Madam Chair, just a point of personal privilege, if I could just communicate to Mr. Cordero to let his spouse know today there are two ships at anchorage in Holmes Harbor, not three. So, we are making progress.

Mr. CORDERO. Thank you for helping the marriage, Congressman.

Mr. LARSEN. Thank you.

Ms. STRICKLAND. Thank you, Rep. Larsen. I now recognize Representative Babin for 5 minutes.

Dr. BABIN. Thank you, Madam Chair. I really appreciate the chairman and the ranking member for having this hearing. It is one of the most important topics right now under our committee's jurisdiction, because of the supply chain effects and its effects on every single American in the most tangible way.

So much happens in the world that we don't feel or, frankly, even know about. But, as we have seen, when our supply chain is interrupted, the ripple effect is felt in every store, on every shelf, and in every pocketbook. And like my colleagues before me have said, there isn't one solution. This is a very complex and convoluted problem made up of many, many variables. We will need to work together to end this crisis, and I hope and pray that we do.

But I do know one thing for sure: President Biden and my friends on the other side of the aisle are certainly not helping the problem by spending trillions that we don't have, creating more burdensome regulations, implementing vaccine mandates, and increasing taxes in a whopping way. And with that I would like to ask Mr. Spear from the ATA a question.

Mr. Spear, last week the White House announced a series of moves intended to alleviate port congestion and supply chain shortages. The administration noted an "assessment of truck parking facilities" as part of this effort.

And as a former truckdriver myself, I was very interested to see that in 2013 the initial Jason's Law Truck Parking Survey indicated parking shortages were a national safety concern—2013, that is. A pending updated Jason's Law survey is expected to reveal many of the same conclusions, including that parking shortages are still a major problem in every State and region, and challenges exist in funding and maintaining parking in both the public and private sectors.

Truckers all across my district tell me all the time that they are sick of studies and reports that all draw the very same conclusions: that there is a truck parking crisis in America. So, in your opinion, is yet another assessment the best use of Government resources to solve this truck parking crisis?

Mr. SPEAR. We know the problem, Congressman, you just outlined it. I mean, we have got 3½ million truckdrivers in this country, and that is our number, and that is a valid number. And you have got 313,000 truck parking spaces, nationally, and that is according to the report you just cited. So, we know that problem, that is well measured, that is well defined. But do the math. That is for every 11 truckdrivers there is 1 truck parking space. This is a problem.

And we keep adding layers, in terms of the rest breaks they have got to take, and there is no place to take them. I mean, you can drive just north of DC, here on I–95, and you will see multiple trucks parked on the shoulders. It is dangerous. It is dangerous to them, it is dangerous to the motoring public. And so, hopefully, the IIJA provides more moneys in there.

But, as was in the House-passed bill, $1 billion for truck parking wasn't included in the IIJA. So, the money is given to the Secretary, our discretionary. I sure hope that they are looking at this problem and——

Dr. BABIN. Absolutely.

Mr. SPEAR [continuing]. And allocating some of that money for this problem, because it really is a crisis, and it is something that we have got to solve. So, we strongly support that.

Dr. BABIN. Thank you very much, I appreciate it. And with the remainder of my time, I would like to ask a question of Mr. Cordero.

Mr. Cordero, for your awareness, I have the privilege of representing the Port of Houston, as well as the Houston Ship Channel, which is the busiest deep draft waterway in the Nation and has more than 200,000 annual barge movements.

After working closely with the Trump administration to secure authorization appropriation and a New Start designation, the port just broke ground on Project 11, which will deepen and widen the Houston Ship Channel, and create more efficient waterways for vessels, improving storm resiliency and bolstering the port's economic impact.

But with all this growth, we still will need more jobs. We need more labor forces. And with the current labor shortage, thanks to vaccine mandates and the extension of Federal unemployment benefits, how can we make sure that there will be a technically trained labor market to sufficiently fill those gaps?

Mr. CORDERO. Well, thank you for your question, Congressman.

And again, my——

Dr. BABIN. Yes, sir.

Mr. CORDERO [continuing]. Good friend Mr. Guenther at the Port of Houston has done a great job over there, at the Port of Houston.

To your question, the Ports of Long Beach and Los Angeles, we are collaborating and moving forward with a work training center here that is going to be a changing dynamic, in terms of how we train that workforce.

So, as you have indicated, and as some commentators have already made, this industry is not immune from the whole issue about the labor force across the country affecting many sectors. But for the port industry, we recognize that, again, there has to be a lot of work done in work development, work enforcement here, in terms of workforce development. And that is what we are doing here, at the Ports of Long Beach and Los Angeles.

So, in that regard, I also want to pitch the importance of digital transformation, and making sure we have the funds for the workforce of the future, in terms of how important that is going to be, with regard to creating greater efficiencies here at our ports, here in America.

Dr. BABIN. Thank you very much, and I will yield back, because I am out of time.

Ms. STRICKLAND. Thank you. I now recognize Representative Johnson of Georgia for 5 minutes.

Mr. JOHNSON OF GEORGIA. Thank you, Madam Chair, for holding this hearing, and thank you to the witnesses for your time and your testimony.

The COVID–19 pandemic has dramatically exposed the vulnerability of global supply chains, and today millions of Americans are discovering half-empty store shelves, longer delivery times, and increasingly expensive consumer goods. Supply chain issues stem from several factors, including an extraordinary surge in demand for goods and factory shutdowns abroad. However, the situation is compounded by deteriorating working conditions for truckdrivers and the negative effects of climate change. Only by addressing the vulnerabilities in our system can we revitalize our global supply chain infrastructure.

Mr. Regan, your testimony indicates that so-called labor shortages are insufficient to explain the current supply chain dynamics. You argue that the failure of employers to respond to market conditions and provide incentives to workers, such as quality wages, benefits, working conditions, and the like, undermine the workforce. How would you characterize working conditions of long-haul truckdrivers, and what changes need to be made to increase driver retention in the trucking industry?

Mr. REGAN. Thank you for the question, sir. Again, I think one of the major issues facing the truck driving workforce has to do with workforce misclassification. You have a lot of situations where they are not directly employed by the trucking companies, they are independently contracted out, they are leasing the equipment. In some cases, that drastically reduces their pay and their incentive to stay in the workforce.

My friends at the Teamsters Union, who represent far more truckers than I do, have said a lot about this subject. But, in general, this is an issue that has showed a continual decline in the workforce in the trucking industry.

Mr. JOHNSON OF GEORGIA. Thank you. The current situation has renewed calls by Mr. Spear and others to allow drivers ages 18 to 21 to operate trucks interstate to address the driver shortage or an inability of motor carriers to attract and retain drivers. Do you have concerns with the safety of allowing 18- to 21-year-olds to drive trucks interstate?

Mr. REGAN. Yes, I think there are safety concerns there. But, I know that in the IIJA that was just passed, there is an authorization of a pilot program to allow this, which, hopefully, will allow us to understand what the shortcomings or what the benefits of this will be. And they are going to be able to assess whether this is a viable solution, moving forward.

Mr. JOHNSON OF GEORGIA. Thank you.

Mr. Cordero, your testimony indicates that the Georgia Ports Authority is addressing backlogs by easing congestion, such as clearing up space to unload containerships more efficiently. This is possible due to cooperation with the White House and Department of Transportation, which announced that ports would be able to repurpose unspent grant funds from past projects to address supply chain congestion. In fact, the Georgia Ports Authority will spend $8 million from past grants for this project.

In addition to these changes, how can the Georgia Ports Authority build resilience against future shocks to the supply chain?

Mr. CORDERO. Well, again, I think, also, I would like to acknowledge my good friend, Griff Lynch at the Port Authority there, at Savannah, on these issues.

So, I think, again, what we need to do is that, in the port connectivity across the Nation, that is going to be very important.

And I think also, my colleague there has also referenced extended gate hours. In fact, you referenced that commentary a couple of years back at a conference in New York.

But again, I think the main point here is we need to create fluidity here in the supply chain, and it has to be a supply chain issue. It is not just a port authority or a terminal.

And again, going forward, digital transformation is going to be very important, in terms of how we use technology with regard to further transparency and visibility in the movement of cargo. I can represent that all port authorities here are looking in that same subject matter. But at this point, there is no single reason that we could point to to solve the current crisis that we are in. Again, this is a global crisis.

But suffice it to say that the good news is we are moving the cargo, the men and women who are working at these ports across America are moving the cargo. They are essential workers. And as noted, one reason for the situation is the economy that we are looking to, the 6-percent GDP growth for this year, and consumers are buying more than ever. So, I think it is a confluence of factors.

But to your question, I think those are some areas that port authorities, again, can continue to move forward to transform the supply chain.

Mr. JOHNSON OF GEORGIA. Thank you, and I yield back.

Ms. STRICKLAND. Thank you. I now recognize Representative Perry for 5 minutes.

Mr. PERRY. Thank you, Madam Chair. I've got to say, at the onset of the hearing, I listened to the chairman go on for about 5 minutes with a stream of what I consider to be vapid and incendiary partisan principles and rhetoric, and then, at the end of it, demand that no one else engage in incendiary partisan rhetoric. It is incredible to me that somebody can be in Washington for over 30 years on this committee, and not understand that Washington isn't the solution, Washington is the problem.

With that, I mean, I certainly appreciate the fact that the majority has finally woken up to the fact that there is a supply chain crisis. But I can't help but lament the fact that this hearing comes in the wake of the Socialists on both sides of the aisle, pumping another $1.25 trillion into our economy, without any consideration of the inflationary impacts of these policies during a time of record inflation.

In fact, I would argue there is a pattern of bipartisan folly in this committee and this Congress that have not only contributed to the supply chain crises we see today, but to seek to actively worsen the situation by, essentially, pouring gasoline on that fire, seeking to add unnecessary and destructive environmental and labor restrictions that kill the ability of the hard-working Americans to deliver the goods needed by their fellow citizens.

One of the contributing factors that has resulted in the supply chain crisis is the oppressive regulatory environment in California, and the destructive impacts it has had on the workforce in that State. There is absolutely no question California's ports have been hit hardest here. But the majority and their supporters on our side of the aisle desperately seek to divert the attention away from the true reason why that is the case, as they seek to bring California-style regulation, poverty, and destruction across the rest of the Nation. That is a great plan.

California has actively sought to kill the trucking industry in its State, and the oppressive hand of the State government has led to many truckers to abandon routes within the State, whether it is CARB's unnecessary economically destructive regulations, or AB5, which effectively outlaws owner-operators by redefining "employee" to end independent contractors, in order to ensure big labor bosses can organize a wider swath of the workforce without putting in any work.

Outlawing independent truckers is essentially what they did, and we are sitting here talking about solutions to a truckdriver shortage and supply chain problems, and we don't even bring it up. It is incredible to me.

Unfortunately, the Biden administration, the Socialist majority, and their fellow travelers in our party aren't seeking ways to alleviate the destruction caused by these policies. They are seeking to nationalize it. The PRO Act would bring an AB5-style war on independent contractors into Federal law, destroying the businesses of nearly 350,000 to 400,000 owner-operators in the U.S. trucking workforce. Oh, that sounds like a great solution. Washington is right on cue to be there to help.

Unfortunately, every single Democrat and four Republicans on this committee voted in order to do this, despite repeated warnings by the trucking industry that we are currently experiencing a trucker shortage, without taking hundreds of thousands of qualified drivers off the road to appease the big labor bosses and these Members' support over their constituents' best interests. Appalling.

Mr. Spear, what would be the impact on the trucking workforce if the owner-operator model was banned overnight, as the majority and some of my Republican colleagues seek to do? What would be the impact?

Mr. SPEAR. You are just going to see it continue to inflate the problem, our inability to get goods to the shelves. Your constituents, and constituents across every district in this country are going to go from eight apples down to three, maybe even two. OK, that is just choice, and it is going to go away, because you have fewer people to drive it.

Over 80 percent of the communities in this country are exclusively dependent on trucks for their goods. You got to have a driver behind it. So, unless we are going to go driverless tomorrow, you are going to have to attract and retain talent to do it. You are going to need owner-operators, you are going to need independent contractors.

The only reason that this whole reclassification debate is even out there is because they want to organize it. But if you go and talk to an independent contractor, they are going to tell you, "Hey, I chose this. No one put a gun to my head. OK? I chose this occupation because I wanted more time at home." It is seasonal work, it is part-time work. Whatever the reason is, they chose it. And they want to take choice away from these folks. They don't want them to have that option, because they want to organize, and they want them part of the union.

Well, they don't want to be part of the union. And if they do want to be part of the union, they can join the union. No one is telling them either way. They can do either one, but it is their choice. We are going to win that in the Supreme Court. They just asked the Solicitor General to look at that, which means, to me, that they are serious about taking up AB5. And I believe we are going to win that solution, and we will settle this once and for all.

Mr. PERRY. Thank you, Mr. Spear. I couldn't have said it better myself.

Madam Chair, I yield the balance.

Ms. STRICKLAND. Thank you. I now recognize Representative Carson for 5 minutes.

Mr. CARSON. Thank you, Madam Chair.

After seeing so much congestion at ports, I would like to get your thoughts on what positive rail might play in strengthening our supply chain, not just in terms of more efficient movement of goods and materials, but in improving our human infrastructure, too.

Precision Scheduled Railroading sounds impressive, but it seems counterintuitive to plan for longer trains, but smaller crew sizes. And our transportation systems are really, quite frankly, I mean, as I like to say, respectfully, they are only as strong as our people and our workers. And in a place like Indiana, the crossroads of America, we have to address the congestion on the roads that, unfortunately, results when downtown and critical streets are blocked by painfully long freight trains.

So, how can these disruptions be improved, as we are working to strengthen our supply chains?

Mr. JEFFERIES. Well, thank you for that question, Congressman. There are several aspects to it, so I will try to take them one by one.

So, I certainly agree with you that we are only as strong as our people, our employees. And that is why I think we are so proud of our employees getting the job done over the past 18-plus months, when most of us were able to work from home. Railroads didn't stop running. We are a 24/7 operation, and so thanks to our employees' dedication and commitment to doing that and doing it safely.

Railroading is absolutely a strong industry for an employee to spend a career in. Average wages and benefits, over $130,000 a year. It is one of the last remaining industries where an employee with a high school graduation can support a family and live a middle-class life with a very strong and comfortable retirement. And that is why we have employees for several generations working for decades at a time in our industry.

Now, to your point about congestion, we actually think that rail is a huge part of solving the congestion problem, writ large. More goods moving by rail, more containers being on the back of rail, that is less congestion on the highways, less wear and tear on the highways. And this is not an anti-truck statement. Truckers are certainly our big competition, but they are also our biggest partners. And that is why we are sitting here together advocating, I think, on a lot of the same principles.

We have got an integrated supply network, and we have got to make sure it is functioning as efficiently as possible. Railroads out of the west coast have capacity right now. We can take on additional volumes, we can take on additional containers to get them to the middle of the country, where they can be distributed to their final destination.

The issue of grade crossings is certainly an area that absolutely presents challenges for communities, and one that we do not take lightly. And while every grade crossing is different, there is certainly no one-size-fits-all answer. A number of steps can be taken to help alleviate the challenge.

First and foremost, a grade crossing that doesn't exist is the best one out there. And so, the $3 billion included in the infrastructure bill that is dedicated solely to grade separations, a huge effort by Congress to get that across the finish line, and something that we are very supportive of, very excited to work with our community partners to put that money to work, and in the high-profile grade crossings.

But when you can't separate a grade crossing, it is important to make sure that it has up-to-date safety devices, up-to-date protection. Again, something that was prioritized in the infrastructure bill.

From the rail standpoint, what can we do? Well, we can absolutely look at our operations, and look to minimize the time that a train is sitting, blocking a crossing, or look at our hours for when trains are running through communities, to minimize the impact on peak traffic times.

We can also provide information in advance to motorists. So, if there is a blocked crossing ahead, you can deploy dynamic signage to make sure that a motorist is aware that that blocked crossing is ahead of them, and perhaps there is an opportunity to reroute.

So, we have got to continue to work on this. It is an industry priority. I can tell you right now, firsthand, it has our CEO's attention at the executive level and the industry level, and it is something that we have got to keep a shoulder into, as an industry, but also working with our communities.

Mr. CARSON. That is great, that is great, thank you.

Thank you, Madam Chair, I yield back.

Ms. STRICKLAND. Thank you. I now recognize Representative Weber for 5 minutes.

Mr. WEBER OF TEXAS. Thank you, ma'am. This is a question for Mr. Cordero.

In your materials you say that long-term infrastructure investment is needed to secure our supply chains. But the question is, what if the investment comes along with strings that prohibit us from improving efficiency or installing automation that would actually help make for a more seamless supply chain?

And I want to put a couple of caveats in there, Mr. Cordero. What do you think would hurt building a dependable supply chain more, would it be a mandate to have to join a union, or would it be mask mandates? Which of those would you think is the most egregious?

Mr. CORDERO. Well, thank you, Congressman. And I would like to thank you for your support of the port authorities——

Mr. WEBER OF TEXAS. You bet.

Mr. CORDERO. As a Member, as you recall, when I was Chairman of the Federal Maritime Commission, you were very supportive of ports and, of course, the PORTS Caucus, and your participation in that.

To your question, I think what is critical now for the supply chain is how we create efficiencies and reduce costs in the movement of cargo. We are in a very competitive environment right now. And, obviously, what this crisis has brought forth, Congressman, is certainly the issues that we discussed back in 2015. And I am referring to the July 2015 report released by the Federal Maritime Commission on this very issue: congestion.

So, I think, in this crisis, I think it is fair to say that no port has essentially closed down, certainly not L.A./Long Beach, because of this crisis.

I will say that, with regard to the mask and the vaccine mandate, that has mitigated the impact on the workforce, here on the docks. Earlier this year, due to the leadership of our mayor, Robert Garcia, and Governor Gavin Newsom, we moved forward to make sure those vaccinations were available to the men and women that worked on the docks. And I will represent I think that action substantially mitigated the impact on the labor that we would have had, but for not——

Mr. WEBER OF TEXAS. Right, and I would agree with that. But I think you have got to move that product away from the docks, and it is going to—I think—I am surprised that the number quoted was 80 percent. I think, basically, about everything Americans touch is going to come on a truck somewhere. Not everybody has a railroad in their backyard, and not everybody is next to one.

So, I want to go to this question for you and Mr. Spear, as well, and that is, I ran a hotshot company for about 2 years before I ran for the State legislature, and I am thoroughly familiar with USDOT regulations, TxDOT regulations, and did a lot of stuff, seen a lot of big truckers on the road. Now, with the shortage of truckdrivers, does it make sense for us to allow 18- to 21-year-olds to drive?

And maybe this is for you, Mr. Spear: Has the truckdrivers, the union, the Teamsters, have they taken a position against it or for it?

Obviously, the military is able to do that, train 18- to 21-year-olds to do it. Has there been a study done? What are your thoughts, Mr. Spear? A couple of questions there.

Mr. SPEAR. So, 49 States in the U.S., including yours, Congressman, allow an 18-year-old to drive a class 8, they just can't cross State lines.

Mr. WEBER OF TEXAS. Right.

Mr. SPEAR. So, you can go from El Paso to Texarkana and back, no problem. You just can't cross into Texarkana, Arkansas, which makes absolutely no sense.

By the way, in those 49 States, there is absolutely no training and no technology requirements for that equipment for that 18-year-old. The DRIVE Safe Act, which is bipartisan, both chambers, and the provisions that were included from that act in the IIJA, create a national program, 3,000 young people that we can properly train, up to 400 hours of training, which—240 of those hours you have to have an experienced driver in the cab with them. You have got to have technology equipment, AEB, speed controls, anti-collision. All that—cameras have to be on that equipment. So, this is a step toward safety, not away.

And rightfully to your point, I have got a—my oldest son is right now at Fort Benning, OK? We are sending 18-, 19-, and 20-year-olds overseas to defend our freedom, do the unthinkable. And I am pretty sure that, if we can train them properly to do that, we can teach them how to cross State lines in a class 8, and that language will get it done. So, I am very confident we can do this safely and responsibly.

Mr. WEBER OF TEXAS. To that point, I will make this comment, of course. Once they have driven across Texas, they have already driven across several States, basically.

And has the Teamsters Union taken a position on that concept?

Mr. SPEAR. Well, I will defer to Greg on that. It is passed now in the IIJA, so, we can debate whether they are for or against, but it is going to happen. Now we need to work with the agency to get it right. Greg alluded to that. I support what Greg said. Let's get it right. Let's make certain that we are not compromising safety. They can responsibly operate this equipment already. Let's add these conditions to it, and get it right.

And if we can do that, what we are doing here now is bringing this young, talented pool into our industry, long term. That should be good for my industry. That should be good for the unions. That is more people, long term, they can recruit from. So, if you look at it through that lens, and you can do this responsibly, I think it is good policy.

So, wait and see, but I think we got some work to do to get it right, and I think it will be done right.

Mr. WEBER OF TEXAS. Well, thank you for that. I have run over my time, so I am going to need to yield back. Thank you so much.

Ms. STRICKLAND. Thank you. I now recognize Representative Titus for 5 minutes.

Ms. TITUS. Thank you very much, and I want to thank our chairman, Mr. DeFazio, for focusing this important hearing on the bottlenecks at ports and our supply chain. I hear that all the time, because we have to import almost everything we have in Las Vegas, whether it is chicken wings or car parts. And so, this is very important to us.

I have been reading a lot of the headlines in the Wall Street Journal about Target, Walmart, and the different companies that are stocking up for the holidays, and they are pretty optimistic, and they are expecting a 10-percent increase also in e-commerce from last year, which was a record high, even with all the problems that we had with COVID. So, this is going to increase, it is not going to backslide, I don't believe, as we move forward. So, we see this increased request, and increased demand that is far above whatever our production levels are. So, we need to look at that, as well as the shipment of these goods.

We have seen the problem as we looked at the airline industry. A lot of the airlines didn't anticipate that our recovery would happen so quickly. They laid people off, people had early retirement, they were slow in getting them back. And then when, suddenly people wanted to start traveling—we saw that in Las Vegas—they weren't able to accommodate that. And you have seen flights canceled, and a lot of problems at airports.

So, we also heard from, I think Mr. Cordero, that the canceling of passenger flights has also affected cargo, because there is a lot of cargo down there in those baggage compartments of the airplanes.

Now, a lot of my colleagues across the aisle have been offering all these solutions, which really aren't solutions at all, they are just kind of a rehashing of old problems, or old things that they have always been talking about, like reducing safety and reducing environmental protections. I don't think that is going to solve any of our problems. We ought to be looking at how to make this safer and more effective, going forward. We ought to be talking about how vaccines will help us get over COVID. And once that happens, the economy really can come back even more than it already has, and how are we going to deal with it. That is what we need to be doing, looking forward.

You heard some talk about inland ports, dry land ports. I think Eddie Bernice Johnson mentioned it. All the investments that are coming out of the infrastructure bill and the Build Back Better bill will help places like Las Vegas upgrade its infrastructure, so we can become an inland port. And that can help with these supply chain issues, as well. That should be our focus in this hearing, not some looking back to the past for things that didn't work, even then.

My question, though, is a followup from what Mr. Massie said, and I would direct this to Mr. Correll.

You were talking about technological improvements. Well, we are certainly familiar in this committee with outdated technology. We saw that in the airline industry, where they were still using paper slips to schedule aircraft. We needed to bring that into the 21st century. Mr. Correll, could you elaborate on what kind of technological things that we need to do, not just for big companies like Amazon, but for other companies, too, to help with this, going forward?

And then I would ask Mr. Jefferies and Mr. Spear if you could talk about what your clients, or your organizations, or your folks and members are doing to address these technological needs, as well.

Mr. CORRELL. Excellent, thank you very much for the question. I will be brief, to save time for my fellow witnesses, as well.

I think there is tremendous opportunity, to use the airline as an example, to understand what we can do better. So, thank you for setting that in the way that you did.

If we think about what happens when a truckdriver arrives at a facility, oftentimes they come in, they stop at a gate, there is some interaction between the human and the driver to confirm that that driver is who they said they are, and that they have the appointment time that they are supposed to. Then they can go to a staging lot, where sometimes they have to get out of the truck, then take that paperwork into a desk, have that desk work checked, sometimes hand over their license, then come back to the truck and wait to be called. It is a paper-based system that is, I believe, antiquated, and we could do a lot better. And there are, in fact, already technological solutions on offer in experimental trials to make this whole system contactless.

So, I think that is a great notion. It should be a lot more like when we take a flight, and I just show my boarding pass on my phone, and a lot less like flights were 20 or 30 years ago, which is how some of our systems are currently working. So, that would be the first area of improvement.

And the second lesson that I would like to take from airlines is one of the things I work on is scheduling algorithms. So, when you think about how do you schedule airplanes coming into an airport, well, they have a set time. But we also think about things like how much fuel is in the tank of the airplane in the sky, and we can prioritize them that way. We don't do the same thing with our drivers' hours of service available when we schedule them for their appointments, and I really think we should.

So, those would be the two technological solutions I would certainly recommend.

Ms. TITUS. Well, thank you. I think we need to look into how we can promote that, and maybe the other two could send their answers to the committee because, unfortunately, I am out of time.

Thank you, and I yield back.

Mr. CARBAJAL [presiding]. Thank you. Next, we will move on with Representative LaMalfa.

Mr. LAMALFA. Well, thank you. I appreciate it. This is a very important topic in this hearing, and I am glad we are having it today.

Many, many facets of our difficulties, especially in California—I appreciate Mr. Perry and Mr. Spear's conversation about that a while ago on AB5, and then the great idea of bringing it nationally with the PRO Act. If you want to talk about supply chain, and you want to talk about ability for owner-operators and the mom-and-pop outfits to be able to do what they want to do in competing, so it is an important conversation to continue to have.

So, we see that our two largest ports in Los Angeles and Long Beach, they rank about number 328 and 333 out of 351 total, in the world, on efficiency. We had a port slowdown—almost a shutdown—back in 2014, 2015, when that helped bottle things up for California and the west coast. The contributing factor, as mentioned, on AB5, it is all in the name of protecting workers, but these workers don't belong to other companies, they are independents. So, it nearly wiped out all the independent contractors. So, it even slopped over into Uber and Lyft, and things like that, but it is extremely important in our trucking industry.

And we also have the challenge with the California Air Resources Board just arbitrarily deciding trucks made before 2011 we can't use anymore, even though they could be retrofitted and kept in good repair and do just fine. So, that took a whole bunch of trucks out of our ability to operate.

So, can we talk, Ms. Reinke, about how those impacts are disrupting the supply chain from AB5, and from CARB? Can you emphasize that a little bit more from a previous comment?

Ms. REINKE. Sure. So, there are about 250,000-plus trucking operations with 1 to 6 drivers as part of the total operation, which is about double what that was 10 years ago. So, if you think about that, that is a thriving industry, and it is something that our members certainly rely on, because that represents a vast majority of the trucking population.

So, if you were to take them out of the equation, or alter their employment status, that could immediately reduce the capacity for truckdrivers that we can use, or that people that have a job—they may not want to be part of a larger employer, they may want to employ themselves. It is sort of the American Dream. They get to choose what they want to do. So, if that removes capacity, our members would be very, very concerned about it. And obviously, if it is replicated nationwide, then that is when it could be a company risk for our members.

As for environmental regulations, our members, obviously, are very supportive of programs like EPA SmartWay, and things like that. But one of the proposed regulations from CARB would hold our brokers, who are not asset-based—we do not largely own trucks—responsible to be fleet owners and determine whether or not the trucks that are used are compliant with zero-emission goals by 2045. So, we only arrange transportation. We do not own the trucks. We are not implicated in the operation of trucks.

So that would mean that our members would have to be involved. We think that that is a strong, strenuous overreach. It has not yet been fully regulated. We continue to petition CARB, so that we can have some more right-sized regulation in that space.

Mr. LAMALFA. Thank you.

Mr. Spear, let me shift to you for a moment. When we are talking about how the drivers would feel about a vaccine mandate, what kind of reactions are you getting from them on that, just all of them required to get a vaccine to do business?

Mr. SPEAR. Yes, and I want to be clear and qualify this, that this isn't about being pro- or anti-vax for us. We have been moving the vaccine, PPE, and test kits. So, this is something our industry is very forward-leaning on. But in our sample survey of our fleets, it came back as 37 percent of our drivers not only said no, but hell no.

Now, let's just take a conservative number. Let's just say 3.7 percent, not 37 percent, were to actually leave, rather than get the vaccine. That would be catastrophic. We are already short 80,000. That is going to inflate it to one-quarter million.

So, for us, we have tried to be very clear with the administration that, if you do this—I understand the logic behind it, but if you do this, these are the consequences. So, if you are trying to solve the supply chain problem, you are actually compounding it, and actually hurting the very problem that you are trying to fix on the vaccine side. So, be careful what you wish for here.

I also don't think, Congressman, that OSHA has the jurisdiction to do this.

Mr. LAMALFA. Yes, the courts are seemingly holding that up, too. So, this whole mandate seems to be crumbling around them right now. It is out of line. Thank you.

Mr. Cordero, let's touch quickly on the supply chain as something that should go both directions. As we see, about three-quarters of our containers are leaving the United States empty, are the figures we have. So, to me, it seems important both ways. You should have full containers if they are coming in; they should go out full. It is affecting our crops, affecting manufacturers, and economy. They are going to lose market share if they keep sending empties back.

Could you touch upon what we could be doing better to fill the ships leaving with our products, instead of letting them go empty?

Mr. CORDERO. Well, that is a great question, though, Congressman. I think there has been a number of years that, not only the Federal Maritime Commission, but port authorities have advocated for a focus on increasing exports and, again, supporting our export advocates and the American farmer, the American shipper.

So, what we could be doing, one way that we are looking at, is when we increase connectivity to the inland, and create more efficiencies, that benefits our American exports, particularly in California. We have a high number of grain [inaudible] products as well as the Midwest, of course——

Mr. CARBAJAL. Mr. Cordero, if you could, sum that up real quick.

Mr. CORDERO. Sure. So, I think——

Mr. CARBAJAL. Or put it in writing.

Mr. CORDERO. Yes, sure. So, on the empty issue, again, given the volume that we have, there is a big demand for empties, with regard to the containers going back to Asia. That has been problematic. Hopefully, again, as we continue to move forward, it may be transitory in nature, in terms of what we are looking for in terms of mid-year/next year. But that is an issue that, again, we are attempting to address with regard to the empty containers here.

Mr. LAMALFA. All right, thank you. Thank you. It sounds like a trade issue here we need to be enforcing, as a country, better. Thank you for that.

I yield back.

Mr. CARBAJAL. Thank you. Next, I will recognize Representative Payne.

Mr. PAYNE. Thank you, Mr. Chairman.

Mr. Cordero, in New Jersey's 10th Congressional District I am proud to represent Port Newark and its terminal operators that help keep the world's supply chain moving. Port Newark Container Terminal recently completed a $500 million upgrade, increasing its cargo capacity by 80 percent, and cutting its turn times by 25 percent. The terminal operator plans to further expand its infrastructure to meet the growing needs of cargo shipping.

The Infrastructure Investment and Jobs Act signed into law this week invests $17 billion into port infrastructure. My question to you is, how would this funding help prevent future supply chain challenges?

Mr. CORDERO. Well, it is very important, and very critical. It is a step in the right direction. An example, in terms of the west coast here, is the rail connectivity. For the Port of Long Beach, we have had approximately $1.6 billion in the next 10 years authorized by our commission for spending on rail, more specifically, on-dock rail.

So, I think, again, the $17 billion referenced is welcome news for this industry with regard to what we need to do in investing in port infrastructure, and the same with New York and New Jersey. I mean, my good friend, Sam Ruda, the executive director there, as you have indicated, they have done a great job, in terms of investing in infrastructure. But again, it is far short, in terms of what we need to do, given decades of not investing in this industry.

Mr. PAYNE. Thank you.

And Mr. Jefferies, on Precision Scheduled Railroading, as chairman of the Railroads, Pipelines, and Hazardous Materials Subcommittee, I joined Chairman DeFazio earlier this year in requesting a GAO study of Precision Scheduled Railroading, including how PSR and related assets and workforce reductions impact the ability to meet the changing market demands.

The use of PSR is concerning to me, especially when it leaves freight railroads significantly understaffed in the middle of the worldwide supply chain crisis. Your testimony describes efforts to reopen closed terminals and hire workers. What other steps have the railroads taken in right-sizing their assets and workforces to meet the current market demands?

Mr. JEFFERIES. Thank you for that question, Congressman. And the term Precision Scheduled Railroading gets thrown around a lot. I think it probably means a little something different to everybody who uses it.

But you know, this year has certainly been unprecedented, when it comes to demand. And as evidence of that, in my opening statement I mentioned that, over the first 6 months of this year, railroads moved more intermodal goods than they have in any 6-month period in their history, using the employee base that they had on hand without significant disruptions.

We are also seeing, when you compare 2019 to 2021, a slight uptick in industrial products movements, and that is in the face of a decrease in finished autos. Railroads moved 75 percent of finished autos. Those volumes have dropped off quite a bit, given the semiconductor challenges that are facing that industry. So, we look forward to moving more of those soon.

I also mentioned the fact that coming out of the west coast are two primary railroads—actually have significant capacity right now. We are prepared to take on significantly more international containers to get those to the center of the country.

But you are absolutely right. There are areas where we are looking to hire additional employees. In many regions, we feel properly sourced for demand. The Chicago terminal, writ large, handled 11 percent increases in volumes year over year, maintaining a green level of fluidity throughout the month of October. But there are other areas where we are hiring across different crafts. And so, it is not a one-size-fits-all strategy. It is dependent on the characteristics of various regions.

But I think the results we are seeing, not only to the operations based on our employees' dedication, are the results of decades of sustained private investment. We talk a lot about infrastructure investment. This industry is one that has put its money where its mouth is, quite literally, $25 billion a year annually back into our network. We have the highest rated infrastructure of any type in the country. And, we will keep at it.

But we are up for the task, and we want additional——

[Audio interruption.]

Mr. PAYNE. OK, thank you. And, Mr. Chairman, I yield back.

Mr. CARBAJAL. Thank you. I now recognize Representative Balderson.

Mr. BALDERSON. Mr. Chairman, thank you very much, and thank you all for being here today and participating in this important hearing. My first question is going to go to Mr. Spear.

Mr. Spear, thank you for being here. I really appreciate that. And the DRIVE Safe Act, thank you for your kind words on that. I was a lead cosponsor on that and, as you know, it did pass in the bipartisan infrastructure bill.

In your testimony you note the pandemic forced the temporary closures of State DMVs and truckdriver training schools, hurting the already fragile pipeline of new drivers entering the industry. Are State DMVs and training schools back and fully operational, or are you seeing any lingering issues caused by the pandemic?

Mr. SPEAR. I appreciate the question, Congressman, and thank you for your leadership and support on that bill. I love seeing those provisions make it into that infrastructure package. And we have got more work to do, as you know, but I appreciate that.

Yes, I mean, you are taking me back to some dark days. The early weeks of the pandemic, and everyone was trying to figure it out. Just be mindful that we had 3.5 million truckdrivers still getting in those cabs, moving, running lanes from Ohio up to New York, and restocking those shelves. Not just the milk, eggs, and bread, but I guess the 3 months' supply of TP that a few people in this country think they needed. But there was a driver to make sure it got back on the shelf.

And so, there was a lot of impediments back then, the shutting of rest areas. So, to be compliant with rest breaks, you are now seeing trucks parked on shoulders. The shutting of the DMVs, certainly the medical certificates, the CDLs, CLPs, the renewals of those things we needed exemptions from for a period of time, while those DMVs were shuttered. We are starting to see that come back online.

As far as training and schools, yes, that was very difficult, early on. I mean, it was nearly shuttered. And that was, obviously, a contributing factor from going from 61,500 drivers short coming into the pandemic, now at 80,000. That backlog is now having to catch up. So, it just takes time. As we come out of the pandemic, you are starting to see us ramp up and address that. And hopefully, those numbers will begin to go down.

But getting people in with those CDLs is going to be key, and the DMVs and the schools have a big role to play.

Mr. BALDERSON. Thank you for that answer. I will follow up with you.

I have spoken to your colleagues at the Ohio Trucking Association about the recruitment challenges they have had in getting young drivers through the certification process. A major hurdle that they have mentioned is the lack of financial assistance that is available to cover the cost of truckdriver training programs. In your opinion, how much of a factor is the cost of training programs in preventing interested folks from pursuing a career in the industry?

Mr. SPEAR. Enough that we have got motor carriers paying the full boat in many instances. But that is not going to solve it. It may solve it for them, but it is not going to solve it for those that don't have truck driving schools of their own and can afford that.

So, 80 percent-plus of our members are less than 20 trucks. Those folks don't have those luxuries. They have got to bring in from recruiting, or from those schools that they work with. So, it is an issue that I would say would be very beneficial to attracting more talent into the schools, if they were to qualify for grants, just like any other.

So, we would welcome that. I think that makes it even more attractive to alleviate that burden, get the proper training in place, get them credentialed, and get them out there driving. So, the faster we can do that, and the easier we can make that process, the better.

Mr. BALDERSON. OK, Mr. Spear, I am going to try to be a little brief on this one, because I know my time is getting short here. But during an Agriculture Committee hearing a few weeks ago, I was able to discuss some of the CDL and CPL waivers that previous administrations enacted at the onset of the pandemic, with your colleague, Jon Samson.

Mr. Samson noted the immediate benefits of some of these waivers, allowing truckers to obtain CDLs more efficiently. Do you think it would be beneficial to extend these CDL waivers and some of the other declarations throughout the duration of the supply chain issues?

Mr. SPEAR. I wouldn't go so far to say waivers, but certainly streamlining the system, and making credentialing across the board easier. If you get your testing done in one State, but you are domiciled, meaning you live full-time in another State, those States don't recognize the testing and credentialing, and there is a gap there between it that makes the burden fall on that potential driver. We need to make that easier, and there needs to be Federal leadership in making that happen. Working with DOT, the FMCSA will, hopefully, streamline that. But it is an impediment, and it is very impactful.

So, what Jon Samson was citing is very accurate. I wouldn't just flat-out exempt—we need controls in there, we need to make sure they get the right training and credentialing. But, we are an interstate commerce-based business. So, as you are crossing State lines, the system has to accommodate that. And when it is just the State itself that is managing it, you get some channel conflict when you are crossing State lines. And having a little Federal leadership at DOT, engage on that, work with the State DOTs should help really alleviate that at the DMV level.

Mr. BALDERSON. Thank you very much, Mr. Spear.

I apologize, Mr. Chairman. I yield back.

Mr. CARBAJAL. Thank you very much. I now recognize the distinguished gentleman from California, Representative Lowenthal.

Mr. LOWENTHAL. Thank you, Mr. Chairman. And I would like to, before I ask my question, compliment you on how well you are conducting this hearing. I want to address my first question to Mr. Cordero.

As you know, Mr. Cordero, I have supported changes to the PierPASS Traffic Mitigation Fee at the Port of Long Beach, as has also John Porcari, the Port Envoy. And I was glad to see the announcement that, from December 1st to January 31st, fees will incentivize the use of off-peak hours, incentivizing the fuller adoption of 24/7 operations to ease the backlogs, and reduce idling, and ease community impact.

Mr. Cordero, can you speak to the importance of these kinds of measures, and to others which can help everyone in the supply chain scale up their efforts?

Mr. CORDERO. And thank you for your question, Congressman.

Most definitively, we need to incentivize the industry to take certain measures. And the one that you are referencing, PierPASS, was set up for that incentive. That is, when you move, this year, 20 million TEU containers, you cannot compact that movement in ordinary business hours. So, what we are doing at this point is not only expanding gate hours, talking about a 24/7 framework, but also making sure that our shippers, when they take advantage of those extended gate hours, there is no cost involved in that. And that is the reason for, again, this movement to have the PierPASS fee applicable to day gates and not night gates.

So, this is one step of many that we need to take to, again, address the bottlenecks and congestion in the supply chain, which—again, the crisis has brought this forth, but this is an issue that has been, as you know, Congressman, a question at some of our major gateways, in terms of the turn time issue here, and what we need to do have to have greater fluidity for the truckdrivers.

Mr. LOWENTHAL. Thank you, Mr. Cordero. I want to briefly touch, Mr. Cordero, on one additional critical issue for our community.

As we know, the movement of goods has inevitable environmental consequences, particularly for frontline communities in the key corridors. I want to underscore that now is not the time to remove protections for those communities in the name of short-term efficiency.

So, my question to you, Mr. Cordero, is what is the Port of Long Beach doing, and what more can we do here, in Congress, to make sure that goods are moving safely, efficiently, but without increasing the pollution to these communities?

Mr. CORDERO. Well, I think I can say that, both here in Long Beach and partnering with the Port of Los Angeles, our goal is to have zero emission from port operations, zero emissions in relation to trucks in 2035, and zero emissions in relation to cargo-handling equipment.

So, currently, I think it is welcome news that the Infrastructure Act that we have referenced also creates funds for electrical infrastructure. This is something that is going to be very key, as we move forward to the next transition of what the truck community will look like. And I am talking about zero emission. This is not a vision anymore, it is an actuality.

So, I think we need to get prepared for the necessary infrastructure that is required. I am talking about the EV infrastructure. It is going to create more efficiencies and, more importantly, for all urban setting ports across the Nation, friendlier, with regard to the impact of what these emissions are to our neighborhoods and communities.

Mr. LOWENTHAL. Thank you, Mr. Cordero. I just want to remind you and the other panelists that besides the Infrastructure Act, the Build Back Better Act—which hopefully will be passed by Congress and signed by the President—also deals with the need for infrastructure that will reduce the impacts of climate change. And so, these are really a combination package.

And with that I yield back to our esteemed chairman.

Mr. CARBAJAL. Thank you, Representative Lowenthal. I will now recognize Representative Stauber.

[Pause.]

Mr. CARBAJAL. We will move on to Representative Van Drew.

Dr. VAN DREW. Thank you, Mr. Chairman. I am pleased that the Committee on Transportation and Infrastructure is finally holding this hearing on the American supply chain crisis.

I have always advocated for a strong domestic supply chain. It has been clear, since this summer, that we are in a supply chain crisis, and that the situation has become worse due to the inaction of those in power.

To our honorable witnesses, I thank you and the millions of American workers that you all represent. Workers make our country strong. I want to give American workers every tool possible to be successful for themselves, their families, and our great country of the United States of America. I wish that we were meeting under better circumstances.

The United States is on the precipice of a dark American winter. Our country faces self-inflicted economic ruin, rising food prices, rising energy prices, rising housing prices, backed-up ports, unreliable product delivery, and an absolute labor shortage. This decaying economic environment is the direct result of liberal policies that have disincentivized business investment, flooding the economy with wasteful spending, and telling people not to go to work.

These abysmal policies pale in comparison to the Biden vaccine mandate. I want to state unequivocally that the single greatest threat to economic security is the Biden vaccine mandate. This vaccine mandate is legally absurd, and existentially dangerous to our country of America. The rule being pushed by OSHA will force all businesses with over 100 employees to require their staff to be vaccinated. If a worker refuses to get forcefully vaccinated, then the employer will be forced to fire them.

To be clear, this vaccine mandate is illegal. This vaccine mandate is unconstitutional. This vaccine mandate is the single worst idea to emerge from a famously incompetent administration.

The Biden vaccine mandate will result in nothing less than the total implosion of the American economy. If this mandate goes through, there will be unprecedented mass resignations—truckers, pilots, rail workers, sailors, construction workers. We know, as a matter of fact, that the vaccine mandate will result in resignations, up to one-third of the transportation workforce, possibly. If this happens, it will begin a vicious cycle of supply chain collapse that will send the United States of America into economic depression. OSHA and the administration are sleepwalking towards economic cataclysm of which we have never seen before. It is truly baffling, and I personally pray that the courts will stop them, as I think they will.

I think back to President Abraham Lincoln's Lyceum address: "If destruction be our lot, we must ourselves be its author and finisher. As a nation of free men, we must live through all time, or die by suicide." This vaccine mandate reveals the hubris and detachment of this administration. The committee should use every tool at its disposal to prevent this impending catastrophe.

I want to give our witnesses the opportunity to speak on the truth of this vaccine mandate, and what it will do to our country, and I direct my question to Chris Spear, president and chief executive officer of the American Trucking Associations.

You testified before a Republican supply chain roundtable last month. Could you please explain the harsh reality of what the vaccine mandate will do to the American trucking workforce? Thank you.

Mr. SPEAR. I appreciate that, Congressman. Now, again, as I said earlier, this is not an issue for us at ATA about pro-vax and anti-vax. It is a question of, if you do this, if you put this mandate in place, this is what is going to happen.

So, what we did is we went out and surveyed our members, and the response we got was 37 percent of our driver force had indicated that they would not only leave, but they would definitely exit the workforce altogether, not just leave that carrier. So that is very problematic. Thirty-seven percent may be high. But even if you took 3.7 percent, it would be catastrophic. So, that is a measurable impact and added weight on the supply chain and our ability to come out of the COVID era. So, we are very, very concerned about that.

I am also very concerned about the fact that it picks winners and losers. What is up with this 100 threshold? The President got up and said, “I am doing this under my authority to protect the American people.” OK, well, what about the people that work for an employer under 100? Does their health and safety not matter? Why are we picking winners and losers here? It is to avoid public comment. It is about speed. It is about getting this ETS on the street as quickly as possible.

Now, I am not the sharpest knife in the drawer. But I know OSHA law. I know, in the 50 years of that agency, the only three times that it has been amended, I hand-wrote those for Senator Enzi, the late Senator from Wyoming. And I know they have overstepped their jurisdiction here. This is not an employment-based hazard. They do not have the jurisdiction to regulate this. And I am very confident in the sixth circuit, as of yesterday, that this is going to get bounced. So, they have overstepped their boundaries here. And for all the reasons cited, I don’t think this is going to have an impact on the supply chain, because the courts are going to overturn it, and they should. They really should.

We need to be forward leaning on the vaccine. We need to get people vaccinated. We are moving the vaccination.

Mr. CARBAJAL. If you could, summarize, please.

Mr. SPEAR. This is really an issue that we feel strongly about, and it is a distraction from what we need to be focused on with the supply chain.

Dr. VAN DREW. I yield back, and I thank you.

Mr. CARBAJAL. Thank you. I will now recognize myself.

First, I want to start out by thanking all the witnesses that are here today, and I will start with Mr. Cordero.

Can you describe the nature of the working relationship you have had with the administration and the White House Supply Chain Disruptions Task Force?

Have you found those discussions to be productive?

And are you confident in the administration’s efforts?

Mr. CORDERO. Well, thank you, Congressman.

Number one, those efforts have been very productive. A case in point: one of the issues that we have here at our ports is the constraint on our terminals as to capacity. So, within a very short period, we have been able to address the loaded imports that have been at the containers for more than 9 days, and reduce that amount by almost 30 percent. What that does, it creates more capacity in our terminals.

Obviously, we need to move the cargo. So, in that regard, I would have to say that the White House Envoy, John Porcari, has had a very good impact, in terms of his ability to get the stakeholders together to address this issue. That is, we need to roll up our sleeves. We are in a crisis, and we need to take measures to move the cargo.

So, in that regard, again, I really appreciate the prioritization of this issue that is led by the White House, and we are doing all we can here, at the Nation's largest port complex, to again try to move towards transformational change of this supply chain.

Mr. CARBAJAL. Thank you. I understand the Maritime Administration and the Federal Maritime Commission are working with stakeholders to improve data sharing and transparency within the supply chain. What role will the Port of Long Beach and other ports across the country play in this data sharing, Mr. Cordero?

Mr. CORDERO. Well, it would be a significant role. I think what we need to move to is an integrated platform, where, again, this industry moves forward and gets comfort in sharing data, again, to move forward the needle on visibility, and transparency on the movement of cargo. So, I think it is fair to say that every port authority is looking towards this digital transformation.

For this committee, I would urge that if there is ever a time for opportunity to fund these kind of capabilities for our port authorities to move forward and exercise that leadership, it is now. Because again, we are falling behind with regard to what the rest of the world is doing, in terms of this technology.

Mr. CARBAJAL. Thank you. Can the rest of the panel comment on how their respective industries will be contributing to the data sharing initiative, or how they will benefit?

Mr. JEFFERIES. Well, I think across the supply chain we are all better served, and we have better data, both given the integration of the work we do between modes, but also with our customers, as well.

The world has gotten used to the Amazonification of the economy. I know when my pizzamaker is putting pepperoni on the pizza that I have ordered. So, visibility, information sharing, of course, is key. There has got to be some smart boundaries around it, some smart structure around it. But at the end of the day, I think we are all better served working together, and with real-time, good information. So, conceptually, there is a lot to be done there.

Ms. REINKE. And we are in agreement. As I said, data is the coin of the realm here. So, anything that can encourage collaboration and cut redtape so that we can communicate, and understand, and have visibility, I think we want to be part of and understand, be supportive of.

Mr. SPEAR. Mr. Chairman, we would echo the same from Anne and Ian. Mario started with digital transformation. We like that concept. I think more transparency is good. It makes us all more informed. It also identifies exactly where the bottlenecks are. If we can measure them, we can remedy them.

So, more transparency, it is a challenge. I mean, you are talking all these bottlenecks within the supply chain. We don't control all of them. Not any of us do control all of them. But seeing that panoramically is going to really provide some efficiencies, and that is really the wave of the future. If we can do that, I think it is going to make a difference.

Mr. CARBAJAL. Thank you.

Mr. Regan, this week the President, President Biden, signed the bipartisan Infrastructure Investment and Jobs Act, and finally delivered on our promise to invest in our Nation's crumbling infrastructure. Included in the bill is $2.2 billion for the Port Infrastructure Development Program.Can you elaborate on how this investment in our Nation's ports could help alleviate congestion at our Nation's ports, and how we can make sure we are getting the greatest return on this investment?

Mr. REGAN. Yes, and thank you for that question. As the cargo volumes at ports have increased, the lack of comprehensive multimodal connectivity have contributed greatly to the congestion and delays. So, the Federal investment you referenced, the Port Infrastructure Development Plan, would be a huge boost to increasing that connectivity and that intermodal infrastructure of ports throughout the country.

Multimodal port spending, you know, 67 percent of ports say that funding is the single largest obstacle to constructing essential freight rail connectors. In my written testimony and in my spoken testimony I mentioned how nearly half of U.S. ports state that better rail access could increase the throughput capacity by over 25 percent. So, this is vital to making sure that we are moving goods off of the ships, and then easily and quickly into the rest of the country. So, this is a really, really important part.

And I would also note that, in the Build Back Better Act, there is an additional $5 billion of money for ports that is directly geared towards addressing the supply chain here.

Mr. CARBAJAL. Thank you very much. We will now move on to Representative Stauber.

Mr. STAUBER. Thank you very much, Mr. Chair, and thank you to all our witnesses for being here today. Many of you are on the front lines, trying to make the best of this crisis, and working against all odds, while sidestepping each roadblock this administration puts in your way. So, I say thank you.

Before going into my questions, I want to first highlight some of President Biden and his administration's views on the supply chain crisis, which really shows how much he cares about the issue, and how seriously those in power are taking this.

"Most of the economic problems we are facing—inflation, supply chains, et cetera—are high-class problems." This was from Joe Biden's Chief of Staff.

White House Press Secretary Jen Psaki mocked the supply chain issues, and laughed when asked about them, stating, "The tragedy of the treadmill delayed."

Secretary Buttigieg said that our supply chain crisis was due to Biden and the administration being "too good at their jobs."

President Biden himself said recently that ordinary Americans "wouldn't even understand" the supply chain.

When asked if holiday gifts would arrive on time, White House Press Secretary Jen Psaki dismissively said—in quotations—"we are not the Postal Service."

When asked about higher costs at the grocery store, Jen Psaki said, "The American people are not looking at cost-to-cost comparisons from this year to 2 years ago." And I repeat that. Jen Psaki said, "The American people are not looking at cost-to-cost comparisons from this year to 2 years ago."

I hate to be the wakeup call to this administration, and maybe even to some folks in this room, but not everyone is spending their Thanksgiving in the millionaire and billionaire playground of Nantucket, like many people are. There are real, ordinary Americans who are really suffering because of the supply chain and inflation crisis this administration has caused. Right now, there are families in Hibbing, Minnesota, in North Branch, Minnesota, in Park Rapids, Minnesota, even in the President's Scranton, Pennsylvania, and Delaware, who are still figuring out how to put Thanksgiving dinner on the table this year.

So, my question is to Ms. Reinke.

Can you please speak a little about what your industry is doing to fill in the gaps and support the supply chain, despite the President's policies?

And in addition to that, can you also speak to how the Democrats' liability insurance increase—what I like to call the trucker tax—would impact the supply chain, Ms. Reinke?

Ms. REINKE. Thank you, Congressman, for the question. I will answer your second question first.

We are radical pragmatists. Our members are, literally, just looking to try to find ways to improve efficiencies for their customers and build capacity for the motor carriers and intermodal companies that we work with. So, if there is an implication, for example, raising the minimum insurance, we don't have a position on it, but if it affects the capacity of our motor carriers, if it cuts out smaller carriers who can't afford it, then that would be a concern for us.

As for the first, what we are trying to do is, well, we are hiring like crazy, like all of us are. In fact, there have been, I think, the first half of the year, 9,000 new brokers who applied for a broker's license and registered for a bond. And that reflects the amount of freight that is going on.

And what we are trying to do, in addition to hiring like crazy, is really invest and engage in technology. And I think I have mentioned that it is visibility throughout the transaction.

So, what does that mean? That means having—at the beginning of the transaction, we have what are called load boards, which shows what the freight is, where the freight is, and how much one would charge if you take it.

Then you have the transportation management systems, where you figure out, all right, what carriers are available, and what route can we take it.

And then you have the visibility into where is that container going, what is the timing on it, and how is it going?

And then the last thing is the automated back-end processes, where we can pay automatically the carriers at the end of the transaction.

So that is where, really, our money and our attention and our time is focused on.

Mr. STAUBER. Thank you very much.

And Mr. Spear, do you have anything to add to that?

Mr. SPEAR. Other than the fact that we really wanted to find efficiencies through collaboration. As you have seen, the transformation over the last 10, 15 years, we really are intermodal. We do rely on one another. There is a lot of collaboration between Mario and myself. We represent industries that have to work together.

And so, finding bottlenecks, finding inefficiencies, it is in all of our best interests to alleviate those problems. So, any technology, any transparency is something that we are going to commit to working and ensuring going forward that we can see more and do more as a result.

Mr. STAUBER. Thank you very much, and my time is up.

I yield, Mr. Chair.

Mr. CARBAJAL. Thank you. We will move on and recognize Representative Malinowski.

Mr. MALINOWSKI. Thank you, Mr. Chairman. So, a lot of commentary in this hearing about this situation, and I would start by saying what ought to be obvious, and that is that our inflation and supply chain problems are probably not the result of a bill that hasn't passed yet. They are probably not the result of an infrastructure bill that was just signed a couple of days ago.

What we know is that we had a global pandemic, which resulted in massive economic downturns in the United States and all around the world. But then we did something that we have never done before: we actually helped the American people not just endure and survive this downturn, but to emerge from it with more household wealth than they did before they started. That is a success. That is something that we should all be proud of. And much of it was bipartisan. The legislation that helped our small businesses and families and workers stay afloat through the first year of the pandemic was supported by just about every single member of this committee.

So, here is the situation. We have huge disruptions in production all around the world, workers not coming to work, workers sick, disruptions in transportation and bringing goods to market. But at the same time, the American people have more money to spend. And interestingly, they are spending it in different ways.

So, for example, last year we saw a 32-percent increase in e-commerce, because people were staying home, rather than going to stores. They are ordering stuff online. And so, with all of those facts, I think it is fairly easy to understand how we got to where we are.

And I wanted to ask the witnesses maybe to comment a little bit on that, and maybe starting with Mr. Cordero.

In your testimony you brought out another remarkable fact, and that is that the Ports of L.A. and Long Beach, in the first 10 months of this year, actually moved 17 percent more containers than they did in a similar period in 2018. And yet we have ships parked offshore. But we are actually moving more containers through the system. Could you say a little bit about why that is, what we know and what we don't know?

Mr. CORDERO. So, thank you, Congressman. So yes, the ports will have a record year for 2021 in container movement. And in part, there is, again, a myriad of factors as to why that is, in terms of what we have before us. But one of the things that you mentioned that is very key is how we have been able to continue the trajectory on the economy, in terms of the benefit of what we are seeing. And one of them is consumer spending.

I think it is at a very high mark. E-commerce is a major factor, in terms of our spending habits. We could buy online 24/7. So, I think the good news is the consumer demand that is driving this, and the business environment, and, again, whether it is production, raw materials, and durable goods, and so forth. So, I think, again, that the good news is it is a very good economy that we are seeing because of the policies that we have been putting in place here in the last couple of years.

But the thing I really want to stress, and say to this committee again, just remember that in 2010 a major economist here in this industry forecasted that if we did not invest and do something, in terms of how we operate in the North American ports here in America, that in 2020 we would have some serious congestion issues. He was right on the money. And that is what I want to stress to this committee, that crisis set aside, we need to continue the prioritization of how important ports are to this——

Mr. MALINOWSKI. Thank you, and we have just—thanks to President Biden and a bipartisan majority in the House and Senate, thanks to those courageous Republicans who joined us, we just approved a major investment in our ports that will help in the long term.

I don't have that much time left. I did want to ask Ms. Reinke about the question of visibility in the supply chain. Somebody mentioned to me a few days ago that we actually have very little idea of where all these containers are. There are 20 million or so shipping containers around the world. But unlike aircraft and their passengers, there are no sensors on these containers. Is that correct?

Would the system benefit from a greater investment in the technology that allows us to have perfect visibility of where everything is in the system, and should the United States be setting those standards?

Ms. REINKE. I——

Mr. CARBAJAL. Mr. Malinowski, you are out of time. I am going to ask if they could submit that answer——

Ms. REINKE. Will do.

Mr. CARBAJAL. Take that question for the record, and submit the response in writing, please.

Mr. MALINOWSKI. Thank you.

Mr. CARBAJAL. With that, we will move on to Representative Guest. And Mr. Guest will be our last speaker, because we are going to have to recess due to votes.

Mr. GUEST. Thank you, Mr. Chairman.

To Mr. Spear and Ms. Reinke, I want to talk about something that each of you mentioned in your written testimony, and that would be the impact that the PRO Act would have on our transportation market.

Mr. Spear, you say—and I quote from your written testimony—"I would be remiss if I did not address a piece of legislation that would be extremely harmful to the trucking industry and hurt the very workers it purports to help: . . . H.R. 842. The PRO Act . . . includes a provision that would effectively bar the trucking industry from utilizing the independent contractor business model. . . . [t]he implementation of a restrictive national test to limit independent contractor status would jeopardize the livelihoods of over 350,000 owner-operators, destabilizing America's supply chain and irreparably harming the economy."

Ms. Reinke, you say there "The PRO Act, which would change the way independent contractors are classified at the Federal level, would make this a national issue and have devastating effects on the transportation market."

Ms. Reinke, you also reference California Assembly Bill 5, which I believe is a precursor to the PRO Act, which you state there "essentially bars independent contractors from operating in the state, will further exacerbate the supply chain situation by narrowing the pool of available drivers and companies."

And so, to Mr. Spear and Ms. Reinke, I would ask if you would take a few moments and expand on the effect that the PRO Act would have, assuming that it was passed and signed into law, what effect that would have on our current supply chain issues, and the economy as a whole?

Mr. SPEAR. I will go quickly, so Anne can comment, as well, but I think the commentary that you cited from both of our testimonies certainly captures it.

But to add a little bit more color, it is going to remove choice, as simple as that. People should have the choice to decide their professional paths. This would remove that, which is why it is before the Supreme Court now. I believe they are going to hear it, and hopefully they rule correctly, because we believe that people should have the right to choose to be an independent contractor, for whatever reason. If they want to be a seasonal worker, a part-time worker, have their own business on the side, that should be their choice.

Forcing them to join a union, which is what this would do, is very destructive. It removes decades—since 1935, the National Labor Relations Act, the balance that has existed for decades between unions and employers—it would remove all that. It would remove State right-to-work laws. It is just really rewriting everything to channel people into unions, which is the point. We are just removing choice, and that is anti-American, and we oppose it.

I just think it would have added weight on the supply chain and make it even more difficult to resolve a lot of the issues that this panel has been testifying here today.

Mr. REGAN. Congressman, if I may jump in here, there has been a lot of dumping on the PRO Act, and I am a strong supporter of the PRO Act.

Mr. Spear here references the balance between labor and management that has happened over the years. The balance has been inherently tilted against labor, against workers, and in favor of employment. And all of these various employment models that we have seen emerge over time have been in place specifically to undermine a worker's right to collectively bargain and undermine the worker's right to have more voice and more strength in the workplace.

We are strong supporters of that, and the solution to our supply chain issues, and the solution to strengthening our economy is not going to be by driving a greater wedge between employment and the workers, by making sure that people can't earn better wages, and they cannot earn better benefits and retirement benefits.

These are not going to be the solutions to our problem, and it is certainly not going to make a better, stronger economy for all Americans across the board. Thank you.

Mr. GUEST. Well, I would assume, Ms. Reinke, that you would take exception to those comments.

Ms. REINKE. Yes. I mean, in the mode of being a radical pragmatist again, we are concerned it is going to completely remove capacity. I think Mr. Spear talked about removing choice. We are talking about removing capacity, meaning this is a highly successful industry. The owner-operator model, as I said, has doubled over the last 10 years.

There is clearly a draw for people who want to own their own businesses, who want to have one to six trucks, who want to have that freedom and that liberty and that choice, as Mr. Spear said. So, if that is now taken away from them, are they just going to leave the marketplace? Are they going to leave the industry because they don't want to be someone else's employee? That is what we are concerned about.

Mr. REGAN. The PRO Act does not force anybody to join a union. It gives them more choice, and a more fair choice that has not existed for decades.

Mr. SPEAR. We will let the courts decide, Greg.

Mr. GUEST. Thank you, Mr. Chairman. I yield back.

Mr. CARBAJAL. Thank you. Since they have called votes on the House floor, the committee shall stand in recess, subject to the call of the Chair. We will restart the hearing as soon as the last vote is over, I guess.

[Recess.]

Mr. STANTON [presiding]. The committee will reconvene at this time. I really want to thank the witnesses for their patience, as the Members had to go vote on the floor.

Next up to question our witnesses is Congressmember García from Illinois.

Mr. GARCÍA OF ILLINOIS. Thank you, Mr. Chairman. And, of course, a special thanks to Chairman DeFazio for holding this hearing, and I thank all the witnesses for appearing today.

The supply chain problems we are currently experiencing have affected all Americans, including the district that I represent. The additional investment in the Build Back Better legislation, combined with the record infrastructure investments that Congress just passed, will unlock our supply chain, help American workers keep our economy growing, and lower inflation. That is why we need to pass the Build Back Better legislation.

But I want to ask Mr. Regan if he would answer the following: Mr. Regan, many of my Republican colleagues, as you saw earlier, falsely accuse President Biden of causing the supply chain crisis, or ruining Christmas for Americans. What is your reaction to those statements from my friends across the aisle?

Mr. REGAN. Thank you for that question. There have been many times during this hearing where I have been a little frustrated by the characterization of all of this stuff.

This supply chain crisis has, frankly, been 40 years in the making. We detailed earlier exactly how the systematic industry practices that have happened in both the trucking and rail industry have created this very inelastic system, where, the minute we had a surge in goods, we were completely incapable of being able to deal with it.

Meanwhile, what President Biden has done with the Infrastructure Investment and Jobs Act—which, by the way, all of my fellow trade association members of this panel supported and hailed the passage of in their testimony—that would actually direct a huge amount of money directly into our supply chain crisis and start addressing the infrastructure needs to help solve this, moving forward.

And I might add, many of the politicians that are talking today have no comments about the previous President, who not only talked a big game, but didn't even deliver a proposal to solve any of these issues, let alone actually deliver on the promise of delivering on real investment and real movement towards investing in our infrastructure.

So when I see things like #emptyshelvesBiden alongside an out-of-context photo from the supermarket with empty shelves from an ice storm that was 2 years ago, or that Biden is ruining Christmas because some children may not get their ThinkFun Gravity Marble Maze under the tree, while overlooking the fact that there are 37 million Americans living in poverty who don't even know where they are going to get their next meal, I get very aggravated by that.

It is extremely frustrating, because all they are doing with that type of commentary is exploiting a real crisis. And I hope that we can actually start talking about real solutions. And thankfully, I know that many of my colleagues on this panel are talking about that, are talking about issues in their industry, and their testimonies talk about the benefit that President Biden's investment in the IIJA is going to have in this situation. Thank you.

Mr. GARCÍA OF ILLINOIS. Thank you for sharing that, Mr. Regan. I want to turn to another subject, and that is railroad profits and job cuts. You note in your testimony that, since 2014, Class I railroads have implemented Precision Scheduled Railroading, and cut their workforce by over 20 percent, if I heard you right, resulting in tens of thousands of job losses. At the same time, Class I railroads are reporting record profits in their most recent quarterly earnings.

My first question on that is, in your opinion, is it fair to say that so many railroad workers are losing their jobs, while railroads are doing as well as they ever have?

Mr. REGAN. Yes. Certainly, by the profit margins, yes, they are doing as well as they ever have.

And if you look at since 2010, the railroads have taken back an astonishing $191 billion on stock buybacks and dividends alone. Meanwhile, the workforce has shrunk by 20 percent, just in 5 years, and we have seen a drastic reduction in the built-out infrastructure, on the physical infrastructure with the railroads. So, I think that there is a real cognitive dissonance between sort of what we are talking about, in terms of investing and rising to the occasion, versus what the practices have been for 5, 10 years.

And, frankly, this is something we have been warning about for that amount of time. I think the first time I talked about this in front of the T&I Committee, it must have been 2 or 3 years ago, but we started writing about it 5 or 6 years ago. This is not a new problem, it wasn't an unforeseen crisis that sort of came out of thin air.

Mr. GARCÍA OF ILLINOIS. Well, thank you and——

Mr. JEFFERIES. Mr. García, can I comment on that, please? I know we only have a few——

Mr. GARCÍA OF ILLINOIS. I am not finished yet. I got about——

Mr. JEFFERIES. OK.

Mr. GARCÍA OF ILLINOIS. Let me ask you what Congress or agencies like the FRA or the STB can do to help counteract negative effects of PSR, and ensure a long-term, robust rail workforce?

Mr. REGAN. Well, certainly from the FRA perspective, I mean, we need to make sure that the operations are safe, and that is going to be the critical role for the FRA, is making sure that we continue to have safe freight rail operations, and that the reductions in workforce and the resulting operations changes are not creating an unsafe situation. So, the FRA is going to play a key role there.

STB needs to make sure that the freight railroads are fulfilling their common carrier obligations that are statutory in nature, and they are going to make sure that they can properly regulate this industry.

Mr. GARCÍA OF ILLINOIS. Well, thank you, and I leave it to the chair, because my time has run out.

Mr. JEFFERIES. I think it is convenient I wasn't allowed to be able to respond there, but we will do that in the record. Thanks.

Mr. STANTON. Thank you so much. I will now recognize Congressmember Van Duyne for 5 minutes.

Ms. VAN DUYNE. I am interested, Mr. Jefferies, in your comments. Would you please take 30 seconds to just finish what you were going to start, that you were prevented from saying?

Mr. JEFFERIES. Sure, I would love to. We are a demand-based business. We hire based on the demands we are facing. And I think, as I said earlier this year, we moved more intermodal than we have in any 6-month period in history with the employee base we had. We kept the network fluid. We are investing $25 billion of our own money back into our network every year, the result of the highest graded infrastructure of any infrastructure in this country. We are not seeking bailouts from the Government. We do support integrated infrastructure investment.

And when it comes to safety, in 2020, we had record levels of several of our safety measurements: safest employee injury rate in the history of the industry last year, which exactly is what Greg is talking about, timeline-wise.

So, the facts don't add up with these claims. And so, I think it is important to be able to rebut that. Thank you.

Ms. VAN DUYNE. Thank you very much. I appreciate that.

During the last 11 months I have marveled at the resilience of countless small and medium-sized north Texas businesses, as they have worked through unprecedented and ever-changing problems to stay afloat. The stories I have heard in business roundtables and in tours across north Texas are not only a testament to the rugged spirit of our entrepreneurs, but also infuriating, as I have heard how the policies of our own Government are dragging these good people down. Small businesses across our region are adjusting business models, changing food menus, finding new suppliers, and doing everything they can to battle against the biggest threat to their operations, which is the President in the United States.

Mr. Regan, I appreciate your comments on bashing the entire right side of the aisle on our lack of being able to put through a transportation bill. But I am also shocked that you would grab hold of what we just passed. I guess you are just a big fan of regulations, of supply chain woes. And while you think that the only thing that the supply chain is hurting is Tinkertoys are not being put under the Christmas tree, I would hope that you understand that we are also talking about lifesaving equipment, we are talking about medicine, we are talking about liquid oxygen that is actually providing people with a sustainable life. So, it is not just toys that we are talking about that are lacking in the supply chain, but other really important items.

I have a question for Chris Spear, and thank you, Mr. Spear. I have listened to a lot of your testimony today, and you have been right on, and I want to thank you for your patience in dealing with what we have been doing for hours and hours, even though that was not on the agenda today.

The Port of Los Angeles has been America's busiest port for the last 20 years, and it handles 20 percent of all the incoming cargo for the U.S. The Port of Long Beach is the second busiest container seaport in the U.S., handling an annual estimated trade value of $170 billion. We are witnessing crippling supply chain disruptions at these ports now, but I worry that California's extreme policies related to labor and climate will only exacerbate these problems, moving forward.

So, the California Air Resources Board passed a rule that says all short-haul drayage vehicles in ports and rail yards must be zero emissions by 2035, and all commercial trucks sold in the State must be zero emissions in 2045. Given the cost and limited market availability of zero-emission trucks, as well as the operational challenges related to insufficient charging infrastructure for heavy-duty vehicles, I am concerned that the standards California is setting are unachievable and will cause further damage to the supply chain in our Nation's two business ports.

Mr. Spear, do you share my concerns regarding these extreme policies and future challenges?

Mr. SPEAR. Yes, thank you, Congresswoman, I think that what you are witnessing come out of CARB is a lack of stakeholder input. And it is clear it is not reflected in the .02 standard that they are proposing, the timeline for the electrification. It just cannot be met. It is just not possible to invent that kind of technology in that amount of time, and have it adopted by our members.

Now, both are represented by the ATA, so I have had both perspectives. We have met with Gina McCarthy at the White House. We have had lengthy conversations with EPA Administrator Regan on this issue, to make certain that they understand that this is not being against the environment. We all want clean water, clean air, and we have been a participant in designing phase 1 and 2 of emissions.

But on this third leg, this next phase, if they go with the CARB standard, .02, it is not possible. It is just simply not possible to meet it, and it is going to fail. And if it fails, then everybody looks bad. We can comply with .05, we have made that very clear to them. We can comply with timelines that are more reasonable to invent, adopt, and deploy that kind of equipment, nationally.

But letting California—this is not the United States of California, this is the United States of America. And letting CARB in California dictate the terms and conditions of all manufacturing across this country—because they don't want 2 lines of business, they want 1, and that is why we have it for 50 States, not 1.

So, this is really a reflection on where we are. And putting good regulations that are clear, and can be complied with, we favor that. We are fine, we are not anti-reg. We just want stuff that can be achieved. This is not.

Ms. VAN DUYNE. I thank you, Mr. Spear, I appreciate you giving me that all on the record.

I yield back my time.

Mr. STANTON. Thank you very much. I now recognize Congressmember Auchincloss for 5 minutes.

[Pause.]

Mr. AUCHINCLOSS. Thanks, Chair.

Dr. Correll, my questions are for you, and about the truckdriver crisis, in particular. Your research suggests that the truckdriver crisis is not a headcount shortage, but rather an "endemic undervaluing of our American truckdrivers' time." You discuss the retention problem, as well as staffing policies that "de facto limit drivers to only 6.5 hours daily driving." Can you elaborate on those staffing policies?

Mr. CORRELL. Sure. Thank you for your question. So, one of the things that I look at is what are the factors that contribute to drivers being underutilized, not getting as many hours per day driving as they would like to get. And I see that it has a lot to do with detention. So, how they are—how slowly they are processed at facilities.

The key indicator, I think, of what makes processing go faster or slower is how the facility is staffed. So, when we look at how we can get more hours out of our existing population of drivers, I think it goes back to how are we processing them at the warehouses and distribution centers, and that is a staffing and planning question, in my mind.

Mr. AUCHINCLOSS. And I want to touch also on data collection. You made recommendations for better governmental leadership in data collection. Would it also be helpful for the Federal Government to study staffing policies like the misclassification of drivers and poor treatment and pay that have been highlighted by the unions like the Teamsters that may be exacerbating current supply chain issues and hindering our competitiveness?

Mr. CORRELL. I think so. I think my own experience is—I don't study data related to the legal organization of the truckdrivers in the datasets that I have, so that would be outside of what I previously studied. But I think any time that the Government could help us to organize a formalized study into the actual data of where the problems are, that is really what I am hoping to bring to this committee's conversation.

One of the things that I have noticed is that, as I work with shippers and receivers and truckdrivers and say, "All right, what is going on," it is almost like a Rorschach test, where people repeat back to you either the most recent bad thing that happened to them, or whatever their improvement hobbyhorse happens to be. And the real value of data collection is that we can all have those personal opinions, but we can weigh them against the greater aggregate datasets.

And that is what I was hoping to bring to the community today. And I think, going forward, that is the tool we have to find the solutions that give us the most bang for the buck when you make those investments. So, I do think that would really help.

Mr. AUCHINCLOSS. That reminds me of the aphorism that the plural of anecdote is not data.

Mr. CORRELL. Excellent, excellent.

Mr. AUCHINCLOSS. The final question for you is the Los Angeles Alliance for a New Economy submitted recommendations to the committee for steps Congress can take to address current supply chain and future supply chain chokepoints, and those included supporting the PRO Act, and protections for workers, and encouraging the use of unionized companies, or companies with labor peace agreements to expedite the clearing of backlogged containers. Do you have a point of view on whether these increased protections and investments in the workforce would allow there to be better staffing policies, and resolve some of the issues that you have raised?

Mr. CORRELL. Could you describe the protections, just briefly, that I should comment on?

Mr. AUCHINCLOSS. Those encompassed in the PRO Act, in particular.

Mr. CORRELL. I am afraid I don't have a strong——

Mr. AUCHINCLOSS. Basically, supporting the right to collective bargaining and protections in the workplace for union truckers.

Mr. CORRELL. On that question—I have extolled all the good virtues of data. The bad side is that it is all necessarily historical. So I don't have, you know, going back to pre-1980, those are the comparisons that I think would be most helpful that I don't have.

The notion that I would like to bring to this community, though, is that, when we think about the role of labor unions as giving drivers a voice in how they are managed, and how they are treated, historically those were very strong voices. And over time maybe they have lost some power, at least as I have read the situation. I have seen the rise of data collection as a way to amplify that voice. So, drivers and entrepreneurs in the driver community are creating datasets that measure how they are treated at facilities, and sharing that amongst one another, which is, in its own way, sort of a collective action, if you will.

So, sort of my bottom line take on it is I don't have data to speak to the organized labor force, but I do see, within the driver community, an effort to use data to harmonize their opinions and share them to improve the way they are treated.

Mr. AUCHINCLOSS. Well, Doctor, I appreciate your empirical approach to this question. It is very much in the keeping of MIT's rigor, so thank you.

Mr. CORRELL. Thank you.

Mr. AUCHINCLOSS. And Chair, I yield back my balance of my time.

Mr. STANTON. I now recognize Congressmember Steel for 5 minutes.

Mrs. STEEL. Thank you, Mr. Chair, and thank you, all the witnesses coming out today.

We have a crisis happening at our ports. Hundreds of thousands of shipping containers are sitting off the coast of California. These containers are full of essential goods like medical supplies, auto parts, and other basic, everyday necessities. Congress cannot double down on failing economic policies that make life for American businesses and workers harder and more expensive.

Additionally, this supply chain crisis has wreaked havoc on our environment. Myself, Congressman LaMalfa, and other Members of the California delegation will be sending a letter to Governor Newsom today, asking to declare a state of emergency at our ports and across the goods transportation and storage distribution chain. I would like to submit it for the record. It is a letter here, Mr. Chairman, so I am going to submit this today.

[The information follows:]

Letter of November 17, 2021, to Hon. Gavin Newsom, Governor, State of California, from Hon. Michelle Steel et al., Submitted for the Record by Hon. Michelle Steel

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
WASHINGTON, DC 20515–0548,
November 17, 2021.

The Honorable GAVIN NEWSOM,
Governor,
State of California, 1303 10th Street, Suite 1173, Sacramento, CA 95814.

DEAR GOVERNOR NEWSOM:

Right now, hundreds of thousands of shipping containers are sitting off the coast of California. These containers are full of essential goods like medical supplies, auto parts, and other basic everyday necessities. A record number of cargo ships—more than 100—are still idling and anchored off the coast every day. The President's recent call for 24/7 operations at our ports to get these ships and cargo moving is a step in the right direction, but we are still faced with a massive crisis, with no sign of slowing.

As Members of Congress, representing millions of Californians, we urge you to declare a State of Emergency at our ports and across the goods transportation and storage distribution chain. The Ports of Long Beach and Los Angeles are responsible for more than 40% of container imports in the United States, and 30% of exports. With record-high inflation affecting every single American, the continued backlog of goods, expected to last into 2022, is driving economic concerns and high prices.

This backlog of ships is also creating an environmental hazard. Normal operations are responsible for more than 100 tons per day of smog and particulate-forming nitrogen oxides. But current operations are seeing five times the number of ships that are anchored and idling off the coast, vastly increasing pollution. We have a crisis on our hands the longer these ships idle off our shores.

Unfortunately, California's own burdensome laws and regulations that restrict goods from moving to consumers, have contributed to this crisis. Your immediate action to suspend or eliminate the rules and regulations stopping goods from moving from our ports is critical to the safety and security of our economy and our state.

Assembly Bill 5 (AB5) restricts the ability of Californians to work as independent contractors. This law creates a chilling effect for many of the supply chain industries and makes it more difficult for independently contracted drivers to operate, leading many to leave California. According to the Port of Long Beach, most truck chassis now come from Tennessee because of the favorable tax treatment they are given over those registered in California. Without enough truckers to come and unload, this cargo will continue to sit on these ships, just waiting to be delivered. It is time to end AB5 and allow for independent contractors to work freely within California.

It is imperative to suspend the new and overburdensome Warehouse Indirect Source rule recently promulgated by the South Coast Air Quality Management (SCAQMD). This rule, and particularly the Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program, places massive costs on local warehouses in potential mitigation fees and restricts the number of truck trips to and from warehouse facilities. Facilities that fail to meet these trucking requirements must pay "mitigation fees" that SCAQMD estimates show could cost Southern California Warehouse Operators up to $1 billion per year. Restricting the number of trucks traveling to and from warehouses, and increasing the cost of doing so, only makes supply chain delays worse. It is time to waive these rules to help get essential and lifesaving supplies to those who need it.

California Environmental Quality Act compliance and complex land use permitting rules are key contributors to the state's shortage of adequate warehouse and storage facilities. We urge you to expedite CEQA review and permitting processes for warehouses, storage facilities and other supply chain facilities essential for goods distribution.

Americans rely on the efficient movement of goods through California's ports to feed and clothe their families. And American producers rely on that same goods movement to ship their products to consumers around the world. It is critical that supply chain restrictions created by the State of California be removed to resolve this crisis.

Sincerely,

MICHELLE STEEL,
Member of Congress.
DOUG LAMALFA,
Member of Congress.
DAVID G. VALADAO,
Member of Congress.
KEN CALVERT,
Member of Congress.
JAY OBERNOLTE,
Member of Congress.
DEVIN NUNES,
Member of Congress.
TOM MCCLINTOCK,
Member of Congress.
DARRELL ISSA,
Member of Congress.

Mrs. STEEL. So, my question is, Mr. Cordero, that I just recently toured the port with Darin Wright and other members of your team, and I learned a lot. According to your testimony, 24/7 operations will help to mitigate the current surge. But I heard at the port it was only two shifts that they were working. When are they are going to start working for three shifts for 24/7? That is what President Biden asked for, and it seems like the port is still not doing it. So that is just really a simple question. When, Mr. Cordero?

[No response.]

Mrs. STEEL. I guess I don't see him here.

Mr. STANTON. Mr. Cordero, is he still on?

[Pause.]

VOICE. No, he is gone.

Mr. STANTON. I am sorry, Congressmember Steel, he had to leave. So, I apologize. So, we will ask him to submit answers for the record, in written answers.

Mrs. STEEL. So yes, I am going to just ask that—these are the questions that—I am going to do written ones, but if warehouse facilities are at capacity, how can drivers make deliveries?

Do you think it was smart for cities to impose a moratorium on new warehouses and truck facilities?

I need these answers from him later, so I am going to submit this.

And then, Ms. Reinke, you mentioned, specifically, the regulations from my home State of California promulgated through the California Air Resources Board. What, at the Federal level, can we do to rein in these regulations?

Ms. REINKE. Well, as you know, California has a waiver, and so they can act without—sort of under their own authority. Certainly, the Federal Government could remove that waiver. That is one option.

But another, I think, really, is to try to right-size regulations. And we want to work with the California Air Resources Board to understand—we understand being aspirational, but we also want to be pragmatic and practical. If this renders capacity scarce, or if it removes business opportunities from our members and they want to leave California, that doesn't actually help the State, either.

So, if we can have a discussion with the State folks, and there is an understanding and a mutual appreciation of that, I think that will go a long way.

Mrs. STEEL. OK, I appreciate that.

And then my third question is, Mr. Spear, you mentioned that there is currently a provision in the PRO Act that would effectively bar the trucking industry from utilizing the independent contractor business model. Can you expand how a similar provision in California affected this vital industry? Because we have AB5 passed, and it has been implemented since 2019.

Mr. SPEAR. Yes, absolutely, Congresswoman. It is essentially the same. It is codifying that, which is the same issue, AB5, that is now being considered by the Supreme Court, which just recently asked the Solicitor General to comment, which is a good indicator that they are looking at taking it up. So, I firmly believe that is the place to have this decided, and we need to make certain that these laws take into account all occupations, and the freedom of choice. And independent contractors would be robbed that right, if this were to proceed under AB5 or the PRO Act.

So, we want to preserve that. They choose that occupation for a number of reasons. Let's let them have that right. If they want to join a union, that is their decision, too. Maintaining that balance is very, very important. That is what I am referring to that has been preserved for multiple decades, since the 1935 National Labor Relations Act. So, I firmly believe that is the way it should be, and we shouldn't mess with it.

Mrs. STEEL. Thank you very much.

I yield back, Mr. Chairman.

Mr. STANTON. Thank you. I now recognize Congressmember Bourdeaux for 5 minutes.

Ms. BOURDEAUX. Thank you, Mr. Chairman, for holding this hearing today.

We have all seen, firsthand, the negative implications of the ongoing supply chain challenges on public trust and on the economy. It is clear from today's testimony that more work needs to be done to ensure that, in the long term, we have a supply chain that is resilient, and can be flexible to global incidents.

In October I introduced the bipartisan Supply CHAIN Act, H.R. 5479, with Representatives Kinzinger and Robin Kelly, which would establish an Office of Supply Chain Resiliency and Crisis Response within the Department of Commerce to monitor supply chains of critical goods and materials, and plan for and respond to supply chain distributions.

It is clear from everyone's testimony today that it is going to take all of us to fix our supply chain and make it resilient over the long term. My bill would encourage partnerships and collaboration between the Federal Government, industry, labor organizations, and State and local governments.

My question is for Mr. Regan.

Can you speak to the importance of a coordinated response to the supply chain challenges?

Why is it important for labor organizations to be included in these conversations?

And how could the Federal Government, using an office like this, help build better coordination across the different actors who are involved in supply chain decisions?

Mr. REGAN. Thank you for that question. I think it is vitally important that we have a comprehensive approach to all this, that takes in all the various industries and factions or factors of our supply chain. And I think you see many of the people testifying today would argue the exact same thing. I mean, we need to be coordinating here across trucking, rail, maritime ports, warehouses to make sure that we are that we are addressing this problem systematically, and not just piecemeal.

And I think labor is an important voice in all that, and it is something I said in my testimony, where our members are the ones on the ground. They see, in realtime, where the chokepoints are, where the backlogs are, where the processes that aren't quite working are contributing to the problems—are really playing a huge role. So, I think it needs to be a comprehensive conversation with business and labor. And together, I do believe we can find some very meaningful changes to this, to solve this problem for the long term.

Ms. BOURDEAUX. Thank you so much. I yield back.

Mr. STANTON. Thank you very much. I now recognize Congressmember Fitzpatrick for 5 minutes.

Mr. FITZPATRICK. Thank you, Mr. Chairman. My question is for Mr. Regan.

Mr. Regan, thank you for being here with us today. Incentives are a powerful force in attracting people to jobs, and we need men and women working now, more than ever. Mr. Regan, do you think that better incentives in freight rail and trucking jobs would help to solve the supply chain crisis?

And if so, what kind of incentives do you find to be most effective?

Mr. REGAN. Yes, and thank you so much for the question, Congressman.

Certainly. I think one of the reasons we are seeing people leave the workforce or not being attracted to these industries is because the compensation is just not there for what is, admittedly, very difficult and very hard work. So, I think job stability, better safety protections on the workplace, higher wages and benefits, all of these are important parts of making sure that we build and retain a skilled workforce in these industries.

Mr. FITZPATRICK. Thank you, sir.

Secondly, there has been a lot of talk about the PRO Act today. Obviously, as you are aware, sir, I am a proud original cosponsor of it. Mr. Regan, do you think there would be more employment stability in many supply chain jobs if the PRO Act became law?

And if so, how could that stability help to end the current supply chain crisis?

Mr. REGAN. Yes. And again, thank you for your cosponsorship and your leadership on this issue. It has always been refreshing to hear you talk about this one.

One of the things that the PRO Act does is—I think what is really important—is properly classify the relationship between employers and employees. Part of that important relationship means that you have an opportunity to obtain things like retirement benefits, healthcare, better salaries, the right to collectively bargain, not necessarily forcing someone to join a union, but giving them a greater opportunity to join a union, if they choose to do so.

When you do that—and we have seen this across many industries—wages for all people, whether union or nonunion, they go up whenever we are able to see improvements in the employment standards. You see that on the aviation side, frankly, where we have a very, very high union density, and still very highly profitable private airlines, where the standards across the board are increased because of the high union density we have there. And that is the reason why you see increasing numbers of people choosing to join unions in that industry.

I would argue that labor is not an enemy. We don't want to drive away business. In fact, we want to work with our employers to create stronger businesses, and grow our economy, and create more jobs. And we can do that, especially when we are able to have a seat at the table, and we are not just operating on unfair labor standards or labor practices, which have been in existence for years now.

Mr. FITZPATRICK. Thank you, Mr. Regan.

Mr. Chairman, I yield back.

Mr. STANTON. Thank you very much. I now recognize Congressmember Wilson for 5 minutes.

Ms. WILSON OF FLORIDA. Thank you, Chairman DeFazio, for today's hearing. I am so proud to be one of the five Democratic cosponsors of the historic Infrastructure Investment and Jobs Act, and I am just so proud to do that.

Mr. Regan, how will this infrastructure investment in IIJA, like the $2.2 billion provided for the Port Infrastructure Development Program, be critical in preventing supply chain problems in the future?

As chair of the Florida Ports Caucus, I am proud of this accomplishment.

Mr. REGAN. Thank you, Congresswoman. And yes, thank you for your leadership on this issue.

As I have mentioned earlier, multimodal connectivity has been a sustained problem, and one of the reasons why we—that it—we have contributed to congestion and delay in our freight systems.

Sixty-seven percent of ports say that funding is the single largest obstacle to constructing essential freight rail connectors at the ports, and nearly half of all U.S. ports say that better rail access would increase the throughput capacity by 25 percent. This investment, the direct investment through this $2.2 billion, would help address that issue, give more ports access to the type of facilities they need to be more responsive to the increase in freight, and be better able to move the freight off the ports and into the rest of the country. So, thank you very much.

Ms. WILSON OF FLORIDA. Thank you.

Ms. Reinke, I know the supply chain workforce has significantly decreased in recent years. Do you have any recommendations on ways to increase the workforce?

Ms. REINKE. Congresswoman, thank you for the question. Yes, we have had trouble, as all of our industries have, necessarily, of attracting people into the workforce.

One of the things that we are looking at is, are there programs at universities that can, like MIT's, make logistics and transportation jobs more understandable to new recruits, people who are just coming out of school? We would love to attract them. That is a number-one issue for our members, is recruiting people into the workforce for really high-quality, great jobs.

Ms. WILSON OF FLORIDA. Thank you.

Mr. Jefferies, with the IIJA now enacted, how will the significant investment in our Nation's railroads help the industry tackle the current supply chain challenges?

Mr. JEFFERIES. Well, thank you for that, Congresswoman.

I think it is important to remind everybody again that, by and large, freight rail is privately financed, privately invested. But you are absolutely right, that we need a fully invested, integrated supply chain.

And so, my colleague, Mr. Regan, mentioned those intermodal connectors at ports. We think those are huge opportunities for investment, huge opportunities to get more goods moving by rail out of the ports. And, quite frankly, the supply chain and the integrated infrastructure network won't work unless we are fully investing across both the private and the public side of it.

So, we support the legislation. We think there is a lot of great opportunities to put dollars to work and make real progress here.

Ms. WILSON OF FLORIDA. Thank you so much.

Mr. Spear, how will the IIJA's investment in the highway system and workforce development, which was just signed by President Biden, help the trucking industry fix these issues?

Mr. SPEAR. Well, that is huge, Congresswoman, absolutely huge. We are talking a 38-percent increase each year in road and bridge funding. That is historic. It has never happened before, so that is very profound. It is something we have waited for a long time to get. That is our shop floor. That is where we get the job done all across the country and in every congressional district, including yours. So, we are thrilled about that.

And it is also going to allow States to plan. So, no more of this patch every year. They can now plan big-ticket projects 1, 2, 3, 4 years out, with the certainty that they are going to get the money. So, you are going to see major bottlenecks and congestion in your State go down, and a lot more movement of freight and getting customers and—food and so on, on the shelves much quicker. So, these are all good things.

And I go along with what Ian and Greg said about those intermodal connectors at the ports. Those are a big deal, 70 percent of those in the country are local and State jurisdiction. The money has got to get down there. Because if you look at the heat maps on where the congestion is, it is in those corridors. So, this is really going to go a long way, through the IIJA, to get that money where it is needed most, and alleviate that congestion.

Ms. WILSON OF FLORIDA. Thank you so much.

Mr. Cordero, how can we ensure that the workers are properly supported, so this framework can have a strong foundation to succeed?

And what role can the Federal Government play?

[No response.]

Ms. WILSON OF FLORIDA. Mr. Cordero?

Mr. GARAMENDI [presiding]. Mr. Cordero, you are up.

VOICE. He had to leave.

Mr. GARAMENDI. Mr. Cordero has left, and your time has expired. But it was a very good question.

[Laughter.]

Mr. GARAMENDI. I now recognize Mr. Stanton—excuse me, Mr. Mast for 5 minutes.

Mr. MAST. That is OK.

Mr. GARAMENDI. It is your turn.

Mr. MAST. I understand. I also had a question for Mr. Cordero, the port director for Long Beach, which allows for about 40 percent of those containers to come into our country.

He is not here, so I guess I would rather make a little bit of a statement on that, because I can't ask him a question. And it would simply be an advice that those shippers overseas, given the difficulty that it can be to manifest ships once they have left their point of origin with CBP and other agencies, that they highly consider moving some of those vessels towards Florida.

Florida, as of today, has capacity for about 4 million containers right now, can move ships that contain up to 14,000 TEUs. And I want to say I believe it is real-time information that the Port of Long Beach has a backlog of about 111 containerships as of today. So, I would make that recommendation for those looking to depart Asia, to consider moving to the ports of Florida: Miami, Port Everglades, Tampa, Jacksonville, Palm Beach, the ports there.

[To Mr. Garamendi:] You consider that a shameless plug, don't you?

My colleague next to me is laughing about this.

I think it is important to consider that, when you look at that backlog of what is going on there. But because Mr. Cordero isn't here, I will just touch on a couple of other things, because they are likely coming to a head this Friday, with what is known—or what is labeled as—Build Back Better. And I would ask a couple of open-ended questions to the remainder of our panelists.

Do any of our panelists see 80,000 IRS workers as a part of improving or fixing our broken supply chain?

[No response.]

Mr. MAST. Or maybe I could ask it another way. Do any of you panelists believe that those 80,000 additional IRS workers are going to be there to help expedite refunds to individuals and businesses and others, or are they there to help collect?

Mr. REGAN. Congressman, I can't speak to what the IRS employees will be doing, but I do know that there is $5 billion in there directly that will be spent on addressing the supply chain issue, and that is not going to be going through the IRS, that is going to be going through appropriate port funding channels.

Mr. MAST. Thank you for speaking up, Mr. Regan. Of that $5 billion, would you say that the $200 million going to Speaker Pelosi's Presidio Park would be part of that $5 billion that you are adding up, or is that something different?

Mr. REGAN. I am restricting my comments to the money that will address the supply chain, which is, again, the subject of this hearing.

Mr. MAST. So, it would be fair to say those $200 million in that program would not be addressing the supply chain. That would be a fair thing to say, Mr. Regan, in your opinion?

Mr. REGAN. I am not going to comment on any of the other aspects of the bill. I will say that there is $5 billion in there to address supply chain problems at our ports.

Mr. MAST. This $200 million for the park, does that help the supply chain?

Mr. REGAN. Again, I am not going to comment on the $200 million on the park.

Mr. MAST. This is the kind of stuff that pisses people off around the United States of America. They know perfectly well that $200 million to Pelosi's park doesn't do a thing to help build back better, or help America's supply chain, or Thanksgiving, or Christmas, or any business or corporation, or anybody that wants to get a good or anything else from A to B. And you are sitting here, pretending as though you don't have an answer to it. You really just don't want to answer the question. People are not ignorant to that fact. But——

Mr. REGAN. Sir, with all due respect, that is a large bill, and we support the bill. There is also really significant money for transit in that bill, and transit training operations, which we support.

As you know, there are a lot of priorities, including environmental issues. There is a lot of issues in there for different aspects of our economy that, frankly, many of the people in the majority believe we need to address. So, all of those are not going to address supply chain. Your question was about whether that specific one would address supply chain. No, and neither would the transit money.

But right now, the subject of this hearing is supply chain, and there is $5 billion that will go through the Department of Commerce specifically to address a supply chain crisis.

Mr. MAST. I appreciate you addressing my question directly. It took a couple of minutes, but I appreciate you doing it, nonetheless. In that I will note this: I did not hear in anybody's testimony—I only have a few seconds remaining—I did not note in anybody's testimony anybody quoting Transportation Secretary Pete Buttigieg saying that the reason that we have these supply chain issues is because the President has successfully guided the economy out of the teeth of a terrifying recession. I didn't hear that in anybody's testimony.

And in that my time is expired, and I thank you, Mr. Chairman.

Mr. GARAMENDI. Thank you, Mr. Mast.

Mr. Stanton, you have 5 minutes.

Mr. STANTON. Thank you very much, Mr. Chair. Until the COVID pandemic, most people gave little thought to the various levels of the supply chain that got the goods they needed and wanted delivered to their homes or near a store.

Today the supply chains, the bottlenecks, the increased prices, are the topics of many conversations in Arizona and throughout the country. Everyone—shippers, transporters, workers, businesses, and consumers—is feeling the impacts caused by a disruption unlike anything we have seen in recent times. Cargo ships docked off the coast of California, a traffic jam waiting for the chance to unload, has become a common sight, along with ports packed with containers. Each level of supply chain has been affected.

Those businesses fortunate enough to receive the goods they have ordered, they have had no choice but to adjust accordingly to account for the delays in shipping and associated storage costs that have increased dramatically. Bottom-line: consumers are feeling the impacts of prices straining already tight budgets many families are facing.

There is not just one cause of this disruption, it is a perfect storm, a global pandemic that shut down factories that produced goods for the U.S. market, a further reduction in the number of seagoing routes and vessels to deliver cargo, and a surge in consumer spending on durable goods that caused a spike in shipping demand, among other causes, as well.

The short-term challenge is untangling the stranglehold this disruption currently has on the supply chain. But at the same time, we can't take our focus off of long-term solutions to secure the supply chain and ensure its resiliency, going forward.

I did have a series of questions for Mr. Cordero. Unfortunately, he was not able to stay for the hearing. I will ask that those questions be answered in writing for the record.

But I will ask a question for Mr. Regan. I know he has answered similar questions previously, but please take the time to answer it again.

What steps do you believe industry should be taking to provide better resiliency in the supply chain?

Mr. REGAN. Thank you for the question. Frankly, I think investing in the workforce is going to be a critical part of that. We need to expand capacity, and that means making sure that we have the personnel to be able to do that, as well. I think that is true in every aspect of the supply chain.

Also, building out in their physical infrastructure. And I know the Government is going to make a very large investment to help with some of that. But making sure that we have the equipment that we need so that we can expand the workforce and do it safely is going to be really important here.

Mr. STANTON. Thank you. And I have a little bit of additional time, so I will open up that same question to any of the other members of the panel. What steps should industry be taking to provide better resiliency in the supply chain?

Mr. SPEAR. Well, I think, Congressman, the collaboration we have been alluding to throughout this hearing is very important amongst the modes. And you have seen this transformation over the last 10, 15 years, where we do collaborate more.

Ian and I have been going back and forth, in terms of the relationship between trucking and rail. It has grown stronger, as a result of the integration of the supply chain, and we are one of rail's biggest customers now. We are a partner.

We also really need a lot more transparency across all modes. And I think, as we referred in the previous commentary about digital transformation, that will really be key, in terms of better visibility on where the chokepoints are, better coordination, better throughput. Even if we don't have the workforce that we need, increasing turns, for instance, is going to elevate an increased capacity, and you don't need more drivers to do that.

So, these efficiencies really are measurable, and they will also help alleviate the driver shortage. So, these are all things that I think are key amongst that collaboration.

Mr. STANTON. Thank you, Mr. Spear. Any of the other witnesses want to give advice on that question?

Mr. JEFFERIES. Yes, I——

Mr. STANTON. What can we be doing to better provide resiliency, please?

Mr. JEFFERIES. I think just sustained investment is key. We didn't get here overnight. And in order to work out long-term solutions—freight demand is only going to continue to grow in this country. I know we are seeing unprecedented demand right now on the international space, in particular, but freight demand is going to continue to grow.

Between maximizing the use of the infrastructure we have with sustained investments, utilizing technology to make that use more efficient, increasing safety; obviously, dedication to having well-skilled, well-trained employee bases in our respective sectors—it is an all-of-the-above strategy that requires a lot of coordination. And absolutely, visibility and information sharing across the supply chain is the link to keep all this together.

Ms. REINKE. Congressman, if I could, I will just go back to——

Mr. STANTON. Please.

Ms. REINKE [continuing]. The three I's that I said at the beginning of my testimony, which is investment, innovation, and interaction amongst all the modes and stakeholders in the supply chain.

I think all of us are doubling our efforts to invest as much as we can, to innovate as much as we can, and you can see how well I think we are collaborating across on this panel.

Mr. STANTON. Thank you for those outstanding answers. I will yield back.

Mr. GARAMENDI. Thank you, Mr. Stanton.

Mr. Graves, you are up next. You have 5 minutes.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

First of all, I want to thank all of you for your endurance today. I know this hearing is going on very long, and I also know that you all have covered a lot of topics. I have had to jump in and out today, so I hope that you haven't covered these questions. But I am curious. All of the attention has been on the backlog at the ports on the west coast. Mr. Correll earlier in his testimony was talking about digitizing, or sort of bringing technology to the transportation industry.

Ms. Reinke, I am curious. Why is it—or are there opportunities to bring other ports into the fold to help relieve some of the congestion that we are seeing on the west coast?

Ms. REINKE. Yes, thank you, Congressman Graves, I appreciate that question.

Sure. I think there are a lot of competitive ports all across the east and west coast, and Congressman Mast just touted a few in the State of Florida a few minutes ago, yes.

But if it is coming from Asia, typically it would just add on costs to have it go further than California. So, it is not that it is not an option. In fact, many beneficial cargo owners and many of the retailers that we have talked about are already doing that, just to get out of the congestion of the west coast ports. But it just tacks on a little bit more expense, which ends up getting passed on to the consumer.

Mr. GRAVES OF LOUISIANA. Sure. But there is, obviously, expense with the backlog, as well.

And I appreciate Mr. Mast bringing it up. Florida does have a couple of cute little ports, but we have 5 of the top 15 ports in America, which I think is important to bring up.

And while we are talking to you, I do want to apologize about Mr. Davis earlier in the hearing. I know that he was talking about something over your shoulder, and because it looked like he was really struggling with substantive questions, I was trying to give him some ideas, but he didn't take the call.

But let me jump back in. So, could you talk a little bit again—I know that some of you all covered this earlier—about some of the issues about the chassis and the containers, and just kind of the adaptability of those, how that is further complicating the supply chain issues that we are experiencing?

And also, I have heard folks bring up this dwell issue, as well, where containers are sitting out kind of longer before they are cycling back into the system.

Mr. JEFFERIES. Is that for anybody?

Mr. GRAVES OF LOUISIANA. Yes, sure, yes.

Mr. JEFFERIES. All right. Well, Congressman, that—I mean, you are hitting the nail on the head. And my gosh, that is probably an hour-long answer from all of us. We will try to condense into about 30 seconds. But——

Mr. GRAVES OF LOUISIANA. Now, of course, you are talking about Rodney Davis being——

Mr. JEFFERIES. Yes, right.

Mr. GRAVES OF LOUISIANA. OK, just wanted to——

Mr. JEFFERIES. No, that is more of a—you know, it would take longer than that.

What happens—and I will just speak from the rail experience, and what we were seeing August timeframe in some of the large, intermodal yards in the central part of the country—is you had volumes coming in from the west coast at a rate that were exceeding the ability of containers to be taken out of the yards.

In other words, you are only able to get so much out of the yard, and that what is coming in is overwhelming that. And at one time, 1 railroad had over 20 trains of intermodal parked outside of the Chicago terminal.

Mr. GRAVES OF LOUISIANA. Wow.

Mr. JEFFERIES. And that is an equipment issue, because it is a misplaced equipment issue. One, those are containers that are just sitting there. Two, those are locomotives that are stranded assets that should be going back, taking empty containers back to the west coast, picking up more goods, bringing it back. And that just starts to back up the entire system.

On the chassis side, if you go to Chicagoland right now around all the yards, every single warehouse has a for-hire sign. But also, you see containers sitting on chassis in the parking lots because the warehouses are full. And so, again, those are chassis that aren't getting their turns in and coming back for more pickups. They are sitting there, not being used. And so that has a very quick reverberating effect throughout the entire supply chain.

And I am sure Chris could tell you the same type of situation. It affects all of us.

Mr. GRAVES OF LOUISIANA. Yes, actually, Mr. Spear, I would love to jump in—maybe a little bit different question for you. I saw where the Ports of L.A. and Long Beach announced a fee to be charged to ocean carriers for containers that dwell on property for more than—I think it is 9 days for ocean, and maybe 6 for rail, something like that. Can you talk a little bit about how that may influence what we are seeing in supply chain challenges right now?

Mr. SPEAR. Well, it is just not going to influence it, because it is not going to make it any more efficient. Penalizing people, when we know what the problem is—and Ian just perfectly outlined it—it is turn time. It is getting more space, the ability to stack more.

They were limiting it to two in California. They had to lift that local ordinance, so you could double the stack, just because we didn't have enough yard space to put all the empties and the full containers.

So, we need more room, moving more inland. And positioning in open space next to rail, next to us, where we can have more capability to move the containers is really critical. And you can do a lot of that with efficiency, and it will help address and alleviate the driver shortage, because if you can improve turn times, you are moving more throughput. And that is, obviously, a tremendous benefit, very measurable.

So, getting those inefficiencies out of that chokepoint are absolutely essential. I think we are all pretty well aligned on that.

Mr. GRAVES OF LOUISIANA. And thank——

Mr. GARAMENDI. Mr. Spear, thank you very much.

Mr. GRAVES OF LOUISIANA. Thanks again, all of you——

Mr. GARAMENDI. Your time has expired, Mr. Graves. Thank you.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

Mr. GARAMENDI. I recognize Mr. Garamendi for his 5 minutes.

There is going to be a lot of discussion about this problem. We have already spent several hours at it, and I am not sure we have come to a solution, because it is a multifaceted problem. It extends all across the Nation. It also extends from the fact that we, basically, were all at a stop sign for a year or so. Suddenly, the light turned green, and everybody hit the accelerator, and we are now all jammed up at the next stoplight.

So, what can we do? There are some things that can be done to address the known problems. Certainly, the transportation bill that we have already discussed in this committee and was signed by the President a couple of days ago—that bill will, undoubtedly, provide solutions for the future, but not immediate.

There are some things that we can do to deal with the underlying problems that we have, a tremendous imbalance in trade. And one of the things is to better utilize a Government agency that, basically, has been without the power to address some of the problems, but not all of them, and that would be the Federal Maritime Commission. It has been around for a long time. Its purpose in law, as established over many decades, is to make sure that there is a fair balance of power within the shippers from the United States and the importers into the United States, and that the ocean shipping companies, carriers, are involved in a way that is fair.

However, unfortunately, the Federal Maritime Commission does not have the power to really enforce. It can do some studies, but it can't enforce, and can't deal with the problem of demurrage charges, which I was told by an importer of Christmas trees and wreaths and the like, $4 million a day because his containers containing those Christmas goods are at the bottom of the stack of the four-high containers, and he is being charged, in his view—and I would say in my view—unfairly.

Nor from the exporters of rice, prunes, almonds, wine from California, who cannot get an empty container because the empty containers are—when they are available, are immediately put back on the ocean carriers' ships, so that they can go back to the Western Pacific—China, principally—and receive perhaps several times—maybe 10 times more fee than if that ship, if that container were available for the California exporters.

To deal with this, Congressman Dusty Johnson of South Dakota and I have introduced a bill called the Ocean Shipping Reform Act, H.R. 4996. It deals with this by providing a mechanism in which the Federal Maritime Commission can operate to create a fair playing field.

Importing into the United States is not a right, but it is an opportunity, and it has to be an opportunity that is fair both to the importers and the exporters, and one in which the ocean carriers are acting responsibly.

So, the Ocean Shipping Reform Act—and this is a question for Ms. Reinke—and I thank the Transportation Intermediaries Association for their endorsement of this legislation, this bipartisan legislation, which we think will soon be bicameral. The bill does empower the Federal Maritime Commission to set rules for marketplace competition and fairness, to ensure that trade with countries in Asia and the Pacific region is reciprocal, and that foreign-flagged ocean carriers provide reasonable opportunities for American exporters willing to pay for a privilege.

Ms. Reinke, we thank you for your support of the bill. And if you would care to comment on it, I would appreciate it.

Ms. REINKE. Well, thank you, Congressman. Your staff and the staff of Congressman Johnson did such a tremendous job explaining the legislation and having our members understand it. It was so compelling, we sort of endorsed it there, on the spot. So, we appreciate that.

The fact is these shipping laws haven't been modernized in 20 years. You are looking to establish a fair playing field. That is really, I think, all anyone would ask. We appreciate your attention to that issue and, hopefully, that can really unlock some of the congestion and some of the problems that we are seeing in the ports. So, we appreciate it.

Mr. GARAMENDI. Thank you very much for your response. We hope to move this bill expeditiously before the Christmas holidays. It may not solve the problem, but it will certainly be a wakeup call, or a slap across the bow of the ocean carriers and those that are operating in an unfair way, that the reform is coming.

With that I yield back my remaining time and turn to Mr. Johnson.

Mr. JOHNSON OF SOUTH DAKOTA. Well, Mr. Chairman, I would start by associating myself with your comments on the Ocean Shipping Reform Act. I am proud to lead it with you. Your leadership has been critically important. We built a lot of momentum, 200 national groups have endorsed this piece of legislation, dozens of our colleagues on both sides of the aisle have signed on as cosponsors. And I, like you, share your optimism for building progress toward this, even before the end of the year, and continuing to move this forward. So, well said, Mr. Garamendi.

And then, Mr. Chair, secondly, I would like to ask unanimous consent to insert a statement from the Shippers Coalition into the record. I believe your staff already has a copy, sir.

Mr. GARAMENDI. Without objection, so ordered.

[The information follows:]

Statement of the Shippers Coalition, Submitted for the Record by Hon. Dusty Johnson of South Dakota

The pervasiveness of our supply chain issues has been widely reported and impacts all links in the chain between producers and end customers. One critical segment of the supply chain that must be addressed is the shipment of goods over the road via trucking. As the supply chain challenges continue to persist, one solution that could immediately allow goods to be moved quicker in a safe and environmentally friendly manner is increasing the gross vehicle weight limit (GVW) on Federal Interstates.

Currently, many shippers reaching the current 80,000-pound weight limit before the truck is full and are forced to send trucks out that are only three fourths of the way full, requiring companies to send more trucks out than what otherwise is necessary to meet the current demand. This situation adds to roadway congestion, contributes to slowdowns in the supply chain, and leads to an unnecessary increase in carbon emissions.

Companies across the United States have already proven that they can implement this safely. A provision of the CARES Act allowed states to issue permits allowing trucks to operate above federal weight limits on Interstates during the COVID–19 crisis to provide much-needed supplies to families and communities. While this waiver authority was only available for 120 days, companies across the US were able to take advantage of this provision and found an increase in efficiency and a reduction in carbon dioxide emissions with no increased safety risk when they were able to fill trucks to a higher capacity.

Underscoring all of this is safety. The companies who took advantaged of the waiver authority had no additional safety concerns or additional reportable accidents as a result of the additional payload. One company that was able to take advantage of this waiver was able to put an additional 4,500 pounds on each truckload, which equated to a reduction in total truckloads in one state by 10%. This company was able to deliver an additional 1.8 million bottles in the same number of shipments and reduce their greenhouse gas emissions by 68,000 pounds. A second company was able to increase its vehicle capacity by an average of 2,786 pounds per shipment. This reduced shipments by 600, the miles traveled by 51,472 miles, and CO2 emissions by 165,000 pounds, just because of the increased capacity of the vehicles. A third company saved 2.78 metric tons of carbon dioxide equivalent (MTCO2e) or 6,121 pounds of carbon dioxide, reduced the need for 54.6 trucks to move the same amount of material, saved 272 gallons of diesel, and saved 1,576 miles of driving. A fourth company conducted outreach to a group of its small- and medium-sized (SME) carriers and found that none reported an increase in reportable accidents, and one carrier reported that approximately 23 percent of their loads were over 80,000-pounds. If the GVW limit was increased to 91,000-pounds on six axles, we would see these benefits across the industry and the easing of some of the current constraints on the supply chain.

Congress should enact a common-sense pilot program that would modestly increase GVW limits on Federal Interstates to 91,000-pounds on six axles.

Mr. JOHNSON OF SOUTH DAKOTA. Very good. And then, finally, I have got a question for Mr. Spear.

Mr. Spear, I appreciated your mention of the DRIVE Safe Act pilot program, which, as has been mentioned a number of times today, would allow safe drivers under 21 who are accustomed to driving intrastate to also drive interstate, across State lines. And as you note, 49 States already allow these drivers to go out and help our economy run, driving. And if you can drive all over South Dakota, why can't you drive from South Dakota over the State line into Iowa?

I am not sure that has ever made sense to me, and that is why I led 80 of my colleagues in urging the administration to implement this program. And of course, as you know, sir, I appreciate ATA's support of our efforts.

Beyond that, of course, I am committed to pursuing any avenue to try to make our system run more efficiently, and to make better use of these great driving resources, these great trucking resources. And that is why I was quite surprised and more than a little concerned to read of some of the purported inefficiencies detailed in Mr. Correll's testimony. And so, Mr. Spear, I just wanted to give you an opportunity to add your analysis and your thoughts related to that MIT study and report.

Mr. SPEAR. I appreciate that, Congressman. And just at the outset, I want to echo and support—ATA supports the bill that you and Congressman Garamendi have introduced on ocean shipping reform. It is an outstanding piece of legislation, so I commend you both for your leadership on that, and on the DRIVE Safe Act.

And to your question, I have looked at that study and, quite candidly, there is a difference between academia and reality, and I am not bashing academia, and certainly not going to bash Dr. Correll or MIT. It is an outstanding school.

But my world is in the reality, and the people that I deal with are real, hard-working people, and they choose different lines of work within our industry, which is extraordinarily diverse. We are talking 1 in 18 jobs in the U.S. is trucking-related, and the top job in 29 States is a truckdriver. So, this is a powerhouse, in terms of moving freight. We move, in trucks, 72.5 percent of the domestic freight in this country, so no small task.

So, when we talk about underutilization, I don't honestly know what the heck that means, because there are over 6 million people in this country that have a CDL. That doesn't mean they are an active driver. They could be retired. They could be part-time—you know, my safety policy vice president has a CDL. He doesn't drive, but he is counted in that number.

So, you really have to dig deep, and diversify the various segments within our industry to understand what is working, what is not, why they come back into the workforce, why they leave, the type of segment that they want to drive for, whether it be long haul or short haul where they are home at night every night with their families.

So, this is a very diverse question that is not easily answered, and you really have to spend some time, Congressman, with real people, like in your district, to understand the ins and outs, and why they make the choices they do. So, I just really struggle to see how that could be captured in one report.

Mr. JOHNSON OF SOUTH DAKOTA. Well, and I think a lot of that is well said——

Mr. CORRELL. Congressman, may I reply?

Mr. JOHNSON OF SOUTH DAKOTA [continuing]. I mean, I would note that Mr. Correll's analysis indicated that increasing the amount of actual drive time on any given day by the people who are currently driving, the 1.8 million, not the 6 million, would be equivalent to adding 80,000 drivers. Well, if that is even close to true, that could be a powerful part of the solution.

And so I would just say to you, Mr. Spear, Mr. Correll, anybody else, if there are things that our Federal Government or that State governments are doing that makes it harder for drivers to dedicate their time during their day to actually moving freight, you have just got to let us know, because it just won't be a Republican passion, it won't just be a Democratic passion. You will find nearly every member of this committee committed to finding safe ways to get safe drivers driving more.

By all means, let's get new drivers in the industry. But let's better utilize these unbelievably talented professionals.

Mr. SPEAR. And I appreciate that, and I think we have got to——

Mr. CORRELL. I agree on the point of underutilization, but I am afraid Mr. Spear has mischaracterized our study in his comments.

Mr. GARAMENDI. Well, thank you very much.

Mr. JOHNSON OF SOUTH DAKOTA. Mr.——

Mr. GARAMENDI. Mr. Johnson?

Mr. JOHNSON OF SOUTH DAKOTA [continuing]. The question——

Mr. GARAMENDI. Mr. Johnson?

Mr. SPEAR. Just to be fair, if I could very quickly respond to it.

Mr. GARAMENDI. Excuse me, gentlemen. You have had your chance, and you may have your chance again, because Mr. Johnson's time has expired. I will leave the two of you. We will get you your common telephone numbers, and you can complete that debate.

Miss González-Colón, I yield 5 minutes to you.

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Chairman. You mentioned a few minutes ago the situation with the Federal Maritime Commission, and I agree in some of the points you made. But I understand that, under Commissioner Rebecca Dye, she led the industry—stood up voluntary working groups to help address poor performance and tried to come up with commonsense solutions to improve efficiencies. And I think that is something the committee should promote to allow the private sector and labor unions to come up with a lot of those solutions.

And I say this because, as Puerto Rico, many people know, we depend on the port industry. We depend on everything being shipped to Puerto Rico. And right now, we have been facing, from August to now, a lot of strikes in one of the ports from the international shipments going to the island. So, we do know, firsthand, how issues like automation and efficiencies are important.

And in that sense—I know Mr. Cordero is not with us anymore, but I do have some questions, and I will begin with Mr. Spear.

Mr. Spear, I appreciate your testimony highlighting the need for workforce development. And to address workforce development and increase safety, I have introduced H.R. 1967, which will allow Puerto Rico to issue commercial driver's licenses to truckdrivers in Puerto Rico. And it will require drivers to increase their skills while operating a motor carrier and give anyone moving to or from Puerto Rico a license that they could use anywhere in the country.

I asked your organization to review this legislation for their support, but I haven't received an answer yet, either way. So, can you give a response to my office?

Mr. SPEAR. I absolutely will get you a response to your office expeditiously.

Miss GONZÁLEZ-COLÓN. Thank you. And because I serve in this committee, and we have experienced what happened in Puerto Rico with the devastation of hurricanes and, of course, earthquakes last year, the infrastructure network was devastated. And we know how important and critical roads and bridges are for those connections and port operations, as well.

The American Society of Civil Engineers decided that Puerto Rico needed more than $3 billion to bring our network just to good repair. And you say that you advocate for $5 billion in annual funding to address bottlenecks. And I assume that this is to ensure competitive, but efficient use of those funds in the whole Nation.

My concern at this time is how we get—you know, we approved the infrastructure bill a few days ago, the President signed it, but there are still a lot of areas that we can improve with the proper information, using technology. And one of those is having and getting real-time port metrics that can help the industry to schedule accordingly, to make the whole system efficient as possible. One of those is using technology.

And my question to you is, do you agree that using real-time reporting from ports to know—we were discussing a few minutes ago the problem with chassis in several ports. There would be a shortage in the Port of Los Angeles, but a surplus in the Port of Long Beach, and we have got the same situations. We have many surpluses of those chassis, as well. Can you share your comments on that?

Mr. SPEAR. Congresswoman, who is the question posed to?

Miss GONZÁLEZ-COLÓN. To you and to Ms. Reinke.

Mr. SPEAR. OK, yes, that is fine. Yes, I think, as we have been discussing, making certain that we have more technology that provides that transparency is really a good investment in innovation and transparency and efficiencies. And these are all things that intermodals need to coordinate on and ensure happen, going forward. So, I think there is quite a bit of improvements that could be made to really alleviate some of the pressures we are seeing from shortages in talent.

So, I think, if you can offset that with technology, that is a good solution.

Miss GONZÁLEZ-COLÓN. Thank you, and I will also submit some questions for the record, but I would love to have Mr. Jefferies tell me if there are any deregulatory actions that could alleviate the burden on freight railroads.

Mr. JEFFERIES. Well, I think I would say more regulatory modernization is the goal. Let's really think about how we can utilize technology to maximize safety, maximize efficiency. And it should be a cooperative effort.

Sometimes there is a knee-jerk reaction against deploying new technologies and building datasets to demonstrate that there is a safety improvement, but it is something that we should all be working towards the same end, and that is safety, that is efficiency, that is service. And so, let's look at ways to modernize the regulatory paradigm that really enables us to thrive with technology. Thank you.

Miss GONZÁLEZ-COLÓN. Thank you, my time expired.

Mr. GARAMENDI. Thank you, Miss González-Colón.

That ends the questions by the Members, but it doesn't end the comment that the chair of the committee wants to make with regard to the witnesses.

Mr. Cordero from Long Beach, Mr. Spear with the American Trucking Associations, Mr. Jefferies from the Association of American Railroads, and Ms. Reinke, Mr. Correll, and Mr. Regan, all of you have been at this for 5 hours, and we owe you a debt of gratitude for the information that you have delivered to the committee. The committee takes this issue extremely seriously, and we will be looking for short-term and long-term solutions.

And with that, I would like to 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 have been 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 the Members or witnesses to be included in the record of today's hearing.

Without objection so ordered.

With that, the committee stands adjourned. Thank you.

[Whereupon, at 3:18 p.m., the committee was adjourned.]

Submissions for the Record

Letter of November 17, 2021, to Hon. Peter A. DeFazio, Chair and Hon. Sam Graves, Ranking Member, Committee on Transportation and Infrastructure, from Catherine Chase, President, Advocates for Highway and Auto Safety, Submitted for the Record by Hon. Peter A. DeFazio

NOVEMBER 17, 2021.

The Honorable PETER DEFAZIO, Chair,
The Honorable SAM GRAVES, Ranking Member,
Committee on Transportation and Infrastructure,
U.S. House of Representatives, Washington, DC 20515.

DEAR CHAIRMAN DEFAZIO AND RANKING MEMBER GRAVES:

Thank you for your leadership in holding today's hearing, "Industry and Labor Perspectives: A Further Look at North American Supply Chain Challenges." We respectfully request that this letter from Advocates for Highway and Auto Safety (Advocates) be included in the hearing record.

Introduction

Advocates is a coalition of public health, safety, law enforcement, and consumer organizations, insurers and insurance agents that promotes highway and auto safety through the adoption of federal and state laws, policies and regulations. Advocates is unique both in its board composition and its mission of advancing safer vehicles, safer motorists and road users, and safer roadway environments.

While our nation is facing numerous COVID–19 related challenges regarding the supply chain and movement of goods, we also have experienced a major surge in motor vehicle crash fatalities. Alarming estimates recently released by the National Highway Traffic Safety Administration (NHTSA) indicate that crash fatalities have spiked to more than 20,000 in the first half of 2021, representing a nearly 20 percent increase over the same time period the previous year. This is the highest number of fatalities recorded during the first half of the year since 2006 and the highest half-year increase identified by the Fatality Analysis Reporting System (FARS).[1]

Every year over 500,000 truck crashes occur on our roads. They result in deaths, injuries, lost productivity, closed roadways, unfunded costs, expenditure of time and resources of first responders as well as their endangerment, damage to infrastructure such as roads, bridges and safety barriers, fuel consumption of delayed vehicles, and increased emissions. Fatal truck crashes also continue to occur at a disturbingly high rate. In 2020, nearly 5,000 people were killed in crashes involving a large truck. Since 2009, the number of fatalities in large truck crashes has increased by 45 percent. Additionally, 159,000 people were injured in crashes involving a large truck in 2019, and injuries of large truck occupants increased by 18 percent over the prior year. In fatal two-vehicle crashes between a large truck and a passenger motor vehicle, 97 percent of the fatalities were occupants of the passenger vehicle.[2] The cost to society from crashes involving commercial motor vehicles (CMVs) was estimated to be $143 billion in 2018, the latest year for which data is available.[3]

While concerns about sparsely stocked shelves for the holidays are understandable, remembering the lesson George Bailey learned in the Christmas classic "It's a Wonderful Life" that each life is irreplaceable and its absence has many tragic ripple effects must be paramount. Safety provisions in the Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act led by

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[1] All statistics are from the United States Department of Transportation unless noted.
[2] Insurance Institute for Highway Safety, Large Trucks (Apr. 2021). See: https://www.iihs.org/topics/large-trucks.
[3] 2019 Pocket Guide to large Truck and Bus Statistics, FMCSA, Jan. 2020, RRA–19–012.

this Committee, some of which were included in the Infrastructure Investment and Jobs Act (IIJA) signed into law this week, will eradicate dangers on our nation's roadways. We urge you to continue your leadership, commitment and efforts to end the massive motor vehicle crash death and injury toll and to reject any action that further endangers truck drivers and all road users.

WEAKENING TRUCK SAFETY PROTECTIONS WILL NEEDLESSLY ENDANGER DRIVERS AND THE PUBLIC

In response to the ongoing COVID–19 pandemic, the Administration has provided temporary exemptions from certain truck safety rules. Advocates has continued to assert that any exemptions must be narrowly tailored in time and scope with appropriate safeguards to protect truck drivers as well as everyone sharing the roads with them including construction workers, road maintenance crews, first responders and law enforcement officers whose "offices" are also the roads. We have strongly opposed enshrining temporary exemptions into statute and urge transparency about their use by making any related data available to the public.

Further, current issues involving the nation's supply chain have highlighted problems that the trucking industry has not effectively addressed for decades including high turnover rates and poor working conditions. As noted in a recent segment on the television news show "60 Minutes," the problems facing our nation's supply chain are complex with the pandemic highlighting glaring deficiencies in America's infrastructure. Correspondent Bill Whitaker explained, "There is a lot of finger-pointing. The truckers blame the terminals. The terminals blame the shippers. The retailers blame the truckers and the shippers."[4] Degradation of truck safety regulations will not solve these issues. We urge the Committee to reject the following special interest proposals that will jeopardize all road users.

"Teen Truckers" pose a major safety threat. Some segments of the trucking industry have been pushing to allow teenagers to operate CMVs in interstate commerce for at least 20 years, often relying on their own forecasts for the number of drivers needed, projections that have consistently failed to materialize.[5] Seeking to attach this effort to current discussions on the supply chain is a facade that Congress should not accept and certainly not use as the basis for drastic policy changes to well established federal law. This "band-aid" solution will not resolve the myriad of self-inflicted "wounds" underlying the driver retention issue but rather will result in more "blood" shed on our roadways.

The trucking industry is facing a driver retention crisis, not a driver shortage. In fact, a March 2019 U.S. Bureau of Labor Statistics (BLS) analysis found that "the labor market for truck drivers works about as well as the labor markets for other blue-collar occupations" and "a deeper look [at the truck industry labor market] does not find evidence of a secular shortage."[6] Rather, industry data shows driver turnover at some carriers is near 90 percent.[7] As U.S. Department of Transportation (DOT) Secretary Pete Buttigieg recently noted, such a high rate of turnover is indicative that there are some real issues with the quality of the job of driving a truck.[8] In addition, states issue more than 450,000 new commercial driver licenses (CDLs) each year demonstrating that there are candidates to fill vacancies.[9] Instead of proposing initiatives that will degrade public safety, the industry should be focused on addressing the retention issues through improved, safe working conditions.

Younger drivers are demonstrated to be less safe. The Insurance Institute for Highway Safety (IIHS), citing numerous studies, has stated that "age is a strong risk factor for truck crash involvement."[10] In fact, age is the most important factor

[4] 60 Minutes, Packed ports and empty shelves: Inside the issues behind the U.S. supply chain crisis (Nov. 14, 2021).

[5] FMCSA Document ID: 2000–84100–0782. American Trucking Associations, Truck Driver Shortage Analysis 2015 (Oct. 2015).

[6] United States Department of Labor, Bureau of Labor Statistics, Is the U.S. labor market for truck drivers broken? (Mar. 2019).

[7] American Trucking Associations, Fourth Quarter Truck Driver Turnover Rate Shows Muddled Picture (Mar. 12, 2021).

[8] See: https://www.msnbc.com/morning-joe/watch/transportation-secretary-buttigieg-on-supply-chain-issues-worker-shortage-125851717987 (Nov. 10, 2021).

[9] Greg Rosalsky, Is There Really A Truck Driver Shortage?, National Public Radio (May 25, 2021).

[10] Insurance Institute for Highway Safety, Comments to the docket, FMCSA–2000–8410–0515; citing Christie, R. and Fabre, J. 1999. Potential for fast-tracking heavy vehicle drivers. Melbourne, Australia: National Road Transport Commission; Blower, D. 1996. The accident experience of younger truck drivers. Ann Arbor, MI: University of Michigan Transportation Research Institute; Frith, W.J. 1994. A case-control study of heavy vehicle drivers' working time and safe-

in the high rate of involvement of younger CMV drivers in fatal crashes. The general pattern of over-involvement in fatal crashes for younger CMV drivers dominates all other factors. Studies of young CMV drivers show that as the age of the driver decreases, large truck fatal crash involvement rates increase.[11]

CMV drivers under the age of 19 are four times more likely to be involved in fatal crashes, as compared to CMV drivers who are 21 years of age and older, and CMV drivers ages 19–20 are six times more likely to be involved in fatal crashes (compared to CMV drivers 21 years and older).[12] This plain-truth reality is not surprising given that generally younger drivers are more likely to be involved in fatal crashes because they lack driving experience and skills, and tend to take greater risks. Development of the brain region vital to decision making, specifically the prefrontal cortex, may not be fully reached until one's mid-20s.[13] While proponents of younger truck drivers have justified this misguided policy proposal by citing state laws that allow them to operate intrastate, expanding the operations of these dangerous drivers extends existing safety problems while introducing additional safety considerations such as unfamiliar terrain and weather conditions.

Diverse stakeholders including safety groups, law enforcement, public health and consumer organizations, truck drivers, labor unions, some trucking companies, and truck crash victims and survivors oppose efforts to lower the age to operate CMVs in interstate commerce. Additionally, the public has rejected lowering the minimum age for interstate truck and bus drivers with 62 percent of respondents in opposition, according to a 2020 public opinion poll conducted by Engine's Caravan Survey.[14] Furthermore, in 2001, a petition was filed with the Federal Motor Carrier Safety Administration (FMCSA) to lower the age at which a person could obtain a CDL to operate in interstate commerce from 21 to 18 as part of a pilot program. The FMCSA declined to lower the minimum age for an unrestricted CDL because the agency could not conclude that the safety performance of younger drivers was on par with, or even close to, that of older CMV drivers. In comments to the docket for the petition, the public strongly rejected the idea with 96 percent of individuals who responded opposing the proposal along with 88 percent of the truck drivers and 86 percent of the motor carriers.[15]

Relatedly, Advocates strongly opposes the Developing Responsible Individuals for a Vibrant Economy, "DRIVE-Safe," Act (S. 659/H.R. 1745) and "teen trucker" pilot programs. While at first glance some provisions may seem to be pro-safety, the adverse could result. Specifically, certain technologies, such as active braking collision mitigation systems and speed limiters, are only required during the scant probationary period. The result is a teen driver would initially learn to drive in a truck fitted with this technology acting to curb some dangerous outcomes but after the probationary period, she/he/they could get behind the wheel of a truck without any of the safety technology and its benefits. The teen driver is then at a deficit lacking experience in safely operating trucks without the technology. As a noted aside, we welcome the confirmation that the recommended technology, for which Advocates has been pushing to be standard equipment for many years including submitting a petition to NHTSA to do so, provides safety benefits and hope the proponents of the bill will join our efforts to accelerate the adoption of proven safety technologies in all trucks.[16]

Further, the training proposals in this bill are woefully inadequate. The first probationary period only consists of 80 hours of behind-the-wheel training which can be completed in a little over one work week while abiding by hours of service (HOS) requirements. Further, the 160 hours of driving time in the second probationary period can be covered in an additional two weeks. In comparison, the Federal Aviation Administration (FAA) requires pilots working for passenger airlines to have approximately 1,500 hours of flight time. These paltry training requirements also pale in comparison to other less dangerous jobs. For example, Oregon requires a licensed electrician to have 576 hours of classroom training and 8,000 hours of experience

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ty. *Proceedings of the 17th Australian Road Research Board Conference*, 17–30. Queensland, Australia: Australian Road Research Board; Stein, H.S. and Jones, I.S. (1988).

[11] Campbell, K. L., *Fatal Accident Involvement Rates By Driver Age For Large Trucks*, Accid. Anal. & Prev. Vol 23, No. 4, pp. 287–295 (1991).

[12] Campbell, K. L., *Fatal Accident Involvement Rates By Driver Age For Large Trucks*, Accid. Anal. & Prev. Vol 23, No. 4, pp. 287–295 (1991).

[13] Arian, M, et al., Maturation of the adolescent brain, Neuropsychiatric Disease and Treatment (Apr. 3, 2013).

[14] Engine's Caravan Survey Public Opinion Poll (2020).

[15] Young Commercial Driver Pilot Training Program, Notice of denial of petition to initiate a pilot program, 68 FR 34467, 34469 (June 9, 2003).

[16] 80 F.R. 62487 (Oct. 16, 2015).

as an apprentice, and Missouri requires at least 4,000 hours of experience as a certified journeyman plumber before applying for a master plumber's license.

Additionally, the qualifications for a teen truck driver passing the probationary periods are left entirely to the discretion of the employer who is incentivized to get the driver on the road as soon as possible. No standard tests or evaluations given by an independent party are required. Furthermore, a teen truck driver who is involved in a crash or is given a citation for a moving violation during the probationary periods is not disqualified from continuing to operate a truck.

Industry representatives have also argued that members of the military who are of teenage years are permitted to be at the helm of a naval aircraft carrier and thus, should be allowed to operate a truck in interstate commerce. This assertion is an apples to oranges comparison. First, a young person at the helm would have had a significant amount of naval training that would include at least eight weeks of intensive boot camp and six weeks of boatswains mate school. In sharp contrast, the DRIVE-Safe Act requires a potential teen truck driver to undergo approximately three weeks of behind-the-wheel training. Second, a young person on an aircraft carrier would be under the supervision and direction of a Captain. Not only are orders such as turning a vessel directed by the Captain, but the Captain's decision to instruct such a maneuver would be supported by a chain of command of officers and enlisted men and women involved in navigation of the ship through radar, sonar and numerous other functions. Moreover, trucks are not equipped with highly sophisticated radar and other navigational systems, are not staffed with specialists to monitor each system, and do not have the movements of the driver directed by a team of support staff constantly overseeing operations. Third and fourth, ships operate most often in open waters and at speeds not exceeding 30 knots (less than 35 miles per hour), which stands in stark contrast to densely traveled highways and roads where trucks can operate at speeds up to 80 mph. The cartoon below similarly captures this type of comparison.[17]

Allowing teenagers to drive trucks in interstate commerce will worsen and expand the major problems with truck driver working conditions from inside state lines to the entire nation.

Improving working conditions to ensure experienced drivers stay on the job, rather than tapping into an unsafe pool of teenage drivers to fill the void, will ideally lead to healthier and more fulfilled drivers as well as attract new applicants. In sum, attempts to pull teenagers from high school hallways onto high speed highways should be rejected by Congress.

Driver fatigue is a well-known and documented CMV safety problem. The National Transportation Safety Board (NTSB) has repeatedly cited fatigue as a major contrib-

[17] Broadside.net, Jeff Bacon, 2014.

utor to truck crashes. Currently, truck drivers are permitted to drive up to 11 hours per day for a total of 77 hours per week. These grueling hours can lead to cumulative fatigue and devastating safety consequences. Self-reports of fatigue, which almost always underestimate the problem, find that fatigue in truck operations is a significant issue. In a 2006 driver survey prepared for FMCSA, "65 percent [of drivers] reported that they often or sometimes felt drowsy while driving" and almost half (47.6 percent) of drivers said they had fallen asleep while driving in the previous year.[18] Expanding the hours truck drivers can drive in an attempt to move more goods puts truck drivers, their loads and everyone on the roads with them at risk.

In March 2020, FMCSA issued an emergency declaration that exempts drivers providing direct assistance for relief efforts related to the pandemic.[19] The declaration was extended by the agency in May 2021 and again in August 2021 and is currently set to expire November 30, 2021.[20] Advocates has called for the agency to be transparent about the use of this exemption by making any related data available to the public.[21] To date, the agency has not responded or posted any data on its website. It is essential to ensure this process intended to provide narrow flexibility does not result in enhanced risks and danger.

One of the most effective tools to help prevent driver fatigue is the use of Electronic Logging Devices (ELDs) to record drivers' HOS. Paper logs are frequently referred to as "comic books" throughout the industry because of the ease in falsifying actual driving and work time. The FMCSA estimated that requiring ELDs will save 26 lives, prevent over 500 injuries and avoid over 1,800 crashes annually. The U.S. DOT also estimated the annualized net benefits of adopting ELDs to be over $1 billion.[22] Congress, recognizing the benefits of ELDs, mandated their use as part of the Moving Ahead for Progress in the 21st Century (MAP–21) Act.[23] In 2015, the FMCSA delivered on this Congressional directive and issued a rule requiring the use of ELDs which went into effect in December 2017.[24] FMCSA reports that since the implementation of the ELD rule, the percentage of driver inspections with an HOS violation has decreased significantly.[25] Despite this compelling evidence, broad support and an established final rule, some continue to object to the use of this technology.

It is important to note that the ELD rule did not change the underlying HOS rules. Yet, a barrage of legislative and regulatory proposals continues to target these regulations. For instance, truck drivers hauling livestock or insects are currently exempted from having to use ELDs pursuant to provisions tucked into the Fiscal Year 2021 Further Consolidated Appropriations Act.[26] In addition, the IIJA expands the HOS exemption provided to these carriers to a 150 air-mile radius from the final destination (the current exemption is for a 150 air-mile radius from the source).[27] Allowing certain haulers to skirt the ELD rules jeopardizes the safety of the animals in transport, truck drivers and everyone on the roads with them. It also complicates enforcement efforts. Section 4306 of the INVEST in America Act advanced by this Committee required FMCSA to determine the impact all HOS exemptions have on public safety. Unfortunately, this prudent provision was not included in the IIJA.[28] We hope this Committee will revisit this measure in the future to inform needed reforms to the HOS regulations.

Additionally, in 2016, the FMCSA published an Advanced Notice of Proposed Rulemaking (ANPRM) requesting information regarding the potential benefits of regulatory action to address the safety risks posed by CMV drivers who are afflicted with obstructive sleep apnea (OSA).[29] Compelling and consistent research has revealed that drivers afflicted with OSA that is not properly treated are more prone to fatigue and have a higher crash rate than the general driver population. In fact,

[18] 75 FR 82170 (Dec. 29, 2010), citing Dinges, D.F. & Maislin, G., "Truck Driver Fatigue Management Survey," May 2006. FMCSA–2004–19608–3968.
[19] FMCSA, Extension and Amendment of Emergency Declaration 2020–002 (Aug. 31, 2021).
[20] *Id.*
[21] Advocates for Highway and Auto Safety, Statement on Extension of Emergency Declaration and Exemptions from Certain Truck Safety Regulations (Sep. 2, 2021).
[22] 80 FR 78292 (Dec. 16, 2015).
[23] Pub. L. 112–141 (2012).
[24] 80 FR 78292 (Dec. 16, 2015).
[25] FMCSA, Electronic Logging Devices: Improving Safety Through Technology, See: https://eld.fmcsa.dot.gov/
[26] Pub. L. 116–260 (2020).
[27] H.R. 3684, 117th Congress 1st Sess, (2021).
[28] *Id.*
[29] 81 FR 12642 (Mar. 10, 2016).

the FAA considers OSA to be a disqualifying condition unless properly treated.[30] Yet, in August of 2017 the FMCSA withdrew the OSA rulemaking without providing any credible analysis or reasoning for such an ill-advised course of action.[31] Advocates was pleased that Section 4308 of the INVEST in America Act advanced by this Committee addressed this critical safety issue, although such language was not included in the IIJA.[32]

Overweight trucks disproportionately damage America's crumbling infrastructure and threaten public safety. While certain special interests are advocating to suspend federal limits on the weight and size of CMVs in response to the current supply chain issues, these laws are essential to protecting truck drivers, the traveling public, and our nation's roads and bridges.

According to the 2021 Infrastructure Report Card from the American Society of Civil Engineers, America's roads receive a grade of "D" and our bridges were given a "C".[33] Nearly 40 percent of our 615,000 bridges in the National Bridge Inventory are 50 years or older, and one out of 11 is structurally deficient.[34] The U.S. DOT Comprehensive Truck Size and Weight Study found that introducing double 33-foot trailer trucks, known as "Double 33s," would be projected to result in 2,478 bridges requiring strengthening or replacement at an estimated one-time cost of $1.1 billion.[35] This figure does not even account for the additional, subsequent maintenance costs which will result from longer, heavier trucks. In fact, increasing the weight of a heavy truck by only 10 percent increases bridge damage by 33 percent.[36] The Federal Highway Administration (FHWA) estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is $123.1 billion.[37]

Raising truck weight or size limits could result in an increased prevalence and severity of crashes. Longer trucks come with operational difficulties such as requiring more time to pass, having larger blind spots, crossing into adjacent lanes, swinging into opposing lanes on curves and turns, and taking a longer distance to adequately brake. In fact, double trailer trucks have an 11 percent higher fatal crash rate than single trailer trucks.[38] Overweight trucks also pose serious safety risk. Not surprisingly, trucks heavier than 80,000 pounds have a greater number of brake violations, which are a major reason for out-of-service violations.[39] According to a North Carolina study by IIHS, trucks with out-of-service violations are 362 percent more likely to be involved in a crash.[40] This is also troubling considering that tractor-trailers moving at 60 miles per hour are required to stop in 310 feet—the length of a football field—once the brakes are applied.[41] Actual stopping distances are often much longer due to driver response time before braking and the common problem that truck brakes are often not in adequate working condition.

There is overwhelming opposition to any increases to truck size and weight limits. The public, local government officials, safety, consumer and public health groups, law enforcement, first responders, truck drivers and labor representatives, families of truck crash victims and survivors, and even Congress on a bipartisan level have all rejected attempts to increase truck size and weight. Also, the technical reports released in June 2015 from the U.S. DOT Comprehensive Truck Size and Weight Study concluded there is a "profound" lack of data from which to quantify the safety impact of larger or heavier trucks and consequently recommended that no changes

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[30] *Id*.

[31] 82 FR 37038 (Aug. 8, 2017).

[32] H.R. 3684, 117th Congress 1st Sess, (2021).

[33] 2021 Infrastructure Report Card—Bridges, American Society of Civil Engineers (ASCE); 2021 Infrastructure Report Card—Roads, ASCE.

[34] 2021 Infrastructure Report Card—Bridges (ASCE).

[35] Comprehensive Truck Size and Weight Limits Study: Bridge Structure Comparative Analysis Technical Report, FHWA, June 2015.

[36] Effect of Truck Weight on Bridge network Costs, NCHRP Report 495, National Cooperative Highway Research Program, 2003.

[37] 2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance, Chapter 7, p. 7–34, FHWA, 2016.

[38] An Analysis of Truck Size and Weight: Phase I—Safety, Multimodal Transportation & Infrastructure Consortium, November 2013; Memorandum from J. Matthews, Rahall Appalachian Transportation Institute, Sep. 29, 2014.

[39] Roadside Inspections, Vehicle Violations: All Trucks Roadside Inspections, Vehicle Violations (2019—Calendar), FMCSA.

[40] Teoh E, Carter D, Smith S and McCartt A, Crash risk factors for interstate large trucks in North Carolina, Journal of Safety Research (2017).

[41] Code of Federal Regulations (CFR) Title 49 Part 571 Section 121: Standard No. 121 Air brake systems (FMVSS 121).

in the relevant truck size and weight laws and regulations be considered until data limitations are overcome.[42]

Considering Congress recently enacted, and this week President Biden signed into law, the IIJA which invests billions of dollars to improve and make safer our nation's roads and bridges, any increase to federal truck size and weight limits will undermine this objective, worsen safety problems, and divert rail traffic from privately owned freight railroads to our already overburdened public highways. Despite claims to the contrary, bigger trucks will not result in fewer trucks. Following every past increase to federal truck size and weight limits, the number of trucks on our roads has gone up. Since 1982, when Congress last increased the gross vehicle weight limit, truck registrations have more than doubled.[43] The U.S. DOT study also addressed this meritless assertion and found that any potential mileage efficiencies from the use of heavier trucks would be offset in just one year.[44] Congress should oppose any increases to federal truck size and weight limits, including mandating double 33 feet trailers, pilot programs and state or industry specific exemptions.

While autonomous technology could offer the promise of significantly reducing crashes involving CMVs in the future, it is far from ready to be deployed safely on our nation's roads and therefore is not a viable option to address America's supply chain issues. The advent of this technology must not be used as a pretext to eviscerate essential safety regulations administered by the FMCSA. The public safety protections provided by the Federal Motor Carrier Safety Regulations (FMCSRs) become no less important or applicable simply because a CMV has been equipped with an autonomous driving system (ADS). In fact, additional substantial public safety concerns are presented by autonomous commercial motor vehicles (ACMVs).

Autonomous technology is still in its relative infancy as evidenced by fatal and serious crashes involving passenger motor vehicles equipped with automated driving systems of varying levels. If those incidents had involved ACMVs, the results could have been even more catastrophic, and the death and injury toll could have been much worse. Some of the most pressing safety shortcomings associated with autonomous vehicle (AV) technology, which include the ADS properly detecting and reacting to all other road users, driver engagement and cybersecurity, are exponentially amplified by the greater mass and force of an ACMV. As such, it is imperative that ACMVs be subject to comprehensive regulations, including having a licensed driver behind the wheel for the foreseeable future.

Advocates and numerous stakeholders have developed the "AV Tenets," policy positions which should be a foundational part of any AV legislation.[45] The AV Tenets have four main, commonsense categories including: 1) prioritizing safety of all road users; 2) guaranteeing accessibility and equity; 3) preserving consumer and worker rights; and, 4) ensuring local control and sustainable transportation. While the AV Tenets were developed for application to vehicles under 10,000 pounds, many of the principles also could apply to larger commercial vehicles. Requiring that ACMVs meet safety standards, including for cybersecurity, and that operations are subject to adequate oversight must be a minimum starting point for their potential deployment.

CONCLUSION

Truck crashes continue to occur at an astonishingly high rate. The complex issues facing our nation's supply chain will not be solved by advancing reckless proposals that imperil truck drivers and the public and damage America's aging infrastructure. Furthermore, risky driving behavior such as speeding, impairment, and lack of seat belt use are up, according to recent U.S. DOT projections, leading to more deadly conditions for everyone on and around roads. Yet, the unending assault on essential federal regulations that protect public safety continues. Drastically cutting back truck safety protections under the guise of providing "flexibility" will result in preventable fatalities. Instead, we urge this Committee to advance policies and proven solutions that will improve safety and working conditions to curb the high rates of driver turnover. Nearly 5,000 people killed and 150,000 injured in truck crashes annually cannot continue to be accepted as a societal norm or a cost of moving goods on our nation's roads.

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[42] Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

[43] 2017 Annual Report.

[44] Comprehensive Truck Size and Weight Limits Study, Federal Highway Administration (June 2015).

[45] See: https://saferoads.org/autonomous-vehicle-tenets/

Sincerely,

CATHERINE CHASE,
President, Advocates for Highway and Auto Safety.

cc: Members of the Committee on Transportation and Infrastructure

Statement of Chuck Baker, President, American Short Line and Regional Railroad Association, Submitted for the Record by Hon. Peter A. DeFazio

INTRODUCTION

As president of the American Short Line and Regional Railroad Association (ASLRRA), the trade association representing the nation's 600 Class II and III railroads, I submit this testimony for inclusion in the record of this committee's hearing.

We appreciate the committee's focus on supply chain challenges confronting the country and our North American neighbors. ASLRRA's short line freight railroad members operate 24/7/365 in this ever-changing and complex, increasingly demanding economic environment. Throughout the pandemic—and just as we did before the pandemic—our members have provided service to customers from coast to coast, ensuring that businesses in small towns and rural communities that might otherwise be cut off from the freight rail network have the access they need to the global supply chain. As challenges to the economy have mounted, our members have acted as critical "shock absorbers" for the freight network, blunting the impact of supply chain headaches through our flexible, friendly, and customized service. We are proud of the service our members provide, especially during these times, and we are eager to share our insight, perspective and suggestions with this panel.

THE COUNTRY'S SHORT LINE FREIGHT RAIL INDUSTRY IS A VITAL PART OF NORTH AMERICAN'S SUPPLY CHAIN

ASLRRA's members are class II and class III railroads, all of which are classified as small businesses.[1] Our members are critical links in the nation's freight supply chain and all are vital engines of economic activity. Together, our members are tied to 478,000 jobs nationwide, $26.1 billion in labor income and $56.2 billion in economic value-add—providing a service that 10,000 businesses nationwide rely upon to get goods and products to market.[2] Our members are also environmental stewards, providing a sustainable, low-carbon logistics option that is more environmentally friendly than competing forms of surface transportation. Freight railroads are an incredibly green way to move goods. Railroads account for only 0.5 percent of total U.S. greenhouse gas emissions, according to EPA data, and just 1.9 percent of transportation-related greenhouse gas emissions. On average, U.S. freight railroads move one ton of freight 480 miles on a single gallon of diesel fuel. Altogether, short line service keeps 31.8 million heavy trucks off highways and public roads, preventing costly wear and tear, relieving congestion, and reducing the number of deadly crashes.

Short line railroads are especially integral in providing first- and last-mile service, functioning frequently as the first and/or often final link between suppliers and customers who require critical goods and freight. Our members provide this connection in many key industries critical to our country's economic health, including the manufacturing, agricultural, mining and chemical sectors.

AVOID ANY EFFORT TO INCREASE THE SIZE AND WEIGHT OF TRUCKS

ASLRRA cautions against any action by USDOT or other policymakers that could lead to an increase in truck size and weights. Bigger and longer trucks will divert more freight to our roadways and lead to greater wear and tear on already worn-out roads, worse roadway congestion, more air pollution and truck GHG emissions, and a litany of dangerous conditions affecting all roadway users. One train can take hundreds of truckloads off our nation's highways. Supply chain disruption should not be an excuse to allow more dangerous and unstable trucks on our roads. Moreover, some types of configurations of bigger trucks—like twin 33s—actually exacer-

[1] According to the Surface Transportation Board, a Class II railroad has annual revenues between $40,400,000 and $900,000,000; a Class III railroad has revenues below $40,400,000.

[2] The Section 45G Tax Credit and the Economic Contribution of the Short Line Railroad Industry, prepared by PWC for ASLRRA (2018).

bate supply chain bottlenecks, introducing greater inefficiencies to intermodal freight traffic, as railcars would be able to carry fewer overall trailers—meaning longer wait times for goods and freight carried by rail.

Current efficiency with 28-foot trailers:

Diminished efficiency with twin 33s:

AVOID ANY REGULATORY EFFORTS THAT FURTHER EXACERBATE SUPPLY CHAIN PROBLEMS

ASLRRA cautions USDOT and Congress against any efforts that would make the supply chain problem even worse. USDOT should forego proceeding with efforts like crew size requirements that could force our members to make tough economic choices and sacrifice other activities they are eager to undertake, like hiring more employees for functions where they actually need more staff or neglecting to make investments in upgrades and improvements that allow more efficient movement of goods and freight. Ill-conceived regulatory efforts—especially those that aren't backed up by safety data—are misguided and exacerbate problems instead of creating solutions. USDOT requirements for increased crew size on privately-owned and maintained freight rail would be unfair, unhelpful for both safety and the supply chain, and at complete odds with other USDOT efforts to develop and incentivize driverless trucks (and on publicly-funded infrastructure, no less).

Likewise, ASLRRA cautions USDOT and Congress against any action that blocks, stifles or thwarts the advent or use of technology that promotes safer operational practices and the efficient use of track and rail infrastructure. Preventing railroads from harnessing the power of such critical technology could add bottlenecks to our freight network and impede the movement of important goods and supplies.

ADVANCE IMPORTANT FUNDING OPPORTUNITIES THAT HELP SHORT LINE FREIGHT RAILROADS

Short line railroading is one of the most capital-intensive industries in the country. Short lines invest on average 25 percent to 33 percent of their annual revenues in maintaining and rehabilitating their infrastructure. Short lines are also often the custodians of expensive bridges and tunnels that were originally built by much larger railroads years earlier and are now reaching the end of their useful lives. Federal funding opportunities like the Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant program provide short lines with an opportunity to meet these challenges. As the Infrastructure Investment and Jobs Act (IIJA) is implemented and its critical resources are made available, we encourage the administration to prioritize for funding the many freight rail projects that reduce supply chain bottlenecks. These projects also have enormous environmental benefits and are often the biggest "bang for the buck" available in surface transportation.

Ensuring critical resources are made available through CRISI and other important USDOT grant efforts (like the Rebuilding American Infrastructure with Sustainability and Equity (RAISE), Infrastructure for Rebuilding America (INFRA), and Railroad Crossing Elimination grant programs, among others) will allow our members to make congestion-reducing investments in track upgrades, for example upgrades through CRISI to support industry-standard 286,000-lb railcars, so they can provide more shipping solutions for customers and bring greater efficiency to the network.

CONCLUSION

We appreciate the committee's close attention to our statement, and we welcome future opportunities to work together on this matter.

Statement of the Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters, Submitted for the Record by Hon. Peter A. DeFazio

RAILROADS WANT TO RISK SAFETY & TAKE TRACK INSPECTORS OFF THE TRACKS

Class I railroads want to eliminate human track inspectors and replace them with an unproven approach to track inspection—risking derailments and the safety of railroad workers and the public.

Track inspection professionals have been keeping American railroad infrastructure safe for over 150 years. The Federal Railroad Administration (FRA) has rules setting how frequently railroads must have track inspectors conduct visual track inspections. 49 CFR §213.233.

In testimony before the House Transportation & Infrastructure Committee on November 17, 2021, the President and CEO of the Association of American Railroads (AAR) whined that the FRA does not automatically approve waivers of track inspection safety rules that set the required frequency of human track inspections.

On October 29, 2021, a group of Republican Senators wrote to FRA Deputy Administrator Amit Bose urging the FRA to rubber-stamp approvals of these safety waiver requests.

The AAR characterizes the FRA's review of railroad safety waivers as "stifling innovation" and preventing the railroads from implementing new technology, but this is not true.

There is absolutely nothing in the FRA regulations keeping the railroads from using track geometry cars to conduct automated track inspections as frequently as the railroads would like. On Amtrak's class 6–8 tracks, track geometry cars are already used at the same frequencies the railroads want without FRA safety waivers. But Amtrak is adhering to the existing required schedule for human track inspections.

The waivers of FRA safety rules being sought after by the railroads would take human track inspectors off the tracks while the railroads replace them with new machines that are first being tested and only check a portion of the safety factors inspected by a human inspector.

What we currently know is that automated track inspections cannot find all defects required by FRA rules. Track geometry defects make up approximately 25 percent of the total defects inspected by human track inspectors. *Taking human track inspectors off the tracks leaves 75 percent of track defects unmonitored and puts us* *all at risk*. Additionally, human track inspectors must make "immediate remediation" of the deficiencies they find. The machines cannot do that.

Rail labor supports the expanded use of these track geometry cars to *assist* experienced human track inspection professionals. Still, the waivers submitted to FRA indicate that the railroads want to *cut* human track inspections by up to 80 percent below current levels while sorting out whether the new technology works for the defects it does check, even though there are defects these machines are unable to detect. The AAR's assertion that the FRA or rail labor prevents more significant deployment of these machines is false.

Railroads can add all the new technology they want without FRA safety waivers. Railroads put lives at risk by taking human track inspectors off the track while testing new machines that are not even designed to evaluate all the defects assessed by inspectors.

Letter of November 17, 2021, to Hon. Peter A. DeFazio, Chair and Hon. Sam Graves, Ranking Member, Committee on Transportation and Infrastructure, from Jessica Durrum, Ports Project Director, Los Angeles Alliance for a New Economy, Submitted for the Record by Hon. Peter A. DeFazio

NOVEMBER 17, 2021.

The Honorable PETER DEFAZIO,
Chairman,
Committee on Transportation and Infrastructure, United States House of Representatives, Washington, DC 20515.

The Honorable SAM GRAVES,
Ranking Member,
Committee on Transportation and Infrastructure, United States House of Representatives, Washington, DC 20515.

Re: Public Comments for November 17, 2021 Full Committee Hearing On: "Industry and Labor Perspectives: A Further Look at North American Supply Chain Challenges"

DEAR CHAIRMAN DEFAZIO, RANKING MEMBER GRAVES, AND MEMBERS OF THE COMMITTEE:

On behalf of the Los Angeles Alliance for a New Economy (LAANE), I appreciate the opportunity to submit these comments and recommendations for consideration in today's House Transportation and Infrastructure Committee hearing on supply chain challenges. LAANE is a non-profit organization dedicated to helping build a new economy rooted in good jobs, thriving communities, and a healthy environment. Over the past 15 years, we have worked in coalition with labor and community partners to transform the port trucking industry to become more sustainable and equitable. As we outline below, the root cause of the poverty and pollution we have been tackling at the ports is also at the root of the current supply chain bottleneck: an industry-wide, unlawful model of driver misclassification. Our path out of this crisis must begin with ending this illegal practice and bringing the port trucking industry into compliance to ensure an efficient and functional system of port operations.

I. BACKGROUND: THE PORT DRAYAGE INDUSTRY'S SYSTEMIC MISCLASSIFICATION OF DRIVERS IS AT THE ROOT OF THE SUPPLY CHAIN CRISIS

The Ports of LA and Long Beach are pivotal to global trade and the United States economy. Known together as the San Pedro Bay Ports, they are by far the largest port complex in the US, handling about 40% of all containerized cargo coming into the United States. The goods that comes through the San Pedro Bay Ports reach every Congressional district in the nation.

The significance of these ports is not just due to the capacity of the port terminals themselves, but also to the vast goods movement infrastructure in Southern California. The ports are a key engine of the regional economy, with one in nine jobs in Los Angeles County connected to the San Pedro Bay Port Complex.[1] Indeed, recent coverage of the current global logjam has reported on how difficult it has been

[1] Port of Los Angeles, Facts and Figures—Trade Volume

for shippers to divert cargo to other ports because they fall short in trucking, rail, and warehousing capacity.[2]

Misclassification: An unlawful and inefficient model creating a chokepoint

While the current goods movement crisis is fueled by compounding failures all along the supply chain, it is being exacerbated by an inefficient and fractured port drayage system. The rampant and unlawful misclassification at the ports has created an unaccountable, exploitative, and fragmented structure that hinders industry-wide efforts to create an efficient, predictable, and rational system at the ports.

The vast majority of the workforce of over 12,000 drivers at the San Pedro Bay Ports are Latino men, the majority of whom are immigrants.[3] While they were lauded as essential workers during the pandemic, the industry has treated them as expendable, denying them critical protections and their basic rights as employees by misclassifying them as "independent contractors." Perversely, the majority of companies at the ports continue to unlawfully misclassify their drivers and pretend they are somehow each independent businesses rather than employees, when the legal system has overwhelmingly found that port drivers are in fact employees and therefore are due rights as such.

Over the past decade, every federal and state government agency and court that has investigated port trucking companies has repeatedly and resoundingly found port truck drivers were not true independent contractors, but rather employees—from the US Department of Labor, to the National Labor Relations Board, to state and federal district and appeals courts, to almost 500 decisions from the California Labor Commissioner's Office alone. Yet notwithstanding these uniform findings, the vast majority of port trucking companies continue to violate the law with impunity, denying their drivers basic employee rights, including wage and hour protections such as minimum wage and paid sick leave; unemployment, disability, and workers compensation insurance; occupational health and safety protections; and the right to organize a union with their coworkers. Major logistics corporations XPO and Universal Logistics own port trucking subsidiaries that have received multiple final court judgments for misclassification and wage theft, yet continue to operate outside of the law.

Any appearance of a "driver shortage" is really a shortage of good jobs. Misclassification in port trucking has been extensively documented as modern-day indentured servitude,[4] and the industry is notorious for unlawfully forcing drivers to shoulder truck costs and to work long hours without meal and rest breaks and other basic employee protections, including Covid protections. Further, by misclassifying drivers and paying them by the load, trucking companies get away with offloading the costs of long wait times and traffic congestion onto drivers' backs, eliminating any incentive for trucking companies or cargo owners to push for a more efficient system.

In addition to having a devastating impact on drivers and their families, the industry's misclassification of drivers has negative effects all along the supply chain and beyond, outlined as follows:

- *The current misclassification-based drayage system is chaotic and unpredictable*. In testimony delivered to the California Joint Assembly and Senate Ports and Good Movement Select Committee hearing on November 3, 2021, Port of Los Angeles Executive Director Gene Seroka reported that 30% of all truck appointments at the port terminals go unfilled, a figure that goes up to 50% on the weekends. With a more rational system based on an employee workforce, employers could coordinate driver schedules and provide direction to employees to ensure that appointments are met, and could provide backup labor if drivers are stuck in lines beyond their control and unable to make appointments. An employee-based model would also ensure that drivers receive fair compensation, including hourly pay for all hours waiting in line to pick up a container, a night differential for working the night shift, and overtime wages.

  The lack of accountability in the port drayage sector has also led to a highly fragmented market, with over 1,200 trucking companies registered to do business at the Ports of Los Angeles and Long Beach, of which 800 are in active service.[5] This is grossly inefficient, given that just 50 of those companies move about half of all containers. A more manageable universe of companies would

[2] Wall Street Journal, *Shippers Find New Supply-Chain Hurdles at Alternate Ports*, Paul Berger, 10/24/2021

[3] Port of Los Angeles, 2021 Port Truck Driver Survey, Pg.3, August 29, 2021

[4] USA Today, Rigged—Forced into debt, Worked past exhaustion. Left with nothing, Brett Murphy, June 16, 2017

[5] Port of Los Angeles Clean Truck Program Gate Move Analysis, September 2021

further contribute to a more rational system of drayage where appointment systems can work, which would in turn lead to a much more rational system of terminal operation itself.

- *By misclassifying drivers, the industry also hurts the public because companies that misclassify are not paying or deducting payroll taxes, depriving Social Security and state unemployment and disability insurance funds of sorely needed contributions*. A recent analysis by the California Department of Labor Standards Enforcement found that misclassification costs the state of California $7 billion annually.[6] An earlier study by the Government Accounting Office found that the Federal government is shortchanged by at least $2.6 billion annually by companies that misclassify their workers.[7]
- *Companies that operate outside of the law by misclassifying are also undercutting law-abiding businesses, creating unfair competition for companies that do pay their taxes and follow labor and employment laws*. Trucking companies that misclassify their drivers undercut compliant operators by at least 30%, profit margins in the industry are narrow, at about 8%. So while misclassification is illegal, as a port trucking company owner testified in a 2018 hearing at the Port of Long Beach, this model persists because "It is cheaper to cheat." [8]

The "driver shortage" is really a shortage of decent work

Rather than seek to address the glaring dysfunction in the port trucking industry—an illegal business model—the industry has instead chosen to dust off its perennial claims of a driver shortage. Here we take a closer look at key indicators of driver retention and supply, which again point to a fundamental issue with the industry, not the number of drivers available to work. A 2019 Bureau of Labor Statistics report examining the industry's claim of a driver shortage found a 94% [9] turnover rate in large Truckload Carriers and nearly 80% in smaller Truckload Carriers, using data collected by the American Trucking Association. Such astronomically high turnover rates point to a problem with working conditions. Indeed, other segments of the trucking sector which have higher unionization rates had much lower turnover rate of 11.7%,[10] pointing to the value of job quality in retaining drivers in the industry.

Focusing in on California, the epicenter of the current backlogs, the trucking industry's claims of a dire shortage of truck drivers do not hold up under further examination of data. According to a recent article by Time magazine there are over 640,000 California residents with Class A & B Commercial Drivers Licenses (CDLs), but there are only 140,000 truck transportation jobs in California.[11] Shifting focus to port drayage drivers in the San Pedro Bay Ports, data compiled for the Clean Truck Program clearly show an excess of registered trucks eligible to call upon the ports (the closest proxy for port drivers in publicly available data). In the most recently released data, the ports report there are 19,878 [12] trucks with access to port terminals in the Port of Long Beach and 18,374 [13] with access to the Port of Los Angeles. Of those, there are 14,727 and 13,352 *active* trucks—those that make at least one trip to port terminals a month—at the Port of Long Beach and Los Angeles respectively.

With over four times as many licensed truck drivers in the state than available trucking jobs, and with a surplus of at least 25% of trucks with access to port terminals that are not calling on the ports, it is clear that there is no real shortage of drivers available to move goods. Again, the shortage is one of decent, dignified working conditions, combined with a lack of a rational, efficient system in which drivers can perform their jobs.

The trucking industry's push to lower the CDL age as one of the solutions to the current cargo problem, will not help move any containers before the holidays and may actually make the situation worse. The recent infrastructure bill signed by President Biden includes millions for new truck driver training and there are al-

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[6] Misclassification, The ABC Test, and Employee Status, Lynn Rhinehart, Celine McNicholas, Margaret Poydock, and Ihna Mangundayao, June 16, 2021

[7] Ibid.

[8] Long Beach City Council, Tidelands and Harbor Committee meeting, May 31, 2018.

[9] Monthly Labor Review, Bureau of Labor Statistics, Is the U.S. labor market for truck drivers broken?, March 2019, Stephen V. Burks & Kristen Monaco

[10] Ibid.

[11] Time Magazine, The Truck Driver Shortage Doesn't Exist. Saying There Is One Makes Conditions Worse for Drivers, Alana Semuels, November 12, 2021

[12] Port of Long Beach—Clean Trucks Program Monthly Container Truck Move Analysis September 2021

[13] Port of Los Angeles Clean Truck Program (CTP)—Gate Move Analysis, September 2021: Adjusted Engine Year

ready countless driver training programs in existence. But as shown above the number of *people* with CDLs does not mean there will be a *job* to place them in. This conclusion that the problem is not a lack of drivers willing to do the job, but rather an inefficient system, has been echoed in many recent reports, from a union driver,[14] to a non-union trucking company owner in Oakland.[15] Flooding the market with new, inexperienced drivers will only add to port congestion.

II. The Solution: Rationalize port drayage by ending systemic misclassification of port drivers

The port drayage system as it operates today is not a rational nor an efficient system, as has been clearly demonstrated over the past several months. In a recent Port of Los Angeles Harbor Commission meeting, Commissioner Diane Middleton recently offered the following analysis of the causes of the congestion plaguing the ports and what it's going to take to end the chaos:

> "When we look at the two other critical parts of the supply chain, truckers and warehouse workers, there is a tremendous breakdown there. Everyone understands it. The legislature did their job in trying to pass laws that protect warehouse workers and truckers. I believe this situation is never going to change until these workers are unionized, and they have someone who can collectively bargain around wages, hours and working conditions. It will bring what I call, rationalization, to the system." [16]

To rationalize this system, we must first rein in misclassification with all the policy tools at our disposal, starting with vigorous enforcement. In the absence of accountability, good high-road trucking companies who properly classify their drivers as employees have no incentive to do business in the ports of LA and Long Beach as they can be so easily undercut by those that operate outside the law and make money off the backs of workers, taxpayers and law-abiding companies.

While trucking companies must be held accountable and come into compliance with federal, state, and local labor, employment, and tax laws, there will always be a race to the bottom as long as there are low-road companies that can undercut those who follow the law. To raise the floor and transform the industry, the powerful players at the top of the supply chain—the Beneficial Cargo Owners—must also be held accountable for the abuses in their supply chains. The real economic employers that benefit from this whole system are the retailers and brands who contract with trucking companies and they have the resources and the power to dictate the terms of those contracts.

III. Recommended policy actions

Below, we outline key actions that Congress, the Biden Administration, and key agencies can take to alleviate the congestion at the ports, namely promoting good jobs and preventing further system failures by ending the illegal business model which relies on misclassification and exploitation

- Congress and the President must take immediate measures during this crisis, through full use of Congressional action and Executive Orders, to create a more rational, efficient, and accountable port drayage system, including by:
  - Securing land to store containers and incentivizing the use of unionized companies or companies with labor peace agreements to expedite the clearing of backlogged containers without labor disruptions or strikes impeding this critical work.
  - Addressing the race to the bottom in trucking spurred by so-called deregulation and legislation like the FAAAA. Trucking companies have perverted the intent behind these laws and have advocated for broad preemptive powers which prevent states and localities from addressing critical labor and employment issues. Stymying the ability of local and state governments to raise standards to create a more efficient and accountable system at the ports has led to the systemic misclassification driving the current crisis.

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[14] Medium, "I'm A Twenty Year Truck Driver, I Will Tell You Why America's "Shipping Crisis" Will Not End", Ryan Johnson, October 26, 2021

[15] Commercial Carrier Journal, "Unenforced emissions regs 'absolutely' constraining drayage market", Tom Quimby, Nov 12, 2021

[16] Diane Middleton, "1. Resolution No. ________—Approve Temporary Order To Amend Port Of Los Angeles Tariff No. 4, Section Twenty-Five, Container Excess Dwell Fee," Port of Los Angeles Board of Harbor Commissioners, October 29, 2021, video, 41:05, https://www.portoflosangeles.org/commission/agenda-archive-and-videos

- Incentivizing Beneficial Cargo Owners to only use companies that properly classify their port drivers as employees, that require decent labor standards—including living wages and good health insurance—and that require labor peace agreements from their contractors to avoid labor unrest throughout their supply chains.
- Ensuring that federal contracts can address the current crisis and do not finance or enrich law-breaking companies by requiring that any recipients or contractors only use law-abiding port trucking companies that properly classify drivers as employees and that have union contracts or other labor peace agreements which will prevent labor unrest throughout their supply chains at this critical time.

- The DOL, the IRS, other key agencies, and even state governments can develop a program to audit port trucking companies, requiring immediate reclassification or cessation of operations by all trucking companies it finds to be engaging in misclassification, and recovering unpaid FICA and payroll taxes.
- Call upon Beneficial Cargo Owners—retailers and brands—to develop and enforce a Code of Conduct that demands strict compliance with state and federal law, that prohibits misclassification, that requires decent labor standards, including living wages and good health insurance, and that requires labor peace agreements or union contracts to avoid labor unrest throughout their supply chains.
- Vigorously support organizing rights and the PRO Act to remove barriers for drivers who are striving to exercise their employee rights and improve their working conditions.

Thank you for your consideration.

Sincerely,

JESSICA DURRUM,
Ports Project Director, Los Angeles Alliance for a New Economy.

Letter of December 1, 2021, to Hon. Peter A. DeFazio, Chair and Hon. Sam Graves, Ranking Member, Committee on Transportation and Infrastructure, from Robyn M. Boerstling, Vice President, Infrastructure, Innovation, and Human Resources Policy, National Association of Manufacturers, Submitted for the Record by Hon. Sam Graves

DECEMBER 1, 2021.

Hon. PETER A. DEFAZIO,
Chairman,
Transportation and Infrastructure Committee, U.S. House of Representatives, Washington, DC 20515.

Hon. SAM GRAVES,
Ranking Member,
Transportation and Infrastructure Committee, U.S. House of Representatives, Washington, DC 20515.

DEAR CHAIRMAN DEFAZIO AND RANKING MEMBER GRAVES,

The National Association of Manufacturers (NAM), the largest manufacturing association in the United States representing manufacturers in every industrial sector and in all 50 states, appreciates the Committee's focus on addressing national supply chain shortcomings by holding the recent hearing entitled, "Industry and Labor Perspectives: A Further Look at North American Supply Chain Challenges".

NAM membership is comprised of businesses operating in all areas of the national supply chain, utilizing all modes of shipping transportation, and duly affected by any challenges that arise, especially those causing systematic impacts. Throughout the COVID–19 pandemic manufacturers have risen to the challenge of safely operating industrial facilities to meet the needs of America's consumers and communities and fulfilling varied essential services. As the strain on our nation's supply chain persists across multimodal operations and across industries, NAM members have experienced firsthand the real-time impacts of cost increases and time delays. Manufacturers in the United States possess a unique perspective on all surface, water and air-based goods shipments and support appropriate federal actions and policies aimed at lessening existing constraints and preventing further supply chain disruptions.

For many years, the NAM has strongly advocated for increased federal investment into the nation's infrastructure. In order to maintain global competitiveness, our roads, bridges, waterways, airports and related systems must be built and maintained for the century ahead. No global economic power can compete on the world stage if products cannot efficiently be moved to market and transported to and from international launch points. The recently enacted Infrastructure Investment and Jobs Act will provide historic funding for American infrastructure and create economic growth opportunity without implementing new undue tax burdens on the manufacturing base that is our national economic engine. With a combination of opportunity for private investment and direct injection of federal funding into vital and long-overdue projects, this initiative will build the infrastructure our nation desperately needs to achieve historic economic prosperity, create sustainable and resilient national systems, and ensure long-term growth for American industry. Additionally, by securing long-term solvency for our nation's surface transportation systems, businesses that rely heavily on the trains, trucks and other forms of surface shipping would gain the secure outlook needed for advanced planning and strategic growth.

As the administration develops new programs to utilize this funding, the NAM strongly encourages continued engagement with congressional partners and the industrial partners who will build, repair and maintain the national infrastructure systems highlighted in the law. Specifically, as both short- and long-term port and supply chain remedies are considered, pursuing projects that allow local ports and terminal operators appropriate flexibility in meeting local demands should be a paramount focus. Technological upgrades for shipping data management and logistical operations for onsite container and truck movements at America's ports should also be considered an effective use of IIJA port funding. Further, truck congestion on the surface side operations of ports could be alleviated if additional trailer and container parking and storage were available at or nearby existing port locations. IIJA funding can make a targeted impact on trucking congestion at ports if applied towards the creation or expansion of additional parking facilities and physical space for intermodal transfer and container storage use.

The most visible inflection point for current supply chain constraints has been at American ports. As the U.S. economy began to rebound from COVID–19, it quickly became apparent that our existing supply chain was not impervious to global facility shutdowns, worker shortages and other ancillary impacts resulting from a once-in-a-century pandemic. The nation's manufacturing and industrial base now faces historically higher shipping costs, unpredictable delivery delays for essential components and heretofore unseen limitations on cargo space availability for ocean going freight. The NAM would further encourage congressional efforts to enact programs that incentivize, train and license heavy-duty commercial vehicle drivers. Current federal law prohibits the interstate movement of goods by commercial driver's license (CDL) holders under the age of 21. Along with additional industry advocates, the NAM has called for passage of the DRIVE Safe Act, which would authorize appropriate federal approval for training and apprenticeship programs to allow for the legal operation of commercial motor vehicles in interstate commerce by under-21 CDL holders. By activating this existing pool of trained and licensed drivers, the federal government could quickly alleviate some of the systematic burden caused by a nationwide truck driver shortage.

An additional step available to enhance operations at the Port of LA and other heavy volume domestic ocean ports includes wider introduction of innovative data logistics management systems. The digitization of industrial processes has led to advanced manufacturing procedures that enhance competitive productivity. As Congress and the administration review opportunities for federal investment to reinvigorate port operations, advanced data management has the potential to utilize innovative logistics to identify bottlenecks, streamline container and chassis delivery and transition antiquated infrastructure for a modern shipping landscape.

The Federal Maritime Commission (FMC), which is tasked with jurisdictional oversight of operations and operators at American ports, also has a slate of proactive options that could be exercised to ease shipping burdens for the industrial sector. While existing authorities would allow the assessment of fees on international ocean carriers operating practices that adversely affect the U.S., the threat of action has historically brought disparate parties to a consensus on fairly adjudicating disputes. NAM members are frustrated with empty shipping containers taking up usable cargo space on ocean-bound outgoing ships, often times in place of contracted container space for U.S. produced goods. While this practice may financially benefit the carriers' bottom line, it disadvantages key sectors of the U.S. economy. The NAM would encourage the FMC to utilize any necessary and appropriate levies or authorized abilities to ensure operators and carriers at U.S. ports do not unfairly select cargo loads that run counter to contractual obligations or domestic interests. Should congressional action be necessary to empower the FMC with more specific instructions, we would encourage consideration of such efforts on behalf of manufacturers in the U.S.

The current status of the domestic supply chain presents daunting challenges and threatens the continued economic revival of manufacturers in the United States who have successfully responded to the COVID–19 pandemic. Manufacturers know the immense capabilities of American ingenuity and the recommendations included here are few of the many steps that the NAM hopes congressional leaders will consider to ease cost burdens, reduce shipping timetables and allocate resources for more efficient industrial goods transportation. The NAM has recently enlisted members to participate in a Ports and Ocean Shipping Task Force, dedicated to productive engagement with policymakers and to serve as a forum for industrial best practices and anecdotal dialogue. We invite Members from the Committee to join the Task Force for an upcoming meeting and look forward to continuing a solutions-oriented conversation to rectify national supply chain challenges.

Sincerely,

ROBYN M. BOERSTLING,
Vice President, Infrastructure, Innovation, and Human Resources Policy,
National Association of Manufacturers.

Letter of September 13, 2021, to Hon. John Garamendi and Hon. Dusty Johnson from Accustom Brokerage, LLC et al., Submitted for the Record by Hon. John Garamendi

SEPTEMBER 13, 2021.

The Honorable JOHN GARAMENDI,
U.S. House of Representatives,
2368 Rayburn House Office Building, Washington, DC 20515.

The Honorable DUSTY JOHNSON,
U.S. House of Representatives,
1714 Longworth House Office Building, Washington, DC 20515.

DEAR REPRESENTATIVES GARAMENDI AND JOHNSON,

On behalf of the undersigned companies and trade associations representing U.S. importers, exporters, transportation providers and other supply chain stakeholders, we are writing to express our strong support for the Ocean Shipping Reform Act of 2021 (OSRA21) (HR 4996) which you have introduced. We believe the reforms included in OSRA21 will help address longstanding, systemic supply chain and port disruption issues which have been further exacerbated by the COVID–19 pandemic.

The ongoing supply chain challenges that face the nation's exporters and importers are having a significant effect on their economic recovery during the pandemic. While the supply chain has been stretched from end-to-end, there are systemic issues that need to be addressed in the maritime cargo sphere. For many years, the issue of detention and demurrage has been a problem leading to significant cost increases for cargo owners and truckers, many times due to issues beyond their control. We certainly welcomed the Interpretive Rule on Detention and Demurrage as published by the Federal Maritime Commission, but we need more than just "guidance" that is not being followed by ocean carriers nor marine terminals, leading to hundreds of millions of dollars in unfair penalties against US shippers and their transportation partners. The legislation will seek to formalize this rule and truly define the parameters for these charges.

Foreign markets are critical to American businesses, particularly US farmers and ranchers, with more than 20% of agricultural production going abroad. Problems obtaining ocean containers of any kind combined with difficulty securing vessel space at fair and reasonable prices, are jeopardizing livelihoods and economic recovery. The attention given these unreasonable practices and the reforms proposed in OSRA21 are critical to reversing those challenges facing not only US exporters but also US businesses that rely on imports.

The legislation will also seek to update key provisions of the Ocean Shipping Reform Act, which hasn't been updated in over two decades. The maritime transportation system has changed significantly during those decades. While some maritime transportation system changes have been a positive for the industry overall, we need to ensure the regulations remain applicable to today's reality. With the creation of the carrier alliances, contraction of the number of carriers in the market, changes to chassis management and others, we believe the time is right for these important reforms.

We thank you for your strong leadership on this issue to ensure that the ongoing supply chain disruption and port congestion issues are addressed. This will help ensure U.S. competitiveness and continued economic recovery. We look forward to working with you to ensure passage of this important legislation.

Sincerely,

Company Signatures:

ACCUSTOM BROKERAGE, LLC.
AKZO NOBEL.
ASSOCIATED BAG.
BASSTECH INTERNATIONAL.
BBT LOGISTICS, INC.
BEST TRANSPORTATION.
BIO-VET, INC.
BRIGGS & RILEY TRAVELWARE, LLC.
BUBBLEBUM USA LLC.
BYER CALIFORNIA.
CAP AMERICA, INC.
CARBOCHEM INC.
DALAKAR HILL LLC.
DELKA TRUCKING, INC.
DELTA CYCLE CORP.
ELLIPTIGO, INC.
EPSTONE INC. T/A ARTISTIC TILE.
EVERLAST SPORTS MFG INC.
HAPCO INC.
HATCO CORPORATION.
HCS INTERNATIONAL.
HERCULES ENTERPRISES LLC.
HIGHLINE UNITED LLC.
ICE ROBOTICS.
INUSA MANUFACTURING LLC.
IT LUGGAGE USA, LTD.
J WAY COMPANY.
JU JU BE INTL.
KONTOOR BRANDS, INC.
LEVATOY, LLC.
LOFTEX HOME LLC.
LUGGAGE SHOP OF LUBBOCK.
LURACO TECHNOLOGIES.
M.E. DEY & CO. INC.
MOBILE EDGE LLC.
MTI, INC. PA.
MULTIAX AMERICA INC.
NOURYON.
OUTDOOR GEAR, INC.
REGAL LAGER, INC.
RENFRO BRANDS LLC.
SCHUSTER PRODUCTS, LLC.
SETLOG CORP.
SGP INC.
SIGNIFY NORTH AMERICA CORPORATION.
STAR CHILDREN'S DRESS CO.
STORK CRAFT MANUFACTURING INC.
SYNERGIES WORLDWIDE LTD.
T.G.S. LOGISTICS, INC.
TOWN & COUNTRY LIVING.
TRANSWAYS MOTOR EXPRESS CO., INC.
UNCOMMON CARRIER, INC.
UNITED STATE LUGGAGE, LLC.
UPS.
WAUSAU CHEMICAL CORPORATION.
WENKO INC.
WEST END EXPRESS.
XENITH.
ZERO HALLIBURTON, INC.

Trade Association Signatures:

ACCESSORIES COUNCIL.
AGRICULTURE TRANSPORTATION COALITION.
AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE.
ALTI.
AMERICAN APPAREL & FOOTWEAR ASSOCIATION.
AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS.
AMERICAN CHEMISTRY COUNCIL.
AMERICAN COATINGS ASSOCIATION.
AMERICAN HOME FURNISHINGS ALLIANCE.
AMERICAN LIGHTING ASSOCIATION.
AMERICAN PYROTECHNICS ASSOCIATION.
AMERICAN SEED TRADE ASSOCIATION.
AMERICAN SPICE TRADE ASSOCIATION.
AMERICAN TRUCKING ASSOCIATIONS.
ASSOCIATION OF BI-STATE MOTOR CARRIERS.
ASSOCIATION OF FOOD INDUSTRIES.
AUTO CARE ASSOCIATION.
AUTOMOTIVE BODY PARTS ASSOCIATION (ABPA).
CAWA—REPRESENTING THE AUTOMOTIVE PARTS INDUSTRY.
COLOR PIGMENTS MANUFACTURERS ASSOCIATION.
COLUMBIA RIVER CUSTOMS BROKERS & FORWARDERS ASSOCIATION.
CONSUMER BRANDS ASSOCIATION.
CONSUMER TECHNOLOGY ASSOCIATION.
COUNCIL OF FASHION DESIGNERS OF AMERICA (CFDA).
CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF NORTHERN CALIFORNIA.
CUSTOMS BROKERS & INTERNATIONAL FREIGHT FORWARDERS ASSOCIATION OF WASHINGTON STATE.
DAIRY FARMERS OF AMERICA.
DISTILLED SPIRITS COUNCIL OF THE U.S.
EXPERIENTIAL DESIGNERS & PRODUCERS ASSOCIATION.
FOOTWEAR DISTRIBUTORS & RETAILERS OF AMERICA (FDRA).
FRAGRANCE CREATORS ASSOCIATION.
FREIGHT MANAGEMENT ASSOCIATION OF CANADA.
GAME MANUFACTURERS ASSOCIATION.
GREEN COFFEE ASSOCIATION.
GREETING CARD ASSOCIATION.
HALLOWEEN & COSTUME ASSOCIATION.
HARBOR TRUCKING ASSOCIATION.
HOME FASHION PRODUCTS ASSOCIATION.
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.

INTERMODAL MOTOR CARRIERS CONFERENCE.
INTERNATIONAL ASSOCIATION OF MOVERS (IAM).
INTERNATIONAL ASSOCIATION OF REFRIGERATED WAREHOUSES.
INTERNATIONAL BOTTLED WATER ASSOCIATION.
INTERNATIONAL HOUSEWARES ASSOCIATION.
INTERNATIONAL WAREHOUSE LOGISTICS ASSOCIATION.
INTERNATIONAL WOOD PRODUCTS ASSOCIATION.
ISSA—THE WORLDWIDE CLEANING INDUSTRY ASSOCIATION.
JUVENILE PRODUCTS MANUFACTURERS ASSOCIATION (JPMA).
LEATHER AND HIDE COUNCIL OF AMERICA.
LOS ANGELES AREA CHAMBER OF COMMERCE.
LOS ANGELES CUSTOMS BROKERS & FREIGHT FORWARDERS ASSOCIATION.
MEAT IMPORT COUNCIL OF AMERICA.
MICHIGAN CHEMISTRY COUNCIL.
MOTOR & EQUIPMENT MANUFACTURERS ASSOCIATION.
MOTORCYCLE INDUSTRY COUNCIL.
NASSTRAC.
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS.
NATIONAL ASSOCIATION OF MUSIC MERCHANTS.
NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION.
NATIONAL FISHERIES INSTITUTE.
NATIONAL FOREIGN TRADE COUNCIL.
NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE.
NATIONAL MARINE MANUFACTURERS ASSOCIATION.
NATIONAL MILK PRODUCERS FEDERATION.
NATIONAL PORK PRODUCERS COUNCIL.
NATIONAL RETAIL FEDERATION.
NATIONAL SKI & SNOWBOARD RETAILERS ASSOCIATION.
NATIONAL SPORTING GOODS ASSOCIATION.
NEW JERSEY MOTOR TRUCK ASSOCIATION.
NORTH AMERICAN ASSOCIATION OF FOOD EQUIPMENT MANUFACTURERS (NAFEM).
NORTH AMERICAN HOME FURNISHINGS ASSOCIATION.
NORTH AMERICAN MEAT INSTITUTE.
OUTDOOR INDUSTRY ASSOCIATION.
PACIFIC COAST COUNCIL OF CUSTOMS BROKERS AND FREIGHT FORWARDERS ASSNS. INC.
PERSONAL CARE PRODUCTS COUNCIL.
PET INDUSTRY JOINT ADVISORY COUNCIL.
PLUMBING MANUFACTURERS INTERNATIONAL.
PROMOTIONAL PRODUCTS ASSOCIATION INTERNATIONAL (PPAI).
RECREATIONAL OFF HIGHWAY VEHICLE ASSOCIATION.
RETAIL INDUSTRY LEADERS ASSOCIATION (RILA).
SAN DIEGO CUSTOMS BROKERS ASSOCIATION.
SPECIALTY VEHICLE INSTITUTE OF AMERICA.
SPORTS & FITNESS INDUSTRY ASSOCIATION (SFIA).
THE CAN MANUFACTURERS INSTITUTE.
THE FERTILIZER INSTITUTE.
THE FOREIGN TRADE ASSOCIATION (FTA).
THE HARDWOOD FEDERATION.
THE TOY ASSOCIATION.
TRAVEL GOODS ASSOCIATION.
U.S. DAIRY EXPORT COUNCIL.
U.S. FASHION INDUSTRY ASSOCIATION.
UNITED NATURAL PRODUCTS ALLIANCE.
WISCONSIN CREDIT ASSN.

CC: The Honorable Peter DeFazio, Chairman, Committee on Transportation and Infrastructure
The Honorable Sam Graves, Ranking Member, Committee on Transportation and Infrastructure
The Honorable Salud O. Carbajal, Chairman, Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation
The Honorable Bob Gibbs, Ranking Member, Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation

Letter of August 9, 2021, to Hon. John Garamendi and Hon. Dusty Johnson from the Agriculture Transportation Coalition et al., Submitted for the Record by Hon. John Garamendi

AUGUST 9, 2021.

Representative JOHN GARAMENDI,
Representative DUSTY JOHNSON,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMEN GARAMENDI AND JOHNSON;

The US agriculture and forest products industry strongly endorses your legislation, the Ocean Shipping Reform Act of 2021 "OSRA21". The undersigned companies and associations believe the Act's provisions addressing unreasonable detention and demurrage charges, export cargo bookings, and other carrier practices, are essential to allow US agriculture to remain competitive in global markets.

The transportation crisis for US agriculture and forest products is becoming increasingly dire each month. There is nothing we produce in agriculture and forest products in this country, that cannot be sourced in some other country. If we cannot deliver, affordably and dependably, our foreign customers will find alternatives to our exports. Our survey suggests that on average 22% of US agriculture foreign sales cannot be completed due to ocean carrier rates, declining to carry export cargo, unreasonable demurrage and detention charges, and other practices.

Over 150 Members of Congress have written urging prompt Federal initiative. The House Committee on Transportation and Infrastructure hearing, President Biden's Executive Order 14036, and Secretary of US Department of Transportation Buttigieg's recent port Roundtable all confirm that current law and regulation are insufficient to protect the ocean shipping interests of US exporters and importers.

We strongly support provisions in your bill to gain reasonable and fair ocean carrier practices consistent with the Federal Maritime Commission's excellent Interpretive Rule on Demurrage and Detention—which unfortunately has gone unheeded for over two years. It imposes upon carriers the obligation to self-police compliance with that Rule. In addition, the bill obligates ocean carriers to carry export cargo, to the extent they can do so safely. It addresses carrier practices limiting efficient use of containers, chassis and other equipment.

We greatly appreciate your engagement with the agriculture community nationwide, to develop this proposed Act. As it proceeds through the legislative process, we look forward to working with you to advance and strengthen the bill.

Sincerely,

AGRICULTURE TRANSPORTATION COALITION.
AGRICULTURAL & FOOD TRANSPORTERS CONFERENCE, ATA.
ALLBRIGHT COTTON.
ALLIED POTATO.
ALMOND ALLIANCE OF CALIFORNIA.
AMERICAN CHEMISTRY COUNCIL.
AMERICAN COMODITY COMPANY.
AMERICAN COTTON SHIPPERS ASSOCIATION.
AMERICAN FARM BUREAU FEDERATION.
AMERICAN FEED INDUSTRY ASSOCIATION.
AMERICAN PULSE ASSOCIATION.
AMERICAN SEED TRADE ASSOCIATION.
AMERICAN TRUCKING ASSOCIATIONS.
ANDERSON NORTHWEST.
BORDER VALLEY TRADING.
CA WALNUT COMMISSION.
CALIFORNIA CITRUS MUTUAL.
CALIFORNIA COTTON GINNERS AND GROWERS ASSOCIATION.
CALIFORNIA FRESH FRUIT ASSOCIATION.
CALIFORNIA TABLE GRAPE COMMISSION.
CALIFORNIA WALNUTS.
CAPAY CANYON RANCH.
COLUMBIA GRAIN.
COLUMBIA SEEDS.
CONSUMER BRANDS ASSOCIATION.
CORN REFINERS ASSOCIATION.
COTTON WAREHOUSE ASSOCIATION OF AMERICA.
DAIRY FARMERS OF AMERICA.
DIAMOND E TRANSPORT.
DOUBLE RIVER FORWARDING, LLC.
ECKENBERG FARMS.
EL TORO EXPORT, LLC.
EXCEL INTERNATIONAL, LLC.
FIG GARDEN PACKING, INC.
FOODLINX.
GROWER DIRECT NUT CO.
HARDWOOD FEDERATION.
HUMBLE SOLUTIONS INC.
INLAND EMPIRE MILLING CO.
INTERMODAL MOTOR CARRIER CONFERENCE, ATA.
INTERNATIONAL DAIRY FOODS ASSOCIATION.
INTERNATIONAL PAPER.
LEATHER AND HIDE COUNCIL OF AMERICA.
LINDSEY FORWARDERS, INC.
MEAT IMPORT COUNCIL OF AMERICA.
NATIONAL ASSN. OF STATE DEPARTMENTS OF AGRICULTURE.
NATIONAL CHICKEN COUNCIL.
NATIONAL COTTON COUNCIL.
NATIONAL COUNCIL OF FARMER COOPERATIVES.
NATIONAL HAY ASSOCIATION.
NATIONAL MILK PRODUCERS FEDERATION.
NATIONAL OILSEED PROCESSORS ASSOCIATION.
NATIONAL ONION ASSOCIATION.
NATIONAL PORK PRODUCERS COUNCIL.
NORTH AMERICAN MEAT INSTITUTE.
NORTH AMERICAN RENDERERS ASSOCIATION.
OREGON POTATO COMMISSION.
PANDOL.
PACIFIC COAST COUNCIL CUSTOMS BROKERS & FREIGHT FORWARDERS.
WASHINGTON STATE ASSN.
COLUMBIA RIVER ASSN.
NORTHERN CALIFORNIA ASSN.
LOS ANGELES ASSN.
SAN DIEGO ASSN.
PET FOOD INSTITUTE.
PURIS.
QUALITY TRADING CO, LLC.
RAY-MONT LOGISTICS.

SADDLE BUTTE AG, INC.
SB&B FOODS, LLC.
SMITH SEED SERVICES.
SOUTHERN STATES FORWARDING, INC.
SPECIALTY SOYA AND GRAINS ALLIANCE.
SUN PACIFIC MARKETING.
SUNSWEET.
THE FERTILIZER INSTITUTE.
THE GOMBOS COMPANY, LLC.
USA DRY PEA AND LENTIL COUNCIL.
U.S. DAIRY EXPORT COUNCIL.
U.S. DRY BEAN COUNCIL.
U.S. FORAGE EXPORT COUNCIL.
U.S. PEA AND LENTIL TRADE ASSOCIATION.
U.S. MEAT EXPORT FEDERATION.
UNITED FRESH PRODUCE ASSOCIATION.
US NISSHIN SHOKAI.
WARD RUGH, INC.
WEFARM ORGANICS.
WESTERN AGRICULTURAL PROCESSORS ASSOCIATION.
WESTERN GROWERS ASSOCIATION.
WILLIAMS CLARKE COMPANY, INC.
WINE AND SPIRITS SHIPPERS ASSOCIATION.

Letter of September 24, 2021, to Hon. John Garamendi and Hon. Dusty Johnson from Jacob Cassady, Director, Government Relations, Association of Home Appliance Manufacturers, Submitted for the Record by Hon. John Garamendi

SEPTEMBER 24, 2021.

The Honorable JOHN GARAMENDI,
U.S. House of Representatives,
2368 Rayburn House Office Building, Washington, DC 20515.

The Honorable DUSTY JOHNSON,
U.S. House of Representatives,
1714 Longworth House Office Building, Washington, DC 20515.

Dear Representatives Garamendi and Johnson,

The Association of Home Appliance Manufacturers (AHAM) is writing to express our support for the Ocean Shipping Reform Act of 2021 (OSRA21), which you have introduced. We believe the reforms included in OSRA21 will help address serious and significant supply chain and port disruption issues.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members support more than one million jobs, have a $198 billion economic impact, and produce more than 95% of the household appliances shipped for sale. The home appliance industry, through its products and innovation, is essential to consumer lifestyle, health, safety and convenience. Home appliances also are a success story in terms of energy efficiency and environmental protection. The purchase of new appliances often represents the most effective choice a consumer can make to reduce home energy use and costs.

OSRA21 would update key provisions of the Ocean Shipping Reform Act, which has not been updated in over two decades. The maritime transportation system has changed significantly during those decades and with the creation of the carrier alliances, we believe the time is right for these important legislative reforms.

We thank you for your leadership on this issue to help address the supply chain disruption and port congestion problems.

Sincerely,

JACOB CASSADY,
Director, Government Relations, Association of Home Appliance Manufacturers.

Letter of November 17, 2021, to Hon. Peter DeFazio, Chair and Hon. Sam Graves, Ranking Member, Committee on Transportation and Infrastructure, from Gary Shapiro, President and CEO, Consumer Technology Association, Submitted for the Record by Hon. John Garamendi

NOVEMBER 17, 2021.

The Honorable PETER DEFAZIO,
Chairman,
Committee on Transportation and Infrastructure, U.S. House of Representatives, 2134 Rayburn House Office Building, Washington, DC 20515.

The Honorable SAM GRAVES,
Ranking Member,
Committee on Transportation and Infrastructure, U.S. House of Representatives, 1135 Longworth House Office Building, Washington, DC 20515.

CHAIRMAN DEFAZIO AND RANKING MEMBER GRAVES,

As our nation's largest technology trade association, the Consumer Technology Association (CTA)® agrees we need robust and resilient supply chains to protect consumers and ensure American innovation, economic success and global competitiveness.

CTA has supported ongoing efforts across the federal government to address supply chain challenges facing the U.S., including President Biden's comprehensive approach to reviewing the U.S. supply chain initiated earlier this year.

CTA has also published its own studies and analyses to help policymakers and industry stakeholders understand how companies and consumers rely on global supply chains and what can be done to solve these problems.[1] While the causes of the current supply chain crises are multiple and complex, Congress can take three actions now to alleviate the strain on American businesses and consumers:

First, pass the bipartisan Ocean Shipping Reform Act of 2021 (H.R. 4996). While American manufacturers, distributors and retailers work nonstop to rebound from the pandemic and ensure the availability of goods for their customers at reasonable prices, the global shipping industry has been taking advantage of these efforts by exploiting supply chain challenges for a profit. As documented by *60 Minutes* Sunday, shippers have raised prices for global shipping and exploited port delays by imposing exorbitant fees for time that containers spend waiting to be unloaded, even when those containers cannot yet access the port. This has left American businesses, workers and consumers to suffer through higher costs for goods.

As detailed in this week's *New York Times* front-page story, shippers have been refusing to load containers with U.S. agricultural goods and other products, preferring to quickly return across the ocean for the more lucrative Asia-U.S. route. As a result, more than 80% of the 434,000 containers exported out of the port of Los Angeles in September were empty.[2]

The bipartisan Ocean Shipping Reform Act of 2021 would reduce the shipping industry from imposing these exploitative penalties. The bill would also require shippers to act in the public interest and make it more difficult for them to refuse cargo from American exporters. This is the time to pass the Ocean Shipping Reform Act and end shipper misbehavior.

Second, suspend or eliminate outright the ocean shippers' antitrust exemption. The ocean shipping industry has consolidated significantly over the past 20 years, with the ten largest carriers—all of which are foreign-owned—controlling more than 80 percent of the market.[3] This tiny but powerful group has seized on the crisis as a chance to significantly raise prices for global shipping: a container that pre-pandemic cost $2,500 to ship currently costs $25,000 or more.[4] As American consumers and businesses struggle, foreign shippers are posting record profits.[5]

Despite these abuses, U.S. regulators, businesses and consumers are largely powerless because the shipping industry enjoys the U.S.'s oldest surviving statutory antitrust exemption. This exemption dates to 1916, and the U.S. Department of Jus-

[1] https://shop.cta.tech/collections/research/products/coping-with-crisis-sme-supply-chain-issues-in-the-pandemic-era

[2] https://www.nytimes.com/2021/11/14/business/economy/farm-exports-supply-chain-ports.html

[3] https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/09/fact-sheet-executive-order-on-promoting-competition-in-the-american-economy/

[4] https://www.reuters.com/business/china-us-container-shipping-rates-sail-past-20000-record-2021-08-05/

[5] https://qz.com/2060904/ports-are-a-mess-but-shipping-company-profits-are-at-record-highs/

tice has consistently called for its elimination over the past 20 years.[6] Ocean carriers have taken advantage of their antitrust exemption and the COVID–19 pandemic by charging exorbitant fees that are passed on to millions of Americans. This is an absurd injustice benefitting non-U.S. carriers and hurting the American public. Ending this anachronistic antitrust exemption is an obvious and pro-consumer solution.

Third, prioritize sensible automation of American ports. Our port speed and efficiency lags our international competitors. Not a single American port is listed in this year's top 50 Container Port Performance Index. The ports of Los Angeles and Long Beach were among the most inefficient in the world, ranking 328 and 333 respectively.[7]

One big reason for this inefficiency is that unlike other global ports, U.S. ports have generally refrained from using new automation technology, including cranes, container routing and materials handling innovations. A McKinsey & Co. study found that automating ports could boost productivity by up to 35%.[8] While some oppose automation for fear of its impact on labor, implementation of modern technologies could be paired with effective initiatives assisting maritime professionals in the transition to specialized positions requiring high-level mechanical and logistical skills.

Our port backlog is not an aberration, it is a warning sign. Demands on U.S. ports will continue to increase: by 2040, container traffic at the ports of Los Angeles and Long Beach could reach 41.1 million 20-foot equivalent units, up from 17.3 million units last year.[9] Without a commitment to automation technologies, our present port disruptions will only persist and worsen—leaving America to fall further behind our international competitors.

The supply chain crisis is a serious threat to America's economy and our global leadership. Avoiding empty store shelves and fighting price inflation will require Congress to think creatively, take bold measures and go toe-to-toe with powerful interests. We look forward to working with this Committee on effective solutions.

Sincerely,

GARY SHAPIRO,
President and CEO, Consumer Technology Association.

Letter of October 4, 2021, to Hon. John Garamendi and Hon. Dusty Johnson from Steve DeHaan, President and CEO, International Warehouse Logistics Association, Submitted for the Record by Hon. John Garamendi

OCTOBER 4, 2021.

The Honorable JOHN GARAMENDI,
U.S. House of Representatives,
2368 Rayburn House Office Building, Washington, DC 20515.

The Honorable DUSTY JOHNSON,
U.S. House of Representatives,
1714 Longworth House Office Building, Washington, DC 20515.

DEAR REPRESENTATIVES GARAMENDI AND JOHNSON:

On behalf of the International Warehouse Logistics Association (IWLA), I am writing to thank you for sponsoring H.R.4996, the Ocean Shipping Reform Act of 2021 (OSRA21). If passed, your legislation would bring much needed reform to demurrage and detention issues and crack down on the unfair business practices utilized by some ocean carriers.

Founded in 1891, IWLA is the trade association representing warehouse-based third-party logistics (3PL) providers across North America. IWLA's member companies and partners provide a range of services, including warehousing; fulfillment; reverse logistics; transportation; freight-forwarding and brokerage services; inventory and supply chain management; and a broad range of manufacturing and value-added services. Member companies range in size from 10,000 square foot single city

[6] https://www.ftc.gov/system/files/attachments/us-submissions-oecd-2010-present-other-international-competition-fora/competition__enforcement__and__regulatory__alternatives__us__submission.pdf

[7] https://timesofsandiego.com/business/2021/10/20/study-finds-ports-of-los-angeles-and-long-beach-among-the-worlds-least-efficient/

[8] https://www.mckinsey.com/industries/travel-logistics-and-infrastructure/our-insights/the-future-of-automated-ports

[9] https://www.joc.com/port-news/us-ports/long-beach-port-studies-expansion-handle-growth__20160407.html

warehouses to international companies with more than 25 million square feet of warehouse space.

OSRA21 would require ocean carriers to certify that any detention and demurrage charges comply with federal regulations or face penalties, to adhere to minimum service standards that meet the public interest, and to report each calendar quarter on the total import/export tonnage and twenty-foot equivalent units (loaded/empty) per vessel that make port in the U.S. to the Federal Maritime Commission (FMC). The legislation would also shift the burden of proof regarding the reasonableness of detention and demurrage charges from the invoiced party to the ocean carrier and prohibit carriers from unreasonably declining opportunities for U.S. exports as determined by the FMC.

These provisions are necessary to address the significant fines cargo owners and truckers often incur due to port disruption issues beyond their control. OSRA21 will increase federal oversight of maritime shipping at U.S. ports, allowing the FMC to initiate investigations of ocean carriers' business practices and apply enforcement measures where appropriate. IWLA welcomes these and other carrier/cargo reforms introduced by the OSRA21.

We thank you for your attention to these critical supply chain issues and for sponsoring this important legislation. IWLA stands ready to assist in advancing OSRA21 in Congress. If you have questions about IWLA or the positions stated within, please contact Patrick O'Connor, IWLA's Washington Representative.

Sincerely,

STEVE DEHAAN,
President and CEO, International Warehouse Logistics Association.

Statement of Eric R. Byer, President and CEO, National Association of Chemical Distributors, Submitted for the Record by Hon. John Garamendi

Thank you for holding this hearing on the severe supply chain challenges facing a wide range of industries and consumers across the United States (U.S.). It is vital that Congress address these ongoing issues head-on by consulting with the most impacted critical industries and exploring innovative solutions to alleviate the current supply chain challenges.

National Association of Chemical Distributors (NACD) is a trade association of chemical distributors and their supply-chain partners, whose member companies process, formulate, blend, re-package, warehouse, transport, and market chemical products for over 750,000 customers. NACD members supply products that are necessary for water treatment, food preservation, agricultural processes, pharmaceutical and vaccine production, as well as products needed to manufacture firefighting materials, sanitation products, and more.

The U.S. Department of Homeland Security (DHS) has deemed the chemical sector as one of 16 critical infrastructure sectors whose assets, systems, and networks are considered so vital to the U.S. that their incapacitation or destruction would have a debilitating effect on U.S. security, national economic security, and national public health or safety. Despite the DHS designation, the supply chain disruptions this committee is examining today have put immense pressure on chemical distributors throughout the pandemic.

Currently, chemical products such as glycerin, citric acid, sodium chlorite, sulfamic acid, among other materials, are struggling to move through the supply chain quickly enough to meet basic demand. This situation continues to deteriorate, and it is putting Americans in jeopardy of having insufficient access to clean water, inadequate medical supplies, limited food production and preservation capabilities, and more. As the U.S. continues to deal with the impacts of the COVID–19 pandemic, security of this supply chain is more important than ever.

Because many chemical products are no longer made domestically, NACD members must source these chemicals from overseas manufacturers. They depend on reliable ocean transportation to bring these materials into the U.S. and deliver them on time so they can supply their customers who require these critical ingredients for vital functions. Recently, NACD members have faced severe delays, skyrocketing costs, and outright order rejections from ocean shipping carriers. Specifically, regarding instances of carriers' refusal to ship certain products, NACD members are finding it increasingly difficult to source carriers that are willing to transport hazardous materials that have satisfied all U.S. requirements for maritime shipping to ensure the safety and security of the container.

The issue of NACD members having extreme difficulty finding carriers that will transport hazardous materials is of great concern. These chemical products are vital to national security, including chemicals used to support essential infrastructure operations and are necessary components of life saving medical treatments. Many ocean carriers have refused to transport hazardous materials that are required for water treatment, power generation, sanitation, and pharmaceutical production.

Furthermore, those that are willing to transport these chemicals have continuously increased the costs associated with doing so.

To understand the impact this shipping crisis has had on our member companies, we've conducted ongoing surveys. Our most recent survey found:

- 84.5% companies out of stock of at least some imported product;
- 82.1% of respondents reporting average delays of eleven or more days;
- 72.6% reporting being charged additional premiums by carriers beyond tariffs and contract rates;
- 89.3% of respondents reported losses and half of those are above $100,000, and;
- 166% rise in shipping costs in the last three months.

Without intervention, the chemicals that our national infrastructure relies on are at risk of running out. The products NACD member companies import are an important part of the American economy and a critical component of American manufacturing, and for over a year, ocean carriers have made importing increasingly difficult.

One solution NACD encourages this Committee to advance is the bipartisan Ocean Shipping Reform Act (H.R.4996), introduced by Representatives Garamendi (CA) and Johnson (SD). This bill would be the first major update to federal law on global shipping since 1998 and aims to address the unfair playing field in which ocean shippers have been forced to operate. NACD is proud to join hundreds of other trade associations and companies representing a wide range of importers, exporters, and other supply chain stakeholders in supporting this legislation.

NACD was pleased that the Federal Maritime Commission (FMC) convened the inaugural National Shipper Advisory Committee, and that Brian Bumpass of NACD member, Brenntag North America, Inc., was selected as the Committee's Chair. NACD has called for the FMC to take concrete action to protect American importers, exporters, and consumers from ongoing unfair and deceptive shipping practices. We hope that this Committee will be a resource for FMC to better understand the impact that excessive rates, fines, and fees are having on importers, exporters, other supply chain partners, and American consumers.

Finally, as a short-term solution to alleviating the severe congestion at U.S. ports, NACD urges Congress to promote better communication among ocean carriers, all ports capable of unloading ships, and the federal government. It has become clear that a lack of communication between these parties has further stymied the efforts to relieve port congestion. Smaller scale ports throughout the U.S. that possess the capabilities necessary to unload many of cargo ships anchored across the U.S. are not being fully utilized for various reason. These reasons include the aforementioned lack of communication between the parties involved, as well as the absence of U.S. Custom and Border Protection (CBP) agents at smaller ports that are needed to oversee the imports. NACD encourages CBP to dispatch agents to these smaller, under-utilized ports to help ease some congestion at larger ports.

NACD appreciates the attention of this Committee to this issue, and we encourage you to ensure that the voice of critical infrastructure sectors like the chemical industry are part of the conversation. We stand ready to work with you to ensure the continued supply of goods that are critical to national security and economic prosperity.

Letter of October 4, 2021, to Hon. John Garamendi and Hon. Dusty Johnson from Anne Reinke, President and Chief Executive Officer, Transportation Intermediaries Association, Submitted for the Record by Hon. John Garamendi

OCTOBER 4, 2021.

The Honorable JOHN GARAMENDI,
U.S. House of Representatives,
2368 Rayburn House Office Building, Washington, DC 20515.

The Honorable DUSTY JOHNSON,
U.S. House of Representatives,
1714 Longworth House Office Building, Washington, DC 20515.

DEAR CONGRESSMEN GARAMENDI AND JOHNSON:

On behalf of the more than 1,800 member companies of the Transportation Intermediaries Association (TIA) to voice our support for your legislation, H.R. 4996, the "Ocean Shipping Reform Act."

As you know, H.R. 4996 would finally empower the Federal Maritime Commission (FMC) to crack down on aggressive retaliatory practices and "unjust and unreasonable demurrage and detention rules and practices," by directing the FMC to initiate a series of rulemakings.

TIA members have felt the pressure of delayed port times, container shortages, overbearing demurrage and detention charges, and foreign ocean carriers that do not play fair. While the bill is not a cure-all, this is a great first step, as it is the first major update to our ocean shipping laws since 2001.

TIA is the professional organization of the $214 billion third-party logistics industry. With over 1,800-member companies, TIA is the only organization exclusively representing transportation intermediaries of all disciplines doing business in domestic and international commerce.

We support and applaud your efforts to establish this new level of oversight at the ports and in the shipping community. If you have any questions about TIA or our position on H.R. 4996, please do not hesitate to contact me or my Vice-President of Government Affairs, Chris Burroughs.

Sincerely,

ANNE REINKE,
President & CEO, Transportation Intermediaries Association.

APPENDIX

QUESTION FROM HON. PETER A. DEFAZIO TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Who is responsible for correcting our supply chain challenges?

ANSWER. Everyone who is involved in the supply chain plays a responsibility in correcting the challenges we see today.

The current supply chain crisis has had many contributing factors, but it essentially comes down to a single cause—the COVID–19 pandemic. The contributing factors are the surge of cargo, high number of unscheduled vessel calls, a supply chain workforce impacted by COVID–19, and workplace accommodations throughout the supply chain that can limit capacity.

We must remember that congestion is not unique to the San Pedro Bay port complex. Many of the supply chain challenges we are witnessing were already occurring prior to the pandemic, but are now magnified due to our high cargo volumes.

Socio-economic factors, which caused the surge in cargo, should be examined from a policy perspective. The Port of Long Beach is committed to working closely with port stakeholders to find solutions and to facilitate the smooth, reliable and prompt movement of cargo through the port complex.

QUESTIONS FROM HON. SAM GRAVES TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Mr. Cordero, while this is more of an on-the-horizon issue, the contract between West Coast terminals and the longshoreman is due to expire next year. In the past, these negotiations have been complicated and at times led to contentious situations that gridlocked ports. Given this—

a. What are some of the key issues you foresee in the next labor contract discussions?

ANSWER. As you know, the talks are held between representatives of the International Longshore and Warehouse Union for labor and the Pacific Maritime Association for management. The port authorities are not part of the discussions. Generally, past negotiations have centered on wages, benefits—including health care—and various other issues such as automation.

b. Should we be worried about these negotiations affecting port operations?

ANSWER. I am hopeful that we will see a collaborative process that will not materially affect port operations during this time when everyone wants to catch up with the cargo volume.

c. What role will the debate about increased automation have on these contract negotiations?

ANSWER. We know that automation is a topic that comes up in the negotiations, and it is the proper venue for discussions on the subject. A very small percentage of the nation's terminals are automated and labor and management is likely to negotiate regarding the effect of automation on the workforce.

Question 2. What effect will the proposed 24/7 port operations at Southern California ports have given that—

a. The California Air Resources Board environmental requirements would limit hours a truck can access the ports?

ANSWER. The Port of Long Beach has the most aggressive environmental measures in the nation, and 24–7 operations should not negatively contribute to air emissions.

Expanding the hours of ports diverts truck moves to night time, mitigating roadway congestion and idling, thus reducing emissions. Having 24–7 operations across the supply chain would disperse truck and train activity across the 24–7 cycle, reducing congestion on roadways, tracks and key inland points such as warehouses and distribution centers.

b. And that there is a lack of chassis for truckers to move goods away from the port?

ANSWER. The chassis shortage has resulted in reduced efficiency of operations—so the Port is working hard on increased container fluidity which can free up chassis. Too many chassis can sit idle when the container they carry has no place to be taken to, and can't be moved on to the next node in the supply chain.

QUESTION FROM HON. ANDRÉ CARSON TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

ANSWER. First, we would favor the increased use of "short-haul" rail which would allow the port complex to see import containers moved quickly to an "inland port," thus creating more capacity at seaports. These inland depots could also be used to take on containers that are occupying chassis, thus freeing up more equipment to move containers out of the port by truck.

Second, increased use of on-dock rail—where cargo moves to and from marine terminals solely by train—is a necessary part of sustainably handling increasing capacity demands. We know from our own region that grade separations and special rail corridors—like the Alameda Corridor—can dramatically reduce the problem of roadways being blocked by trains. We work together as a region to identify and support such projects with one voice—whether they are close to the port or not. These types of projects are absolutely a priority.

QUESTIONS FROM HON. MICHELLE STEEL TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. I recently toured the Port with Darin Wright and other members of your team. According to your testimony; 24–7 operations will help mitigate the current surge. If warehouse facilities are at capacity, how can drivers make deliveries?

ANSWER. We truly appreciate that you came out to see our operations first-hand and we welcome members of the Committee to come and tour our port complex any time.

The framework for 24–7 supply chain operations that President Biden has supported will help to bring more links into the 24–7 operational camp. We need the whole supply chain to participate in expanded hours of operation, and that is the direction we are moving in.

There are varying degrees of warehouse capacity issues—and we rely on the importers to work with their supply chain partners to better manage their inventory and operations. Many import customers are also reporting that they "could not get their goods fast enough."

Question 2. When will the port move to 3 shifts to truly be open 24/7? I was told you are currently at two shifts.

ANSWER. One of our six container terminals in September 2021 moved to 24-hour operations for four nights a week. And we are speaking with all of our terminals to consider doing the same.

The terminals are interested, but are cautious about the return of investment on the costs.

However, we do have a growing consensus that a 24–7 supply chain would be a solution to the level of cargo demand we are seeing. The situation is evolving, and we expect to see more links in the supply chain to find the means to move cargo around the clock.

A truck can pick up a container at 4 a.m. at the Port of Long Beach today, but until the distribution centers and other supply chain nodes are open at that time, it's going to be challenging to handle the volumes of cargo we are seeing now and expect to see in the future.

Question 3. Do you think it was smart for cities to impose a moratorium on new warehouses and truck facilities?

ANSWER. The various jurisdictions that have adopted temporary moratoriums—Chino and Colton in the Inland region of Southern California come to mind—should be given time to consider these developments and if they are right for their communities. Each proposed development must make a case for itself as to its worth to and respect for the community. The Port of Long Beach is not immune to this issue. As an industrial use, we must always make our case to our neighbors and the larger community about our commitment to reducing our impacts and to benefiting the region as a whole.

Question 4. As Chairman of the American Association of Port Authorities, please provide detailed recommendations on the how the Federal Government can partner with America's major seaports to create an integrated data sharing and standardization platform to increase visibility in the supply chain, in order to alleviate the inefficiencies in the current system and set up usable and measurable metrics that will move our ports into the 21st century.

ANSWER. The Port of Long Beach is currently developing a cloud-based Supply Chain Information Highway that aims to create a repository of curated data from all sources so that supply chain partners can come and obtain data needed to improve their cargo visibility. The Supply Chain Information Highway will be a trustworthy, transparent and non-revenue-generating platform that could be rolled out to all ports in the U.S. Once we have had the chance to implement the system, we will certainly consider the means for widening its reach. We feel it has potential to go coast to coast.

Question 5. According to the Administration about 100,000 empty containers sit idle at the ports of Long Beach and Los Angeles, which is having a negative impact on the U.S. supply chain. Please provide specific details on the actions the Port of Long Beach is employing to facilitate a quicker and more efficient return of empty containers to overseas ports.

ANSWER. With the support of our ocean carriers and their sweeper vessels, we are evacuating empty containers from our terminals. Empty containers as of Dec. 16 accounted for 36% of all containers on terminals. This is down from 45% just a couple of weeks prior.

By evacuating empty containers from the terminals, we are making space for more inbound containers. We are not out of the woods yet, but we are making meaningful progress.

With the continued collaboration from our industry partners, the support from our government partners, and the focus on near-term solutions, we expect to continue to see progress in the months ahead.

The Port has also allocated 100 acres of land as a buffer to store containers and alleviate capacity pressure at the terminals.

Question 6. Please provide your recommendations on what needs to be done—legislatively or through regulatory actions (state and federal) to encourage foreign-owned ocean carriers to take ownership of their role in accepting and evacuating the tens of thousands of empty containers that clog the LA/Long Beach ports and the region. These empty containers and the lack of action by foreign owned carriers are a lead contributor to a shortage of land space and chassis.

ANSWER. While we have had success in working with our ocean carriers to have them deploy sweeper vessels to retrieve empty containers, one thing that could be considered is to require carriers to submit plans about how they will manage container inventory (in/out/empties) and matching chassis capacity when they establish contracts with terminals.

Question 7. Please explain and provide insight into how the Port of Long Beach will use the infrastructure funds from the IIJA to maximize the effect on freight fluidity, for example intermodal connectors, modernization, on-dock projects, and so forth.

ANSWER. We're prepared with several on-dock rail projects in the pipeline to make our case for funding from the IIJA. These rail projects all will create physical capacity that will allow the Port to meet the future supply chain challenges. Some of the funds could also be allocated for the digital infrastructure so that physical facilities could be utilized more efficiently based on the analytics the digital platforms could provide.

Question 8. Do you agree that since many foreign-owned ocean carriers have already indicated they will plan to pass the new LA/LB dwell fees along to shippers/BCOs, that these fees are simply a "double dip" on existing demurrage fee structures, to which cargo is already subject? And, were the dwell fees and the coordinated action to develop them discussed with the Federal Maritime Commission?

ANSWER. Not so from the Port's perspective. The demurrage rule was established to provide reasonable time for container delivery. The Container Dwell Fee is a mechanism created during a challenging time to provide another layer of motivation to push containers out of the terminals. It is temporary in nature and for a specific circumstance. The Port does not intend for the fee to be passed-through but has no jurisdiction over ocean carriers on this matter.

QUESTION FROM HON. STEVE COHEN TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. I understand that dwell time of intermodal equipment—the time between picking up equipment and returning it—is impacting the supply chain. Can you explain what that means to cargo fluidity and tell us what actions are being taken to reduce dwell time?

ANSWER. We are working closely with our chassis providers and BCOs to find the means to reduce detention time and get equipment back to work in moving containers. At the Port we've opened up 100 acres to allow for additional cargo storage, which frees up chassis. We are also looking for areas outside the harbor district where the two ports could facilitate the opening of additional container storage.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Mr. Cordero, if we have been experiencing a bottleneck at the Port of Long Beach, why has the port not moved to 24/7 operations already? What is preventing the port from addressing the backlog?

ANSWER. One of our six container terminals in September moved to 24-hour operations for four days a week. And we are speaking with all of our terminals to consider doing the same. These terminals are publicly owned but privately operated, so any change in operation schedules requires negotiation between parties. For 24–7 operations to be effective, all nodes in the supply chain must be cooperative. Even if a truck picks up a container in the middle of the night, if distribution centers are not open at the same time, there is no effect on the backlog.

The terminals are interested, but are cautious about the return of investment on the costs. However, we do have a growing consensus that a 24–7 supply chain would be a solution to the level of cargo demand we are seeing. The situation is evolving, and we expect to see more links in the supply chain to find the means to move cargo around the clock.

We have taken several measures to reduce the backlog:

- We have repurposed more than a hundred acres of vacant land in the port for container storage.
- All of our terminals have expanded their hours of operation throughout the week and added some weekend shifts.
- Our new container dwell fee at the San Pedro Bay continues to have an impact. Long-dwelling cargo containers are down by 47 percent at the San Pedro Bay ports complex since the fee was announced in late October.
- By moving these containers out of the terminals, we are creating the capacity the terminals need to bring those ships at anchor to berth.

Question 2. Mr. Cordero, Puerto Rico, being an island, has 3.2 million people that are reliant on infrastructure that ensures the highest levels of port performance and efficiencies, reliable maritime and air service, for people to get everything from mail to medicine.

The Port of San Juan is the Top 25 busiest ports in American according the Bureau of Transportation Statistics (BTS) for containers with 1.39 million T. E. U. containers arriving annually for a population that would be the 30th largest state by population according to the 2020 Census.

In your testimony, you note that the Department of Transportation will open $240 million through the Port Infrastructure Development Program within 45 days and an additional $475 million within 90 days. How can we ensure that this funding will be spread out at ports across the country?

ANSWER. We do expect that this Administration will seek to deploy the funding fairly. The Port of Long Beach this year will handle more than 9 million TEUs with cargo reaching every corner of the nation. Together with our neighbor the Port of Los Angeles, that figure is 20 million TEUs. No port complex in this hemisphere has such capacity that services the entire nation.

Traditionally, the San Pedro Bay ports have not received a share of funding to match their impact on the U.S.

That said, we do understand the needs of ports around the country, and we join the industry in being in favor of routine and regular funding of port infrastructure, not just a one-time funding measure. The Port Infrastructure Development Program also has a restriction, already in law, that no more than 15% of grant funds may go to any one state, so there are protections in place to ensure funds are distributed across the nation.

Question 3. Mr. Cordero, during your tenure as Chairman of the Federal Maritime Commission (FMC), the FMC under Commissioner Rebecca Dye took the lead to stand up an industry lead, voluntary, working groups to help address port performance and tried to come up with common sense solutions to improve efficiencies. Do you think this is something the committee should authorize so that the private sector and labor unions come up with industry and union driven solutions?

ANSWER. Yes, the industry has many diverse participants who could offer a wealth of expertise and experience to the conversation.

Question 4. What kind of funding would it take to bring automation to the Port of Long Beach?

ANSWER. We're not looking for automation funding at this time.

a. To other major ports?

ANSWER. That would depend on those ports' needs and what the needs of their communities are.

QUESTION FROM HON. STEPHEN F. LYNCH TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. At the Port of Long Beach we have one of the most aggressive capital improvement programs in the nation to address all the needs as you have stated—cargo growth, sustainability and climate change adaptation. We feel that our projects and programs are examples of how ports can meet the challenges of the future. We always seem to demonstrate the economic benefits of projects for the safe, efficient and reliable movement of cargo.

QUESTION FROM HON. JOHN GARAMENDI TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Reportedly, some 40 percent of determination and demurrage fees invoiced to shippers are either partially refund or reduced. Mr. Cordero, do you agree that seemingly high refund or reduction rate indicates a fundamental problem with how ocean carriers and their involving agents are billing for detention and demurrage?

ANSWER. Possibly. However, each ocean carrier and terminal operator operates differently. The Port does not have visibility as to the bases of these transactions. There are also many operational issues that might result in the adjustments to the invoices.

QUESTIONS FROM HON. SETH MOULTON TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Mr. Cordero, how has the partnership between Union Pacific and the port authorities of California and Utah expedited getting containers out of the Port of Long Beach? Are there any lessons we can draw from this example to improve the movement of goods in the U.S. even after we emerge from our current challenges?

ANSWER. The Port has been engaging in intensive conversation with UIPA on utilizing Salt Lake City as a mid-way point between the Port and Midwest. In the short- and long-run, it is a good solution to help alleviate terminal capacity constraints in Southern California. The Port is also interested in establishing additional discussions with other inland cities.

QUESTIONS FROM HON. NIKEMA WILLIAMS TO MARIO CORDERO, EXECUTIVE DIRECTOR, PORT OF LONG BEACH, ON BEHALF OF THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

Question 1. Let's get down to what this hearing is truly about: It's about that tired parent on a grocery run seeing empty shelves where their weekly necessities used to be; It's about my son, Carter, ordering something on Amazon with his tooth fairy money and not getting it for weeks and weeks; It's about a growing family looking for the new car they need and not finding anything on the lots; It's about the many constituents who I've talked to who are in the restaurant business and can't get paper supplies for the to-go orders; and it's about those, including myself, not getting the simplest things, like mild sauce at Taco Bell!

Plain and simple, we're having issues getting products to the people because we've underinvested for too long in transportation and infrastructure. Luckily, y'all, infrastructure week is finally here.

The Infrastructure Investment and Jobs Act signed into law Monday by President Biden will start to address these types of problems for my constituents, including by sending $8 million immediately to the Port of Savannah.

a. Mr. Cordero, help connect the dots for us: How does investing in something like a port help my constituents get their goods, for example, something as simple as a mild sauce from Taco Bell? How exactly can this investment be used to make goods move more efficiently?

ANSWER. The supply chain is a very diversified entity. While some of the items you are thinking of may be domestically produced, it could be that components, ingredients, and bottles/boxes/containers could be sourced overseas. Investing in the ports, especially the Port of Long Beach, will help ensure that critical components or finished products could be transported quickly to consumers. So any one product—such as sauce made by the Southern California-headquartered Taco Bell—could have several points of origin. Investing in seaports is a means of making the supply chain healthier.

b. The pandemic has created bottlenecks everywhere from our ports to our airports. In my district, Hartsfield Jackson Atlanta Airport and Delta Airlines have been hard hit by decreased passenger traffic. But as I've heard from NCR, a Fortune 500 company in my district, the impact of this issue extends to the supply chain, too. Mr. Cordero, how has reduced air passenger travel impacted the space available to transport materials and goods? As more passengers fly again, can growing freight space ease the supply chain crunch that some of the companies in my district are facing?

ANSWER. There is a direct correlation between air cargo capacity and the current supply chain challenges in the ocean transportation sector. The suspended flights reduced the cargo-carrying capacity even in the passenger aircrafts. Many users of that mode of transportation sought capacity instead in container vessels. Some fast-moving electronic goods are now moving instead in the ocean transportation routes and are caught in the backlog. Resumption of cargo and passenger flights will alleviate a part of the challenge.

QUESTION FROM HON. PETER A. DEFAZIO TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. Who is responsible for correcting our supply chain challenges?

ANSWER. The global supply chain is an incredibly dynamic, complex system. We've seen how one ship grounded in a canal halfway around the world can unleash a torrent of downstream effects felt directly by the American consumer. As the most central and critical link in that supply chain, the trucking industry understands that complexity well. Any time the supply chain is pressured, our members feel it in one form or another.

That's why we know that correcting our current supply chain challenges requires a multi-faceted approach—not one bound by the pursuit of a single solution, but rather a commitment from all stakeholders on working together to ensure our economy's freight needs are always met. The federal government can play a constructive role here, as should the private sector—but with a shared understanding that not all modes are the same. Operations differ. One-size-fits-all policy prescriptions can often have unintended consequences that make bad situations worse. That's especially true when dealing with systems as complex as the supply chain.

We see the recently-passed H.R.4996 as a strong example of how government and private sector can work together to correct supply chain challenges. This legislation passed a divided Congress with overwhelming bipartisan support, and we hope the Senate quickly follows the House's lead. The bill was written with informed input from supply chain stakeholders who regularly experience the inequities that hamstring our port systems. Too often, mega, foreign-owned ocean carriers abuse the system to line their own pockets at the expense of small American trucking companies and broader supply chain efficiency.

Informed policymaking is critical. We encourage all members of the Committee to visit a trucking company back in their home districts. Seeing the daily operations of motor carriers is fundamental to understanding how our industry works. Solutions cut from white boards in graduate school lecture halls will fall woefully short of rising to the challenge of this current moment. Meeting those people on the ground is a necessity. It's there that you'll get to know the 7.8 million dedicated, hard-working Americans who move our economy forward.

QUESTION FROM HON. SAM GRAVES TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. Mr. Spear, various data and analysis has been presented to the Committee by other witnesses regarding truck driver shortages, in particular Mr. David Correll. However, I am concerned that this data and analysis may not provide the whole picture and narrowly targets under-utilization despite multi-faceted issues. Could you address some of the inefficiencies detailed in Mr. Correll's testimony and elaborate on how ATA views the multi-faceted nature of the truck driver shortage and share any analysis you have conducted?

ANSWER. While ATA appreciates a diverse set of opinions when formulating solutions to the national truck driver shortage, we take issue with both the methodology underpinning Dr. Correll's research as well as the validity of his conclusions. In fact, Congress and the American people would be ill-advised to take policy or practical action based on Dr. Correll's hearing suggestions, which misrepresented a vast and diverse industry.

In sum, Dr. Correll posited that the national truck driver shortage can be boiled down to an issue of driver "under-utilization," in which *the existing driver workforce is not getting enough work*. In other words, he argues the solution is not to increase the headcount of drivers but to instead squeeze more out of current workforce, citing driver detention as a leading source of wasted time and productivity. While we appreciate greater attention being drawn to driver detention at shipper facilities and agree that reducing detention time is key to increasing supply-chain efficiency, singling out this issue as a means to remedy the long-term driver shortage is problematic on multiple fronts and grossly oversimplifies the complexity of the issue. It also suffers from a complete lack of practicality based on the academic nature of his observations, which he himself notes are based on anecdotal data from only two carriers, and a basic mathematical issue.

As I detailed in my testimony, the driver shortage is a multi-faceted challenge with myriad contributing factors, many of which revolve around lifestyle preferences. Take for instance driver compensation: Long-haul earnings are up 24.3% since the beginning of 2019, increasing at a rate nearly five times their historical average. Yet, the driver shortage grew over that same time period, from 61,500 to 80,000. When drivers earn more per mile, many *choose to drive less*—opting to spend more time at home than on the road. Data in the aggregate confirms this fact: In the 1990s, the average miles per truck per year were approximately 125,000; today, they are down approximately to 100,000. Basic math from that premise alone would require 20% more drivers today for the exact same level of capacity as available during the 1990s—and the freight demands have substantially grown over that period.

This of course undercuts Dr. Correll's central thesis that the driver shortage can be remedied through better "utilization" of drivers' time. In his testimony, he identifies weekends as a dearth of productivity, with long-haul drivers doing most of their driving on weekdays. There's a simple explanation for that: drivers want to be home on the weekend, spending time with their families, attending church services or their kids' little league games and dance recitals—just like the rest of us. Strategies that aim to squeeze more out of the current driver workforce or increase their working hours threaten to exacerbate the truck driver shortage or reduce safety, not remedy the supply-chain difficulties.

As Dr. Correll acknowledged on the record during the hearing, the data underpinning all of his conclusions stems from analysis of roughly "4,000 over the road truck drivers employed by one mid-sized and one large national carrier in snapshots from 2016 to 2020," as well as unspecified transactional data provided by shippers and brokers. Incredibly, his conclusions about the entire trucking industry are based on a sample size that covers two out of 1.2 million trucking fleets in the U.S., 0.2% of the drivers nationwide (using the Census Bureau estimate of 1.8 million for-hire over-the-road truck drivers he cites later in his testimony), and 0.1% of commercial driver's license holders nationwide. It is also worth noting in this context that Dr. Correll fails to reference that over 90% of motor carriers in the United States have less than 10 trucks meaning that his two carrier sample is completely unrepresentative.

Furthermore, there's no indication that Dr. Correll considered the varying operations that exist across private fleets, lengths of haul, and categories of freight. Detention times differ widely depending on industry sector, and conflating refrigerated transportation, agricultural haulers, fuel haulers, flatbed haulers, less-than-truckload operations, specialized delivery, and white-glove last-mile services neglects the diversity, depth and breadth of the trucking industry. For example, detention is a far more prevalent issue for drayage and dry-van, truckload carriers; yet the driver shortage persists across all industry sectors.

To calculate the amount of time per day that drivers are "under-utilized," Dr. Correll performs simple long division over cherry-picked elements of Federal hours-of-service (HOS) regulations. The 11-hour maximum driving time that Mr. Correll cites is only available to a very limited number of drivers under specific circumstances (e.g., adverse weather conditions), which he does not acknowledge in any detail. In reality, hours-of-service rules for drivers are capped at 60 hours of on-duty time over seven consecutive days (8.5 hours a day) or 70 hours of on-duty time over eight consecutive days (8.75 hours a day) if the motor carrier operates vehicles every day of the week. (Most drivers are likely up against their 60/70 hour duty clock even if they are working 5 days a week. The HOS clock counts "on-duty and driving" time, so even sitting at a shipper "underutilized" counts towards this time. Meaning, simply working 7-days a week is not an option, unless they're going to work far less each day on average.)

If we accept at face value Dr. Correll's estimation that drivers spend 6.5 hours per working day driving their vehicles, and factor in standard contractual terms between shippers and carriers of two hours for loading and unloading, then the arithmetic reveals drivers are already operating at, essentially, peak efficiency given the federal HOS cap of 8.5 hours per day over seven consecutive days. (Theoretically, if a driver worked M–F at the maximum 14 hours each day, they could take 34 hours off to reset their clock to 0 and go back to work on the next Monday for another 14 hours. Very few drivers would want to work the maximum allowable duty time over an extended period even if motor carriers provided that option.) Never mind that 2021 freight volumes are already higher than they were at any point in his 2016–2020 study period.

It is unsurprising that Dr. Correll overlooked these factors given his acknowledgment that he has negligible real-world experience at trucking terminals, rail head, ports, shipper docks, distribution centers, and other facility critical to supply chain operations and driver productivity. While perhaps not disqualifying as a subject matter witness, Dr. Correll's lack of first-hand knowledge of the trucking industry's integral role throughout the supply chain certainly warrants concern about the validity of his conclusions.

The purpose of hearings we believe is to impart information to the Congress to consider for better understanding and addressing public policy issues like the current supply-chain problems. Relying on Dr. Correll's data and conclusions to produce any sort of response, and particularly his narrow and isolated academic ideas of the government measuring efficiency metrics across the supply chain and somehow enforcing improvement requirements more efficiently than the market, will not work in the long or short term. Those who deny the obvious fact that the industry needs more drivers immediately and for the foreseeable future are doing the country a disservice and ignoring real-world facts—and in some instances engaging in fiction to advance parochial interests. The House of Representatives' Transportation and Infrastructure Committee deserves better.

The American Trucking Associations is committed to enhancing driver productivity and well-being, and we look forward to working with you, Congress, and the Biden Administration on responsible, data-driven legislation that would expand opportunities for all Americans.

QUESTION FROM HON. ANDRÉ CARSON TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

ANSWER. The trucking industry works closely with our railroad partners to move America's freight. While the vast majority of truck shipments are not rail competitive, intermodal truck-rail deliveries play an important role in the supply chain, notably the movement of containers. Congress can help to strengthen intermodal freight supply chains by investing in roads that connect intermodal terminals to the National Highway System. Although these arteries serve critical national needs, too many are poorly maintained or highly congested.

QUESTION FROM HON. MICHELLE STEEL TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. Please explain in more detail how the how the restrictive appointment systems and constraints on return of empty containers imposed by terminal operators and ocean carriers in LA/LB have made it so challenging for dray drivers to effectively move containers and to make a living doing so. Do you have recommendations or solutions that would fix these problems?

ANSWER. The appointment system and inability to return containers goes to the heart of the difficulties faced by drayage drivers at the ports of Los Angeles and Long Beach. The lack of available empty return locations means that motor carrier yards are full of containers awaiting returns. Despite the inability to return them, many of these containers are racking up detention charges as ocean carrier billing systems automatically generate invoices as soon as free days expire regardless of whether a return location is available. Further, these containers often are sitting on chassis meaning these chassis are not available to pick up new imports arriving at the ports. The lack of chassis is another key contributor to the slowdown. Finally, the lack of integrated appointment systems brings unneeded complexities for motor carriers working across the various terminals in the port system. There are 12 container terminals combined in the two ports which use at least 6 different appointment IT systems. The lack of integration between terminals creates complications and significant reductions in efficiencies as information cannot be shared among terminals. Integrating information systems between ports and marine terminals would allow motor carriers and other supply chain partners to better allocate equipment and personnel to where they can be put to best use.

QUESTION FROM HON. STEPHEN F. LYNCH TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. The congestion at our nation's ports has put a premium on space. One of the key issues facing motor carriers is the lack of available locations for empty returns which are both occupying space in truck yards and sitting on the chassis that are badly-needed to pick up newly-arrived containers. We are working with ports and marine terminal operators to help them use all available resources to maximize their available space in order to solve this growing problem.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. The Fixing America's Surface Transportation Act, the last surface bill that was enacted prior to the Infrastructure Investment and Jobs Act, which was just signed this week, contained a section on Port Metrics to help reduce areas of bottlenecks.

Currently the Bureau of Transportation Statistics reports monthly on the number of 20-foot equivalents at the Nation's 10 largest ports. However, this reporting does not give any information on the efficiency of the port itself.

It does not tell us whether or not labor is moving as efficiently as it could day over day, it doesn't tell us if there are issues with scales and gate times, it doesn't tell us if trucks are waiting longer than normal or if there aren't any berths available, it doesn't tell us how many crane lifts occur. These are all factors that affect port efficiency.

a. Mr. Spear, do you think it will help your members if gate wait and turn times are reported in real time so truck operators are able to better plan their pickup and drop off times to better utilize their hours-of-service?

ANSWER. One of the major deficiencies in our intermodal supply chain is the lack of real time data visibility and standardization. Without the ability to have a global understanding of cargo information, motor carriers are unable to operate in the most effective and efficient manner. Maritime cargo does not just arrive overnight. There is a long lead time and better integration of information between marine terminals, ocean carriers and shippers would allow for better planning regarding when cargo is arriving and how to handle it. Gate wait and listed turn times also provide an example of how this lack of real time information can hinder container movement. While most ports provide information regarding turn times, they are often measured from the time trucks enter the terminal gate despite the fact that wait time outside the gate can be considerable. Providing better data regarding the actual wait times for motor carriers would allow companies to have a better understanding of real time activity in order to better allocate resources.

b. What additional information are we missing from ports activity reporting that would help shippers and carriers be able to make the most informed decisions to help reduce bottlenecks and improve efficiencies?

ANSWER. Real time data visibility and standardization are what's needed most. If the trucking industry is able to secure this information real-time, it will help improve intermodal transportation.

Question 2. Mr. Spear, I appreciate your testimony highlighting the need for workforce development. To address workforce development and increased safety, I have introduced H.R. 1967, which would allow Puerto Rico to issue Commercial Driver's Licenses to truck drivers in Puerto Rico. It would require drivers to increase their skills while operating a motor carrier and give anyone moving to or from Puerto Rico a license that they could use anywhere in the country.

a. I've asked ATA to review this legislation for their support which I have yet to receive an answer. As the President and CEO, can you commit to providing a response to my office?

ANSWER. ATA supports the provisions outlined in H.R. 1967, and has communicated this support to Congressional staff. We believe that aligning Puerto Rico's Commercial Drivers' License standards with U.S. standards, as outlined in the Federal Motor Carrier Safety Regulations, would both increase safety standards and streamline the issuance of Puerto Rico-issued licenses.

Question 3. Mr. Spear, because I have served on this committee and I have experienced what it's like to represent Puerto Rico during and after the devastation of Hurricanes Irma and Maria which devastated the whole infrastructure network of the island, I have learned how critical good roads and bridges, port connections, and port operations are to the movement of freight. According to the American Society of Civil Engineers, Puerto Rico's roads, bridges, and ports need more than $3.85 billion to bring our network to a state of good repair.

In your testimony you advocate for $5 billion in annual funding to address bottlenecks. Is this adequate to ensure that the transportation of goods is competitive but efficient for consumers?

ANSWER. Based on various studies, highway investment needs to at least double to address current maintenance and capacity backlogs and prevent further system deterioration over at least the next two decades. If this increase in resources does not materialize—and IIJA, while representing a significant increase, did not provide the necessary funding boost—then federal investment must be directed toward projects that are likely to provide the best return on investment. In that regard, a $5 billion annual set-aside for highway freight bottlenecks is the best approach. These bottlenecks disproportionately increase the cost of moving freight, and most of them also have significant passenger vehicle traffic.

Question 4. What can this committee do to help the trucking industry shift toward alternative fuel powered vehicles?

ANSWER. The highest hurdles to overcome to expedite the introduction of alternative-fueled vehicles into the trucking sector are the availability of battery electric vehicles (BEVs) and fuel cell electric vehicles (FCEVs) across all truck classes and the build-out of robust fueling infrastructures. Hydrogen fuel cell technology development, while lagging behind that of BEVs, will likely play a critical role for long-range freight hauling needs. Manufacturers are already ramping up production of BEV trucks and we expect that trajectory to steadily increase. Fleets need the assurance of having these new fuels available prior to making their purchasing decisions. The nation's diesel fueling infrastructure had seventy-five years to mature yet EV charging and hydrogen fueling locations are being pressed not only to supplant fossil fuel use, but to do so with brevity. To advance this unprecedented task will require far more tax breaks and financial incentives for both private and public alternative fueling locations. Likewise, these fueling sites will falter without vehicles demanding their product. BEVs and FCEVs can cost several-fold more than conventional diesel trucks. Until the costs of these next-generation alternative-fueled vehicles become cost competitive with their diesel counterparts, fleets will need on-going tax credits and financial incentives to fulfill the nation's decarbonization aims for the transport sector.

Trucking companies are also facing major challenges related to equipment availability and delays as a result of the global semiconductor chip shortage, which is slowing the delivery of newer, cleaner power units and trailers. Congressional action to address the chip shortage is an important near-term step that will make more efficient and environmentally-friendly equipment available to our nation's fleets.

Question 5. Mr. Spear, aside from the voluntary vehicles miles traveled (VMT) program in the bill, how does the Infrastructure Investment and Jobs Act address funding infrastructure projects and the long term solvency of the Highway Trust Fund?

ANSWER. Unfortunately, the IIJA did not address the long-term solvency of the Highway Trust Fund. The revenue measures are temporary in nature and it is likely that by the time IIJA expires, the HTF will once more face insolvency. While a replacement for the fuel tax as the primary revenue source for the HTF must be found, this will likely take at least a decade. In the meantime, ATA believes that increasing the fuel tax rate is the best way to provide a predictable, stable source of revenue for the HTF.

QUESTIONS FROM HON. SHARICE DAVIDS TO CHRIS SPEAR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

Question 1. We've heard a lot in the news about issues with the supply chain, and I'm glad we've got folks from different perspectives joining us here today to talk about solutions.

Because if we can address some of the supply chain issues and ease the consumer prices we are seeing, we can address rising costs for families across the country.

One solution I've been focused on, through my work on this committee and the Small Business Committee, is workforce development and training.

To start, I was an original cosponsor on a bill, the Promoting Women in Trucking Workforce Act, to expand and encourage women to join the trucking workforce. Currently, women only make up 24 percent of all transportation and warehousing jobs.

I've also been working with local community colleges in my district, including my alma mater Johnson County Community College, to promote their commercial drivers license programs. I just announced a grant is going to that program that will allow 12 veterans to receive scholarships and get their CDL.

Mr. Spear, what can we do to work with you all to encourage a more diverse group of folks to enter the workforce? Do you think that could begin to alleviate supply chain blocks or accelerate supply chain successes?

ANSWER. First, thank you for your tenacious leadership and collaboration on the Promoting Women in Trucking Workforce Act, a bill that will support women pursuing careers in the trucking industry. Implementation of measures such as the Promoting Women in Trucking Workforce Act and the Promoting Service in Transportation Act, both of which were included in the bipartisan infrastructure law, will help the industry increase our workforce's diversity and attract the next generation of talent. I strongly believe that bringing in new drivers and supply chain workers, and providing them with the training they need to operate safely and productively, is a critical step in addressing the current supply chain challenges and ensuring a more resilient economy for the future. ATA looks forward to working with Congress and the Department of Transportation to roll out those programs and welcome a diverse new generation of Americans into fulfilling transportation careers.

Now that the Infrastructure Investment and Jobs Act has been enacted, the Secretary of the U.S. Department of Transportation must establish the apprenticeship pilot program described in Sec. 23022 of the bill before January 14, 2022. Once implemented, the apprenticeship pilot program will provide qualified 18- to 20-year-olds with a pathway to a family-sustaining career in the trucking industry with a median pay of $54,585, plus health and retirement benefits. The pilot program represents an opportunity for emerging members of the American workforce who have already obtained a commercial driver's license in their state to develop the skills and abilities necessary to achieve a stable career path as an interstate truck driver. Many members of underserved communities have never been exposed to the career opportunities that exist within the trucking industry, and the apprenticeship program can be leveraged as a way to motivate new and different members of the workforce toward positive and lasting career opportunities in trucking that do not require the kind of debt that accompanies much of higher education.

Question 2. I also want to think ahead, because current supply chain issues are, of course, complicated by pent-up demand and other pandemic factors. I've heard the supply chain problems we're experiencing now described as a chain of dominoes falling into each other. But I think there's an opportunity here to boost American industry and labor while combating rising costs long-term.

We've been dependent on materials made in other countries for far too long, and I think it's important that we use this as an opportunity to invest in our economy, supply chains, and workforce, so we can lower costs for working folks and avoid this supply chain crunch happening again in the future.

We cannot just reset our dominoes—we need to stop the chain reaction before it even begins.

An example would be the strong Buy America provisions in the infrastructure bill we just passed, or continuing to boost semiconductor and other critical material manufacturing here at home.

What policies do you see as critical to help businesses and workforce ensure that our supply chain both recovers now—and is prepared to address future issues and cost pressures?

ANSWER. Congress and the Administration can help address the driver shortage by removing obsolete regulatory barriers and incentivizing states to streamline the credentialing process while also providing a meaningful investment in training the next generation of drivers and mechanics through the various workforce funding streams. Likewise, speedy implementation of the Infrastructure Investment and Jobs Act would best ensure a vibrant and diverse workforce that can support ongoing American economic growth. More specifically, the Administration may want to prioritize the provisions in the IIJA regarding the commonsense apprenticeship program to train 18–20 year olds to drive in interstate commerce, the Promoting Service in Transportation Act provisions for DOT to advertise transportation jobs like truck driver as a quality career path, and most importantly rapid deployment of the funds to update infrastructure. Those three provisions are all critically important to bolstering the resiliency of our supply chain for the trucking industry. Similarly, reliable and predictable funding going forward to maintain our nation's roads and bridges will yield fewer bottlenecks and points of congestion, making our supply chains more agile and efficient.

QUESTION FROM HON. PETER A. DEFAZIO TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. Who is responsible for correcting our supply chain challenges?

ANSWER. The smooth functioning of rail terminals depends on supply chain partners maintaining a consistent flow of freight out of facilities to make room for other freight coming in. Unfortunately, in recent months, many rail customers have been unable to effectively process this flow of traffic, especially intermodal containers. When containers coming in ("in-gates") exceed containers going out ("out-gates"), uncollected containers pile up, creating severe problems that reverberate throughout the supply chain. When these and other related problems become entrenched, it becomes extraordinarily difficult to "reset" the system to its normal level of throughput and reliability.

However, just as no one actor is to blame for the nation's supply chain challenges, nor is any one entity responsible for fixing these problems. Freight supply chains are complex systems driven by the decisions, actions, and capacity of a wide variety of global and domestic actors, including steamship lines; truckers; railroads; pipelines; ports; drayage providers; owners of truck chassis, shipping containers, and warehouses; as well as manufacturers, wholesalers, and retailers of goods. All stakeholders must do their part to maintain a consistent flow of freight at every step of the process, avoid bottlenecks, and ensure that freight is delivered safely, efficiently, and when expected.

America's freight railroads are doing their part—through significant investments in their private infrastructure and equipment, development and implementation of innovative technologies, and operational enhancements—to maintain network fluidity and ensure sufficient capacity to deliver the goods upon which our economy depends. Railroads have and will continue to operate 24/7 and are also partnering with their supply chain partners and customers to find constructive ways to modify their operations and maintain network fluidity. Railroads have also made a variety of online tools, apps, and other technologies available to provide their customers with full visibility regarding shipments' journeys over rail networks.

Policymakers can assist in these efforts by removing impediments to effective solutions and encouraging the use of innovative technologies to enhance safety and operational effectiveness. Congress should work to ensure:

- the STB maintains a balanced economic regulatory system and rejects unwise rail regulations, such as forced switching;
- the FRA incorporates a performance-based regulatory framework and fosters innovation and testing of emerging technologies that improve the safety and efficiency of rail operations, such as automated track inspection;
- the FRA avoids imposing regulations that are not supported by current data and would stifle the incorporation of new safety technologies, such as a two-person crew mandate; and
- environmental regulations do not function to inhibit the expansion, development, or construction of rail facilities that would meet supply chain needs and our customers' freight transportation demand. These regulations should still allow for careful, thorough consideration of the environmental impacts of proposed projects but in a time-limited manner that does not cause unnecessary delay. Railroads appreciate that Congress included project permitting provisions in the Infrastructure Investment and Jobs Act, such as One Federal Decision, which consolidates decision-making and expedites deadlines, and the Federal Permitting Reform and Jobs Act, which makes the Federal Permitting Improvement Steering Council permanent and establishes a goal of two years for reviews.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. Mr. Jefferies, according to the U.S. Environmental Protection Agency and the Texas Transportation Institute's 2019 Urban Mobility Report, it's reported that trucks waste 3.3 billion gallons of fuel annually due to highway congestion resulting in moving freight by rail being on average 3 to 4 times more fuel efficient than trucks.

On top of new, more efficient locomotives and anti-idling technologies, how can the infrastructure Investment and Jobs Act funding be leveraged to utilize the most efficient modes of transportation to move freight while reducing greenhouse gasses in and out of ports?

ANSWER. Railroads have invested more than $740 billion of private capital into improving and maintaining their networks since 1980—$25 billion annually in recent years. These investments will ensure that adequate freight rail capacity exists to meet America's current and future freight transportation needs, and the American Society of Civil Engineers has recognized the importance of these investments by awarding rail the highest grade of all American infrastructure in its last two report cards. During recent supply chain challenges and fluctuating demand associated with the pandemic, these investments helped railroads to successfully meet the needs of American businesses and consumers and move unprecedented amounts of intermodal freight during the last 3 months of 2020 and the first 6 of 2021. These investments will also allow for railroads to remain nimble in the future, and railroads today have additional capacity to handle even more traffic.

Railroads thank Congress for enacting the Infrastructure Investment and Jobs Act (IIJA). This bipartisan legislation will modernize the nation's public infrastructure and further the efficiency of our freight transportation systems and supply chains. By authorizing and making significant investments through the Infrastructure for Rebuilding America (INFRA), Rebuilding American Infrastructure with Sustainability and Equity (RAISE) (Local and Regional Project Assistance), National Infrastructure Project Assistance, Port Infrastructure Development, Consolidated Rail Infrastructure and Safety Improvements (CRISI), and Railroad Crossing Elimination grant programs, projects will be constructed that increase the fluidity of our supply chains, such as improving first and last mile intermodal connections; advancing projects of national and regional significance, including multimodal connection infrastructure projects; and enabling the public sector to partner with industry on mutually beneficial projects, such as the CREATE program in Chicago.

Furthermore, IIJA also includes a number of programs focused on the development and demonstration of alternative fuels and transportation technologies, including the Industrial Emissions Demonstration Projects program, Clean Hydrogen Research and Development program, Advanced Energy Manufacturing and Recycling grant program, Electric Drive Vehicle Battery Recycling and Second-Life Applications program, Additional Clean Hydrogen programs, Railroad Research and Development program, and the Advanced Research Projects Agency-Infrastructure. These programs include rail-related eligibilities, and AAR looks forward to partnering with the Departments of Transportation and Energy to further research and develop technologies that fuel locomotives with alternatives to traditional diesel fuel and that are essential to advancing innovation and helping to reduce greenhouse gas emissions in transportation.

Question 2. Can we build enough highways to meet demand, or should shippers better utilize existing freight networks to reduce congestion on the country's roadways?

ANSWER. The nation's freight transportation demand was recently forecasted by the Federal Highway Administration to increase by 37 percent over the next 20 years. Given the expense associated with highway construction and maintenance, it is not realistic to think that our nation's interstate highway system can absorb that growing demand.

Railroads have worked diligently to ensure they have sufficient capacity to meet the nation's current and future growing freight transportation demand. America's freight rail network is the best in the world, spanning close to 140,000 route-miles. "Crumbling" might describe some U.S. infrastructure, but not freight rail. As previously noted, the American Society of Civil Engineers has recognized this and awarded rail the highest grade of all American infrastructure in its last two report cards. Freight rail infrastructure is in better overall condition today than ever before. Additionally, because a single train can replace several hundred trucks, utilizing railroads reduces highway gridlock and the demand on tax dollars to repair our nation's roads and bridges.

Without railroads, it would be significantly more expensive for American firms and consumers to participate in the global economy. The affordability of freight rail saves rail customers billions of dollars each year, enhances the global competitiveness of U.S. products, and helps American consumers. Average rail rates (measured by inflation-adjusted revenue per ton-mile) were 44 percent lower in 2020 than in 1981. Millions of Americans work in industries that are more competitive in the tough global economy thanks to the affordability and productivity of America's freight railroads.

Question 3. The Fixing America's Surface Transportation Act, the last surface bill that was enacted prior to the Infrastructure Investment and Jobs Act, which was just signed this week, contained a section on Port Metrics to help reduce areas of bottlenecks.

Currently the Bureau of Transportation Statistics reports monthly on the number of 20-foot equivalents at the Nation's 10 largest ports. However, this reporting does not give any information on the efficiency of the port itself.

It does not tell us whether or not labor is moving as efficiently as it could day over day, it doesn't tell us if there are issues with scales and gate times, it doesn't tell us if trucks are waiting longer than normal or if there aren't any berths available, it doesn't tell us how many crane lifts occur. These are all factors that affect port efficiency.

a. Mr. Jefferies—do you think similar information on loading times for rail would also be beneficial to scheduling rail operations?
b. What additional information are we missing from ports activity reporting that would help shippers and carriers be able to make the most informed decisions to help reduce bottlenecks and improve efficiencies?

ANSWER. Railroads serving ports are in regular, often daily, contact with port administrators, steamship lines, drayage companies, and warehousing operators on or near port facilities. Railroads have complex information and data collection systems that already provide the information needed to identify issues and operate efficiently. Requiring railroads and other supply chain partners to substantially change their systems could result in widespread operational problems.

Railroads understand that effective data sharing is crucial to well-functioning rail networks and supply chains. To that end, railroads already make available a variety of online tools, apps, and other technologies that provide their customers and representatives with visibility regarding their shipments' journeys over rail networks. For example, these tools provide rail customers on many railroads the ability to trace individual shipments in real time and let customers know when containers have been removed from railcars and are ready to be picked up, where those individual containers are located within rail facilities, and how long containers have been sitting after the customer has been notified. These tools allow rail customers to more efficiently prioritize retrieval of containers and minimize time spent in rail facilities. Railroads also provide network and facility updates, service advisories, and maintenance overviews to customers. All of these efforts help to ensure the efficient movement of goods on the network.

Finally, AAR publicly releases aggregated data on a weekly basis about the commodities and intermodal volume that move by rail throughout the United States, Canada, and Mexico. This publication includes detailed information at the commodity level and provides needed insight into rail traffic levels for supply chain partners, rail customers, and governmental entities.

QUESTION FROM HON. ANDRÉ CARSON TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

ANSWER. Railroad operational teams work closely with community leaders, government partners, first responders, and the public to manage and mitigate the impact of grade crossings. The causes of occupied crossings are numerous and can span from unplanned events, such as weather-related track blockages or the presence of trespassers near rail tracks, to those associated with rail operations, such as temporary blockages as railcars are dropped off or picked up at a rail customer facility or safety tests or crew changes are performed as required by regulation.

By listening to feedback from communities—and working directly with first responders—railroads identify and determine how best to manage certain crossings. At every crossing, there is a sign posted containing an emergency phone number and an identification number so callers can immediately communicate issues with the railroads. Additionally, railroads are partnering with technology companies to develop digital signs that let the public know when a train is occupying a crossing so they can choose another route in advance.

There is no one-size-fits-all approach to managing the more than 200,000 grade crossings nationwide. Railroad operational teams deploy a range of strategies, depending on the circumstances, to minimize the frequency of occupied crossings and keep rail and vehicle traffic safely moving through these intersections, including modifying train and crew work schedules and railcar-switching practices and operations and extending and constructing new sidings.

Railroads also spend hundreds of millions of dollars each year to maintain crossings and enhance sidings, develop public service campaigns and educational resources addressing grade crossing safety, and invest in new technologies. Ultimately, the most effective way to prevent crossing impacts is to reduce the number of crossings along the rail network. Railroads work with local road authorities, private property owners, and the U.S. Department of Transportation to identify crossings that can be consolidated, upgraded, or closed. Furthermore, as business and residential development continues, railroads work with local planning authorities to help carefully plan new infrastructure developments to limit community interaction with railroad activities while allowing the continued operation of the railroad corridor. Additionally, railroads partner with local and state governments to improve alternate access for roadway users, such as new grade separations.

Railroads applaud Congress for providing a total of $845 million per year through the Section 130 and Railroad Crossing Elimination programs for projects to eliminate hazards at grade crossings in the Infrastructure Investment and Jobs Act. Additionally, railroads thank Congress for including needed reforms to the Section 130 program, such as enabling replacement of functionally obsolete warning devices and increasing permissible incentive payment amounts for closing crossings. These changes and funding levels will be impactful for undertaking important grade crossing safety and improvement projects.

QUESTION FROM HON. STEPHEN F. LYNCH TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. The interplay of many different factors determine which ports and routes are used for supply chains. These factors include: time sensitivity of the freight being carried; inventory carrying costs; capital costs of new vessels; fuel costs; time in transit; port fees; inland transportation costs; the speed by which containers are able to be moved inland; environmental considerations; efficiency of port operations; and availability of warehouse space. Taken together, these factors determine which ports offer shippers the best value. Ultimately though, railroads do not decide which port a steamship will use; rather railroads strive to offer safe, efficient, cost-effective service regardless of the port chosen.

QUESTION FROM HON. SHARICE DAVIDS TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. I also want to think ahead, because current supply chain issues are, of course, complicated by pent-up demand and other pandemic factors. I've heard the supply chain problems we're experiencing now described as a chain of dominoes falling into each other. But I think there's an opportunity here to boost American industry and labor while combating rising costs long-term.

We've been dependent on materials made in other countries for far too long, and I think it's important that we use this as an opportunity to invest in our economy, supply chains, and workforce, so we can lower costs for working folks and avoid this supply chain crunch happening again in the future.

We cannot just reset our dominoes—we need to stop the chain reaction before it even begins.

An example would be the strong Buy America provisions in the infrastructure bill we just passed, or continuing to boost semiconductor and other critical material manufacturing here at home.

What policies do you see as critical to help businesses and workforce ensure that our supply chain both recovers now—and is prepared to address future issues and cost pressures?

ANSWER. Congress should first and foremost be commended for enacting the Infrastructure Investment and Jobs Act (IIJA). This bipartisan legislation will modernize the nation's public infrastructure and further the efficiency of our freight transportation systems and supply chains. By authorizing and making significant investments through the Infrastructure for Rebuilding America (INFRA), Rebuilding American Infrastructure with Sustainability and Equity (RAISE) (Local and Regional Project Assistance), National Infrastructure Project Assistance, Port Infrastructure Development, Consolidated Rail Infrastructure and Safety Improvements (CRISI), and Railroad Crossing Elimination grant programs, projects will be constructed that increase the fluidity of our supply chains, such as improving first and last mile intermodal connections; advancing projects of national and regional significance, including multimodal connection infrastructure projects; and enabling the public sector to partner with industry on mutually beneficial projects, such as the CREATE program in Chicago.

Policymakers can further assist in resolving our nation's supply chain challenges by removing impediments to effective solutions and encouraging the use of innovative technologies to enhance safety and operational effectiveness. Congress should work to ensure:

- the STB maintains a balanced economic regulatory system and rejects unwise rail regulations, such as forced switching;
- the FRA incorporates a performance-based regulatory framework and fosters innovation and testing of emerging technologies that improve the safety and efficiency of rail operations, such as automated track inspection;
- the FRA avoids imposing regulations that are not supported by current data and would stifle the incorporation of new safety technologies, such as a two-person crew mandate; and
- environmental regulations do not function to inhibit the expansion, development, or construction of rail facilities that would meet supply chain needs and our customers' freight transportation demand. These regulations should still allow for careful, thorough consideration of the environmental impacts of proposed projects but in a time-limited manner that does not cause unnecessary delay. Railroads appreciate that Congress included project permitting provisions in the IIJA, such as One Federal Decision, which consolidates decision-making and expedites deadlines, and the Federal Permitting Reform and Jobs Act, which makes the Federal Permitting Improvement Steering Council permanent and establishes a goal of two years for reviews.

Finally, policymakers should restore the Highway Trust Fund (HTF) to a user-pays system. The United States has historically relied upon a user-pays system to fund investments in public road and bridge infrastructure. Unfortunately, revenues into the HTF have failed to keep pace with investment needs, requiring general fund transfers of $275 billion to cover the shortfall through FY 2026. General fund transfers to the HTF distort the freight transportation market in favor of the commercial trucking industry and put other modes, including railroads, at a competitive disadvantage. This is especially problematic for railroads which build, maintain, and pay for their own private infrastructure. Railroads commend Congress though for including in IIJA both a highway cost allocation study, which will help Congress better ensure different highway users, including commercial motor vehicles, cover their fair share of costs to maintain our nation's roads and bridges, as well as a national motor vehicle per-mile user fee pilot. Both of these programs will be essential to restoring and maintaining the long-term solvency of the Highway Trust Fund. Until commercial trucks pay the full cost of the damage they cause to our roads and bridges, policymakers should also reject calls to increase federal truck size and weight limits.

QUESTIONS FROM HON. SETH MOULTON TO IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

Question 1. Mr. Jefferies, the railroads have faced significant challenges this year, many outside of their control. We have certainly seen them adapt to help ease the current supply chain disruptions. During this time, how have the Class I railroads adapted their operating models to meet current conditions? What has been successful?

ANSWER. Freight supply chains are complex systems driven by global and domestic stakeholders. While operations are constantly facing pressures, unprecedented events have arisen in the past 18 months that have led to significant supply chain dislocations. America's freight railroads are doing their part though—through significant investments in their private infrastructure and equipment, development and implementation of innovative technologies, cooperation with their customers and supply chain partners, and operational enhancements—to ensure that supply chains remain fluid and that they are able to meet present and future freight transportation demand.

First, railroads have and will continue to operate 24/7 and would welcome freight transportation customers and other supply chain partners to do the same. Substantial supply chain capacity could be generated immediately from this change, and this would permit transportation providers to "catch up" when backups occur. Railroads appreciate that some supply chain participants have recently taken steps in this direction.

Second, railroads are collaborating with their customers and other supply chain partners to find constructive ways to modify their operations and maintain network fluidity. Some of these changes include:

- Increasing coordination between railroads to better manage the flow of traffic and with the trucking industry to take shipments as soon as warehousing capacity is available;
- Offering incentives to customers for weekend or off-hour in-gating at facilities near ports and for out-gating a container when they in-gate a container at other facilities;
- Re-routing traffic away from busier terminals to less crowded terminals;
- Reopening closed terminals to create additional storage capacity;
- Increasing available storage capacity and staging space in and outside of terminals;
- Creating additional railroad-to-railroad interchanges to limit demand on truck drayage; and
- Mounting containers onto any chassis brought in to help reduce dead-miles for truckers.

Third, railroads typically make available a variety of online tools, apps, and other technologies that provide their customers with full visibility regarding shipments' journeys over rail networks. This allows for customers to trace shipments in real time, more efficiently prioritize retrieval of containers, and minimize time spent in rail facilities.

Fourth, railroads can incentivize customers to pick up freight in a timely manner through charging progressively higher storage fees after a reasonable initial period of "free time." These fees help railroads maintain service reliability, efficient use of rail capacity and assets, and fluidity on the rail network. And ultimately storage fees function to ensure railroads can do what they are in business to do—move goods.

Finally, thanks to consistent private investments in infrastructure and equipment and technology and operational enhancements, railroads are confident they have the people, equipment, and capacity to manage the network at current and increased traffic levels, serve their customers' needs, and help the nation's economy recover from the pandemic and current supply chain disruptions. Railroads are also recalling workers who were furloughed during the pandemic, hiring new train operating employees in key markets to handle increased and unpredictable shipping demand, and providing bonuses to workers who provide new hire referrals.

The successes of these practices were shown in a report recently released by the Northwestern University Transportation Center which found that railroads showed significant agility to respond during rises in intermodal traffic throughout the COVID–19 pandemic.

Question 2. Mr. Jefferies, nearly all of the Class I railroads deploy Precision Schedule Railroading. Has Precision Scheduled Railroading contributed to the effects we feel today from supply chain disruptions, labor shortages, and increased e-commerce?

ANSWER. The term "precision scheduled railroading" does not have a one-size-fits-all meaning. Each railroad has its own unique service area, customers, and challenges that demand their own operational plans. Generally speaking, however, the goal is to improve asset utilization and productivity in the safest, most efficient manner and deliver a better customer experience through more reliable operations.

By continually re-examining and focusing on improving their operating practices, railroads have created a more resilient rail network that is better able to adapt to market changes. While no one could have predicted the last two years, the decisions and investments made by railroads have helped them to remain nimble in the face of supply chain challenges and meet wildly fluctuating demand. In the last 3 months of 2020 and the first 6 of 2021, railroads successfully moved unprecedented amounts of intermodal freight. During this time, railroads were handling close to 300,000 containers and trailers per week, levels that no one expected when the pandemic began. Additionally, the success of these operational plans is shown in that railroads today have capacity to handle even more traffic.

Question 3. Mr. Jefferies, one challenge in our supply chain is the availability of truck drivers. What role could our railroads play in moving more freight if the decreased supply of truck drivers persists? What would it take to achieve a modal shift that, for instance, reduces the demand for long-haul trucking?

ANSWER. The freight transportation market in the United States today is intensely competitive. Railroads know they must continue to earn their customers' business and are constantly working to further increase productivity, reduce costs, invest in their networks, and improve service. For railroads, furthering the industry's competitiveness takes many forms, including:

- *Maintaining a focus on safety*. The past decade has been the safest in rail history, and railroads continue to work diligently to identify new technologies, operational enhancements, trainings, and other ways to further improve their safety record.
- *Recognizing capacity is key*. The U.S. freight rail network is in its best condition ever. Railroads have invested more than $740 billion in capital expenditures and maintenance on their networks since 1980—$25 billion annually in recent years. These investments will help ensure our nation's freight rail infrastructure remains world-class and that adequate freight rail capacity exists to meet America's current and future freight transportation needs. As previously mentioned, the decisions and investments made by railroads have helped them to remain nimble in the face of supply chain challenges and meet wildly fluctuating demand. In the last 3 months of 2020 and the first 6 of 2021, railroads successfully moved unprecedented amounts of intermodal freight. Additionally, railroads today have capacity to handle even more traffic.
- *Focusing on customer service*. Railroads know their customers face intensely competitive global markets that increasingly demand faster, more reliable, and cost-effective service. In response, railroads are continually launching new customer service initiatives and working with rail suppliers, trucking companies, and other businesses to improve their service.
- *Enhancing sustainability and addressing climate change*. Freight rail is well ahead of other modes of transportation when it comes to limiting greenhouse gas emissions. Freight railroads today account for only 1.9 percent of the transportation-related greenhouse gas emissions, while accounting for 40 percent or more of long-distance freight volume. U.S. railroads, on average can move 1 ton of freight over 480 miles on a single gallon of gas, and moving freight by train instead of truck reduces greenhouse gas emissions by up to 75 percent. Today's railroads are partnering with the Departments of Transportation and Energy to further research and development into technologies that fuel locomotives with alternatives to traditional diesel fuel and will continue to leverage technology and modernize operations to that further increase fuel efficiency and reduce greenhouse gas emissions associated with their operations.

Policymakers can help ensure railroads are able to meet current and future growing freight transportation demand by rejecting harmful policies and encouraging the use of innovative technologies to enhance safety and efficiency. Congress should work to ensure:

- the STB maintains a balanced economic regulatory system and rejects unwise rail regulations, such as forced switching;
- the FRA incorporates a performance-based regulatory framework and fosters innovation and testing of emerging technologies that improve the safety and efficiency of rail operations, such as automated track inspection;
- the FRA avoids imposing regulations that are not supported by current data and would stifle the adoption of new technologies, such as a two-person crew mandate; and
- environmental regulations do not function to inhibit the expansion, development, or construction of rail facilities that would meet supply chain needs and our customers' freight transportation demand. These regulations should still allow for careful, thorough consideration of the environmental impacts of proposed projects but in a time-limited manner that does not cause unnecessary delay. Railroads appreciate that Congress included project permitting provisions in the Infrastructure Investment and Jobs Act (IIJA), such as One Federal Decision, which consolidates decision-making and expedites deadlines, and the Federal Permitting Reform and Jobs Act, which makes the Federal Permitting Improvement Steering Council permanent and establishes a goal of two years for reviews.

Finally, policymakers should restore the Highway Trust Fund (HTF) to a user-pays system. The United States has historically relied upon a user-pays system to fund investments in public road and bridge infrastructure. Unfortunately, revenues into the HTF have failed to keep pace with investment needs, requiring general fund transfers of $275 billion to cover the shortfall through FY 2026. General fund transfers to the HTF distort the freight transportation market in favor of the commercial trucking industry and put other modes, including railroads, at a competitive disadvantage. This is especially problematic for railroads which build, maintain, and pay for their own private infrastructure. Railroads commend Congress though for including in IIJA both a highway cost allocation study, which will help Congress better ensure different highway users, including commercial motor vehicles, cover their fair share of costs to maintain our nation's roads and bridges, as well as a national motor vehicle per-mile user fee pilot. Both of these programs will be essential to restoring and maintaining the long-term solvency of the Highway Trust Fund. Until commercial trucks pay the full cost of the damage they cause to our roads and bridges, policymakers should also reject calls to increase federal truck size and weight limits.

Question 4. Mr. Jefferies, there is an example of this modal shift right now. As you know, Union Pacific has partnered with the port authorities of California and Utah to move more freight destined for the intermountain west by rail. Are there larger lessons we can draw from this example with regard to how we might use the funding in the Infrastructure Investment and Jobs Act to strengthen our supply chain? Are there particular infrastructure investments, perhaps in ports or railyards, that would be needed to increase the volume of freight moved by rail in the U.S.?

ANSWER. Policymakers can help to strengthen supply chains by implementing programs that improve first and last mile connections where freight is handed off from one mode to another—for example, at ports from ships to railroads or trucks, or from railroads to trucks at intermodal terminals. Improving these connections would lead to especially large increases in efficiency and fluidity and forge a stronger, more effective total transportation system.

Thankfully, Congress has already enacted IIJA which authorizes and provides significant funding for the Infrastructure for Rebuilding America (INFRA), Rebuilding American Infrastructure with Sustainability and Equity (RAISE) (Local and Regional Project Assistance), National Infrastructure Project Assistance, Port Infrastructure Development, Consolidated Rail Infrastructure and Safety Improvements (CRISI), and Railroad Crossing Elimination grant programs. The projects awarded grants under these programs will modernize the nation's public infrastructure and further the efficiency of our freight transportation systems and supply chains, including through improving first and last mile intermodal connections; advancing projects of national and regional significance, such as multimodal connection infrastructure projects; and enabling the public sector to partner with industry on mutually beneficial projects, such as the CREATE program in Chicago.

QUESTION FROM HON. PETER A. DEFAZIO TO ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION

Question 1. Who is responsible for correcting our supply chain challenges?

ANSWER. Thank you, Mr. Chairman for the question, ultimately, I think everyone involved in the supply chain has a role to play in alleviating the supply chain crisis. Each player plays an integral role in making sure that products are moving safely and efficiently throughout the supply chain. As we discussed at the hearing, this is not the problem of one single issue or party, but a perfect storm of conditions and shortage of several key areas caused directly by a global pandemic. As I mentioned in my opening statement, we can correct the congestion in the supply chain through the three "I"s: investment, innovation and interaction among the supply chain stakeholders. We all have a role to play, from federal and state government (deploying investment through the "BIF" and encouraging investment through right-sized regulatory regimes), industry and labor. The only way to get through this crisis is to work together in collaboration to alleviate issues in the supply chain. You are seeing that today and we believe the light at the end of the tunnel is ahead of us.

QUESTION FROM HON. SAM GRAVES TO ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION

Question 1. Ms. Reinke, can you elaborate on the current conditions of detention time and how brokers handle these delays?

ANSWER. In December 2017, with the implementation of the Electronic Logging Device (ELD) mandate by the Federal Motor Carrier Safety Administration (FMCSA), in an instant, time leapfrogged mileage for rate valuations. Shippers and 3PLs began buying the driver's time, not the mileage. The industry continues to move in this direction now that the ELDs are tracking the drivers' hours-of-service

(HOS) by the minute and capturing excess time they spend on loading and unloading. Although carriers and logistics companies' providers have the technology and data to capture and bill their customers for detention, preventing it altogether is a more desirable outcome by having 3PLs work with shippers to set realistic and accurate appointment times.

One of the most utilized technologies to track detention time is geofencing, which is a common method to automatically record arrival and departure times to identify detention events for billing. Geofencing is a mobile feature and back-office management system to create a virtual perimeter around a location to detect assets crossing certain boundaries.

Furthermore, a lot of shippers will require their brokers and carriers to utilize freight visibility platforms and will not pay detention charges to the broker or carrier unless there is an exchange of data via these platforms.

When truck capacity was tight in 2018, motor carriers and 3PLs were able to be more selective of the customers they worked with. Some were focused on building scorecards to measure and rank their customers to create the best network and book of business. TIA members work with shippers regularly to make sure carriers are paid for the time they are delayed. TIA wants our members and our members' customers to be brokers and shippers of choice.

Question from Hon. André Carson to Anne Reinke, President and Chief Executive Officer, Transportation Intermediaries Association

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

Answer. Congressman Carson, as you note, freight rail is an essential and critical part of the supply chain; using rail can mitigate road congestion and remove backlogs from ports. The freight railroads have seen enormous demand, and consequently, considerable disruption during the pandemic. As a result, it is critically important to their success to have a regulatory environment that encourages investment; without their private investment in their infrastructure, the supply chain writ large suffers. As you also note, the freight rail industry has adopted an operational model of "Precision Scheduled Railroading" that emphasizes longer trains and fewer stops. The number of crewmen has not changed in several decades; should it do so, the matter will likely be determined through collective bargaining. Longer trains can block crossings and impact communities if the train operations are congested or there is a disruption to the system. The railroads and the communities should have an open dialogue to resolve these issues and the railroads should commit to doing whatever they can to keep the trains moving.

Question from Hon. Michelle Steel to Anne Reinke, President and Chief Executive Officer, Transportation Intermediaries Association

Question 1. Can you enumerate and share further details of some of the challenges in ocean shipping that your members (and/or their customers) have experienced during the current disruption, that would be addressed/alleviated by elements of the Ocean Shipping Reform Act of 2021?

Answer. Thank you, Congresswoman Steel for the question. It's a fair question, our members and indirectly their customers have felt extended times for final delivery of freight. This is happening a lot of the time at the port to warehouse sector of the supply chain. Whether it be bottlenecks, traffic conditions, or labor shortages, our ports are not running at their peak efficiency. This is very frustrating for both the carrier on-site, the broker working behind the scenes, and our customer who is feeling the pressure from the entity that is expecting freight quickly and smoothly.

TIA is proud to support the efforts of Congressmen Garamendi and Johnson in their efforts to get our supply chain back to full effectiveness. Our members have felt firsthand the outrageous demurrage and detention fees that all too often appear as revenue generators, not an incentivizing method to help keep freight and containers moving. The legislation would direct FMC to determine what unreasonable Demurrage and Detention fees are setting a standard for these tactics.

Secondly, our members work closely with carriers of all types and modes like air freight, rail, highway CMV's and ocean carriers. Because there are such few ocean carriers available to move freight, they have gained a lot of market control of the mobility and movement of freight. By further banning retaliatory practices of ocean carriers against shippers Congress is effectively evening the playing field and allowing a shipper who has every right to file a complaint to continue to effectively move their product.

Lastly, the legislation would add two new stakeholders that are eligible to join the National Shipper Advisory Committee, Customs Brokers and Freight Forwarders.

QUESTION FROM HON. STEPHEN F. LYNCH TO ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. Thank you, Congressman Lynch, for the excellent question. Essentially as the travel agents of freight in the supply chain, our members utilize the latest technology advances to efficiently move freight throughout the supply chain. A part of this is to work with the ports to ensure that the latest technological advances are implemented, including freight visibility platforms, so that all parties have realtime visibility of where the freight is. I think TIA would agree with you that the U.S. ports are far behind other nations, but as we know the U.S. is the greatest nation in the world and will overcome these challenges to ensure that our infrastructure including ports is world class. TIA members also work with the ports to ensure the latest technology and automation is utilized and implemented. As the brokerage industry continues to advance through technology, our ports must continue to meet those needs by advancing as well. In terms of utilizing local ports and redirecting, this can be tricky, but our members are a pragmatic group of business leaders and always looking ways to alleviate the crisis where necessary and utilizing local ports instead of LA-Long Beach has been an option. I was speaking with a member recently who indicated that they redirected a ship from LA-Long Beach to Norfolk, VA and trucked the load back to Washington State its end destination.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION

Question 1. Ms. Reinke, I have raised the issue of port metrics with Mr. Jefferies and Mr. Spear, however, I'd like to get your viewpoint on how getting real-time port metrics can help your industry schedule accordingly to make the whole system be as efficient as possible.

In your testimony you said brokers can utilize their relationships, but what if they could also utilize technology from real-time reporting from ports? What if they knew there was a chassis shortage at the Port of Los Angeles but a surplus as the Port of Long Beach, or if Seattle Tacoma had berths available with a rail connection south, while California ports were experiencing a backlog? Could this information be helpful for your clients making better business choices and to help alleviate bottlenecks in the transportation network?

Question 2. Ms. Reinke, do you think we'd be in the position we are in today with the port backlogs and bottlenecks if we would have a real-time data and automation?

a. How do we get labor involved in the process to ensure they are willing participants? Labor is a critical component to a working port, however, if they're not operating at an efficient level, should we look to automation?
b. Would it be beneficial to have a case study for automation at a port of a decent size, such as the Port of San Juan?

ANSWERS to questions 1, 2, 2.a., & 2.b.. Thank you, Representative González-Colón, TIA is happy to report that there are already technology solutions being utilized in the supply chain and at ports that can give all stakeholders visibility in real-time to the status of the freight. TIA has several members in the supply chain that offer these solutions for brokers, shippers and carriers. The issue is adoption from all parties involved. As you keenly pointed out labor is a major issue and one of the top issues in the supply chain right now, as the nation has a serious labor shortage throughout the supply chain. At TIA we agree that automation might be an answer to this shortage, as our members have over the last 15 years or so began automating the entire logistics and freight brokerage industry. This would include sourcing a load, to freight visibility, and the payment of the end carrier. From our Association's perspective technology is the litmus test for those entities that will continue to innovate and prosper and those that will not. A case study of a port, like that of the one in San Juan, would have huge benefits to get a sense of where we as a nation currently stand. As the brokerage industry continues to advance through technology, our ports must continue to meet those needs by advancing as well. In discussing with ports many of them are already in the process of this and looking to take that next step in terms of automation. I think the future is bright in this aspect.

QUESTION FROM HON. SHARICE DAVIDS TO ANNE REINKE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRANSPORTATION INTERMEDIARIES ASSOCIATION

Question 1. I also want to think ahead, because current supply chain issues are, of course, complicated by pent-up demand and other pandemic factors. I've heard the supply chain problems we're experiencing now described as a chain of dominoes falling into each other. But I think there's an opportunity here to boost American industry and labor while combating rising costs long-term.

We've been dependent on materials made in other countries for far too long, and I think it's important that we use this as an opportunity to invest in our economy, supply chains, and workforce, so we can lower costs for working folks and avoid this supply chain crunch happening again in the future.

We cannot just reset our dominoes—we need to stop the chain reaction before it even begins.

An example would be the strong Buy America provisions in the infrastructure bill we just passed, or continuing to boost semiconductor and other critical material manufacturing here at home.

What policies do you see as critical to help businesses and workforce ensure that our supply chain both recovers now—and is prepared to address future issues and cost pressures?

ANSWER. Congresswoman Davids, thank you for the thoughtful question. From TIA's perspective, I would like to focus on two topics: industry collaboration and technology. TIA members are the industry leaders in terms of technology and are constantly developing and implementing the latest cutting edge technology products. We as a nation need to continue to allow these companies to innovate and advance and enhance our nation's infrastructure projects and needs. This includes adopting policies that give companies the freedom to innovate if it is not at the expense of safety. Secondly, I would look at industry collaboration: all the industry stakeholders in the supply chain work hard and each of them play an integral role in moving goods throughout the supply chain. There are several policies areas that many industry stakeholders agree (for example, expanding truck parking) and Congress needs to work with all stakeholders to find areas of common support and to work to advance those initiatives. Lastly, we believe that the motor carrier selection standard legislation is critical to enhance safety and amplify capacity. Thank you, Congresswoman for your support for the legislation last year. As you saw in the legislation, with no federal selection standard and 90% of carriers unrated. Resolving this issue will ensure that the safest carriers, regardless of size, are rated and are eligible for selection. We hope you will support H.R. 3042 in this Congress.

QUESTION FROM HON. PETER A. DEFAZIO TO DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS

Question 1. Who is responsible for correcting our supply chain challenges?

ANSWER. I am afraid my research does not lead me to identify any single actor here. If we start by grouping the relevant actors, I would propose four very broad groups: (1) end customers; (2) shippers; (3) carriers and (4) regulators. I would also propose two ways to apportion responsibility for correcting our supply chain challenges: (A) *which group is most responsible for causing the supply challenges*; and (B) *which group is most capable to correct the supply chain challenges?*

Starting with responsibility criteria (A) *which group is most responsible for causing the supply chain challenges*: I think groups one through four have all contributed to the problem. My own data and analysis does not allow me to measure the comparative scale of each group's causation and therefore assign greatest responsibility. The focus of my own research zooms in narrowly on the role that shippers play in detaining truck drivers and thereby reducing their utilization. I do believe that this is a real problem; but I don't think it is what caused our current supply chain challenges. In fact, the problem of long detention time, sadly, long precedes our current supply chain challenges. I believe that the issue of truck driver detention exacerbates our current supply chain challenges, but cannot be said to have caused them. Moving on to responsibility criteria (B) *which group is most capable to correct the supply chain challenges*; I think that each of the four groups has a role to play. While my own research efforts identify how shippers could make better use of truck drivers time, I similarly hesitate to say that fixing this is the highest priority when addressing our supply chain challenges.

I apologize for my wishy-washy answer here; but I want to be fully honest to the truth as I see it and admit to what I do not know. I think everyone in my four groups has a role to play here. We are all responsible for doing our part to motivate and enable ourselves, and each other, to improve this situation.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS

Question 1. Dr. Correll, how can Congress and appropriate agencies accurately capture data on detention and working conditions for truck drivers?

a. Additionally, should Congress want to study these metrics, which institutions or entities could handle a study to stand up a portal for this information?
b. How do we get industry stakeholders from all aspects of the transportation system involved in the development? How could we incentivize ports and labor to participate?

ANSWER. I think the first step is to set up a unique identifier for what I would call all the "nodes" in the American domestic supply chain. By nodes, I mean all the delivery points (like warehouses, distribution centers, mixing centers, fulfillment centers, rail yards, stores, etc.) No such unique identifier currently exists, and this makes it difficult for trucking companies to compare notes and measurements of their detention experiences at different facilities. I believe this is an appropriate job for the federal government because: (1) it is imperative that the operators of these nodes feel compelled to register, which only the government could reliably compel; and (2) data collection must be nationwide, which only the federal government could compel. This would, in effect, be similar to the unique identifying system for American employers, the Employer Identification Number (EIN) system.

Should Congress want to interpret the data collected from these facilities, I would recommend standing up a Supply Chain Information Administration within the Department of Transportation, or the Department of Commerce, similar in nature to the Energy Information Administration (EIA) that exists within the US Department of Energy. With a dedicated and properly staffed and equipped team, this new Supply Chain Information Administration could work similarly to the EIA to collect and report on the latest trends in America's supply chain competitiveness. Personally, I worked at the EIA for roughly 2 years and was proud to be part of its mission to help keep America energy secure. A newly formed Supply Chain Information Administration could do similar work with the mission to keep America supply chain competitive.

I think that involvement from ports and labor would come from making the argument to each side that the new Supply Chain Information Administration represents an honest broker seeking to provide unbiased and aggregated data that enables better decision making on both sides. This would, of course, need to be presented as not only a punishment of high average truck driver detention times, but also a celebration of low average truck detention times. I would propose that the new Supply Chain Information Administration award letter grades based on every registered supply chain node's average truck detention time. This would be similar to the sanitation letter grades awarded by State Departments of Health to restaurants. To my mind, labor's participation follows naturally as the effort itself shines a spotlight on issues of concern to them. This would also unlock market solutions to the truck driver detention and retention problems, as carriers could build Supply Chain Information Administration letter grades into their pricing models for servicing different customers.

QUESTION FROM HON. ANDRÉ CARSON TO DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

ANSWER. I am afraid I have not personally conducted research into the rail sector, so I cannot offer expert opinion here. However, I do believe that American rail roads have an important part to play here. When we think about the choice between moving freight by truck vs moving freight by rail, we know that rail is often more cost effective, and also environmentally friendly. These two things were true even before our current supply chains problems. As we look for ways to unclog America's freight arteries, these benefits stand in even sharper relief. However, where rail loses to truck conveyance is in what academics call 'place utility'—that is, a train can only drop off at a rail yard, but a truck can come right to your door.

To my mind then, integration of rail and truck conveyance—often referred to as 'inter-modal' freight transportation—offers strong potential and merits further study and perhaps even investment. One of the things that makes trucking a hard job is leaving one's home and family for weeks at a time to cross the country. But, trains can make these same trips with far fewer people per ton-mile. And they can often do it more cheaply and more sustainably. Harmonized intermodal systems that make greater use of rail to criss-cross the country, covering the "middle miles" of a freight trip by rail, and the "last miles" of a freight trip by truck would, I believe, reduce some of the stress on our scarce and valuable American truck driver workforce, and thereby unclog our roads and strengthen our supply chains.

QUESTION FROM HON. STEPHEN F. LYNCH TO DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. I'm afraid that I am personally doing very little. In my position as a research scientist, I have very little influence over the procurement decisions of shippers, or the routing decisions of carriers. However, I think that perhaps one of the solutions that I've offered as part of this testimony—investing in data collection at all of America's supply chain nodes, including the ports—would enable data collection at the ports, which I believe would be essential to the important modernization efforts referenced in this question. There is an old adage, 'you can't manage what you can't measure'. From an academic research perspective, I would be honored to help measure performance at our American ports.

QUESTION FROM HON. SHARICE DAVIDS TO DAVID HC CORRELL, PH.D., RESEARCH SCIENTIST AND LECTURER, MASSACHUSETTS INSTITUTE OF TECHNOLOGY CENTER FOR TRANSPORTATION AND LOGISTICS

Question 1. I also want to think ahead, because current supply chain issues are, of course, complicated by pent-up demand and other pandemic factors. I've heard the supply chain problems we're experiencing now described as a chain of dominoes falling into each other. But I think there's an opportunity here to boost American industry and labor while combating rising costs long-term.

We've been dependent on materials made in other countries for far too long, and I think it's important that we use this as an opportunity to invest in our economy, supply chains, and workforce, so we can lower costs for working folks and avoid this supply chain crunch happening again in the future.

We cannot just reset our dominoes—we need to stop the chain reaction before it even begins.

An example would be the strong Buy America provisions in the infrastructure bill we just passed, or continuing to boost semiconductor and other critical material manufacturing here at home.

What policies do you see as critical to help businesses and workforce ensure that our supply chain both recovers now—and is prepared to address future issues and cost pressures?

ANSWER. Thank you for this question. I am especially struck by the dominoes analogy here. The overall global flow of trade is an issue outside of my scope of research. However, I see your point that trade imbalances contribute to some of the log jams we see at our ports, particularly as regards the imbalance between inbound and outbound ships and shipping containers. Broadly speaking, efforts to incentivize the development of domestic production capacity makes sense to me as a solution here. I must note that the details of its implementation are outside of my own research experience.

However, to my mind, it is helpful to identify what is, and what is not, within America's scope of influence of here. I think that comparatively lower international labor costs, comparatively looser international environmental regulations, and different countries' customs/tariffs policies will all almost always continue to incentivize more globalized supply chains. And these factors are all, perhaps, outside of America's direct sphere of influence. However, domestic freight transportation and logistics costs also play an important role in the cost of producing goods and delivering them to American customers. And these factors are directly within America's sphere of influence. If we can make the supply chain and logistics cost of servicing our American consumers cheaper, I think that we stand our strongest chance of incentivizing more local and domestic production. From my perspective, these are the policies that are most important to building stronger American supply chains.

QUESTIONS FROM HON. PETER A. DEFAZIO TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. One of the significant issues facing the current supply chain challenges is whether we have enough staff across the industries represented here today—at our ports, driving trucks, or maintaining and operating the railroads. I appreciated your testimony highlighting that we don't have a shortage of Americans who are ready and willing to work but that these private companies, who have made considerable profits, will need to pay their people more, provide safe working conditions and better benefits. I am very concerned with the number of employees the railroads have let go over the last couple of years in order to satisfy Wall Street with the implementation of Precision Scheduled Railroading to increase their operating ratios and the detrimental impact that has to rail service. Surprisingly, the Association of American Railroads testimony didn't reference the October drop in intermodal rail volumes, the signing bonuses they've been paying to attract workers, or the compressed training they've offered for conductors that tragically may have resulted in more than one employee losing a limb. What is driving the managers of these railroads to make these decisions?

ANSWER. These managers are operating railroads with a singular factor in mind—lowering operating ratios, which are operating expenses as a percentage of revenue, considered to be the standard metric for railroad profitability, in order to satisfy their hedge fund investors. While we strongly support the ability of railroads to turn a profit, which in turn should lead to job creation and good wages, the Class I railroads of today have become so myopically focused on producing stock returns that metrics like safety have become an afterthought.

Question 2. Who is responsible for correcting our supply chain challenges?

ANSWER. It is clear that the private sector has a major role to play in course correction. As we noted in our testimony, it was always likely that such a dramatic spike in volumes would cause disruptions, but it is also true that actions taken by the private sector that reduced flexibility and slack in the supply chain have worsened the problem. Railroads, trucking companies, and others must examine how their operating models were incongruent with responsiveness, and make structural changes to avoid similar circumstances in the future.

There may be also be roles for the federal government to ensure that such structural changes take place. For example, the administration has already begun to take steps to address issues of worker misclassification under labor law that have been used to deny truck drivers and other the benefits of an employer-employee relationship. From a rail perspective, we support providing the Surface Transportation Board with additional tools and authorities. Recently, Senator Baldwin introduced an amendment to the National Defense Authorization Act that would direct the STB to develop new standards concerning the fulfillment of railroad's common carrier obligations, including the consideration of the reductions in workforce and infrastructure maintenance on service quality, and we highly support the adoption of a proposal like this.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. Mr. Regan, is it within Congress' authority to ask ports that receive Federal funding or are subject to Federal jurisdiction, transportation stakeholders, and labor unions to report their productivity at ports?

ANSWER. Congress currently collects much of this data through the Port Performance Freight Statistics Program, 49 USC 6314.

Question 2. Mr. Regan, what are the major concerns that a labor union would use to argue against making productivity metrics available to the public through a real-time data portal to improve efficiencies across the whole network and increase transparency?

ANSWER. In prior Congresses, bad faith efforts to undermine collective bargaining have masqueraded as purported productivity metrics. Labor is more than willing to discuss how data improvements could be deployed to reduce inefficiencies and make the freight network operate more cohesively, but we will continue to strongly oppose any effort which attacks collective bargaining rights and the collective bargaining process.

QUESTION FROM HON. ANDRÉ CARSON TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. Role of Rail (and Blocked Crossings)—After seeing so much congestion at ports, I'd like to get your thoughts on what positive role rail might play in strengthening our supply chain? Not just in terms of more efficient movement of goods and materials, but improving our human infrastructure too. Precision railroading sounds impressive, but it just seems counter-intuitive to plan for longer trains but smaller crew size. Our transportation systems are only as strong as our people, our workers. And in a place like Indiana, the Crossroads of America, we must also address the congestion on the roads that unfortunately results when downtown and critical streets are blocked by painfully long freight trains. How can these disruptions be improved as we're working to strengthen our supply chains?

ANSWER. Rail offers boundless opportunities for improving the nation's supply chains. At its best, rail offers a mode of freight transportation that is safe, environmentally friendly, and can sustain thousands of good middle class jobs. As mentioned in our testimony, ports and harbors across the country are clear about the untapped potential of greater investment in on-dock rail, as the IIJA provides for through the Port Infrastructure Development Program.

However, as you correctly note, Precision Scheduled Railroading, and the use of increasingly longer trains that strangle communities is not the answer. In order to address disruptions, the FRA must take action to address many of the safety concerns that PSR presents. The IIJA also contains a study on the safety issues presented by train length, and we look forward to those findings an d FRA's response. The Surface Transportation Board should examine its authorities as an economic regulator to police bad behavior by the railroads, including whether or not current Class I operating models are fulfilling statutory common carrier obligations.

QUESTION FROM HON. STEPHEN F. LYNCH TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. While ports are a cornerstone of the U.S. economy, outdated infrastructure and the COVID–19 pandemic have strained their capacity and jeopardized global supply chains. According to the 2021 Report Card for America's Infrastructure Report issued by the American Society of Civil Engineers (ASCE), in 2018, America's ports supported more than 30 million jobs and approximately 26% of our nation's GDP. Federal, State and Local governments have invested millions of dollars in our regional ports to serve the global shipping industry. However, the ASCE report card warns that ports face extensive challenges modernizing infrastructure and maintaining essential facilities under threat from sea level rise and other climate challenges.

a. What are you doing to push the industry to utilize these regional gateways to address the supply congestion at the nation's largest ports?

ANSWER. After years of neglect compared to other federal transportation expenditures, TTD has long worked in tandem with industry partners to promote increased federal investment specifically targeted to our nation's ports and harbors. Since the program was revitalized with our support, the past two appropriations bills have contained $230M and $280M under the Port Infrastructure Development Program, which will be furthered buttressed by historic port investments in the IIJA. These investments will create increased throughput and efficiency at ports, particularly though the development of necessary infrastructure projects like the expansion of on-dock rail services. TTD also supports the inclusion of a new program in the Build Back Better package which will fund port projects that reduce air pollution, greening our ports and combating climate change while increasing efficiency.

TTD has also supported efforts to make better use of smaller ports and harbors to decrease congestion at our largest ports. As mentioned in our testimony, we encourage the further development of "short sea shipping" through the Marine Highway program. Short sea shipping is the use of commercial vessels for the carriage of commodities along American's seacoasts and inland waterways, potentially to allow for the transfer of goods from vessels at large ports, to smaller vessels that will call at smaller ports and inland harbors. This methods of transportation can reduce congestion, while creating additional jobs in the maritime, shipbuilding and longshore sectors. However, the growth of this sector is somewhat inhibited by the current application of the Harbor Maintenance Trust Fund.

Cargo entering the U.S. through a seaport is subject to the Harbor Maintenance Tax (HMT). If that same cargo is moved via a commercial vessel, it is then taxed a second time under the HMT when it arrives at the next port. However, if that cargo is transported by rail or truck to another U.S. destination, it avoids a duplicative HMT charge. This inequitable double taxation creates a significant economic disadvantage for shippers to use what could be a viable transportation option. In 2020, Representatives Brian Higgins (D–NY) and Mike Kelly (R–PA) introduced H.R. 5351, which would resolve this issue, and we encourage Congress to revisit this proposal.

QUESTION FROM HON. SHARICE DAVIDS TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. I also want to think ahead, because current supply chain issues are, of course, complicated by pent-up demand and other pandemic factors. I've heard the supply chain problems we're experiencing now described as a chain of dominoes falling into each other. But I think there's an opportunity here to boost American industry and labor while combating rising costs long-term.

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An example would be the strong Buy America provisions in the infrastructure bill we just passed, or continuing to boost semiconductor and other critical material manufacturing here at home.

What policies do you see as critical to help businesses and workforce ensure that our supply chain both recovers now—and is prepared to address future issues and cost pressures?

ANSWER. TTD is strongly supportive of initiatives, including the Buy America language referenced here, that will allow us to strengthen domestic supply chains and respond more nimbly in the event of a crisis. For example, increased domestic manufacture of critical freight transportation items like chassis can help to avoid shortages like those that we've experienced over the last few months, and increase our self-reliance on domestic industry.

In the immediate term, our options to end the ongoing congestion challenges are limited, though we applaud the efforts that the administration has taken that have been helpful, including working with terminal operators to keep ports open and incentivizing off-peak service, allowing for flexibility in certain unspent federal funds, and promoting government-wide cooperation. However, many of the changes that will be required to ensure that we don't continue to end up in similar crises require structural changes to industries and their governing rules and regulations. As discussed in our testimony, TTD believes strongly that additional safety and economic oversight of the freight railroad industry, including at the Surface Transportation Board, can result in industries that are more resilient and have increased long-term viability.

QUESTION FROM HON. SETH MOULTON TO GREGORY R. REGAN, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Question 1. Mr. Regan, the Transportation Trades Department (TTD) and other rail unions have raised concerns about Precision Scheduled Railroading (PSR), including that congestion issues in the supply chain could strain limited network capacity. Do you believe PSR has impacted our current supply chain challenges? Can you paint the picture of how this has unfolded on the ground and provide examples of some of the freight rail challenges we are facing now that have been exacerbated by PSR?

ANSWER. PSR has unequivocally worsened supply chain issues. While the railroads will claim that they are a "demand industry" and that they have right-sized themselves for this purpose, evidence doesn't support this. In a just a few years, Class I railroads eliminated a fifth of the entire workforce. Carriers bragged in their financial filings about how much of their equipment, including locomotives, they were able to eliminate or mothball. Any claims of running at full capacity during the crisis must be viewed through this lens of intentional diminishment of service and capability. A healthy industry would have had the slack in its network to respond and to allocate resources quickly, and in a way that lessened the supply chain crunch. Railroads have made sure they don't have that ability. While running lean was good for shareholder returns, it continues to be bad for nation as a whole.

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